

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

**SHANNON MURPHY, *Applicant***

**vs.**

**OAKLAND UNIFIED SCHOOL DISTRICT  
AND JT2 INTEGRATED RESOURCES, *Defendants***

**Adjudication Number: ADJ3370297  
Oakland District Office**

**OPINION AND ORDERS  
DISMISSING PETITION FOR  
RECONSIDERATION AND DENYING PETITION  
FOR DISQUALIFICATION**

Applicant, in pro per, filed a Petition for Reconsideration on April 2, 2024 and appears to have refiled the petition on April 15, 2024. We have reviewed the Petition for Reconsideration, defendant's Answer, and the WCJ's Report and Recommendation. Based on our review of the record, we will dismiss the petition as successive. We will also deny it to the extent it seeks to disqualify the WCJ.

It is well settled that where a party fails to prevail on a petition for reconsideration, the Appeals Board will not entertain a successive petition by that party unless the party is newly aggrieved. (*Goodrich v. Industrial Acc. Com.* (1943) 22 Cal.2d 604, 611 [8 Cal.Comp.Cases 177]; *Ramsey v. Workmen's Comp. Appeals Bd.* (1971) 18 Cal.App.3d 155, 159 [36 Cal.Comp.Cases 382]; *Crowe Glass Co. v. Industrial Acc. Com. (Graham)* (1927) 84 Cal.App. 287, 293-295 [14 IAC 221]). As stated in our en banc opinion in *Navarro v. A & A Framing* (2002) 67 Cal.Comp.Cases 296, 299:

“The general rule is that where a party has filed a petition for reconsideration with the Board, but the party does not prevail on that petition for reconsideration, the petitioning party cannot attack the [Appeal's] Board's action by filing a second petition for reconsideration; rather, the petitioning party must either be bound by the [Appeals] Board's action or challenge it by filing a timely petition for writ of review.”

It is improper for applicant to file multiple petitions that attempt to relitigated issues that have already determined against applicant.

To the extent applicant requests disqualification of the WCJ, we deny it. Labor Code section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has “formed or expressed an unqualified opinion or belief as to the merits of the action” (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated “[t]he existence of a state of mind ... evincing enmity against or bias toward either party” (Code Civ. Proc., § 641(g)).

Under WCAB Rule 10960, proceedings to disqualify a WCJ “shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification ... .” (Cal. Code Regs., tit. 8, former § 10452, now § 10960 (eff. Jan. 1, 2020), italics added.) It has long been recognized that “[t]he allegations in a statement charging bias and prejudice of a judge must set forth specifically the facts on which the charge is predicated,” that “[a] statement containing nothing but conclusions and setting forth no facts constituting a ground for disqualification may be ignored,” and that “[w]here no facts are set forth in the statement there is no issue of fact to be determined.” (*Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 399, italics added.)

WCAB Rule 10960 provides that when the WCJ and “the grounds for disqualification” are known, a petition for disqualification “shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.”

Here, the petition does not set forth facts, declared under penalty of perjury, that are sufficient to establish disqualification pursuant to Labor Code section 5311, WCAB Rule 10960, and Code of Civil Procedure section 641(f) and/or (g). Accordingly, the request for disqualification is denied.

We note that this is the second untimely Petition for Reconsideration being filed by applicant. In our January 19, 2024 Opinion and Order Dismissing Petition for Reconsideration, we advise applicant that repetitive, meritless, and ineffectual filings may lead to vexatious litigant proceedings pursuant to WCAB rule 10430. Defendant has now filed a petition for an order declaring applicant a vexatious litigant. Defendant may file a Declaration of Readiness to Proceed to bring their request on calendar.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration is **DISMISSED**.

**IT IS FURTHER ORDERED** that the Petition for Disqualification is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**May 31, 2024**

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

**THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.**

**SHANNON MURPHY  
LAW OFFICES OF PULLEY & COHEN**

**PAG/abs**

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