

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSALIO FRANCO,

Appellant,

vs.

J.M. PAINTING & DRYWALL; AND
EMPLOYERS INSURANCE COMPANY OF
NEVADA, F/K/A STATE INDUSTRIAL
INSURANCE SYSTEM,

Respondents.

No. 34578

FILED

JUN 27 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying judicial review and affirming an administrative appeals officer's determination that appellant is not entitled to vocational rehabilitation benefits.

Appellant Rosalio Franco is an undocumented worker who was injured while working for a Nevada employer. Although Franco received workers' compensation benefits under Nevada's Industrial Insurance Act, the State Industrial Insurance System (SIIS), now Employers Insurance Company of Nevada, denied Franco vocational rehabilitation benefits because he could not establish his employment eligibility. Franco contends that he is entitled to vocational rehabilitation benefits notwithstanding his status as an undocumented worker. He is mistaken.

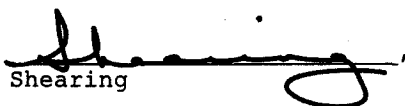
We recently held in Tarango v. SIIS,¹ a case virtually indistinguishable factually, that SIIS must deny

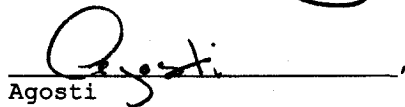
¹117 Nev. ___, ___ P.3d ___ (Adv. Op. No. 40, June 13, 2001).


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vocational rehabilitation benefits if vocational training is required solely because of immigration status. According to the record on appeal, except for his immigration status, Franco is employable in a light to medium duty job with some lifting restrictions. Franco is not, therefore, entitled to vocational rehabilitation, and SIIS properly closed his claim without providing such benefits. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing J.


Agosti J.


Rose J.

cc: Hon. James C. Mahan, District Judge
Greenman Goldberg Raby & Martinez
EICON General Counsel
Javier A. Arguello, EICON Assoc. Gen. Counsel, Las Vegas
Shirley D. Lindsey, EICON Assoc. Gen. Counsel, Las Vegas
Clark County Clerk