

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA

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

IN THE MATTER OF:	)	
	)	
Ronald L. White	)	DECISION
	)	
Member	)	

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

STATEMENT OF THE CASE

Chief William H. Moulder of the Des Moines Police Department filed an application for ordinary disability benefits on behalf of Ronald L. White ("White") on or about June 27, 1995. On August 15, 1995, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding White's disability. An initial determination approving White for ordinary disability benefits was made by the System on September 1, 1995. Upon a timely appeal by White, a hearing was held before the Appeals Committee of the Board (comprised of Marty Pottebaum, Chair, Mary Bilden and Sherry Meier) on December 20, 1995 at the offices of the System. White appeared and was represented by attorney Robert DuPuy. Nelda Mickle, City Solicitor, appeared for the City of Des Moines, in support of the System's award of ordinary disability. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Rick Turner, M.D., Ronald Babb, White and Chief Moulder. Post-hearing briefs were filed by both White 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. White commenced employment with the City of Des Moines, Iowa as a police officer on or about June 10, 1974.
2. On May 31, 1991, White was terminated from his employment for "failure to meet the standard of conduct, accountability and integrity" demanded of a police officer.

The termination was related to a missing lottery ticket and cash that were seized at a crime scene White investigated, and he was also charged with third-degree theft.

3. White was acquitted of the criminal charges and appealed his termination to the civil service commission, which ordered him reinstated. The City appealed to the district court, which upheld the reinstatement, and to the Iowa Supreme Court, which also affirmed. The City reinstated White with back-pay and benefits in April, 1994.

4. Following his reinstatement, White felt he had no support from the Department, and testified to several incidents which allegedly caused or aggravated his disability, including an assignment to dispatch, which he considered punitive, an internal affairs investigation in late 1994 and early 1995 related to his alleged harassment of a witness, and finding things such as lottery tickets and his arrest mug shot in his mailbox.

5. White developed a "major depressive disorder." It is undisputed that he is incapacitated from performing as a police officer.

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.

3. A "mental injury" may be the basis for accidental disability benefits under the statute.

4. Neither White's termination and prosecution or the events complained of following his reinstatement constitute the actual performance of duty at some definite time and place.

5. White has failed to establish his entitlement to accidental disability benefits.

DECISION

The appeal for accidental disability retirement benefits on behalf of Ronald L. White under chapter 411 is hereby denied. White will continue to receive ordinary disability benefits.

Dated this 11 day of January, 1996.


Marty Pottebaum
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 12th day of January, 1996.

Sandra Wells