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Supreme Court, Appellate Division, Third Department, New York

In the Matter of MOHAMMED ALLI, Appellant

v.

NEW YORK CITY DEPARTMENT OF CORRECTIONS, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

May 19, 2022

Facts: Claimant appealed a decision finding that Section 114-a disqualified him from receiving future wage replacement benefits. The claimant filed two separate C-3 forms alleging injuries sustained in an assault and denying any prior injuries to the same body parts. The claimant failed to disclose two prior Workers' Compensation claims for which he received benefits. A Judge ruled that the claimant had violated Section 114-a imposing mandatory and discretionary penalties. That decision was affirmed by the Review Panel. The claimant appealed to the Appellate Division.

Holding: *Affirmed.*

Discussion: The Court cited the general basis for a finding that Section 114-a disqualified a claimant from wage replacement benefits. It noted that the Board is the sole arbiter of witness credibility, and that the decision will not be disturbed if supported by substantial evidence. Regarding the facts of this claim, the Court found that the claimant's consistent failure to disclose his prior injuries was a material misrepresentation and that the claimant's excuses for not divulging these injuries was not credible. The Court indicated

that the claimant's explanation was self-serving, a material misrepresentation and that “claimant's lack of candor was sufficiently egregious to warrant the discretionary penalty of permanent disqualification...”.

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