Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: February 27, 2026

CLAIM NO. 201874745

ABDELRAHMAN KAMEL PETITIONER

VS. **APPEAL FROM HON. DOUGLAS W. GOTT, CHIEF ADMINISTRATIVE LAW JUDGE**

WHITE CASTLE
and HON. DOUGLAS W. GOTT,
CHIEF ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING

* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and MILLER, Members.

STIVERS, Member. Abdelrahman Kamel ("Kamel") seeks review of the December 10, 2025, Order of Hon. Douglas W. Gott, Chief Administrative Law Judge ("CALJ"), overruling his Motion to Reopen.

Kamel sets forth three arguments on appeal. Kamel first argues the CALJ erred by finding Kamel was required to submit medical evidence of a new impairment rating to meet the requisite threshold to reopen. Next, Kamel argues

only medical evidence showing a "worsening"' is required to reopen. Finally, Kamel claims that objective medical evidence filed in the record makes a *prima facie* showing his condition has worsened. Kamel seeks reversal and remand for additional proceedings.

BACKGROUND

Kamel filed a claim in the above-styled matter alleging injuries to his "neck, right shoulder, right wrist, shoulder blade, and middle of the back" occurring on June 22, 2018. After all proof was submitted and prior to the hearing before Hon. Peter J. Naake, Administrative Law Judge ("ALJ Naake"), the parties advised ALJ Naake they had settled all injury claims except for the alleged right shoulder injury claim.

A hearing was conducted on August 18, 2021.

On October 7, 2021, the parties filed a Notice of Partial Settlement advising ALJ Naake that all issues relating to the cervical injury claim including entitlement to income and medical benefits for the cervical injury had been resolved. Consequently, the parties agreed the only issue to be resolved by ALJ Naake was whether Kamel sustained a work-related right shoulder injury and his potential entitlement to income and medical benefits for said injury.

On October 12, 2021, ALJ Naake entered an Opinion and Order finding Kamel did not sustain a June 22, 2018, right shoulder work injury and dismissing his claim for the injury. However, ALJ Naake ordered the claim remain on his active docket pending receipt of the Form 110 Settlement Agreement pertaining to Kamel's cervical spine injury.

On October 29, 2021, ALJ Naake approved the Form 110 Settlement Agreement as to Compensation executed by the parties. The Form 110 reveals White Castle relied upon the 25% impairment rating assessed by Dr. Thomas Bender for the neck injury. Dr. Bender diagnosed a C6-7 fusion. Kamel relied upon the opinions of Dr. Steven Wunder who assessed a 31% impairment rating and also diagnosed "flow-through impingement to the right shoulder." The parties agreed Kamel had returned to work at the same or greater wage and was entitled to enhanced benefits pursuant to KRS 342.730(1)(c)1. The Form 110 reflects the parties agreed to a compromised impairment rating. Specifically, the parties agreed Kamel's work-related neck injury generated a 25% permanent impairment rating with Kamel entitled to weekly benefits of $521.08 based on the following calculation: $604.15 x 25% x 1.15 x 3. Kamel did not waive his rights to past and future medical benefits, vocational rehabilitation, and to reopen. As previously noted, the purpose of the settlement was to resolve all allegations except for the right shoulder injury claim. The parties agreed Kamel did not sustain injuries to his right wrist, shoulder blade, and middle back. Kamel received a lump sum comprising of permanent partial disability ("PPD") benefits due from the date of the injury through the present, less the overpayment of temporary total disability ("TTD") benefits. Kamel was also entitled to PPD benefits for the remainder of the 425-week compensation period.

No appeal was taken from ALJ Naake's October 12, 2021, decision.

On October 3, 2025, Kamel filed a Motion to Reopen Form asserting a change in disability shown by objective medical evidence. Attached to the Motion to Reopen is a signed Form 106 (current medical release) and the Form 110-I

Agreement as to Compensation approved by ALJ Naake. Medical documents supporting the Motion to Reopen were not attached to the motion. Further, an affidavit was not attached.

On October 22, 2025, White Castle filed a Response to the Motion to Reopen noting the Motion to Reopen did not provide any explanation as to how there had been a change of disability as shown by objective medical evidence. Further, medical records were not attached to the Motion to Reopen showing a change in impairment. It pointed out KRS 342.125 requires "a change of disability as shown by objective medical evidence of worsening … due to a condition caused by the injury since the date of the award or order." Citing to Stambaugh v. Cedar Creek Mining Co., 488 S.W.2d 681 (Ky. 1972), it asserted the party seeking a change of benefits is required to make a preliminary reasonable *prima facie* showing "of the existence of a substantial possibility of the presence of one or more of the prescribed conditions that warrant a change in the decision before his adversary is put to the additional expense of relitigation." Because Kamel failed to file supporting medical evidence, White Castle argued there is no evidence demonstrating a worsening caused by the injury nor is there any indication as to whether a change in disability is attributable to a neck or shoulder condition. Relying upon the pertinent statutory and case law, White Castle asserted Kamel failed to make the requisite *prima facie* showing to sustain a reopening. White Castle represented it was not aware of any recent medical treatment such as surgery or a similar procedure which might justify "the filing of the Motion to Reopen to preserve an argument for additional

temporary or permanent benefits." It was also unaware of any recent requests for temporary or permanent income benefits.

On October 29, 2025, the CALJ entered an Order directing a telephone conference with counsel to be conducted on November 7, 2025, at 9:00 a.m. CT, 10:00 a.m. ET.

On November 7, 2025, Kamel filed a Memorandum in Support of the Motion to Reopen. Within the memorandum, he summarized portions of his prior medical history. Kamel also set forth the following summary of his recent medical history:

> • Plaintiff had an initial visit with St. Elizabeth Spine Center on April 3, 2023 with complaints of neck pain and diagnosis of cervical radiculopathy and failed neck syndrome. His "pain has been present since a work-related injury that resulted in C6/7 discectomy in 2020. Symptoms have progressively increased since symptom onset." [See Bate Stamp ZIEG00065 – ZIEG00071]
>
> • He had an MRI of cervical spine on October 3, 2023 which showed right subarticular disc osteophyte complex at C5-6 results in moderate right foraminal stenosis for the exiting right C6 nerve root. [See Bate Stamp ZIEG00072]
>
> • Mr. Kamel had an office visit at St. Elizabeth Spine Center on February 25, 2025 noting worsening symptoms with a diagnosis of cervical radiculopathy, myofascial pain, and failed neck syndrome. [See Bate Stamp ZIEG00073 – ZIEG00082]
>
> • Plaintiff has shown a worsening condition of his neck as a result of his injury. Specifically, the attached records reflect "right foraminal stenosis" and "myofascial pain," which did not exist at the time this case originally settled. Because of that, he had recent neck surgery with Dr. Kimball of Mayfield Spine. Records have been requested and will be submitted upon receipt.

