STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
TAMPA DISTRICT OFFICE

James Wilkinson,
Employee/Claimant,

vs.

Manatee County Sheriff's Office/Florida Sheriffs Risk Management Fund (FSRMF),
Employer/Carrier/Servicing Agent.
_____/

OJCC Case No.: 25-007625EBG

Accident date: 01/29/2025

Judge: Erik B. Grindal

FINAL ORDER

The undersigned Judge of Compensation Claims held a Final Hearing in this matter on October 20, 2025, to adjudicate issues identified in the Petition for Benefits filed March 31, 2025. This Hearing was conducted via Zoom. The claimant was represented by Kristine Callagy, Esquire, and Martina Clay, Esquire, and the employer/carrier was represented by David S. Bromley, Esquire. Live testimony was presented by James Wilkinson.

CLAIMS

1. Compensability of claimant's disabling heart disease pursuant to section 112.18, Florida Statutes.

2. Authorization, payment, and scheduling of medical care and treatment with a board-certified cardiologist or appropriate physician to treat claimant's disabling heart disease. Claimant is not under the care of an authorized provider.

3. Attorney's fees and costs.

DEFENSES

1. The entire claim is denied.

2. The claimant has not established entitlement to benefits under section 112.18. The claimant does not meet the criteria of section 112.18. The statutory presumption under section 112.18 does not apply or will be rebutted by evidence of non-occupational causes.

3. Claimant's heart disease, if any, is pre-existing, congenital and/or was caused by non-occupational factors.

4. The claimant's diagnosis is not considered as heart disease.

5. No attorney's fees or costs owed.

6. No good-faith attempt to resolve issues was made before the Petition for Benefits was filed.

JUDGE'S EXHIBITS

JCC-1 Uniform Pretrial Stipulation and Pretrial Compliance Questionnaire, filed August 4, 2025 (DN 18).

JCC-2 Claimant's Notice of Filing Amendment to Pretrial Stipulation, filed August 6, 2025 (DN 19).

JCC-3 Employer/Carrier/Servicing Agent's Motion to Strike Affirmative Defenses and Avoidances, filed August 15, 2025 (DN 20).

JCC-4 Claimant's Response to Employer/Carrier's Motion to Strike, filed September 19, 2025 (DN 24).

JCC-5 Employer/Carrier's Notice of Filing Amendment to Uniform Pretrial Stipulation, filed September 19, 2025 (DN 28).

JCC-6 Order Denying Employer/Carrier/Servicing Agent's Motion to Strike Claimant's Affirmative Defenses and Avoidances, filed September 22, 2025 (DN 30).

JCC-7 Claimant's Trial Memorandum, filed October 15, 2025 (DN 33). *Admitted for argument purposes only.*

JCC-8 Employer/Carrier's Trial Memorandum, filed October 16, 2025 (DN 40). *Admitted for argument purposes only.*

JOINT EXHIBITS

J-1 Deposition of Scott Kemp, filed October 16, 2025 (DN 35).

CLAIMANT'S EXHIBITS

C-1 Notice of Denial, filed October 16, 2025 (DN 41).

C-2 Pre-employment physical, filed October 16, 2025 (DN 42).

C-3 Deposition of Dr. Steven Borzak, with exhibits, filed October 16, 2025 (DNs 43, 44, 45, and 46).

EMPLOYER/CARRIER'S EXHIBITS

EC-1 Response to Petition for Benefits, filed April 7, 2025 (DN 3).

EC-2 Response to Petition for Benefits, filed April 10, 2025 (DN 5).

EC-3 Deposition of James Wilkinson, filed October 16, 2025 (DN 36).

EC-4 Deposition of Dr. David Perloff, filed October 16, 2025 (DN 37).

EC-5 Horizon Claims Services, Field Adjusting Report, filed October 16, 2025 (DN 38). *The claimant's objection to admission of this report is sustained on the grounds of hearsay.*

EC-6 Medical record composite, filed October 16, 2025 (DN 39). *The claimant's objection to admission of these records is overruled as they were considered by both independent medical examiners.*

EC-7 Notice of Denial, dated March 19, 2025 (DN 49).

