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Supreme Court, Appellate Division, Third Department, New York

In the Matter of Ian WILLIAMS, Appellant,

v

New York City DEPARTMENT OF CORRECTIONS et al., Respondents.

and

Workers' Compensation Board, Respondent

November 12, 2020

Facts: Claimant submitted to an IME and filled out a questionnaire regarding his injury and medical history. When asked if he “ever had a similar condition or prior accident,” claimant checked “No.” Further, under the questionnaire section entitled “Past Medical History,” claimant disclosed no specific injury, responding instead, “Due to the violent and dangerous work I perform, I simply cannot accurately recall all the time that I suffered an injury in my lifetime. However[,] in the spirit of full cooperation, I have filed a C-3.3[,] which allows the City of [New York] upon their request to access my medical history[,] including prior and subsequent injuries to aid you in this exam.” The self-insured employer thereafter raised the issue of whether claimant's responses violated Workers' Compensation Law § 114-a in light of proof that he had again injured his left ankle. The Board found that claimant violated Workers' Compensation Law § 114-a by failing to disclose two subsequent injuries to his left ankle and, finding claimant's conduct egregious, permanently barred him from receiving workers' compensation.

Holding: *Affirmed.*

Discussion: Workers' Compensation Law § 114–a (1) provides that a claimant who, for the purpose of either obtaining workers' compensation benefits or influencing any determination relating thereto, “knowingly makes a false statement or representation as to a material fact ... shall be disqualified from receiving any compensation directly attributable to such false statement or representation.” A fact is deemed material so long as it is significant or essential to the issue at hand and an omission of material information may constitute a knowing false statement. The Court found that in providing information about his medical history, claimant used canned language to suggest that he was unable to recall any other injuries given the numerous injuries that he had sustained during his employment. During his testimony, however, claimant admitted that he reinjured his left ankle and had engaged in physical therapy just days before attending the IME. The Court held that substantial evidence supported the Board's decision that claimant violated Workers' Compensation Law § 114–a by failing to disclose his subsequent injuries and medical treatment to his left ankle.

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