Kamel also attached over 100 pages of medical records pertaining to his treatment prior to ALJ Naake's approval of the Agreement as to Compensation on October 29, 2021, and his treatment after October 29, 2021, spanning April 3, 2023, through May 13, 2025. *Significantly, those records do not contain an opinion by any physician establishing a worsening of impairment and/or an increased impairment rating.* Those records are summarized as follows:

> **April 3, 2023 – St. Elizabeth Edgewood – Office Visit- Dr. Lance Hoffman, Interventional Pain Management.**
>
> Chief complaints: New Patient, Neck Pain, and Arm Pain.
>
> Visit diagnoses:
>
> • Cervical radiculopathy (primary)
>
> • Failed neck syndrome.
>
> HPI: Abdelrahman Kamel is a 42 y.o. year old male who was referred to our clinic for consultation, evaluation and treatment regarding their pain. Their pain has been present since a work related injury that resulted in C6/7 discectomy in 2020. Symptoms have progressively increased since symptom onset. Their symptoms have previously been evaluated by their primary care provider and another pain management specialist. Prior diagnostic studies include x-rays and MRI. Prior pharmacologic treatment includes acetaminophen, NSAID's and muscle relaxants. The patient has previously undergone physical therapy and physician directed home exercise, which resulted in minimal-to-no pain relief.
>
> He underwent CESI per Dr. Burns a couple years ago with significant relief. He reports about 80% relief for months following this injection. Pain has more recently returned to a level that is no longer tolerable. He requests repeat injection.

At that time, the images reviewed reflected normal alignment of cervical vertebral bodies following C6-7 discectomy and arthroplasty. No displaced hardware or significant degenerative changes causing impingement. No cord edema, hemorrhage or myelomalacia.

Recommended repeat interlaminar Cervical Epidural Steroid injection with fluoroscopic guidance at C6/C7.

Kamel was provided an instructional packet in order to perform physician directed home exercise program (HEP) at least 30 minutes per day and at least 5 times per week.

Dr. Hoffman restarted Kamel on Gabapentin and Robaxin.

Kamel was to return in 3 months.

January 30, 2024 – Mayfield Clinic – Office Visit- Dr. Zachary Tempel.

History of Present Illness:

This is a 43-year-old male well-known to me who presents to clinic today for evaluation of his neck pain and occasional right upper extremity pain. Suffered an accident in 2018 on the worksite, and ultimately underwent a C6-7 arthroplasty. He describes neck pain as being located posteriorly in his neck and radiating up into the head, and occasionally down into the right arm. It is associated with numbness and tingling as well. He has trouble sleeping at night.

Assessment

Impression: I had a lengthy discussion with the patient regarding his condition. This is a 43-year-old male with a prior C6-7 arthroplasty, who presents with neck pain and occasional upper extremity pain. I do believe that he has perhaps some symptoms from the 5 6 level, but I am more concerned about abnormal motion of the arthroplasty. I would like him to undergo a cervical medial branch block, and get a CT scan of the cervical spine to evaluate the status of the implant.

March 11, 2024 – ProScan Imaging Northern Kentucky. A CT scan of the cervical spine without contrast revealed the following:

C2-C3: No focal disc herniation, spinal canal stenosis, or foraminal narrowing.

C3-C4: No focal disc herniation, spinal canal stenosis, or foraminal narrowing.

C4-C5: No focal disc herniation, spinal canal stenosis, or foraminal narrowing.

C5-C6: No focal disc herniation or spinal canal stenosis or left foraminal narrowing. Mild right foraminal narrowing in combination with facet arthroplasty.

C6-C7: Prosthetic disc noted as the C6-7 level. Alignment is anatomic in spacing is within normal limits. No central canal or foraminal stenosis evident.

C7-T1: No focal disc herniation, spinal canal stenosis, or foraminal narrowing.

March 19, 2024 - Mayfield Clinic Office Visit – Dr. Zachary Tempel

HPI: This is a 43-year-old male well-known to me who presents to clinic today for evaluation of his neck pain and occasional right upper extremity pain. Suffered an accident in 2018 on the worksite, and ultimately underwent a C6-7 arthroplasty. He describes neck pain as being located posteriorly in his neck and radiating up into the head, and occasionally down into the right arm. It is associated with numbness and tingling as well. He has trouble sleeping at night.

Assessment

Impression: I had a lengthy discussion with the patient regarding his condition. This is a 43-year-old male with a prior cervical arthroplasty and right-sided neck and upper extremity pain. I recommended physical therapy with dry needling, as well as medial branch blocks. I will see him back in 3 months.

October 7, 2024 - Mayfield Clinic – Imaging Report: XR Cervical Spine AP and Lateral

Impression: Postsurgical changes in anterior discectomy and fusion at C6-7.

April 17, 2024 – Mayfield Clinic – ESI Procedure Note: Diagnostic MBB C5-6-7 bilateral #1.

Diagnosis: Cervical Spondylosis (ICD-721.0) (ICD 10-M47.812)

Procedure: Bilateral C5, C6, and C7 diagnostic medial branch block injection for the C5-6, C6-7 facet joints.

Indications: Patient presents with neck pain as being located posteriorly in his neck and radiating up into the head, and occasionally down into the right arm. It is associated with numbness and tingling as well. He has trouble sleeping at night. ACDF done C6-7 a few years ago. Current symptoms consistent with spondylosis and facet disease and we will try to diagnostic MBB C5-6-7 bilateral.

April 24, 2024 – Mayfield Clinic – PT Evaluation – Audra Roden PT

Diagnosis: Cervical disc disorder at C6-C6 level with radiculopathy

Subjective Data: How did it occur? Original incident in 2018 at work – pulled machine and felt sharp pain in neck and couldn't move R UE next day. Had C6-7 ACD with disc replacement and neck was good for a while but has started up again 5 mos ago.

Pain: Location: neck from base of head and down to mid back and R shoulder blade and shoulder to elbow and pain in thumb and top of hand and fingers, pain can go to R eye.

