

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

**LEONEL QUIROZ, *Applicant***

**vs.**

**STATE OF CALIFORNIA, *Legally Uninsured, Defendant***

**Adjudication Numbers: ADJ11104322; ADJ15506434  
Bakersfield District Office**

**OPINION AND ORDER  
DENYING PETITION FOR RECONSIDERATION**

Defendant seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings of Fact, Award and Orders of December 8, 2021, wherein it was found that while employed as a correctional officer on October 27, 2017 in case ADJ11104322, applicant sustained industrial injury to his head, shoulders, brain, neck, torso, psyche, right knee, back, and in the forms of hearing loss and hypertensive heart disease with diastolic dysfunction. It was also found that, while employed during a cumulative period ending October 27, 2017 in case ADJ15506434, applicant sustained industrial injury in the forms of hypertensive heart disease with diastolic dysfunction and coronary artery disease. Because applicant's hypertensive heart disease permanent disability was caused by both injuries, and hypertensive heart disease was found to constitute presumptive "heart trouble" pursuant to Labor Code sections 3212.2 and 3212.10, the WCJ applied Labor Code section 4663(e) and rated both injuries jointly, issuing a joint award of 75% permanent disability.

Defendant's Petition is not a model of clarity. For instance, defendant argues that "Application of the presumption of [Labor Code section] 3212.2 does not prohibit a finding of more than one presumptive heart injury." (Petition at p. 7.) However, as noted above, the WCJ did find more than one presumptive heart injury. The specific injury in case ADJ11104322 included a presumptive injury in the form of hypertensive heart disease. The cumulative injury in case ADJ15506434 included presumptive injury in the forms of hypertensive heart disease and coronary artery disease. Additionally, defendant argues in its Petition that it is "Entitled to Credit for Temporary Disability [Indemnity] Overpayment" in the amount of \$5,534.65 (Petition at p. 8),

but the WCJ's decision already includes a finding that defendant is "entitled to credit for Temporary Disability Indemnity paid between August 8, 2019 and September 11, 2019 in the amount of \$5,534.65 against the Permanent Partial Disability Indemnity owed in ADJ11104322 and ADJ15506434." (Finding No. 9.)

Defendant appears to contend in its Petition that the WCJ erred in finding that applicant's specific injury in case ADJ11104322 contributed to applicant's hypertensive heart disease, arguing that applicant's hypertensive heart disease and coronary heart disease disabilities were solely attributable to the cumulative injury, and thus applicant's heart disability should be rated separately from the other body parts. Alternatively, defendant argues that the coronary artery disability should be rated separately, since it was solely caused by the cumulative injury. We have received an Answer from the applicant and the WCJ has filed a Report and Recommendation on Petition for Reconsideration (Report).

As explained below, we will deny the defendant's Petition for Reconsideration.

With regard to defendant's argument that applicant's hypertensive heart disease was solely caused by the cumulative injury, we affirm the WCJ's decision for the reasons stated in the following portions of the WCJ's Report:

Leonel Quiroz (Applicant) was fifty-five (55) years old and employed as a Correctional Officer, Occupational Group Number 490, at Delano, California by California Department of Corrections – North Kern State Prison on October 27, 2017 when he suffered an injury arising out of and in the course of his employment to his head, bilateral shoulders, brain, neck, torso, psyche, hearing loss right knee, back and heart in the form of hypertensive heart disease with diastolic dysfunction. (MOH Page 2 Lines 19 – 26, OOD Pages 4 - 5) (ADJ11104322)

Applicant's specific injury occurred when he was assaulted by two inmates. The medical reports establish that Applicant was repeatedly punched by the two inmates who continued to kick him repeatedly once he was on the ground. Applicant alleged the assault contributed to his heart troubles.

Applicant was evaluated by Dr. Paul Grodan, M.D. as a Panel Qualified Medical Examiner in the specialties of Internal Medicine and Cardiovascular Diseases. Dr. Grodan examined Applicant on November 8, 2019 and issued reports dated November 8, 2019, February 7, 2020, May 1, 2020 and November 8, 2020. (Joint Exs. 1, 2, 3 & 4) Dr. Grodan gave his expert medical opinion that Applicant has coronary artery disease and hypertensive heart disease with diastolic dysfunction.

Dr. Grodan gave his expert medical opinion that Applicant's coronary artery disease was only the result of a cumulative trauma through October 27, 2017. The day of the assault was Applicant's last day worked. Dr. Grodan also gave his expert medical opinion that the assault on October 27, 2017 and the cumulative trauma through October 27, 2017 both contributed to Applicant's hypertensive heart disease with diastolic dysfunction.

