

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-1208

SALATIEL VELAZQUEZ
HERNANDEZ,

Petitioner,

v.

J. STERLING QUALITY ROOFING,
INC., d/b/a STERLING
ROOFING/SUMMIT,

Respondent.

Petition for Writ of Certiorari—Original Jurisdiction.

Date of Accident: July 20, 2017.

October 21, 2020

PER CURIAM.

Claimant in this workers' compensation case petitions the Court for a writ of certiorari, or alternately, for a writ of quo warranto or mandamus, as relief from an order dismissing two petitions for benefits (PFBs) without prejudice. We find that Claimant has not shown irreparable harm resulting from this dismissal and therefore dismiss the petition on jurisdictional grounds. We also find that the extraordinary remedies of quo warranto and mandamus do not lie.

Claimant, however, has also asked this Court to consider whether this dispute, at least in part, should be treated as an appeal. In the dismissal order, the Judge of Compensation Claims (JCC) ruled that he lacked jurisdiction over the PFB filed on January 8, 2020, based on his finding that the claimed benefits there are the same attendant care benefits he awarded in a prior final order currently on appeal and cross-appeal in *J. Sterling Quality Roofing, Inc., d/b/a Sterling Roofing/Summit Holdings v. Salatiel Velazquez Hernandez*; case number 1D19-4391. We agree that the portion of the order dismissing the January 8, 2020, PFB is an appealable nonfinal order adjudicating jurisdiction under Florida Rule of Appellate Procedure 9.180(b)(1)(A). However, because we conclude that the JCC correctly found that the pending appeal/cross-appeal divested his jurisdiction over this PFB, we affirm.

In the prior final order, the JCC awarded some attendant care benefits and denied others without prejudice. In denying those claims, the JCC also ruled that a new prescription may create a new claim. Claimant disputes the JCC's finding that the attendant care at issue here is the same as the care previously awarded, but at the same time asserts the right to file a new claim with a new prescription in accordance with the JCC's prior ruling. Even assuming Claimant has now presented a new claim, he chose to cross-appeal the JCC's prior attendant care adjudication that allowed the filing of a new claim, but then filed a new claim nonetheless. Thus, the JCC did not err when he ruled that he did not have jurisdiction over the benefits claimed in the January 8, 2020, PFB. *See Fla. R. App. P. 9.180(c)(1)* (stating that "[t]he lower tribunal retains jurisdiction to decide the issues that have not been adjudicated and are not the subject of pending appellate review").

Accordingly, the petition is DISMISSED and the JCC's dismissal of the January 8, 2020, PFB, appealed as a nonfinal order adjudicating jurisdiction, is AFFIRMED.

RAY, C.J., and BILBREY and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

James Richard Parris of Parris & Papa, P.A., Jacksonville, and Wendy S. Loquasto of Fox & Loquasto, LLC, Tallahassee, for Petitioner.

H. George Kagan of H. George Kagan, P.A., Gulf Stream, for Respondent.