

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

FRAMEE AMOR JONES, *Applicant*

vs.

**VISTA KNOLL SPECIALIZED CARE; permissibly self-insured,
administered by ATHENS ADMINISTRATORS, *Defendants***

**Adjudication Number: ADJ19555636
San Diego District Office**

**OPINION AND ORDER
DENYING PETITION
FOR RECONSIDERATION**

Applicant seeks reconsideration of the Findings and Order and Award (F&O), issued by the workers' compensation administrative law judge (WCJ) on April 9, 2025, wherein the WCJ found in pertinent part that applicant did not sustain injury arising out of and in the course of employment to her psyche while employed during the period November 7, 2023, through January 26, 2024, as an Occupational Therapy Assistant. The WCJ ordered that applicant take nothing.

Applicant contends that in relevant part that she met her burden of demonstrating, by a preponderance of the evidence, that actual events of employment were predominant as to all causes combined of her claimed psychiatric injury.

We received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the allegations in the Petition, the Answer, and the contents of the Report with respect thereto. Based on our review of the record, for the reasons stated in the WCJ's Report, which is adopted and incorporated herein, and for the reasons discussed below, we will deny reconsideration.

As a preliminary matter, former Labor Code section¹ 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days

¹ All statutory references are to the Labor Code unless otherwise stated.

from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on April 25, 2025, and 60 days from the date of transmission is June 24, 2025. This decision is issued by or on June 24, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

According to the proof of service for the Report by the WCJ, the Report was served on April 25, 2025, and the case was transmitted to the Appeals Board on April 25, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on April 25, 2025.

We note that section 3208.3 states that in order to establish industrial causation of a psychiatric injury, an injured worker must show by a preponderance of the evidence that actual

events of employment predominantly caused the psychological injury. (Lab. Code, § 3208.3(b)(1).) “[T]he phrase ‘predominant as to all causes’ is intended to require that the work-related cause has greater than a 50 percent share of the entire set of causal factors.” (*Department of Corrections v. Workers’ Comp. Appeals Bd. (Garcia)* (1999) 76 Cal.App.4th 810, 816 [64 Cal.Comp.Cases 1356].) After considering all the medical evidence, and the other documentary and testimonial evidence of record, the WCJ must determine (1) whether the alleged psychiatric injury involves actual events of employment, a factual/legal determination for the WCJ; and if so, (2) whether such actual events were the predominant cause of the psychiatric injury, a determination which requires competent medical evidence. (*Rolda v. Pitney Bowes, Inc.* (2001) 66 Cal.Comp.Cases 241, 247 (Appeals Bd. en banc); *San Francisco Unified School Dist. v. Workers’ Comp. Appeals Bd. (Cardozo)* (2013) 190 Cal.App.4th 1 [75 Cal.Comp.Cases 1251] (writ den.).)

As the WCJ noted, multiple employer witnesses testified extensively at trial. We have given the WCJ’s credibility determinations great weight because the WCJ had the opportunity to observe the demeanor of the witnesses. (*Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].) Furthermore, we conclude there is no evidence of considerable substantiality that would warrant rejecting the WCJ’s credibility determinations. (*Id.*) Thus, we do not disturb the WCJ’s conclusions.

Accordingly, we deny applicant’s Petition.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 24, 2025

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**FRAMEE AMOR JONES
LAW OFFICE OF JOHN DON
PURINTON, JIMENEZ, LABO & WU
EMPLOYMENT DEVELOPMENT DEPARTMENT**

JB/pm

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
KL

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

Workers' Compensation Administrative Law Judge: Alicia D. Hawthorne
Petition for Reconsideration Filed By: Applicant: Framee Jones
Attorney for Petitioner: Law Offices of John A. Don: John Don, Esq.
Attorney for Defendant: Purinton, Jimenez, Labo & Wu, LLP: Bridget Young, Esq.

