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State of New York Court of Appeals

In the Matter of the Claim of Justin Timperio, Respondent,

v.

Bronx-Lebanon Hospital et al., Appellants.

Workers' Compensation Board, Appellant.

May 16, 2024

Facts: Claimant was a hospital resident who was shot and injured when a gunman opened fire at Bronx Lebanon Hospital ("BLH") in 2017. BLH requested the Workers' Compensation Board ("WCB") establish Claimant's injuries and enter awards. Simultaneously, Claimant filed a negligence action against BLH, among others in federal court. The federal court stayed the case until resolution of Claimant's workers' compensation matter after rejecting BLH's attempt to have the case dismissed because there was no evidence suggesting the shooting arose from work related differences. The WCB determined Claimant's injuries were compensable and Claimant filed for review. The WCB affirmed the law judge's determination, but the Appellate Division reversed based on the lacking nexus between the nature of employment and the sustained injury. BLH and the Workers' Compensation Board appealed.

Holding: *Reversed.*

Discussion: The Court of Appeals found the lower court erred in its application of Workers' Compensation Law § 21, which presumes that injuries sustained in the course of employment arise out of employment absent substantial evidence to the contrary.