FINDINGS OF FACT

In making my findings of fact and conclusions of law, I have carefully considered and weighed all of the evidence presented to me. Although I will not cite or summarize in explicit detail each witness' testimony and may not refer to each piece of documentary evidence, I have attempted to resolve all conflicts in the testimony and evidence. I have reviewed every medical record and all other documentary evidence the parties have offered into evidence. I have referenced in this Order what I consider to be the most relevant testimony and evidence. Any objections raised in deposition or at the Final Hearing neither previously ruled upon, nor ruled upon in this Order, are hereby overruled.

I find that I have jurisdiction over the parties and the subject matter of this dispute. I find that venue is proper in Manatee County, Florida.

James Wilkinson

The claimant, James Wilkinson, testified at hearing. This testimony was considered alongside Mr. Wilkinson's deposition admitted as exhibit EC-3. Mr. Wilkinson has been employed with the Manatee County Sheriff's Office since August 2020. He is assigned to the court security unit and is a certified law enforcement officer.

Prior to being hired by the Manatee County Sheriff's Office, Mr. Wilkinson underwent a preemployment physical examination. His employer scheduled and paid for the preemployment physical.

Mr. Wilkinson's job duties include screening people entering the court house, as well as their bags. Mr. Wilkinson testified that his job can be physically demanding if he is required to place someone in custody. He testified that his duties can be mentally demanding when a large number of people are entering the courthouse and when the people entering are upset and agitated.

Mr. Wilkinson was first diagnosed with atrial fibrillation in February of 2022 by Dr. Akella. At that time, Mr. Wilkinson was experiencing random spikes in his heart rate and underwent a cardiac ablation. The heart rate symptoms abated for a few months after the ablation and then returned. A second ablation was performed in August 2023. This ablation resolved the heart rate symptoms temporarily and they returned by the end of 2023.

On January 29, 2025, Mr. Wilkinson had a third ablation. Mr. Wilkinson was discharged from the hospital the same day and assigned restrictions of no physical activity. After this ablation, Mr. Wilkinson was out of work for six days.

Mr. Wilkinson testified that he informed his employer about the January 29, 2025, ablation about 30 days after it was performed.

On cross-examination Mr. Wilkinson testified that prior to working for the Manatee County Sheriff's Office, he was employed with the Bradenton Police Department. He was hired by the Bradenton Police Department on November 2, 1995. Mr. Wilkinson retired from the Bradenton Police Department in June 2020.

While employed with the Bradenton Police Department, Mr. Wilkinson served as a patrol officer, patrol sergeant, SWAT team member, and violent crimes task force member. Mr. Wilkinson also worked in an undercover capacity. Additionally, Mr. Wilkinson made arrests, investigated violent crimes, and investigated homicides for the Bradenton Police Department. When he retired, Mr. Wilkinson served as a patrol support lieutenant.

Prior to beginning employment with the Manatee County Sheriff's Department, Mr.

Wilkinson treated with Dr. Amoah, in 2015. In 2015, Mr. Wilkinson made complaints of heart palpitations, and was referred to cardiologist, Dr. Akella. Mr. Wilkinson underwent an echocardiogram and Holter Monitor study, in 2015, as recommended by Dr. Akella.

Mr. Wilkinson testified that he had been having fluttering/heart palpitations since his late teenage years. While employed with Bradenton Police Department, Mr. Wilkinson began taking Metoprolol for heart palpitations. A second Holter Monitor study was performed in December 2018.

Following the Holter Monitor, Mr. Wilkinson was seen by Dr. Akella in April 2019. Mr. Wilkinson testified that Dr. Akella did not tell him that he was suffering from atrial fibrillation at the April 2019 evaluation. Mr. Wilkinson testified that he was first diagnosed with atrial fibrillation by Dr. Akella following his February 2022 ablation.

On cross-examination, Mr. Wilkinson testified that his cardiac symptoms were the same before and after 2020. However, in later testimony said the symptoms were different. Mr. Wilkinson testified that he was not sure whether his prior heart palpitations were disclosed during his preemployment evaluation.

