

1/2/15 – PA Court Issues Significant Year End Ruling on PTSD Workers Compensation Case

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(Philadelphia) – The Pennsylvania Commonwealth Court yesterday issued an affirmative ruling on a case it previously denied in 2011, after the Supreme Court of Pennsylvania vacated that first decision earlier this year. The ruling now awards former liquor store manager and Martin Law client Greg Kochanowicz benefits for the Post-Traumatic Stress Disorder (PTSD) he suffered when his store was robbed at gunpoint.

THE DETAILS

Kochanowicz, manager of a Bucks County liquor store, had worked for the Pennsylvania Liquor Control Board (LCB) for approximately 30 years when the store was robbed at gunpoint in April of 2008. During the robbery, Kochanowicz had a gun pointed at him and prodded against the back of his head, was verbally threatened and bound with duct tape. Unable to return to work, he filed for total disability benefits, which were initially awarded.

However, in 2011, the LCB appealed his claim and the Commonwealth Court halted the benefits saying that Kochanowicz, having attended training and given pamphlets on the handling of a robbery, should have been prepared that a robbery was “normal” for the job.

Kochanowicz, with his attorney Al Carlson, appealed to the Pennsylvania Supreme Court, who in February of this year

vacated the Commonwealth Court's decision, restoring wage benefits. That decision compelled the lower court to convene and issue an entirely new decision after Carlson was called to argue the case before the Commonwealth Court in October.

WHAT THIS MEANS FOR THE CLIENT

When the Pennsylvania Supreme Court vacated the lower court's decision, Kochanowicz's wage benefits were restored and he was awarded back pay. This decision not only affirms those benefits, but also awards medical benefits for continuing the psychological treatments he initiated one day after the robbery (to date exceeding \$25,000). In many cases, individuals who have suffered PTSD cannot return to a similar job due to flashbacks from the incident and a paralyzing fear of another occurrence.

WHAT THIS MEANS FOR WORK-RELATED PTSD DISORDERS

This decision comes just over a year after *Payes v. Workers' Compensation Appeal Board (Commonwealth Pa. State Police)* was decided. In *Payes*, a state trooper's claim for workers' compensation for PTSD was first denied by the Commonwealth Court but later awarded by the Supreme Court. The trooper had struck and killed a woman who purposely ran in front of his patrol car while he was travelling to his barracks to begin a shift. While the court noted that "normal" working conditions for those in law enforcement included accidents, bodily injuries and death, in that particular instance, "a mentally disturbed individual running in front of a Trooper's vehicle...for no apparent reason...[is] extraordinary and unusual," and, as an abnormal working condition, was compensable. These and other cases indicate a shift toward recognizing that bona fide work injuries are not always physical.

“As an organization, the [Anxiety and Depression Association of America](#) sees these rulings as positive in recognizing that individuals respond differently to traumatic events, and in the instances where individuals develop PTSD, they will be able to seek treatment without stigma,” said ADAA president [Mark H. Pollack, MD](#), Grainger Professor and Chairman, Department of Psychiatry, Rush University Medical Center.

Attorney Carlson also heralded the ruling, stressing that the possibility of an incident doesn’t make an actual incident “normal” or foreseeable. “This is a retail job,” said Carlson. “Not law enforcement, not armed forces, and Greg Kochanowicz continues to suffer the consequences of a single traumatic, terrifying and life-threatening moment. Fortunately, he now has the support he needs to heal, both monetary and in the court’s significant recognition of the injury. Which is important, because Greg Kochanowicz is a hero who saved his co-worker and himself.”