Visit notes: Pt. presents with neck pain R>L and R UE pain and shoulder blade on R and weakness due to pain. Pain goes to elbow, forearm and into thumb and fingers. Pain in shoulder blade does [sic] increased with Spurlings but not down UE. Pt. is very guarded and keeping shoulders hiked. Pt. tolerated DN and STM

with no issue and tolerated gentle cervical stretching and initial scap strengthening without pain. Pt. did not have any relief with cervical distraction today but may be from guarding. Previous HEP updated with cervical exercises.

May 14, 2024 – Mayfield Clinic – PT Daily Visit – Audra Roden, PT

Visit Notes: Pt. continues to have consistent pain in neck, upper thoracic area, R scap and down R UE. Pt. is unable to tolerate most resistive strength exercises and only tolerating stretching exercises at this time. Pt.'s MMT with R shoulder flex and abduction is 4/5 and bicep 4/5 on R. Grip: R 40 lbs, L 70 lbs. which is decreased from eval. Pt. is placed on hold from PT at this time due to weakness and continued pain and referred back to Dr. Tempel for f/u. Spoke with MA this date and Pt. was able to be moved up for f/u tomorrow 5/15/2024 and Pt. will call PT after for further plan.

June 5, 2024 – Mayfield Clinic – Imaging Report: MRI Cervical Spine WO Contrast

Findings: Alignment: No abnormal curvature

Bone Marrow: Unremarkable. No aggressive osseous lesion or fracture.

Spinal cord: Unremarkable.

Soft Tissues: Unremarkable.

Disc Levels:

C5-6: Mild degenerative change in the disc. Mild bilateral facet arthropathy. No significant canal narrowing. Mild right neural foraminal narrowing.

C6-7: Interbody disc prosthesis at C6-C7. No significant canal or neural foraminal narrowing.

C7-T1: Unremarkable.

Impression: No significant change from prior with C6-C7 disc prosthesis. Preserved alignment and no significant spinal canal or neural foraminal narrowing.

June 11, 2024 – Mayfield Clinic – Office Visit – Dr. Zachary Tempel

History of Present Illness: This is a 43-year-old male well-known to me wo presents to clinic today for evaluation of his neck pain and occasional right upper extremity pain. Suffered an accident in 2018 on the worksite, and ultimately underwent a C6-7 arthroplasty. He describes neck pain as being located posteriorly in his neck and radiating up into the head, and occasionally down into the right arm. It is associated with numbness and tingling as well. He has trouble sleeping at night.

Assessment: Impression: I had a lengthy discussion with the patient regarding his condition. I am still not fully convinced that the arthroplasty level is his primary issue. However, we did briefly discuss explanting that and doing an ACDF. We will get a right upper extremity EMG, and I will bring him back to the clinic to discuss.

July 23, 2024 – Mayfield Clinic – Office Visit – Dr. Zachary Tempel

History of Present Illness: This is a 43-year-old male well-known to me wo presents to clinic today for evaluation of his neck pain and occasional right upper extremity pain. Suffered an accident in 2018 on the worksite, and ultimately underwent a C6-7 arthroplasty. He describes neck pain as being located posteriorly in his neck and radiating up into the head, and occasionally down into the right arm. It is associated with numbness and tingling as well. He has trouble sleeping at night. Pain has progressed significantly, and he is oftentimes unable to sleep at night. Describes pain as a shooting pain that now goes all the way down the arm into the back of the hand consistent with a C7 radiculopathy.

Assessment: Impression: I had a lengthy discussion with the patient regarding his condition. This is a 43-year-old male with prior C6-7 arthroplasty who I believe has abnormal dynamic foraminal compression of the right C7 nerve root. He has tried and failed numerous forms of conservative therapy including physical therapy, epidurals and RFA. At this point in time, we discussed the surgical option of a removal of arthroplasty with redo ACDF. He has been given the risks and benefits of surgery and wishes to proceed.

August 22, 2024 – Mayfield Spine Surgery Center – MCSSC Op Note: Dr. Zachary Tempel

Preoperative diagnosis: 1. Failed arthroplasty, C6-7.

Postoperative diagnosis: Same

Procedures Performed:

1. Removal of prior C6-7 arthroplasty device.

1.(sic) Anterior cervical diskectomy C6-7 with decompression of spinal cord and nerve roots.

2. Anterior cervical arthrodesis with mm PEEK graft filled with DBM allograft C6-7. 3. Anterior cervical plating C6-7 with Medtronic Zevo plating.

4. Microscopic dissection.

5. Intraoperative fluoroscopy.

Indications for Surgery: The patient is a 43 Years Old man with neck and arm pain. His symptoms failed to resolve despite conservative intervention. He underwent a prior arthroplasty at C6-7, and imaging demonstrated abnormal motion. Based on these findings and the correlation with the patient's severe symptoms, the option of surgery was presented to the patient. Risks and benefits of surgery were explained and the patient decided to proceed with surgery.

September 10, 2024 – Mayfield Clinic – Office Visit – Kara Rhoads PA-C

Post-Operative Visit: Abdelrahman Kamel is a 43-year-old male who is here today for a post-operative evaluation visit after a C6-7 ACDF procedure. It has been 2 weeks since his surgery. His activity level is improved but not back to full. His symptoms are better. He overall reports to be doing well and notices good improvement in his preoperative symptoms. He is very pleased with his progress and denies any major concerns. He does have some appropriate postoperative pain with some myofascial pain between his shoulder blades but reports this has been well-controlled.

Assessment: Impression: 43-year-old male patient who is now 2 weeks status post removal of a C6-7 arthroplasty and a C6-7 ACDF overall doing very well noting good improvement in preoperative symptoms.

Plan:

New Orders: X-Ray Cervical AP Lateral

Additional Plan Details: This point we discussed still avoiding any heavy lifting pushing or pulling and avoiding any strenuous activity. Follow-up in another month with x-rays prior for second postoperative visit. He would like to switch from morphine to oxycodone, he is only needing about 1 pain medication a day and notes that the MS Contin makes him very sleepy. Oxycodone can interfere with his sleep but because he is only taking it once a day he would like to switch to this. He also notes Valium has helped significantly with his muscle spasms, I will send in a refill or Valium.

He is also having a lot of right shoulder pain with overhead activity and feeling a lot of popping in his right shoulder, he is concerned of a right shoulder problem as well. We discussed starting a right shoulder MRI and seeing if we need to refer him to a orthopedic specialist.

