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Supreme Court, Appellate Division, Third Department, New York

In the Matter of Kevin HLUSKA, Appellant

v

CENTRAL NEW YORK PSYCHIATRIC CENTER et al., Respondents.

and

Workers' Compensation Board, Respondent

November 12, 2020

Facts: Claimant was previously awarded a 13% SLU to the left arm for an injury to the shoulder. The claimant sustained a subsequent injury to his left elbow. Based upon an evaluation of the left elbow claimant's physician found a 10% SLU of the left arm. The Board determined that, because the prior 13% SLU award for the left arm exceeded the current 10% SLU, claimant was not entitled to any SLU award for the impairment to the left arm resulting from the elbow injury.

Holding: *Affirmed.*

Discussion: The Court, in referencing *Matter of Genduso*, noted that Workers' Compensation Law § 15(3) sets forth SLU awards that the Board may make resulting from permanent injuries to certain body parts, losses of hearing or vision and facial disfigurements. A SLU award is compensation for the residual permanent physical and functional impairments' of an extremity, not for the particular injury itself. The Court held that although more than one SLU award may be given for a loss of use of more than one member or parts of one member, the SLU award is limited to the statutory-enumerated members set forth in Workers' Compensation Law § 15(3).