

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA

950 Office Park Road, Suite 321
West Des Moines, Iowa 50265

IN THE MATTER OF:

Christian E. Cornish

Applicant

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DECISION

Iowa Code § 411.6(3) (1995) and
Iowa Code § 411.6(5) (1995)

STATEMENT OF THE CASE

The applicant, Christian E. Cornish ("Cornish") filed his application for accidental disability benefits on or about November 28, 1994. On April 21, 1995, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Cornish's disability. An initial decision awarding ordinary disability benefits was made by the System on May 4, 1995. Cornish filed a timely appeal challenging the award of "ordinary" rather than "accidental" disability retirement benefits. A hearing was held before the appeals committee of the board (comprised of Frank Gray, chair; Mary Bilden and Martin Pottebaum) on September 6, 1995 at the offices of the System. Cornish appeared and was represented by attorneys Connie Alt and Terri Davis. James Flitz, City Attorney, appeared for the City of Cedar Rapids. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Christian Cornish, Donna Cornish, Richard Brown, Ruth Feasley, Tom Erceg and Richard Stevens. Post-hearing briefs were filed by both Cornish and the City.

FINDINGS OF FACT

The Committee, having reviewed the evidence of record and the briefs and arguments submitted by the parties, finds as follows:

1. Cornish commenced employment with the City of Cedar Rapids, Iowa as a police officer on or about July 20, 1970. He last worked on June 9, 1994.

2. The medical board opined that Cornish suffers from post traumatic stress disorder with a major depressive disorder, and that he is permanently incapacitated from performing as a police officer as a result.

3. Testimony was received from Cornish and others about three traumatic incidents that Cornish experienced while employed as a Cedar Rapids police officer and which allegedly caused his post traumatic stress disorder. The first was an incident which occurred in about 1974 in which Cornish and other officers watched helplessly while two young men burned to death in a car. The second incident occurred on or about December 6, 1986, when Cornish was called to a scene alone to face an armed suspect. The third incident occurred on or about June 27, 1993, when Cornish, acting as a hostage negotiator, disarmed a suspect who was threatening suicide.

4. It is undisputed that Cornish is permanently incapacitated for the further performance of duty as a result of his mental disorder. The issue is whether his mental disorder entitles him to accidental disability benefits under § 411.6(5).

CONCLUSIONS OF LAW

1. Iowa Code Section 411.6(3) states:

Ordinary disability retirement benefit. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired.

2. Iowa Code Section 411.6(5) states (in relevant part) as follows:

a. Accidental disability benefit. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system, if

the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

* * * * *

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases. However if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

3. It is undisputed that Cornish does not suffer from a "disease" as that term is defined by the statute. He must therefore establish that he is disabled as a result of an injury in order to establish entitlement to accidental disability benefits.

4. Cornish has the burden of proving that his mental injury was caused or aggravated by the performance of duty at some definite time and place, and that his mental injury was caused by something more than the day-to-day emotional stress commonly associated with police work.

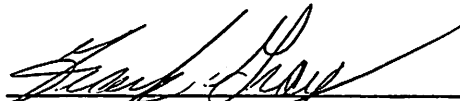
5. The Committee finds that Cornish's mental injury was caused by the traumatic incidents that were detailed at the hearing.

6. The Committee further finds that the first two incidents testified to (the fire and the 1986 armed suspect) constituted more than the day-to-day emotional stresses commonly associated with police work.

DECISION

Christian E. Cornish is hereby awarded accidental disability benefits under Chapter 411 of the Code. The vote on this decision was 2 - 1, with Frank Gray voting for ordinary disability benefits.

Dated this 12th day of October, 1995.



Frank Gray, Chair
Disability Appeals Committee

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the 13th day of October, 1995.