October 14, 2024 – St. Elizabeth Edgewood – MRI Cervical Spine WO Contrast

Findings: Changes of C6-7 discectomy and arthroplasty are present with associated susceptibility artifact. No acute fracture, malalignment, or cord signal abnormality is noted. There is a benign hemangioma in the T4 vertebral body.

Level-by-level analysis:

C2-3, C3-4, and C4-5: Unremarkable

C5-6: Broad right subarticular disc protrusion with uncovertebral hypertrophy results in moderate right foraminal stenosis for the exiting right C6 nerve root.

C6-7: Surgical level. No spinal canal or foraminal stenosis.

Impression:

1. Right subarticular disc osteophyte complex at C5-6 results in moderate right foraminal stenosis for the exiting right C6 nerve root.

2. No spinal canal or foraminal stenosis at C6-7 status post disc arthroplasty.

February 25, 2025 – St. Elizabeth Edgewood – Office Visit in St. Elizabeth Spine Center – Katie Gruen, APRN

Reason for Visit

Chief complaints: Back pain, neck pain, Follow-up, and Medication Refill

Visit diagnoses:

• Cervical radiculopathy (primary)
• Myofascial pain
• Failed neck syndrome
• Acute pain of left shoulder

HPI: Abdelrahman Kamel is a 44 y.o. male who presents for follow-up evaluation regarding their pain. Symptoms are worse since last visit. No interventions for pain were performed since last visit. Patient last seen October 2024. Dr. Temple (sic) at Mayfield performed neck fusion last August 2024, also neck surgery 2020. Patient suffered a Stroke November 29 – then had surgery with Dr. Robinson.

…

Patient has trouble using the left hand/weakness/numbness to touch. CESI with relief last completed 12/2023 80% relief a few months. Patient would like repeat. Request left shoulder MRI and discussed need xray first - patient states his insurance will cover an MRI. Trouble with pain in left shoulder and decreased ROM.

Characterization of Primary Pain:

Location of Pain: Neck -left sided

…

The patient's current medication regimen does not relieve their pain. No apparent side effects are noted with current medication regimen.

…

Past Surgical History: Procedure:

• Cervical Disc Surgery C6-C7 disc replacement
• Hemorrhoid Surgery
• Hernia Repair
• Lumbar Fusion L4-L5
• Sinus Surgery

MRI Cervical Spine WO Contrast

Narrative: MRI Cervical Spine Without Contrast, 10/3/2023 2:49 PM

Assessment and Plan: Diagnoses and all orders for this visit.

Cervical radiculopathy

- IR Cervical/Thoracic ESI With Guidance; Future

- Pregabalin (Lyrica) 50 mg Oral Capsule; Take 1 capsule by mouth times daily for 30 days. Dispense: 90 Capsule: Refill: 2

- Chlorzoxazone (Parafon Forte) 500 mg Oral Tablet; Take 1 Tablet by mouth 3 times daily as need for muscle spasms for up to 30 days. Dispense: 90 Tablet; Refill 2.

Myofascial pain

- Pregabalin (Lyrica) 50 mg Oral Capsule; Take 1 Capsule by mouth 3 times daily for 30 days. Dispense: 90 Capsule; Refill 2

- Chlorzoxazone (Parafon Forte) 500 mg Oral Tablet; Take 1 Tablet by mouth 3 times daily as needed for muscle spasms for up to 30 days. Dispense: 90 Tablet; Refill: 2

Failed neck syndrome

- Pregabalin (Lyrica) 50 mg Oral Capsule; Take 1 Capsule by mouth 3 times daily for 30 days. Dispense: 90 Capsule; Refill: 2

- Chlorzoxazone (Parafon Forte) 500 mg Oral Tablet; Take 1 Tablet by mouth 3 times daily as needed for muscle spasms for up to 30 days. Dispense: 90 Tablet; Refill: 2

Acute pain of left shoulder

- MRI Shoulder Left WO Contrast; Future

Plan:

- MRI cervical recent 2/14/25 at Mayfield has upcoming EMG left upper extremity – eval pain/weakness – scheduled at Mayfield

- Currently on Plavix due to stroke in November – per patient will complete end of February then be on aspirin.

- Order MRI left shoulder – Indication: Chronic, persistent pain with > 6 weeks of conservative treatment.

- Recommend interlaminar Cervical Epidural Steroid injection with fluoroscopic guidance at C5/6. Risks, benefits and alternatives were reviewed with the patient, who agreed to the procedure.

- Continue medication(s) previously prescribed as there are no new symptoms, change in location, sustained increase in pain level, or interval changes in medical condition. Patient reports increased activity and improved functionality with medication use and endorses no adverse reactions. No aberrant behavior or medication abuse is evident.

- Start Lyrica

- Start Parafon Forte

- Discontinue Gabapentin and Flexeril due to lack of efficacy.

- Continue Physical Therapy/Home Exercise Program for at least 4-6 weeks prior to re-evaluation

- Return in about 8 weeks (around 4/22/2025)

April 10, 2025 - St. Elizabeth Edgewood – Office Visit in St. Elizabeth Spine Center Florence – Dr. Lance Hoffman

Reason for Visit: Chief complaints: Follow-up, Neck Pain, and Shoulder Pain.

Visit diagnoses

• (primary)

• Myofascial pain

• Cervical radiculopathy

• Failed neck syndrome

HPI: Abdelrahman Kamel is a 44 y.o. male who presents for follow-up evaluation regarding their pain. Symptoms are progressively worsening since last visit.

CT cervical spine 2025 was notable for posterior disc-osteophyte complex at C5/6 resulting in thecal sac compression. Prior ACDF C6/7.

Characterization of Primary Pain:

Location of Pain: Neck – left worse than right sided.

Image Review: Results for orders placed during hospital encounter of 10/03/23

MRI Cervical Spine WO Contrast

Narrative: MRI Cervical Spine Without Contrast, 10/3/2023 2:49 PM

Assessment and Plan: Diagnoses and all orders for this visit:

Myofascial pain

Cervical radiculopathy

- MRI Cervical Spine WO Contrast; Future

- Pregabalin (Lyrica) 100 mg Oral Capsule; Take 1 Capsule by mouth 3 times daily. Dispense: 90 Capsule; Refill: 2

Failed Neck Syndrome

- MRI Cervical Spine WO Contrast; Future

- Pregabalin (Lyrica) 100 mg Oral Capsule; Take 1 Capsule by mouth 3 times daily. Dispense: 90 Capsule: Refill 2.

