

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARLA M. STEWART and DEPARTMENT OF THE INTERIOR,
MAMMOTH CAVE NATIONAL PARK, KY

*Docket No. 99-726; Submitted on the Record;
Issued March 30, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability due to the January 26, 1989 employment injury.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the January 28, 1998 decision of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

¹ The medical evidence appellant submitted, including the opinion of her treating physician, Dr. Mitchell A. Schwaber, a Board-certified otolaryngologist, and that of Dr. William D. Littlejohn, was insufficient to establish that appellant sustained a recurrence of disability due to the January 26, 1989 employment injury. Dr. Schwaber's opinion was speculative as to the cause of appellant's current disability, consisting of dizziness, nausea, vomiting and imbalance and therefore was not probative. See *Wendell D. Harrell*, 49 ECAB 289, 291-92 (1998). Dr. Littlejohn did not specifically state which medical evidence he relied on in concluding that appellant's current condition was causally related to the January 26, 1989 employment injury, did not physically examine appellant and did not address the relationship of appellant's preexisting hearing loss with her current disability. Therefore, his opinion was also not probative. See *Connie Johns*, 44 ECAB 560, 470 (1993).

The January 28, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 30, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member