

VIRGINIA:  
IN THE WORKERS' COMPENSATION COMMISSION

Opinion by RAPAPORT  
Commissioner

**Jan. 14, 2025**

THEODORE GREENE v. LOUDOUN COUNTY PUBLIC SCHOOLS  
LOUDOUN COUNTY PUBLIC SCHOOLS, Insurance Carrier  
PMA MANAGEMENT CORP., Claim Administrator  
Jurisdiction Claim No. VA00001966634  
Claim Administrator File No. 0037W62713  
Date of Injury: September 30, 2021

Theodore Greene  
Claimant, pro se.

J. David Griffin, Esquire  
For the Defendant.

REVIEW on the record by Commissioner Marshall, Commissioner Newman, and Commissioner Rapaport at Richmond, Virginia.

The claimant requests review of the Deputy Commissioner's September 6, 2024 Opinion denying his claim for medical benefits. We AFFIRM.

**I. Material Proceedings**

The claimant, a behavior assistant for students, filed a claim on July 18, 2022 alleging that he sustained a compensable injury by accident to both knees on September 30, 2021. The defendant raised numerous defenses against the claim, including that there was no sudden, structural bodily change due to an identifiable incident.

Deputy Commissioner Munoz conducted an evidentiary hearing on August 14, 2024. The Deputy Commissioner found that the claimant failed to prove a compensable injury by accident as contemplated by the Virginia Workers' Compensation Act. He explained:

We closely observed the claimant while testifying and paid particular attention to his demeanor and appearance. Based on our observations, we find him to be a credible witness and, therefore, afford probative weight to his testimony regarding the mechanism of his bilateral knee injury. The claimant was candid and forthcoming. He admitted that his bilateral knee injury, which has been diagnosed by his medical providers as prepatellar bursitis of both knees, was caused by the student's multiple kicks during a period of eleven days.

Consistent with the claimant's admission, the rest of the record preponderates that the claimant's injury developed from work cumulative trauma, which as indicated above, is, as a matter of law, not considered a compensable "injury by accident" in Virginia. For instance, the First Report of Injury completed by the school assistant principal on April 29, 2022 shows that "over the course of the week in September [the claimant] was kicked approximately 25 times." Moreover, during a recorded interview with the claim administrator on July 13, 2022, the claimant explained, "It's 11 days straight so it wasn't just that instance you know that particular day." It is also worth noting that the claimant's Claim Form filed July 18, 2022 contains the following description of how the injury occurred: "Working in an intense B.A. Program[.] A violent teen kicked me *repeatedly* in both knees." (Emphasis added). Lastly, and significantly, Dr. Randall Payton, an orthopedist, completed an attending physician's report on March 14, 2024 and connected the claimant's prepatellar bursitis of both knees to this history: "[k]icked in both knees *repeatedly* by student." (Emphasis added).

In conclusion, we find the present record establishes that the claimant's bilateral knee injury is the result of cumulative trauma and therefore not compensable under the Act.

(Op. 3-4.) The claimant timely requested review.

## **II. Findings of Fact and Rulings of Law**

As stated by the Deputy Commissioner, the record is replete with evidence that the claimant's bilateral knee injury resulted from multiple incidents that occurred over an eleven-day span. For example, at the hearing, the claimant testified that each day over an eleven-day period prior to September 30, 2021, a student kicked him in his knees. He stated that every day, the student attacked him and co-workers. He estimated being kicked twenty to twenty-five times. The claimant sought medical treatment on February 27, 2023. Dr. Randall Peyton completed an

Attending Physician's Report on March 14, 2024 regarding this evaluation. He diagnosed "prepatellar bursitis both knees" due to "[k]icked in both knees repeatedly by student."

Again, as explained by in the lower decision, to prove an injury by accident, the evidence must demonstrate "(1) an identifiable incident; (2) that occurs at some reasonably definite time; (3) an obvious sudden mechanical or structural change in the body; and (4) a causal connection between the incident and bodily change." *Hoffman v. Carter*, 50 Va. App. 199, 212 (2007) (citing *Chesterfield Cty. v. Dunn*, 9 Va. App. 475, 476 (1990)). An injury due to cumulative trauma, which did not stem from a sudden identifiable incident or sudden event, is not compensable as an injury by accident. *Kraft Dairy Grp., Inc. v. Bernardini*, 229 Va. 253 (1985). "[J]ob-related impairments resulting from cumulative trauma caused by repetitive motion, however labeled or however defined, are, as a matter of law, not compensable under the present provisions of the Act." *The Stenrich Grp. v. Jemmott*, 251 Va. 186, 199 (1996). Based upon the presented evidence, the Deputy Commissioner appropriately denied the claim.

### **III. Conclusion**

The Deputy Commissioner's September 6, 2024 Opinion is AFFIRMED.

This case is ORDERED removed from the review docket.

### APPEAL

You may appeal this decision to the Court of Appeals of Virginia by filing a Notice of Appeal with the Commission and a copy of the Notice of Appeal with the Court of Appeals of Virginia within thirty (30) days of the date of this Opinion. You may obtain additional information concerning appeal requirements from the Clerks' Offices of the Commission and the Court of Appeals of Virginia.