Plan:

- CT cervical spine 3/2025 was notable for posterior disc-osteophyte complex at C5/6 resulting in thecal sac compression. Prior ACDF C6/7.

- Order updated MRI cervical spine

- Recommended Interlaminar Cervical Epidural Steroid injection with fluoroscopic guidance at C6/C7. Risks, benefits and alternatives were reviewed with patient, wo agreed to the procedure.

- Increase Lyrica to 100 mg three times daily. Side effect profile of Lyrica/pregabalin discussed with the patient including but not limited to fatigue, dizziness, blurred vision, confusion, and peripheral edema. Patient expressed understanding and agreed to therapy. Patient instructed to avoid driving until the know how medication changes affect them.

- We discussed that he will continue Physical Therapy/Home Exercise Program for at least 4-6 weeks prior to re-evaluation.

- Return for imaging results, procedure.

April 15, 2025 - Dr. Lance Hoffman - MRI Cervical Spine WO Contrast: Result Notes

MRI cervical spine was notable for right greater than left foraminal narrowing at C5-C6 due to disc osteophyte complex formation and uncovertebral spurring. There has been interval anterior interbody fusion at the C6-C7 level where disc arthroplasty was noted previously.

Findings:

There has been interval anterior interbody fusion at the C6-C7 level where disc arthroplasty was noted previously. There is no acute abnormal cervical vertebral marrow signal or wedge deformity.

Cord signal unremarkable.

Level by level analysis:

C2-C3: There is mild facet hypertrophy without disc bulge and without neural encroachment.

C3-C4: There is mild facet hypertrophy without neural encroachment.

C4-C5: Unremarkable.

C5-C6: There is mild facet hypertrophy. There is disc osteophyte complex formation with right uncovertebral spurring. There is right greater than left foraminal narrowing. No central stenosis.

C6-C7: Uncomplicated appearing postsurgical level.

C7-T1: Unremarkable.

Comment: No significant additional finding.

Impression:

1. Uncomplicated appearing C6-C7 fusion.

2. Right greater than left foraminal narrowing at C5-C6 due to disc osteophyte complex formation and uncovertebral spurring.

3. Noncompressive degenerative changes at C2-C3, C3-C4, and C4-C5 levels.

Associated Diagnosis:

Cervical radiculopathy

Failed neck syndrome

Exam Details:

MRI Cervical Spine WO Contrast

May 13, 2025 – Mayfield Clinic – Office Visit – Dr. Zachary Tempel

HPI: This is a 44-year-old male well-known to me who is now about 6 months out from his anterior cervical fusion. He had an unrelated stroke a few months ago 2, followed by thrombectomy with return of circulation and near resolution of his stroke symptoms. He has done very well following that intervention. However over the last couple of weeks he has developed worsening contracture in the left hand with some pain that radiates up and down the arm. He then underwent an EMG that showed carpal tunnel syndrome, and had his carpal tunnel operation performed in Egypt. He comes back today with worsening neck pain, and underwent a C5-6 epidural injection recently with some mild short-term symptom relief.

Assessment:

Impression: This is a 44-year-old male well-known to me who underwent a prior L4-5 laminectomy complicated by CSF leak requiring re-exploration by my partner, I then performed an L4-5 anterior posterior fusion. He also had a prior arthroplasty done, that I removed and performed a fusion for, from which she did quite well. He now complains of worsening neck pain. His MRI does not demonstrate any significant neural element compression, and only mild adjacent level diseases. I would like him to undergo medial branch blocks and potentially an RFA, and I will see him back in 3 months.

On December 1, 2025, White Castle filed a Motion to Dismiss, once again citing to Stambaugh v. Cedar Creek Mining Co., supra. It acknowledged the medical records attached to Kamel's Memorandum in Support of the Motion to Reopen demonstrate he had undergone surgery on or about August 22, 2024, wherein Dr. Tempel re-did the C6-C7 arthroplasty; however, White Castle asserted it is unclear what the surgery entailed, and there is no indication Kamel's condition

had worsened. It also asserted the May 13, 2025, MRI indicated Kamel "'only had mild adjacent level disease at C5-C6,' suggesting that the main complaint was not to the same vertebrae as the originally [sic] work-injury." It stressed the records did not appear to contain an impairment rating assessment nor proof the subsequent surgery changed Kamel's disability. Consequently, White Castle argued medical evidence was not submitted showing a worsening caused by the injury, and Kamel had not made a *prima facie* showing that the subsequent C6-C7 arthroplasty changed his impairment. White Castle requested the CALJ deny the Motion to Reopen due to a failure to make the *prima facie* showing necessary to sustain the Motion to Reopen.

On December 2, 2025, and December 3, 2025, Kamel filed Responses to the Motion to Dismiss. Both pleadings represented that an independent medical examination performed by Dr. John Gilbert to determine Kamel's condition and establish the degree to which his condition had worsened would be forthcoming. Thereafter, a report would be submitted. Kamel argued the documents attached to his Memorandum in Support of the Motion to Reopen constitute objective medical evidence of a worsened neck condition "from both a medical and functional standpoint." Kamel posited Dr. Gilbert's examination would further identify and explain the worsened condition. Kamel requested the Motion to Dismiss be overruled and the claim held in abeyance pending the filing of Dr. Gilbert's report.

On December 10, 2025, the CALJ entered the following Order overruling the Motion to Reopen:

> Abdelrahman Kamel was injured while working for White Castle in 2018. He underwent a cervical fusion. The parties settled the neck injury claim on October 29,

2021. An ALJ dismissed his claim of a shoulder injury on October 12, 2021.

Kamel moved to reopen his claim on October 3, 2025, 26 days before the four-year limitation on reopenings expired. KRS 342.125(8). The "change of disability" box is checked, indicating a claim of worsening of impairment under KRS 342.125(1)(d), with no other explanation as to the claim(s) being made. The only attachment was the Form 110 from 2021; there were no medical reports or notes, or affidavits.

White Castle objected to the motion because no prima facie case for reopening had been made. (It also stated that it was unaware of any recent medical treatment and had not received a claim for TTD benefits.) The CALJ conducted a phone conference with counsel to discuss the motion on November 7, 2025. The parties were allowed to file supplemental pleadings.

