

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA
7155 Lake Drive, Suite 201
West Des Moines, IA 50266

IN THE MATTER OF:

CHRISTOPHER TIRRELL OUTLAW,

Applicant.

DECISION

Iowa Code § 411.6(3) (2013) and
Iowa Code § 411.6(5) (2013)

STATEMENT OF THE CASE

Christopher Tirrell Outlaw ("Outlaw") filed his application for a disability pension on or about July 12, 2013. On July 22, 2013, the System denied the application on the basis that Outlaw was not a member in good standing at the time of his application. Outlaw filed a timely appeal challenging the denial, arguing that there was good cause for the Board to waive the "good standing" requirement. A hearing was held before the Disability Appeals Committee of the Board (comprised of Scott Sanders, Mary Bilden (who appeared by telephone) and Marty Pottebaum, chair) on February 26, 2014 at the offices of the System. Outlaw appeared, and was represented by attorney Dorothy O'Brien. The City of Davenport did not appear, but indicated that it supported Officer Outlaw's appeal. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Officer Outlaw and from Officer Marty Lopez of the Davenport Police Department. Outlaw waived post-hearing briefs.

FINDINGS OF FACT

The Committee, having reviewed the evidence of record, finds as follows:

1. Outlaw was born on February 9, 1977 and commenced service as a police officer for the City of Davenport on or about August 18, 2004.
2. On May 23, 2006, Outlaw was off duty and was volunteering at an elementary school. He was not in uniform. He had his badge, but not his gun. He went to Wendy's for lunch, and recognized a wanted person, Jonathan Owens, who was there. Outlaw went outside and called dispatch on his cell phone and then went back inside, at which time Owens apparently recognized Outlaw as an officer and started to leave. Outlaw showed his badge and told Owens he was under arrest. Owens ran, with Outlaw in pursuit. During their altercation, and before the other officers arrived,

Owens pulled out a revolver, hit Outlaw on the temple with it, and then pulled the trigger twice at close range. Outlaw heard the clicks of the trigger. Other officers then arrived and Owens was arrested. It was later determined that the gun was loaded but had malfunctioned each time Owens attempted to shoot Outlaw in the head.

3. Outlaw was off work for three weeks after the attempted on his life. He testified that he has not been the same person since. He had a lot of anger and also had crying spells, nightmares and flashbacks. He began to isolate himself and developed personal and relationship problems. He was eventually diagnosed with post-traumatic stress disorder as a result of the attempted murder.
4. Officer Marty Lopez testified that he has been a Davenport police officer for 31 years. He is a patrol and school resource officer. He sometimes rode with Outlaw on patrol, and also got him involved in working at the school. He testified that Outlaw had done an excellent job, but was greatly changed after the 2006 attempted murder. He commented that Outlaw was giving his best efforts but was struggling, both personally and professionally.
5. In early June of 2013, Outlaw got into an argument with his now ex-girlfriend. He testified that this was shortly after the anniversary date of the attempt on his life, and he had been having flashbacks. They had been having frequent arguments and he decided to end the relationship and started to pack his things. He further testified that she attacked him and he grabbed her arms. He left at around 4:00 a.m. At 6:27 p.m. the same day, an attorney friend of hers reported that Outlaw had assaulted the girlfriend.
6. Domestic abuse charges were filed against Outlaw, a protective order was issued and the Davenport Police Department started an internal investigation and placed him on leave.
7. Chief Francis R. Donchez, Jr. of the Davenport Police Department signed the Chief's section of Outlaw's disability application on July 3, 2013 and checked the box certifying that Outlaw is not a "member in good standing" according to the System's definition. He added a note stating: "Officer Outlaw is currently involved in an ongoing internal affairs investigation that has not been resolved."
8. On August 14, 2013, the Chief wrote a letter to the System (admitted as Member Exhibit 4) stating in part, "We support Chris Outlaw's appeal and request for a good cause waiver. Recent information regarding the nature of Officer Outlaw's disability supports the idea that it played a role in his recent actions that are under investigation. . . . This situation seems qualitatively different than the officer who hangs onto a knee or back injury for years then submits for a disability pension when they get caught for a terminable offense and are facing the end of employment for disciplinary reasons."
9. Statements from Outlaw's psychologist, Karen Wickwire, Ph.D. and from Davenport police officers Mary Lopez and Sergeant Richard Lindbom also argued for a good-

cause waiver of the good-standing requirement. Those statements were also admitted into evidence as Member exhibits.

10. On January 14, 2014, Outlaw was found not guilty on all counts by the jury in the matter relating to the June, 2013 alleged domestic abuse matter.
11. Officer Lopez testified that it is his understanding based on a recent departmental email that Outlaw is currently on "administrative leave not related to discipline."

CONCLUSIONS OF LAW

1. Iowa Code § 411.6(3) states:

3. Ordinary disability retirement benefit. Upon application to the system, of a *member in good standing* 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. 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. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits. *The member-in-good-standing requirement of this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.*

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

5. *Accidental disability benefit.*

a. Upon application to the system, of a *member in good standing* or of the chief of the police or fire departments, respectively, any member in good standing 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. A medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system's medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

* * * * *

d. The requirement that a member be in good standing to apply for and receive a benefit under this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

3. Iowa Code § 411.1(14) states:

14. "Member in good standing" means a member in service who is not subject to removal by the employing city of the member pursuant to section 400.18 or 400.19, or other comparable process, and who is not the subject of an investigation that could lead to such removal. Except as specifically provided pursuant to section 411.9, a person who is restored to active service for purposes of applying for a pension under this chapter is not a member in good standing.

4. Outlaw's actions in the June 2013 incident that led to the internal affairs investigation were symptomatic of his post-traumatic stress disorder, and the City supports a finding of good cause.
5. Furthermore, Outlaw was acquitted of all criminal charges relating to the incident in question.
6. There is good cause to waive the member-in-good-standing requirement in this case.

DECISION

The appeal for a waiver of the "good-standing" requirement under chapter 411 on behalf of Christopher Tirrell Outlaw is hereby granted. The System shall adjudicate his application for a disability pension.

Dated this 27 day of February, 2014.


_____, 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 such attorney's address as disclosed by the pleadings of record herein on the 28th day of February, 2014.

By: ☒ U.S. Mail ☐ Facsimile
 ☐ Hand Delivered ☐ Overnight Courier
 ☐ Federal Express ☐ Other

Signature