The parties' Post-Trial Points and Authorities did not explain why no Application for Adjudication of Claim was filed by either party in regard to the industrial cumulative trauma injury identified by Dr. Grodan. The WCJ had ADJ15506434 created as a cumulative trauma heart injury claim through October 27, 2017 after trial to conform the pleadings to the evidence. Applicant's heart troubles were found to be entitled to the presumptions of industrial injury created by Labor Code [sections] 3212.2 and 3212.10 and the prohibition of apportionment created by Labor Code [section] 4663(e). Applicant's various Whole Person Impairments were adjusted for age and occupation. Legally valid apportionment was established in regard to Applicant's psychiatric injury. No other legally valid apportionment was proved by a preponderance of the evidence. Applicant's multiple permanent partial disabilities produced 75% permanent partial disability after application of the Combined Values Chart.

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Dr. Grodan gave his expert medical opinion that Applicant has 15% Whole Person Impairment (WPI) as a result of his hypertensive heart disease with diastolic dysfunction and 9% WPI as a result of his coronary artery disease. (Joint Ex. 3 Page 3) Applicant's 15% WPI for hypertensive heart disease with diastolic dysfunction rates to 33% permanent partial disability after appropriate adjustments. (OOD Page 6)

Dr. Grodan stated:

However, the blood pressure data are fairly slim in terms of quantity and there were one or two blood pressures that showed increase after the specific injury in the immediate timeframe but subsequently there is no indication that the blood pressure changed but eventually the treatment had to be increase in terms of dose of the same medication. Therefore, the impact of specific trauma is documented but it would be speculative to try to separate what percentage was due to specific trauma what due to the employment impact since 2002. It is my opinion that the hypertension in Mr. Quiroz evolved based on his stressful employment which included the assault in October 2017. The impact of the specific injury however would be cumulative or inextricably intertwined considering that the

hypertension evolved on the basis of continuous trauma of employment but one cannot accurately parse out the specific injury on a specific date as causing incremental change in the actual disability. The disability due to hypertensive heart disease evolved in the course of employment of Mr. Quiroz. (Joint Ex. 4 Page 3)

Dr. Grodan confirmed this when he testified at his deposition that:

I cannot say that after he was beaten up, suddenly has diastolic dysfunction. It's not going to happen that way. But that event, leading to all the other issues he had in terms of symptomatology on orthopedic basis, will increase his blood pressure, and he will need more medication. So that's the impact of that specific event. But as far as coronary artery disease, you won't be able to see a difference. (Joint Ex. 5 Page 19 Lines 4 – 14)

Dr. Grodan's expert medical opinion establishes by a preponderance of the evidence that Applicant has 33% permanent partial disability as a result of the combined effects of a cumulative trauma and a specific injury. The hypertensive heart disease with diastolic dysfunction constitutes heart trouble entitled to the presumption created by Labor Code [sections] 3212.2 and 3212.10. Defendant did not rebut these presumptions by a preponderance of the evidence so Labor Code [section] 4663(e) prohibits apportionment of Applicant's permanent partial disability between the two injuries.

(Report at pp. 2, 3-4.)

When, as here, two presumptive injuries contribute to permanent disability, a joint award of permanent disability is appropriate, even if non-overlapping, non-presumptive body parts are involved. As stated in *Delia v. County of Los Angeles* (2010) 2010 Cal. Wrk. Comp. P.D. LEXIS 282, \*18 (Appeals Bd. panel), "While there may be parts of body that may not be subject to [section 4663(e)], when those parts of body straddle and overlap various dates of injury to such a degree that they are inextricably linked with presumptive parts of body, thereby preventing a WCJ from parsing and apportioning the non-presumptive parts of body from the presumptive parts of body and issuing awards that adequately and proportionally compensate an applicant, a joint award must be issued to avoid violating Labor Code section 4663(e)." Similarly in *Zuniga v. County of Los Angeles* (2014) 2014 Cal. Wrk. Comp. P.D. LEXIS 549 (Appeals Bd. panel), we found that apportionment was not appropriate between a specific injury and a cumulative injury, when both injuries contributed to a presumptive "heart trouble" condition, but only the cumulative injury included the knees, a body part not covered by any statutory presumption. In *Zuniga*, a single award of permanent disability was issued, which included the knee disability. (See also *Carter v.*

*City of Los Angeles* (2021) 2021 Cal. Wrk. Comp. P.D. LEXIS 39 [Appeals Board panel].) Accordingly, the WCJ here correctly issued a joint award including all body parts.

We therefore deny defendant's Petition.

For the foregoing reasons,

**IT IS ORDERED** that Defendant's Petition for Reconsideration of the Findings of Fact, Award and Orders of December 8, 2021 is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ DEIDRA E. LOWE, COMMISSIONER**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**March 4, 2022**

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

**LEONEL QUIROZ  
ADAMS, FERRONE & FERRONE  
STATE COMPENSATION INSURANCE FUND**

**DW/oo**

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