Kamel filed a Memorandum in support of the motion that attached old and new medical records. Treatment records from pain management physicians at St. Elizabeth Florence document ongoing symptoms. (The history sections on several notes reference a prior discectomy at C6-7, whereas the Form 110 from 2021 documents a fusion for which appropriate impairment ratings of 25% and 31% were offered at the time.) Surgery for a "failed arthroplasty, C6-7" was done by Dr. Zachary Tempel on August 22, 2024. The last follow-up note is May 13, 2025. There is no statement of MMI or about a change in impairment rating. Kamel apparently suffered an unrelated stroke sometime after the surgery.

White Castle then filed a motion to dismiss (i.e., overrule) the motion to reopen, again arguing Kamel had not made a prima facie under Stambaugh v. Cedar Creek Mining Co., 488 S.W.2d 681 (Ky. 1972).

Kamel responded that the report from an upcoming medical evaluation would provide additional support for a worsened condition.

Reopening is a two-step process. Colwell v. Dresser Instrument Division, 217 S.W.3d 213 (Ky. 2006). A motion to reopen is similar to a motion to re-docket,

where the grounds for re-docketing are tested prior to the matter proceeding further. A party seeking to reopen his claim must first make a prima facie showing that one of the prescribed conditions for reopening under KRS 342.125(1) exists to warrant a change in the original award. Stambaugh, supra. "Prima facie" evidence is evidence that, if unrebutted or unexplained, is sufficient to maintain the proposition and warrant the conclusion in support of which it has been introduced. Prudential Insurance Co. of America v. Tuggle's Adm'r., 254 Ky. 814, 72 S.W.2d 440 (1934).

KRS 342.125(1(d) allows a reopening for a "Change of condition as shown by objective medical evidence of worsening or improvement of impairment caused by the injury since the date of the award or order."

Kamel has not produced evidence that the impairment rating from his work-related cervical condition has worsened. The statement of allegedly new diagnoses or the occurrence of surgery does not establish a greater impairment rating (even assuming the surgery was work related). Based on the impairment ratings from 2021 noted on the Form 110, Kamel already has DRE Cervical Category IV impairment, a significant rating assigned from a fusion. One cannot assume his impairment will increase from having had further surgery. Only a physician can address that question. And unfortunately for Kamel, no medical opinion was offered before the four-year limitations expired; the fact that the motion was timely filed does not relieve Kamel from presenting a prima facie case within the prescribed time.

Hall v. Hospitality Resources, 276 S.W.3d 775 (Ky. 2009), affirmed the holding of Colwell, supra, that a claimant must show a permanent worsening of impairment at the time of reopening. In Hall, the claimant was still receiving TTD benefits and had not reached MMI at the time her four-year limitations period ran on reopening, and so "she could not have made the prima facie showing as is required upon the filing of a motion to reopen prior to its alleged expiration date." Id. at 781.

In Hodges v. Sager Corporation, 182 S.W.3d 497 (Ky. 2005), the claimant filed a motion to reopen for a

change of condition based on the higher impairment rating she anticipated receiving from her doctor; at her request, the ALJ placed the claim in abeyance to allow her to obtain that evidence. The evidence was subsequently obtained, and an increased award was made. The Supreme Court affirmed the Court of Appeals' reversal of the award on grounds that "it was an abuse of discretion to grant the motion" to reopen because no prima facie case had been made at the time of filing. Id. at 501. In his Amended Response, Kamel asks that White Castle's motion to dismiss be held in abeyance pending the report from a medical evaluation he has scheduled next month. Under Hodges, such is not appropriate because the prima facie case of worsening of impairment had to be made at the time of reopening, which was not done and cannot be done within the four-year limitations period because it has expired.

The prima facie hurdle is not high but at least a small step that a claimant like Kamel must get over to move forward. Unfortunately for Kamel, he presented no evidence on which the CALJ can rely on to justify initial reopening of the claim. The cases above require evidence of an increased impairment rating at the time of reopening, or, if deficient, cured by the time the limitation on reopenings expire. The CALJ is also mindful of the unpublished case of Crump v. United Mechanical, Inc., 2016-CA-001457, that permits consideration of a speculative medical opinion on increased impairment grounded in the AMA Guides, provided it was made before the limitations deadline, but that was not offered here either.

A Petition for Reconsideration was not filed.

ANALYSIS

KRS 342.125 reads, in relevant part, as follows:

(1) Upon motion by any party or upon an administrative law judge's own motion, an administrative law judge may reopen and review any award or order on any of the following grounds:

…

> (d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.
>
> …
>
> (3) Except for reopening solely for determination of the compensability of medical expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work, or seeking temporary total disability benefits during the period of an award, no claim shall be reopened more than four (4) years following the date of the original award or original order granting or denying benefits, when such an award or order becomes final and nonappealable.

On appeal, Kamel first argues the CALJ erroneously held he was required to submit medical evidence of a new impairment rating in order to meet the requisite threshold to reopen. Next, Kamel argues only medical evidence showing a "worsening" is required to reopen. He maintains that while a greater impairment rating is objective medical evidence of a worsening of impairment, it is not required. Finally, Kamel asserts that objective medical evidence filed in the record makes a *prima facie* showing his condition has worsened.

The procedure for reopening a prior workers' compensation claim pursuant to KRS 342.125 is a two-step process. Colwell v. Dresser Instrument Div., 217 S.W.3d 213 (Ky. 2006). The first step is a motion requiring the moving party to provide *prima facie* evidence sufficient to demonstrate a substantial possibility of success in the event evidence is permitted to be taken. Stambaugh v. Cedar Creek Mining, supra. "*Prima facie* evidence" is evidence which "if unrebutted or unexplained is sufficient to maintain the proposition and warrant the conclusion [in]

support [of] which it has been introduced." Prudential Ins. Co. v. Tuggle's Adm'r., 72 S.W.2d 440, 443 (Ky. 1934). The burden during the initial step is on the moving party and requires establishment of the grounds for which the reopening is sought. Jude v. Cubbage, 251 S.W.2d 584 (Ky. 1952); W.E. Caldwell Co. v. Borders, 193 S.W.2d 453 (Ky. 1946). The Court of Appeals in Farris v. City of Louisville**,** 209 S.W.3d 486, 489 (Ky. App. 2006), held "the *prima facie* showing required to reopen under KRS 342.125 does not have to be sufficient to support a finding for the movant on the merits of the claim for additional benefits." "It is within 'the fact-finder's 'reasonable discretion' to determine whether the showing in a particular case [is] sufficient to warrant the taking of evidence. [citations omitted].'" Id. at 488. Only after the moving party prevails in making a *prima facie* showing is the adversary party put to the expense of further litigation. Big Elk Creek Coal Co. v. Miller, 47 S.W.3d 330 (Ky. 2001).

