

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

**ALFRED HERNANDEZ (DECEASED), *Applicant***

**vs.**

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
PAROLE & COMMUNITY SERVICES;  
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ12758370  
Bakersfield District Office**

**OPINION AND ORDER  
DISMISSING PETITION  
FOR REMOVAL**

We have considered the allegations of the Petition for Removal and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petition is untimely and will be dismissed.

There are 25 days allowed within which to file a petition for removal from a "non-final" decision that has been served by mail upon an address in California. (Cal. Code Regs., tit. 8, former § 10843(a), now § 10955(a); former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, former § 10508, now § 10600 (eff. Jan. 1, 2020).) To be timely, however, a petition for removal must be *filed* with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).)

The petition in this matter was filed on January 11, 2021. This was more than 25 days after the service of the WCJ's October 29, 2020 Order Suspending Action on Third Petition for Second ADJ Number and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600.

If the petition had been timely, we would have denied removal based upon the WCJ's analysis of the merits of petitioner's arguments.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Removal is **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**I CONCUR,**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

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



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

**March 12, 2021**

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

**STEPHANIE HERNANDEZ  
ADAMS, FERRONE & FERRONE  
STATE COMPENSATION INSURANCE FUND**

**PAG/pc**

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