I accept Mr. Wilkinson's testimony as credible.

Scott Kemp

The deposition of Scott Kemp was admitted in evidence as exhibit J-1. Mr. Kemp is employed by All for Life. He explained that All for Life is contracted with the Manatee County Sheriff's Office to perform preemployment physicals and drug testing. Mr. Kemp testified that he performed Mr. Wilkinson's preemployment physical on July 14, 2020. Mr. Kemp's findings and related medical testing was reviewed by Dr. Hutchinson, although Dr. Hutchinson did not personally examine Mr. Wilkinson.

When the physical examination took place, Mr. Wilkinson disclosed that he was taking Losartan and Metoprolol. There was however no questionnaire to be completed by prospective employees requesting a history of prior medical impairments.

Mr. Kemp testified that he is not a licensed physician, physician's assistant, or an advanced registered nurse practitioner. He is a state certified paramedic.

The Patient Information form states in the portion to be completed by the examining physician that Mr. Wilkinson's heart was examined and found to be normal and the examination did not reveal evidence of heart disease or hypertension (J-1, pg. 26).

Dr. Steven Borzak

Dr. Borzak is a board-certified cardiologist. He performed an independent medical review at the request of the claimant and issued a report on August 5, 2025. Dr. Borzak's September 29, 2025, deposition with exhibits were admitted in exhibit C-3.

Dr. Borzak did not meet with Mr. Wilkinson. Rather, he reviewed medical records from Dr. Akella, Blake Medical Center, Dr. Collins, Acadian Diagnostic, Manatee Diagnostic Center, Dr. Amoah, Dr. Arias, Dr. Calderon, Dr. Friedman, Manatee Memorial Hospital, Dr. Myers, VAMC, All for Life, Dr. Perloff, and Holter Monitor results (C-3, DN 45, pgs. 1-2).

Dr. Borzak testified that the preemployment physical had evidence of hypertension. Mr. Wilkinson's blood pressure was 141/86 and he was taking two medications for blood pressure control. Dr. Borzak opined that the preemployment physical did not have any evidence of heart disease. He testified that the EKG performed during the preemployment physical was normal.

Inquiry was made regarding Dr. Perloff's opinion that the claimant's 2018 Holter Monitor study demonstrated atrial fibrillation. Dr. Borzak testified as follows:

> *Q: Okay. And what is the clinical significance of the three-second run of AFib on that report?*
>
> *A: Actually, it was shorter than three seconds. It was three beats.*
>
> *Q: Three beats.*
>
> *A: Yeah. So I -- I saw the same strips, and my initial interpretation was that it did not show evidence of atrial fibrillation because three beats is really one beat more than is necessary to -- to demonstrate an arrhythmia. This would probably fall in the category under most circumstances as not clinically significant, but it all depends on the -- the clinical context. So it -- these episodes would be described as fleeting. Only one had three beats. There were a couple that had two beats of atrial fibrillation. So fleeting -- fleeting episodes of atrial fibrillation probably don't confer a stroke risk, although it's possible they could be symptomatic.*
>
> *Q: Okay. Is it possible for somebody with a totally normal electrical system to have some tiny abnormal findings on a Holter report like that?*

A: Yes. These kinds of findings could be present in a normal person with a normal heart who has no clinical evidence of arrhythmia.

Q: Okay. And was -- in the records that you reviewed, Doctor, was there any diagnosis of AFib prior to July 14, '20?

A: The -- the claimant seems to have been unaware of this diagnosis. The handwritten report, which was undated -- sorry, it was not undated. It was dated 12-24 12-18. The handwritten report, it says, "Episodes of AF 25 with RVR." Which is, I think a little bit of an overstatement. As I mentioned, I'm not trying to minimize it because it's -- I -- I'm -- I'm saying that these were very brief episodes and of questionable clinical significance. And so I think to call them episodes of AF with RVR is a little bit of an overstatement. Technically, there were these several fleeting episodes of AFib seen on this Holter.

Q: Okay. And was he prescribed any medications or treatment specifically for AFib prior to July 14, 2020?

A: No. (C-3, DN 43, pgs. 10-12).