In Colwell v. Dresser Instrument Div., supra, the Kentucky Supreme Court discussed the requirements of KRS 342.125(1)(d) at length. Noting that nothing in the statute refers to the "Guides, to permanent impairment rating, or to permanent disability rating," the Court concluded that a greater impairment rating, while certainly objective medical evidence, is not the only objective medical evidence "by which the statute permits a worsening of impairment to be shown" when a claimant alleges an increase from permanent partial disability to permanent and total disability. Colwell at 218. However, the Colwell court noted that an increased impairment rating is required when a worker who remains partially disabled is moving for a greater award. Id. at 218.

Here, the ALJ determined Kamel failed in his burden to make a *prima facie* showing for reopening. Since Kamel was unsuccessful, he must, on appeal, demonstrate the evidence compels a different result. For evidence to be compelling, it must be so overwhelming that no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985).

The function of the Board in reviewing an ALJ's decision is limited to a determination of whether the findings made are so unreasonable under the evidence they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to the weight and credibility to be afforded the evidence or by noting reasonable inferences which otherwise could have been drawn from the record. Whitaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). As long as the ALJ's ruling regarding an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986). Further, in the case *sub judice*, no Petition for Reconsideration was filed; therefore, inadequate or incomplete, fact-finding on the part of an ALJ will not justify reversal or remand if substantial evidence supports the ALJ's determination. Eaton Axle Corp. v. Nally, 688 S.W.2d 334 (Ky. 1985); Halls Hardwood Floor Co. v. Stapleton, 16 S.W.3d 327 (Ky. App. 2000).

As an initial matter, we point out nothing in Kamel's Motion to Reopen indicates whether he is seeking an increase in PPD benefits based upon an increased impairment rating or an increase of permanent partial disability benefits to permanent total disability benefits based upon increased impairment resulting in a

complete and permanent inability to perform any type of work. The only attachments to Kamel's Motion to Reopen are a signed Form 106 medical release and a copy of the Form 110 Settlement Agreement. There are no medical records/reports or affidavit providing an explanation of the nature of the relief Kamel is seeking upon reopening or what occurred medically after approval of the Settlement Agreement by ALJ Naake. Significantly, there is no reference *whatsoever* to the August 22, 2024, surgery performed by Dr. Tempel, including the type of surgery performed, its relevance to the original work-related injury, or whether the surgery was corrective in nature. Further, there is no request for the payment of TTD benefits.

We also note White Castle's objection to Kamel's Motion to Reopen, filed October 3, 2025, does not raise as a defense the four-year limitation period for filing Motions to Reopen pursuant to KRS 342.125(3). Rather, the crux of White Castle's objection is that Kamel failed to file *any* medical records, either with his Motion to Reopen or attached to his November 7, 2025, Memorandum in Support of Motion to Reopen, demonstrating a worsening of impairment.

Kamel's first argument on appeal is three sentences in length. Specifically, Kamel asserts that the ALJ "erroneously ruled that a greater impairment rating must be established" to make a *prima facie* showing upon a Motion to Reopen alleging a change of disability.

Even though the CALJ, in the December 10, 2025, Order, addressed Kamel's failure to produce evidence showing a worsening of impairment rating, he did not state that a greater impairment rating "must be established" to satisfy the

prima facie standard upon reopening alleging a change of disability. In the December 10, 2025, Order, the CALJ demonstrated a *complete* understanding of what is required upon reopening alleging a change of disability by stating as follows:

> • "KRS 342.125(1) allows a reopening or a 'Change of condition as shown by objective medical evidence of a ***worsening or improvement of impairment*** caused by the injury since the date of the award or order.'" (emphasis added).
>
> • "Hall v. Hospitality Resources, 276 S.W.3d 775 (Ky. 2009), affirmed the holding of Colwell, supra, ***that a claimant must show a permanent worsening of impairment at the time of reopening***." (emphasis added).
>
> • "Under ***Hodges***, such is not appropriate because the ***prima facie case of worsening of impairment had to be made at the time of reopening***, which was not done and cannot be done within the four-year limitations period because it has expired." (emphasis added).

Thus, we conclude the CALJ was fully aware that a party moving to reopen alleging a change of disability is only required to show a worsening (or improvement) of *impairment* at the time of reopening and not a worsening (or improvement) of *impairment rating* to satisfy the *prima facie* standard. In the case *sub judice*, Kamel could have met this standard by submitting a written statement of Dr. Tempel indicating Kamel's impairment has worsened since the date of the Settlement Agreement. However, at no point between the October 3, 2025, Motion to Reopen and the December 10, 2025, Order did Kamel identify if he was moving to reopen based on an increase in impairment from permanent partial disability to permanent total disability or if he was seeking a greater award of PPD benefits, nor did he provide any medical documentation in support of either proposition. Even though the CALJ provided Kamel with extra time to submit proof at the November

7, 2025, telephone conference, Kamel still failed to satisfy the *prima facie* standard by submitting medical documentation indicating a worsening of impairment or even provide a basic explanation of what he was seeking upon reopening (i.e., a change of PPD benefits to PTD benefits or increase in PPD benefits). In the December 2, 2025, Response to Motion to Dismiss and December 3, 2025, Amended Response to Motion to Dismiss, Kamel again failed to clarify what he was seeking upon reopening of the claim. Therefore, any reference by the CALJ to Kamel's failure to produce evidence showing the impairment rating for his work-related cervical condition has worsened is accurate and does not negate the CALJ's clear understanding of what is required to satisfy the *prima facie* standard upon reopening alleging a change of disability. On this first issue, we affirm.

Kamel next asserts that only medical evidence showing a "worsening" is required to reopen. He argues that while a "**greater impairment rating is objective medical evidence of a worsening of impairment, <u>it is not the only evidence</u> by which the statute permits a worsening of impairment to be shown**." (emphasis in original).

Kamel correctly asserts he was not required to show a greater impairment rating to satisfy the *prima facie* standard upon reopening. However, what *was* required of Kamel upon reopening was clarification about the relief he was seeking (i.e., a change of PPD benefits to PTD benefits or increase in PPD benefits) **<u>and</u>** a written statement from a physician indicating Kamel's impairment has worsened. Once the *prima facie* standard had been satisfied, and the Motion to Reopen sustained, Kamel would have had the opportunity to provide additional

medical documentation establishing an increase of impairment thereby justifying an award of PTD benefits, or alternatively an increase in impairment rating establishing entitlement to increased PPD benefits. However, there is nothing attached to Kamel's October 3, 2025, Motion to Reopen or November 7, 2025, Memorandum in Support of Motion to Reopen indicating Kamel's impairment has worsened.

