

STEWART, GREENBLATT, MANNING & BAEZ

**ATTORNEYS AT LAW
6800 JERICHO TURNPIKE**

**SUITE 100W
SYOSSET, NY 11791**

**516-433-6677
FAX 516-433-4342**

**KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)**

**RAYMOND J. SULLIVAN
MONICA M. O'BRIEN
MARY ELLEN O'CONNOR
JAMES MURPHY
OF COUNSEL**

**DONALD R. STEWART (RET.)
MADGE E. GREENBLATT (RET.)
ROBERT W. MANNING
RICARDO A. BAEZ
DAVID J. GOLDSMITH
PETER MICHAEL DeCURTIS
LAURETTA L. CONNORS
JOHN K. HAMBERGER
LISA LEVINE
ANDREA L. De SALVIO
KRISTY L. BEHR
LUKE R. TARANTINO
THOMAS A. LUMPKIN
JONATHAN SO**

Supreme Court, Appellate Division, Third Department, New York

Matter of DARREN RIVENBURG, Appellant,

v

COUNTY OF ALBANY et al., Respondent,

and

WORKERS' COMPENSATION BOARD, Respondent.

October 1, 2020

Facts: Claimant worked as a correction officer. One of the inmates who he was supervising began making threatening comments about gang-raping and killing claimant's daughter. Shortly thereafter, while claimant was assisting other correction officers move this inmate to another cell, the inmate became aggressive toward claimant, necessitating the use of force. Claimant was not physically injured but found the whole incident to be emotionally upsetting. He continued working, and about a month later, claimant got into an argument with another correction officer during which the other officer allegedly closed a door in claimant's face and threatened him. The claimant stopped working a few weeks later upon the advice of a physician and filed a claim for mental health injuries. The claims were combined and disallowed by the Judge. The Board affirmed.

Holding: *Affirmed.*

Discussion: Claimant testified that, following the June 2018 incident with the inmates, he was terrified and afraid for the safety of his wife and daughter. He stated that, although he had received prior threats from inmates, he had never been threatened like that before and was so concerned that he obtained a handgun and had his wife and daughter change their social media accounts. Claimant stated that, notwithstanding his fear, he returned to work after the incident and voluntarily

elected to work some overtime shifts. A superior officer testified that, in the course of their regular duties, correction officers had frequent contact with inmates that was sometimes confrontational and involved threats to the officers and their families. He stated that, following the June 2018 incident, he spoke to claimant about his concerns. He related that, during this conversation, claimant admitted that he had shared personal information about his family with the inmates that had made the threatening comments.

In view of the foregoing, there is no indication that claimant was under a greater amount of stress than other correction officers performing similar duties in the facility. No proof was presented that the lives of claimant's daughter and/or wife were actually in jeopardy. Notwithstanding the threatening comments, claimant continued to work his regular shifts, including volunteering for overtime, after the June 2018 incident. Under these circumstances, the Board's decision disallowing the claim is supported by substantial evidence.

Stewart, Greenblatt, Manning & Boer