

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

STEVEN DEANDA, *Applicant*

vs.

**UNIVERSAL PROTECTION SERVICES; XL SPECIALTY INSURANCE CO.,
Administered By ESIS, *Defendants***

**Adjudication Number: ADJ10618904
Long Beach District Office**

**OPINION AND ORDER DENYING
PETITION FOR RECONSIDERATION**

Applicant, who has filed his own Petition for Reconsideration although he is represented by counsel, seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Award of June 15, 2023, wherein it was found that, while employed on August 11, 2016 as a security guard, applicant sustained admitted industrial injury to his head, neck and back, but did not sustain industrial injury to his trunk, teeth and in the form of hypertension. It was found that applicant's injury caused permanent disability of 48% and the need for further medical treatment.

Applicant filed his hand-written Petition for Reconsideration after receiving a letter from his counsel that they would not file a Petition on his behalf. Applicant's contentions on reconsideration are not clear. Applicant writes that he disagrees with the WCJ's decision because it does not "include the medical treatment of my dizzy spells caused by my major head injury and also did not include spinal injury treatments to my upper spine and mid-spine and lower spine and also including damage to my teeth and gums." We have not received an answer and the WCJ has filed a Report and Recommendation on Petition for Reconsideration (Report).

We will deny the applicant's Petition.

Preliminarily, while the WCJ's Report raises the issue of the timeliness of applicant's Petition, it does not appear that the Findings and Award was ever served directly on the applicant, despite the requirement in WCAB Rule 10628(a) to "serve the injured employee ... whether or not the employee or dependent is represented ... with any final order, decision or award issued by [the

WCAB] on a disputed issue after submission” Cal. Code Regs., tit. 8, §§ 10628, subd. (a).) We therefore accept the applicant’s Petition as timely.

However, turning to the merits, applicant does not explain in his Petition how he has been aggrieved by the WCJ’s decision. While applicant states in his Petition that the decision somehow did not take into account dizzy spells and treatment to his upper, mid, and lower spine, those were accepted body parts found compensable by the WCJ’s decision, the WCJ has found an entitlement to further medical treatment for these body parts (Finding No. 5), applicant appears to have received the statutory maximum 104-weeks of temporary disability (Lab. Code, § 4656, subd. (c)(2); Finding No. 3), and applicant was awarded permanent disability with regard to these body parts (Finding No. 4; Opinion on Decision at p. 1).

A “decision [of the WCAB] must be based on admitted evidence in the record.” *Hamilton v. Lockheed Corp.* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc). To the extent that applicant is arguing that the permanent disability awarded to him is insufficient, he must point to evidence in the record, or attach new evidence to his Petition for Reconsideration (Cal. Lab. Code, § 5903, subd. (d)) supporting a higher permanent disability rating. The only evidence in the record was the reporting of panel qualified medical evaluators neurologist Robert Moore, M.D. and orthopedist George Watkin, M.D. It appears that the WCJ relied on this evidence and applicant has not articulated a basis why this evidence was insufficient, or why the record should be further developed.

With regard to injury to the teeth and gums, which the WCJ found noncompensable, applicant points to no evidence in the record (or even outside the record) that these body parts were injured arising out of and in the course of applicant’s employment. Even the page attached to applicant’s Petition listing diagnoses found by applicant’s prior treating physician Edward Opoku, M.D. on February 13, 2018, does not list any teeth or gum condition.

While applicant appears to have disagreements with his counsel regarding how his case was handled, we do not have jurisdiction over that issue, and we express no opinion on the issue.

We therefore deny the applicant’s Petition.

For the foregoing reasons,

IT IS ORDERED that Applicant's Petition for Reconsideration of the Findings and Award of June 15, 2023 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ NATALIE PALUGYAI, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 31, 2023

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

**STEVEN DEANDA
PERONA, LANGER, BECK, SERBIN & HARRISON
McNAMARA & DRASS
EDD**

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