

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

RONALD FERREL, *Applicant*

vs.

**NORTH KERN STATE PRISON; administered by STATE COMPENSATION
INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ10668908
Bakersfield District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant State of California, Department of Corrections and Rehabilitation, legally uninsured, filed a Petition for Reconsideration dated May 12, 2021, seeking review of our April 20, 2021 Opinion and Order Granting Reconsideration and Decision After Reconsideration. In that decision, we granted applicant Ronald Ferrel's Petition for Reconsideration from a February 2, 2021 Findings of Fact, Awards and Order, rescinded the final decision of the workers' compensation administrative law judge (WCJ), ordered the matter be returned to the trial level and for the WCJ to issue a new final award of permanent disability based on Dr. Bronshvag's 75% WPI rating. The WCJ then issued a Second Amended Findings of Fact, Awards and Order on April 26, 2021, finding applicant sustained 100% permanent disability and awarded corresponding benefits.

Defendant now¹ challenges our determination, contending it is not supported by substantial medical evidence because Dr. Bronshvag failed to adequately explain how he reached his 75% WPI rating, and did not follow the AMA Guides rating standard to use two separate ratings for applicant's industrial cumulative trauma injury to his heart and hypertension. Defendant contends the WCJ's finding of 96% permanent disability should be reinstated, as it is supported by

¹ We note defendant did not file an Answer to applicant's Petition for Reconsideration from the February 2, 2021 Findings of Fact, Awards and Order.

substantial medical evidence. Next, defendant contends applicant failed to meet his burden of proof to establish he is permanently totally disabled by rebuttal of a scheduled rating. Finally, defendant contends applicant's Petition for Reconsideration was deficient because he failed to identify the grounds for seeking reconsideration specified in Labor Code section 5903.

Applicant has filed an Answer to defendant's Petition for Reconsideration, and the WCJ filed a Report and Recommendation on Petition for Reconsideration, recommending we deny the petition.

Defendant's Petition for Reconsideration from the April 20, 2021 Opinion and Order Granting Reconsideration and Decision After Reconsideration is subject to dismissal because it does not seek reconsideration from a final order. A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) Our Decision After Reconsideration rescinded the WCJ's final order and ordered this matter be returned to the trial level "for a new final award of permanent disability based on Dr. Bronshvag's 75% WPI rating." (Emphasis added.) However, as the WCJ issued the Second Amended Findings of Fact, Awards and Order on April 26, 2021, prior to defendant's filing of its Petition for Reconsideration, we will treat defendant's Petition as being sought from the WCJ's final order.

We have considered the allegations and arguments of the Petition for Reconsideration, as well as applicant's Answer thereto, and have reviewed the record in this matter again, the WCJ's Report and our April 20, 2021 Opinion and Order Granting Reconsideration and Decision After Reconsideration. Based upon our review of the parties' arguments and the record, and for the reasons stated in our Decision After Reconsideration, we will re-affirm the April 20, 2021 Opinion and Order Granting Reconsideration and Decision After Reconsideration, implemented by the April 26, 2021 Second Amended Findings of Fact, Awards and Order, and deny defendant's Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the April 26, 2021 Second Amended Findings of Fact, Awards and Order is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 29, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**RONALD FERREL
LAW OFFICES OF ADAMS, FERRONE & FERRONE
STATE COMPENSATION INSURANCE FUND**

SV/pc

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
CS