

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



RICHARD C. MATTA,)	
)	
Charging Party,)	Case No. SF-CE-20-S
)	
v.)	Request for Reconsideration
)	PERB Decision No. 378-S
STATE OF CALIFORNIA (DEPARTMENT)	
OF DEVELOPMENTAL SERVICES, NAPA)	PERB Decision No. 378a-S
STATE HOSPITAL),)	
)	April 6, 1984
Respondent.)	

Appearances; Tim J. Emert, Attorney (True, Wetzel, Colton, Fouts & Ogulnik) for Charging Party; Christine A. Bologna, Attorney for Respondent.

Before Tovar, Jaeger and Burt, Members.

DECISION

JAEGER, Member: The Public Employment Relations Board (Board), having duly considered Richard C. Matta's request for reconsideration, hereby denies that request.

DISCUSSION

In State of California (Department of Developmental Services, Napa State Hospital) (2/15/84) PERB Decision No. 378-S, the Board affirmed an Administrative Law Judge's (ALJ) proposed decision dismissing Richard C. Matta's charge that the Department of Developmental Services, Napa State Hospital, violated subsection 3519(a) of the State

Employer-Employee Relations Act by discriminatorily discharging him.

Pursuant to PERB rule 32410(a),¹ the Charging Party requests reconsideration of the Board's decision, asserting that our affirmance of the ALJ's credibility determinations constitutes a prejudicial error of fact justifying reversal of the decision.

The Charging Party's argument is merely a reassertion of his contention that the ALJ made incorrect credibility findings. The Board has previously held that the mere reassertion of a legal argument that has been considered and rejected by the Board in an underlying Decision is not the sort of "extraordinary circumstance" which justifies granting reconsideration of a Board decision pursuant to rule 32410(a). See Rio Hondo Community College District (5/16/83) PERB

¹PERB rules are codified at California Administrative Code, title 8, section 31001 et seq. PERB rule 32410(a) provides:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

Decision No. 279a; Livermore Valley Joint Unified School District (10/21/81) PERB Order No. JR-9. Accordingly, there is no basis upon which to grant reconsideration.

ORDER

The request for reconsideration in Case No. SP-CE-20-S is hereby DENIED.

Members Tovar and Burt joined in this Decision.