Notably, Dr. Borzak did not speak with Mr. Wilkinson or examine him as part of his independent medical examination. It is unclear how Dr. Borzak reached the conclusion that Mr. Wilkinson was unaware of the 2018 atrial fibrillation diagnosis.

Dr. Borzak summarized Mr. Wilkinson's cardiac history as follows:

A: He had a history of hypertension, which predated his -- his pre-employment physical. He had palpitations for some time, and when a loop recorder was implanted, the definite and firm clinical diagnosis of atrial fibrillation was made. And then he unfortunately went two failed attempts at ablation. And then the third attempt, which I hope was more successful than the other two attempts. But I don't have a lot of data after that ablation to see what kind of follow-up and what -- what demonstration there was of either symptoms or AFib.

Q: And when was that loop monitor implanted confirming the AFib diagnosis that you mentioned?

A: January 31st of '22. Dr. Perloff mentioned in his note that the battery had died, which is about right. You usually get between three and three-and-a- half, maybe four years, of battery life. So it

makes sense that it would no longer be functioning sometime during this calendar year.

Q: Okay. And Doctor, what is his diagnosis with respect to the 1-29-2025 date of accident?

A: Atrial fibrillation.

Q: And is atrial fibrillation –

A: -- probably -- sorry. He also had atrial tachycardia as well. Okay. (C-3, DN 43, pgs. 12-13).

Significant to the analysis here, Dr. Borzak opined that Mr. Wilkinson's atrial fibrillation diagnoses was definite and firm when a loop recorder was implanted. The implantable loop recorder was implanted on January 21, 2022. This opinion places the atrial fibrillation diagnosis as occurring prior to the three ablations performed.

Dr. Borzak testified that both atrial fibrillation and atrial tachycardia are cardiac arrhythmias and are heart disease (SEE C-3, DN 43, pgs. 13-15, 16-20). I accept this testimony and find that atrial fibrillation and atrial tachycardia are heart disease.

Dr. Borzak described Mr. Wilkinson's impairment of health due to these conditions stating: "*He was impaired because he was undergoing anesthesia for an electrophysiologic study and ablation. So he would be unable to work on that day and for a week or two post-recovery"* (C-3, DN 43, pg. 15).

I find this consistent with Mr. Wilkinson's testimony that he was out of work for six days after his January 29, 2025, ablation. I accept Dr. Borzak's testimony on this issue and find that Mr. Wilkinson was unable to work for six days due to, and following, his January 29, 2025, ablation. I find Mr. Wilkinson suffered a brief impairment of health due to the January 29, 2025, ablation.

Dr. Borzak testified that there is no clear cause for Mr. Wilkinson's atrial fibrillation, but that his hypertension is a risk factor. Dr. Borzak further testified that future medical treatment is necessary, including follow up with a cardiologist two to three times a year (C-3, DN 43, pg. 25-26).

On cross-examination, Dr. Borzak was asked about triggers for Mr. Wilkinson's atrial fibrillation. Dr. Borzak testified as follows:

Q: And as far as paroxysmal, I hope I'm pronouncing that correctly, atrial fibrillation, which I'll just from now on call AFib, is that a type of atrial fibrillation where episodes of an irregular heartbeat

come and go on their own, typically involving -- or, I'm sorry. Typically resolving within seven days without medical intervention?

A: *Yes.* (C-3, DN 43, pg. 29).

I accept this testimony and find that Mr. Wilkinson's atrial fibrillation does not have an external trigger. Stated more succinctly, I find Mr. Wilkinson's atrial fibrillation is not triggered by either work-related or non-work-related activity.

Dr. Borzak testified that he was not provided with Dr. Akella's September 20, 2015, report; the October 2, 2015, Holter Monitor study: Dr. Amoah's November 8, 2015, report: Dr. Akella's September 12, 2016, report, the October 25, 2016, nuclear stress test; Dr. Akella's November 4, 2016, report; the October 29, 2018, electrocardiogram report; the November 27, 2018, nuclear stress test; or Dr. Amoah's November 21, 2016, and December 29, 2016, reports. Dr. Borzak was provided with the December 4, 2018, Holter Monitor report after he produced his independent medical examination report.

