

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS
Ft Myers District**

EMPLOYEE:

Juan Lago
28 NE 20th Court
Cape Coral, FL 33909

EMPLOYER:

Lee County Sheriff's Department
14750 Six Mile Cypress Parkway
Ft. Myers, FL 33912

CARRIER/SERVICING AGENT:

Florida Sheriff's Workers' Compensation
Self-Insurers Fund, serviced by
North American Risk Services
P.O. Box 945055
Maitland, FL 32974

ATTORNEY FOR EMPLOYEE:

Victor Arias, Esquire
Arias Law Firm, P.A.
3013 Del Prado Blvd.
Suite 2
Cape Coral, FL 33904

ATTORNEY FOR EMPLOYER/CARRIER:

Rex A. Hurley, Esquire
Hurley, Rogner, Miller, Cox, Waranch &
Westcott, P.A.
1560 Orange Avenue, Suite 500
Winter Park, FL 32789

OJCC CASE NO.: 10-006544EDS

D/A: 2/11/2010

**ORDER GRANTING EMPLOYER/CARRIER/SERVICING AGENT'S MOTION FOR
SUMMARY FINAL ORDER**

After proper notice to all parties, a hearing was held on May 19, 2010 on the Employer/Carrier/Servicing Agent's Motion for Summary Final Order pursuant to 60Q-6.120 Rules of Workers' Compensation Adjudications. Present at the hearing was Attorney Victor Arias for the Claimant and Attorney Kim De Arcangelis for the Employer/Carrier/Servicing Agent, herein after referred to as E/C/SA.

This Order addresses the Petition for Benefits filed on DOAH on March 22, 2010.

Documentary Evidence:

#1 The E/C/SA's Motion For Summary Final Order and attached Exhibits.

#2 The Claimant's Response to the E/C/SA's Motion for Summary Final Order and attached Exhibits.

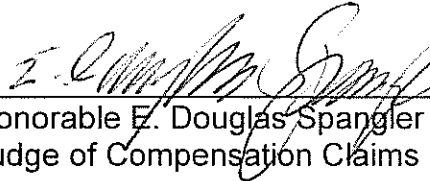
Findings of Fact and Conclusions of Law:

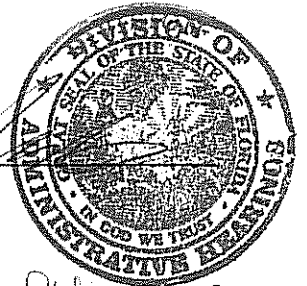
After review of the E/C/SA's Motion with attached Exhibits, Claimant's response to the Motion with attached Exhibits, and having considered additional argument of the parties, I find as follows:

1. That there are no issues of material fact that preclude the granting of the E/C/SA's Motion for Summary Final Order.
2. That the Claimant was incarcerated, whether lawfully or not, at the Lee County Jail when he allegedly sustained an injury on February 11, 2010.
3. That the Claimant was working as a trustee, and was therefore an inmate of Lee County Jail, not an employee within the meaning of 440.02(15)(a) at the time of his injury.
4. That the Claimant was not within the course and scope of employment within the meaning of 440.02(17)(c)(5), which excludes from "employment" state prisoners or county inmates, except those performing services for private employers or those enumerated in s. 948.036(1).
5. That when the accident of February 11, 2010 occurred, the Claimant was not performing services under s. 948.036(1).
6. That therefore, as a matter of law, the Claimant did not sustain an accident arising out of and in the course and scope of employment with Lee County Sheriff's Office on February 11, 2010.

WHEREFORE, it is hereby **ORDERED** and **ADJUDGED** that the Motion for Summary Final Order is **GRANTED** and the Claimant's claims for authorization of treatment with a PCP, attorney fees, penalties, interest and costs are **DENIED AND DISMISSED WITH PREJUDICE**.

DONE and ORDERED in Chambers at Ft Myers, Florida, this 7th day of June, 2010.


Honorable E. Douglas Spangler
Judge of Compensation Claims



THIS IS TO CERTIFY that the foregoing Order was entered on the 7th day of June, 2010 and a copy was sent by e-mail to all interested parties at the addresses listed above.


Judicial Assistant