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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

CHRISTAIN DELACRUZ, Appellant

v

INCORPORATED VILLAGE OF FREEPORT et al., Respondents

and

WORKERS' COMPENSATION BOARD

Decided September 26, 2019

Facts: A police officer, on duty at the time, was found dead in her police car from a gunshot wound to the head and brain. The death certificate indicates that the cause of death was suicide. A claim was brought by the decedent's husband and was initially established as a compensable death. The Board Panel reversed finding that the claimant's death was suicide from a self-inflicted gunshot wound with no evidence that her suicide resulted from insanity, brain derangement or a pattern of mental deteriorations caused by a work-related injury.

Holding: Affirmed.

Discussion: A claim is not compensable if there is a willful intention of the injured employee to bring about the injury or death him/herself. To rebut the presumption of this unwitnessed death, the employer/carrier presented evidence of a detective who investigated the decedent's death who confirmed the death had been ruled a suicide and video surveillance in the area confirmed that the decedent was in the car alone at the time of death. They also presented testimony from the assistant police chief and the Court found substantial evidence for the disallowance.