OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

THOMAS WILLIAMS, Appellant, v. TREASURER OF THE STATE OF MISSOURI, AS CUSTODIAN OF THE SECOND INJURY FUND, Respondent.	)	No. ED108319 Appeal from the Labor and Industrial Relations Commission Injury No: 02-048799 Filed: June 30, 2020

Thomas Williams (Williams) appeals the award of permanent total disability (PTD) benefits by the Labor and Industrial Relations Commission (Commission), which found that he was entitled to benefits beginning on May 9, 2016. He argues that the Commission erred in failing to award benefits beginning on September 8, 2003, which Williams argues was the date his condition reached maximum medical improvement (MMI).

AFFIRMED AS MODIFIED.

Division Four Holds: The Commission's finding that Williams reached MMI on May 9, 2016, is unsupported by sufficient competent evidence and is against the overwhelming weight of the evidence. The Commission found both Williams and Williams' expert, Dr. Raymond Cohen, to be credible witnesses. Their testimony shows that after Williams' release from surgery on September 8, 2003, his condition did not improve. His medical treatment consisted of pain management and a revision of his knee replacement, which Dr. Cohen testified would be necessary because knee replacements do not last more than 15 years, and each subsequent knee replacement lasts for less time than the previous one. The undisputed and unimpeached evidence shows that Williams reached MMI when he was released from care on September 8, 2003, and because the Commission did not make express findings that it disbelieved this testimony, the Commission erred in ignoring it. We modify the Commission's award of PTD benefits to begin on September 8, 2003.

Opinion by: Gary M. Gaertner, Jr., J.
James M. Dowd, P.J., and Robin Ransom, J., concur.

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