

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, THIRD DEPARTMENT**

Matter of Maldonado v. Doria, Inc.

2021 NY Slip Op 01307 (App. Div. 2021) · No. 531672 · Decided March 4, 2021

SUMMARY

The Appellate Division, Third Department affirmed a Workers' Compensation Board decision amending a claimant's award to include cardiac arrest causally related to a work-related ankle injury, deep vein thrombosis, and pulmonary embolism. The court held that competent medical evidence supported the Board's causation finding and rejected the carrier's narrow definition of cardiac arrest.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Garry, P.J.; Lynch, J.; Clark, J.; Aarons, J.; Colangelo, J.
JURISDICTION	New York
DECIDED	March 4, 2021
DOCKET	531672
DISPOSITION	affirmed
PROCEDURAL POSTURE	The employer and its workers' compensation carrier appealed from a Workers' Compensation Board decision amending the claim to include cardiac arrest causally related to the claimant's compensable ankle injury and related pulmonary embolism and deep vein thrombosis.
STANDARD OF REVIEW	The court reviewed the Board's medical causation determination to determine whether the record, viewed as a whole, contained substantial and adequate opinion evidence supporting the finding.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion; precedential within the applicable New York appellate hierarchy.
PARTIES	Doria, Inc., Employer's workers' compensation carrier v. Workers' Compensation Board, Cesar Maldonado, claimant

TOPICS

workers compensation

administrative law

judicial review of agency action

standard of review

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the Workers' Compensation Board's determination that the claimant suffered cardiac arrest causally related to his compensable injury.
2. Whether the term "cardiac arrest" had to be narrowly defined as synonymous with death or the heart stopping and requiring intervention by medical personnel.

HOLDINGS

1. The Board's determination was supported by substantial evidence because competent medical testimony and records established that the claimant suffered cardiac issues and cardiac arrests causally related to the DVT and pulmonary embolism, which were causally related to the underlying work injury.
2. The court rejected the carrier's proposed narrow definition of cardiac arrest because it was not supported by the record medical testimony and because the medical experts relied upon by the Board had not adopted or fully considered that definition.

KEY QUOTATIONS

*"In reviewing a Board decision concerning the medical question of causality, we will look to the record to determine whether, read as a totality, it contains substantial and adequate opinion evidence to support the Board's finding" (*2)*

*"Accordingly, we reject application of the narrow definition proffered by the carrier on appeal, and affirm the Board's determination regarding the causal relation of claimant's cardiac arrest to the underlying injury, a determination which we find to be supported by substantial evidence" (*3)*

FACTUAL BACKGROUND

The claimant injured his left ankle while descending a staircase at work on October 1, 2018. After treatment with a boot and elastic supports, he developed syncope, shortness of breath, and chest pain and was hospitalized for a pulmonary embolism and deep vein thrombosis. Medical experts testified that he experienced cardiac arrests causally related to the DVT and pulmonary embolism, which were themselves causally related to the work injury.

PROCEDURAL HISTORY

The Workers' Compensation Law Judge amended the claim to include major depression, posttraumatic stress disorder, and cardiac arrest. The carrier challenged the cardiac-arrest amendment, arguing that the record lacked

supporting medical evidence. The Workers' Compensation Board found adequate medical evidence and upheld the amendment, and the employer and carrier appealed to the Third Department.

DISPOSITION

affirmed

CASES CITED

- Matter of Cartafalsa v Zurich Am. Ins. Co., 175 AD3d 1762, 1763 (2019)
- Matter of Issayou v Issayuou Inc., 174 AD3d 1277, 1277-1278 (2019), lv denied 34 NY3d 909 (2020)
- Matter of Rossi v Albert Pearlman Inc., 188 AD3d 1362, 1363 (2020)
- Matter of Gallo v Village of Bronxville Police Dept., 120 AD3d 849, 850 (2014)
- Matter of White v House, 147 AD3d 1173, 1174-1175 (2017)
- Matter of Kotok v Victoria's Secret, 181 AD3d 1146, 1148 (2020)
- Matter of Ellis v First Student, Inc., 174 AD3d 1243, 1245 (2019)
- Matter of Granville v Town of Hamburg, 136 AD3d 1254, 1256 (2016)