On cross-examination, Dr. Borzak was asked about the diagnosis of atrial fibrillation contained within the December 12, 2018, Holter Monitor report. Based on the report, Dr. Borzak confirmed that Mr. Wilkinson was suffering from atrial fibrillation based on the December 2018 Holter Monitor findings (C-3, DN 43, pg. 39).

Dr. David Perloff

Dr. Perloff is a board-certified cardiologist. He performed a virtual independent medical examination at the request of the employer/carrier on August 25, 2025. Dr. Perloff's October 14, 2025, deposition with exhibits were admitted in exhibit EC-4.

Dr. Perloff opined that the preemployment physical examination was positive for findings of hypertension. Dr. Perloff explained that Mr. Wilkinson's blood pressure reading was 141/86, despite taking hypertensive medications. Dr. Perloff opined that the electrocardiogram performed at the time of the preemployment physical was normal. However, he testified that a patient with an underlying atrial fibrillation impairment can have a normal electrocardiogram.

Dr. Perloff testified that the medical records preceding the July 2020 preemployment physical revealed evidence of atrial fibrillation and hypertension. Specifically, Dr. Perloff reviewed the 2018 Holter Monitor results, along with Dr. Akella's April 19, 2019, report, and opined that Dr. Akella diagnosed Mr. Wilkinson with atrial fibrillation in a clinical context.

With regard to Dr. Akella's diagnosis, Dr. Perloff testified as follows:

So I looked at those strips. And quite honestly, they look like they could be AFib. But I'm not sure I would have made a diagnosis of AFib based just on those strips. I would have done further monitoring at that time to be sure. Because they are relatively short. They look like FBI, but you can get sometimes rapid succession PACs or, you know, extra beats that come in rapid succession that sort of mimic AFib. So, honestly, I probably would not have jumped to the diagnosis of AFib.

But when you look in the clinical context of the fact that he had these things that looked like AFib, although, they weren't super prolonged, but then, later on down the road, in a year or two or three, he is diagnosed now with clear paroxysmal atrial fibrillation. In retrospect, you can look back and say, yes, there is no question that those did represent AFib.

Again, prospectively, I probably would not have made that diagnosis. Interestingly enough, Dr. Akella did make the diagnosis of AFib. And he – in this case, he turned out to be correct because the patient does have AFib. (EC-4, pg. 14).

Dr. Perloff went on to opine that Mr. Wilkinson had atrial fibrillation prior to his July 2020 preemployment physical (EC-4, pgs. 14-16).

Based on Dr. Perloff's testimony, along with the other evidence considered, I find that the employer/carrier has established through clear and convincing evidence that Mr. Wilkinson had atrial fibrillation prior to being hired by the Manatee County Sheriff's Office.

Dr. Perloff testified regarding the trigger for Mr. Wilkinson's atrial fibrillation symptoms after the July 2020 preemployment physical. Dr. Perloff testified as follows:

Q: *Okay. Would you agree that, based upon the records you reviewed as well as your conversation with Mr. Wilkinson, there is no evidence that he -- that his symptoms of AFib were triggered because of stress at work or any physical exertion at work after July --- after the July 2020 PEP?*

A: *No.* (EC-4, pg. 19).

…

Q: *Okay. Fair enough. Would you agree that it's at least a possibility that Mr. Wilkinson's job as a police officer made his AFib worse?*

…

A: *THE WITNESS: I could agree that's a possibility. Yes.* (EC-4, pg. 49)

I find based on this testimony, along with the other evidence admitted, that an occupational trigger for Mr. Wilkinson's atrial fibrillation after July 2020, cannot be excluded.

ANALYSIS

Mr. Wilkinson has not established that the major contributing cause of his atrial fibrillation is an injury arising out of and in the course and scope of employment. He seeks compensability of the atrial fibrillation pursuant to the presumption found in section 112.18, Florida Statutes.