INTRODUCTION

Applicant, Framee Jones, has filed a timely, verified, petition for reconsideration, on the standard statutory grounds, from the trial court's April 9, 2025, Findings and Order, pleading that:

1. The evidence does not justify the Findings of Fact;
2. The Findings of Fact do not support the Order, Decision or Award;

FACTUAL BACKGROUND

Petitioner [], born [], while employed during the period November 7, 2023, through January 26, 2024, as an Occupational Therapy Assistant, Group Number 340, at Vista, California, by Vista Knoll Specialized Care, claims to have sustained injury arising out of and in the course of employment to her psyche.

This matter proceeded to trial over four days, concluding on March 6, 2025. Multiple employer witnesses testified about the incidents in which applicant alleged had caused her an industrial psychiatric injury. On the last day of trial, the matter was submitted with a Findings and Order issuing on April 9, 2025. In such Findings and Order, this WCJ found applicant had not met her burden of proof establishing an industrial injury and an Order that applicant would take nothing further issued.

DISCUSSION

Petitioner notes in her Petition for Reconsideration that this WCJ relied on the analysis of *Verga v. WCAB*, (2008) 73 CCC 63. Petitioner continues to attempt to distinguish the facts in *Verga* from the facts in this case. Petitioner attempts to distinguish that the worker in *Verga*

received across the board negative reviews regarding her attitude and performance, while in the current matter every employer witness had nice things to say about her. However, what Petitioner fails to acknowledge is that the standard in *Verga* establishes that in order to prevail, the worker needs to show “objective evidence of harassment, persecution, or other basis for the alleged psychiatric injury.” (Petition for Reconsideration, page 11, lines 18-19) Based on the evidentiary record, she did not meet this standard.

Petitioner relies on the testimony of the multiple employer witnesses who all agreed that she was good at her job as an Occupational Therapy Assistant (OTA). However, the witnesses also stated to the Court that her moods were unpredictable, she created an environment in which everyone would “walk on eggshells”, she was more excitable than average, and she could be snappy. This WCJ agrees that Petitioner’s coworkers find her to be a very effective OTA. However, this still does not establish that Petitioner’s coworker’s actions rise to the level of harassment or bullying on an objective level such that his actions constituted “actual events of employment” causing an industrial injury to Petitioner’s psyche. There was no other objective evidence to establish such allegations. Again, like in *Verga*, Petitioner’s misperceptions did not constitute actual events of employment which would warrant an Award of worker’s compensation benefits.

Although Petitioner’s interactions at work may not rise to the same level of “extreme misconduct or attitude issues” that may have been present in *Verga*, it does not eliminate the fact that Petitioner herself initiated every interaction with Mr. Howse which she then claimed the basis of her psychiatric claim. She complained about the gym being unorganized during the first incident, she went running out to Mr. Howse outside when her patient was out there with him when she was not paying attention to her patient for the second incident, and she again approached him in the gym to tell him she did appreciate what he did.

Petitioner apparently does not understand that her own interactions with co-workers were difficult, that her personality consists of “snappy” reactions, that she causes her co-workers to feel like they are “walking on eggshells”, and that when she first arrived at work no one could predict what her mood would be that day. When comparing and contrasting Petitioner to the applicant in *Verga*, this WCJ still finds that there are more comparisons between the two; agitated, inflexible, not a team player, creating tension in the office, “having to walk on eggshells”, and that the work environment improved once she left. This WCJ does agree that Petitioner’s coworkers appeared

to like the Petitioner more than the applicant's coworkers in *Verga*, but this WCJ finds that Petitioner's view of the circumstances surrounding the incidents that Petitioner alleges created a psychiatric injury were not as she described. The witnesses presented confirmed that they were shocked this claim was brought about by the Petitioner, they did not perceive Mr. Howse the same way Petitioner portrayed him, and no one had seen Mr. Howse ever be intimidating or hostile.

This WCJ will not reiterate all the background and testimony given at the trial. This WCJ still finds Petitioner's credibility at issue based on the testimony given at the trial and finds Mr. Howse's and other witnesses recounting of the history of the interactions between him and Petitioner to be more reliable.

RECOMMENDATION

Based on the record, the Finding and Order and Opinion on Decision, and this Report and Recommendation, it is respectfully recommended that applicant's Petition for Reconsideration be denied.

Date: April 25, 2025

Alicia D. Hawthorne
WORKERS' COMPENSATION JUDGE