As summarized, in part, herein, the medical records attached to Kamel's November 7, 2025, Memorandum in Support of Motion to Reopen are a hybrid of records that pre-date October 29, 2021, the date ALJ Naake approved the Settlement Agreement, and medical records generated after October 29, 2021, and spanning April 3, 2023, through May 13, 2025. The records generated after October 29, 2021, indicate Kamel was seen for continued neck pain and even underwent surgery for a "failed arthroplasty, C6-7" on August 22, 2024. The surgery was performed by Dr. Tempel and apparently included the removal of the prior C6-7 arthroplasty device; an anterior cervical diskectomy C6-7 with decompression of spinal cord and nerve roots; anterior cervical arthrodesis with mm PEEK graft filled with DBM allograft C6-7; anterior cervical plating C6-7 with Medtronic Zevo plating; microscopic dissection; and intraoperative fluoroscopy. However, nothing in these medical records indicate a worsening of impairment following the surgery. Consequently, the CALJ, in the December 10, 2025, Order, correctly observed as follows:

> Based on the impairment ratings from 2021 noted on the Form 110, Kamel already has DRE Cervical Category IV impairment, a significant rating assigned from a fusion. **One cannot assume his impairment will increase from having had further surgery. Only a physician can address that question.** And unfortunately

> for Kamel, no medical opinion was offered before the four-year limitations expired; the fact that the motion was timely filed does not relieve Kamel from presenting a prima facie case within the prescribed time. (emphasis added).

Significantly, the medical records spanning April 3, 2023, through May 13, 2025, reveal Kamel experienced pain *and received treatment* at levels of the spine not affected by the subject work injury as delineated in the Settlement Agreement.[1] Thus, not only are the medical records devoid of any statement regarding a worsening of impairment, but they evidence Kamel was experiencing pain in levels of his spine different from the C6-7 level affected by the work injury.

The record further reveals Kamel was scheduled for an IME with Dr. Gilbert on January 6, 2026. As represented in Kamel's December 2, 2025, Response to Motion to Dismiss and December 3, 2025, Amended Response to the Motion to Dismiss, the examination with Dr. Gilbert was to "determine his [Kamel's] condition and establish the degree to which his condition has worsened." However, Dr. Gilbert's January 6, 2026, examination would have occurred three months after Kamel's Motion to Reopen and any report generated thereafter would unquestionably have been untimely.

As noted by the CALJ in his Order, Hodges v. Sager Corporation, 182 S.W.3d 497 (Ky. 2005), a case directly on point, stands for the proposition that "the prima facie case of worsening of impairment had to be made at the time of reopening." Here, during the November 7, 2025, telephone conference, the CALJ offered Kamel a second opportunity to file supplemental pleadings, presumably along with medical

[1] On more than one occasion the medical records reference symptoms at the C5-6 level.

records/evidence. Assuming, *arguendo*, this extension of proof time would pass muster in accordance with the directive of Hodges v. Sager Corporation, supra, Kamel failed to avail himself of this opportunity by submitting medical proof establishing a worsening of impairment. In Hodges, the Kentucky Supreme Court held:

> A worker's right to increased benefits at reopening vests on the date that a motion to reopen is filed. *Johnson v. Gans Furniture Industries, Inc.,* 114 S.W.3d 850, 855 (Ky. 2003); *Rex Coal Co. v. Campbell,* 213 Ky. 636, 281 S.W. 1039 (1926). Therefore, when the premise for a motion to reopen is a post-award change of disability, the change must exist when the motion is filed and the motion must be supported by the *prima facie* showing that KRS 342.125(1)(d) specifies. The claimant filed her motion on December 12, 2000, the day on which the period of limitations expired. Under the circumstances, an abuse of discretion in granting the motion would have been prejudicial to the employer. [footnote omitted]
>
> …
>
> The claimant's motion was premised on an allegation that she experienced a post-award change of disability as shown by objective medical evidence of a worsening of impairment. KRS 342.125(1)(d). Evidence of a worsening of impairment requires that there be a comparison of impairment at two points in time. The record before the ALJ on January 26, 2001, included medical evidence that addressed the claimant's condition in May, 1999, when Dr. Davies began treating her. That evidence did not permit her impairment in 1987 to be compared with her impairment in December, 2000, when she filed her motion to reopen. Under the circumstances, it was an abuse of discretion to grant the motion. Furthermore, the decision was prejudicial to the employer because KRS 342.125(8) would have barred a subsequent motion to reopen.

Id. at 500-501.

On the second issue, we affirm.

Finally, Kamel argues objective medical proof makes a *prima facie* showing that his condition has worsened. However, as demonstrated herein in our response to Kamel's second argument, there is no objective medical evidence attached to the October 3, 2025, Motion to Reopen or November 7, 2025, Memorandum in Support of Motion to Reopen showing his impairment has worsened. While we acknowledge Kamel underwent surgery for a "failed arthroplasty, C6-7" on August 22, 2024, absent a statement from a doctor, surgery does not *per se* equate to an increase in impairment. Here, there is no statement/opinion by any physician indicating the August 22, 2024, surgery led to a worsening of his impairment, nor was the CALJ required to sift through the medical records to find such a statement. On this third issue, we affirm.

In sum, Kamel offered no medical evidence establishing a worsening of impairment or an increased impairment rating. Accordingly, the CALJ's dismissal of Kamel's Motion to Reopen is appropriate and the December 10, 2025, Order is **AFFIRMED**.

ALL CONCUR.

DISTRIBUTION:

COUNSEL FOR PETITIONER:

HON JEFFREY BLANKENSHIP **LMS**
541 BUTTERMILK PIKE STE 500
P O BOX 175710
COVINGTON KY 41017

COUNSEL FOR RESPONDENT:

HON STEVEN KIMBLER **LMS**
3292 EAGLE VIEW LANE STE 350
LEXINGTON KY 40509

CHIEF ADMINISTRATIVE LAW JUDGE:

HON DOUGLAS W GOTT **LMS**
MAYO-UNDERWOOD BUILDING
500 MERO ST 3RD FLOOR
FRANKFORT KY 40601