

## APPEAL NO. 010531

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 1, 2000, November 16, 2000, and February 7, 2001. The record closed on February 12, 2001. The sole issue in the case was whether the decedent suffered a compensable injury on \_\_\_\_\_, resulting in his death. The hearing officer determined that he did. The appellant (carrier) appeals the determination on sufficiency of the evidence grounds. The respondent (beneficiary) requests that the hearing officer's decision be affirmed.

### DECISION

Affirmed.

This case involves the death of a 61-year-old worker who incurred burns at work on \_\_\_\_\_. The exact means by which the decedent was burned was vigorously disputed at the CCH, as was the issue of whether the burns caused his death, or whether his death was a result of the decedent's asthma condition or his atherosclerotic cardiovascular disease. The initial autopsy report, dated July 12, 1999, listed the cause of death as "Complications related to the chemical burns (sulfuric acid)." Contributory factors were listed as "Asthma and atherosclerotic cardiovascular disease." The amended autopsy report, dated September 29, 1999, listed cause of death as "Environmental exposure to sulfuric acid complicated by underlying chronic respiratory disease." Contributory factors were listed as "Exposure to sulfuric acid while at work." The second amended autopsy report, dated November 5, 1999, listed cause of death as "Complications of environmental chemical exposure." Contributory factors were listed as "Asthma and atherosclerotic cardiovascular disease." The (County) Associate Medical Examiner, Dr. Mo, who conducted the autopsy and who authored the autopsy reports, testified during the CCH. The carrier called Dr. Me as a peer review doctor. Dr. Me testified essentially that it was his opinion that the decedent did not die from the burns, but from his asthma or the cardiovascular disease, ordinary diseases of life.

The hearing officer's decision is supportable by evidence in the record. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d

629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses for that of the hearing officer.

We affirm the decision and order of the hearing officer.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Susan M. Kelley  
Appeals Judge