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State of New York Supreme Court, Appellate Division, Third Judicial Department, New York

In the Matter of JUAN BIDOT, Appellant

v.

SUFFOLK COUNTY PROBATION DEPARTMENT, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

May 26, 2022

Facts: Claimant filed a claim alleging post-traumatic stress disorder, anxiety and depression due to prolonged and repeated exposure to sex offenders and the nature of their cases while employed as a probation officer. Following hearings, the claim was established as an occupational disease for post-traumatic stress disorder with an additional finding of no compensable lost time. The employer appealed and the Workers' Compensation Board reversed the decision and disallowed the claim finding that the claimant had failed to demonstrate that psychological stress that he sustained was greater than that experienced by similarly situated probation officers assigned to the sex offender unit in which he worked. The claimant applied for Reconsideration and/or Full Board Review which was denied. The claimant appealed the denial of his request for Reconsideration.

Holding: *Affirmed.*

Discussion: The Court noted that the claimant had only appealed from the denial of the Application for Reconsideration. The Court's review was limited to whether this was an abuse of discretion or arbitrary and capricious activities by the Board. The Court cited the standard for review which involves demonstration of newly discovered evidence, a material change in condition or that the Board improperly failed to consider the issues raised in the Application for Board Review and determined that based upon the lack of evidence of any of these conditions, there was no abuse of discretion by the Board in denying the claimant's Application for Reconsideration.

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