

the applicant which is undisputed and the medical literature. Also, he opined that seizures in 2010 did not cause the meningioma but could be a symptom. The applicant did not just suffer a laceration but also had bruising.

Dr. Santiago-Diepa disagreed with the PMQE Dr. Blake Berman (Def. Ex. A and B) that the head injury was not at the site the tumor presented. He opined definitively that the tumor developed at the site of the head trauma and its growth was accelerated by the head trauma. (Dr. Santiago- Diepa Deposition Applicant's Ex. 1 19:21-24; 20:2-25; 21:1-14; 21:21-3; 22:19-23:5; 23:9; 24:2-12;25:3-25; 26:5-27:14; 27:22-28:1; 28:2-6; 28:24-29:22; 30:6-21; 31:11-21; 33:4-24).

In contrast to thorough analysis of Dr. Santiago-Diepa the opinion of the PQME Blake Berman (Def Ex. A) that the head trauma did not cause or accelerate the meningioma consists of a single conclusory paragraph on page 30 of the December 1, 2021 report that states: "Based on the currently available information, including the patient's self-reported history of injury as well as my finding on examination, it is my medical opinion that only the patient's current symptoms and objective findings related to the left parietal scalp contusion is a direct result of the industrial injury of November 18, 2020."

In his October 28, 2022 report (Def. Ex. B page 4) Dr. Berman states after review of Dr. Santiago-Diepa's deposition that "Given the tumor *would have been unaffected by the type and mechanism of injury suffered by this patient*". He further states that "the fact that the lesion progressed rapidly following the date of injury emphasizes the aggressiveness of this lesion and has "...*virtually nothing to do with the scalp contusion itself.*" Virtually nothing is not nothing. It is an incorrect legal standard with no reference to medical case studies, or literature. Dr. Berman repeats the paragraph cited up above under causation, verbatim, in the October 28, 2022 report under causation.

Therefore the court found that the only substantial medical evidence of industrial causation of the tumor was found in the deposition transcript of Dr. Santiago-Diepa (Applicant's Ex. 3). The reliance on the deposition was not an error.

IV

CONCLUSION

Therefore it was appropriately found that the tumor was accelerated by the head injury and thus was a compensable injury.

V

RECOMMENDATION

It is recommended that the Petition for Reconsideration be denied.

Respectfully submitted,

DATE: 8/15/23

LINDA F. ATCHERLEY
Workers' Compensation Judge