In order to qualify for the section 112.18 statutory presumption, the claimant must establish four elements: (1) he is a covered class member; (2) he has suffered a condition or impairment of health caused by tuberculosis, heart disease, or hypertension; (3) he underwent a preemployment physical which failed to reveal any evidence of any such condition; and (4) he has suffered a disability as a result of the condition or impairment.

There is no dispute that Mr. Wilkinson meets elements 1 and 4. I find Mr. Wilkinson is a covered class member and suffered a disability as a result of the condition or impairment.

The employer/carrier disputes that atrial fibrillation constitutes heart disease and that he underwent a preemployment physical which failed to reveal any evidence of such condition.

I find based on the testimony of Dr. Perloff and Dr. Borzak that atrial fibrillation is heart disease. I find that the claimant has established that he has suffered a condition or impairment of health caused by heart disease. I find the claimant has satisfied element 2 referenced above.

Citing to the undersigned's Final Order in *Cody Barrett v. Manatee County Sheriff's Office*, OJCC No. 24-030046EBG (August 27, 2025),[1] the employer/carrier argues that Mr. Wilkinson's preemployment physical does not qualify pursuant to section 943.13, Florida Statutes. The employer/carrier argues that Mr. Wilkinson's preemployment physical was performed by a paramedic rather than a licensed physician, physician's assistant, or licensed advanced practice registered nurse.

The minimum qualifications for employment as a law enforcement officer are contained in Section 943.13. Section 943.13(6) states in relevant part:

[1] This Order is currently on appeal.

> *(6) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension.*

The plain language of this statute requires that the preemployment physical examination be performed by "*a licensed physician, physician's assistant, or licensed advanced practice registered nurse*."

In the *Barrett* case, the preemployment physical was performed by a chiropractor. This case is factually distinguishable. While the physical examination and history were performed by paramedic Scott Kemp, a licensed physician reviewed the findings and signed the preemployment physical (J-1, pgs. 10-13). I find that Dr. Hutchinson's review of Mr. Kemp's findings and execution of the preemployment physical meets the requirements of section 943.13(6). I find the preemployment physical does not reveal any evidence of heart disease.

I find Mr. Wilkinson has established all four prongs of section 112.18 by a preponderance of the evidence. I find Mr. Wilkinson is entitled to the presumption that his atrial fibrillation is compensable pursuant to section 112.18.

The employer/carrier argues that Mr. Wilkinson's heart disease is preexisting, congenital, and/or was caused by non-occupational factors. I find that Mr. Wilkinson's atrial fibrillation is preexisting. I find that Mr. Wilkinson was diagnosed with atrial fibrillation at least as of December 2018. I find the atrial fibrillation condition is preexisting.

Separate from the issue of whether the atrial fibrillation is preexisting, is the issue of what triggered Mr. Wilkinson's need for the January 29, 2025, cardiac ablation.

Pursuant to *City of Jacksonville v. O'Neal*, 2978 So. 3d 630 (Fla. 1st DCA 2020), the employer/carrier is required to establish that there was a non-occupational trigger of the atrial fibrillation to avoid compensability pursuant to the presumption contained in section 112.18.

The testimony of Dr. Perloff did not identify a non-occupational trigger the cause of the need for the cardiac ablation. Absent the employer/carrier establishing a non-

occupational trigger for the January 29, 2025, ablation, the claimant is entitled to compensability of the atrial fibrillation. I find the employer/carrier has failed to establish a non-occupational trigger for Mr. Wilkinson's atrial fibrillation. I find the claimant is entitled to compensability of his atrial fibrillation pursuant to section 112.18.

WHEREFORE, it is ORDERED and ADJUDGED that:

1. The claim for compensability of claimant's disabling heart disease pursuant to section 112.18, Florida Statutes, is **GRANTED**.

2. The claim for authorization, payment, and scheduling of medical care and treatment with a board-certified cardiologist or appropriate physician to treat claimant's disabling heart disease is **GRANTED.**

3. The claim for attorney's fees and costs is **GRANTED**. Jurisdiction is reserved to determine the quantum of a reasonable attorney's fee and taxable costs, should the parties be unable to reach an agreement.

DONE AND SERVED this 10th day of November, 2025, in Tampa, Hillsborough County, Florida.

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