

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

EDWARD DELA CRUZ, *Applicant*

vs.

**CALIFORNIA HIGHWAY PATROL; Legally Uninsured; administered by
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ14577699; ADJ17937034
San Francisco District Office**

**OPINION AND ORDER DISMISSING
PETITION FOR RECONSIDERATION**

Defendant seeks reconsideration of the Joint Findings of Fact & Award issued on February 16, 2024 by the workers' compensation administrative law judge (WCJ).

We received an Answer from Applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations of the Petition for Reconsideration (Petition), the Answer, and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated below, we will dismiss the petition as untimely.

There are 25 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989)

211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

The Petition in this matter was filed on March 13, 2024. This was more than 25 days after the service of the WCJ's February 16, 2024, Joint Findings of Fact & Award which was served on all parties contained in the Official Address Record and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600.

If the petition had been timely, we would have denied it on the merits for the reasons stated in the WCJ's report and opinion on decision.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 10, 2024

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

**EDWARD DELA CRUZ
JONES CLIFFORD
STATE COMPENSATION INSURANCE FUND**

DLM/oo

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