

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

IN THE MATTER OF:

CRAIG STONE,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2017) and
Iowa Code § 411.6(5) (2017)

STATEMENT OF THE CASE

Craig Stone ("Stone") filed his application for an accidental disability pension on or about March 27, 2020. On May 19, 2020, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Stone's disability. An initial decision awarding an ordinary disability pension was made by the System on June 16, 2020. An appearance was filed by Charles Gribble and on behalf of Member Craig Stone on June 29, 2020. On, June 29, 2020, Stone filed a timely appeal challenging the award of an ordinary, rather than accidental, disability pension. A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, Mary Bilden and Nickolas Schaul) on September 30, 2020 at the offices of the System. Marty Pottebaum served as Chair of the Committee. Elizabeth Coonan was present as counsel to the Committee. Stone appeared and was represented by attorneys Charles Gribble and Christopher Stewart. The City of Davenport appeared via Amanda Behning, Claims Analyst and Allison Zurcher, Human Resources Representative. Daniel Cassady, Deputy Director, appeared on behalf of the System. Testimony was received from Craig Stone, Member, treating physician Dr. Little-Cooper via telephone, Detective Gordon D. Morse, II, City of Davenport, and Dr. Robert A. Gillespie, a licensed clinical psychologist, in person. Stone filed a post-hearing brief on October 20, 2020.

FINDINGS OF FACT

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

1. Craig Stone was born on February 21, 1970. (Member's Exhibit 1-1, "Ex. M1-1"). He commenced service as a police officer for the City of Davenport on June 4, 2001. Member's Ex. 1-5). He became a detective in October 2007. He worked in the property crimes unit but was also called upon to assist with major crimes as necessary. He testified that as part of his duties, he saw death and was able to bounce

back and complete his duties on a regular basis. He had never sought mental health services until the incident that is the subject of this appeal.

2. Stone's last day on the job was January 14, 2020. (Ex. M1-5).
3. On May 19, 2020, the System's Medical Board comprised of Claudia Corwin, MD, MPH and Eric Epping, MD, PhD, opined that Stone is unable to perform the duties of his position of a police officer, that he is physically incapacitated from performance of the functional demands of this position and that the incapacity is likely to be permanent (of at least one year's duration). (Ex. M5-6).
4. The System issued a decision awarding Stone an ordinary disability pension on June 16, 2020, finding that Stone did not meet the standard for Accidental Disability Pension Benefits because, "The evidence does not establish your incapacity was caused by an incident which was unusually stressful for police officer work." Stone's appeal was timely filed with the System on October 9, 2019. The City did not appeal the decision. The only issue on appeal is whether Stone is entitled to ordinary or accidental disability retirement benefits.
5. The incident at issue in this appeal occurred at a residence located at 1619 W. 10th Street, Davenport, Iowa on May 8, 2016, a Sunday morning. (Ex. M 3-3). The incident involved a woman who accidentally smothered her infant while sleeping on her couch with the baby lying on her chest. The infant died and was taken to the ambulance. The officers on the scene elected to perform a reenactment in which Stone played a part.
6. Stone arrived on the scene, observed the deceased 5-week-old baby on a gurney near the ambulance and proceeded to enter the home to investigate. While in the home, Dr. Frederick, the on-call medical examiner, asked Stone to retrieve the baby from the gurney and deliver the baby to the home.
7. Stone testified it is not standard protocol to bring a deceased baby back onto the scene. It had never occurred before and has not to his knowledge occurred after.
8. Stone picked up a car seat sitting near where he was standing and walked to the ambulance. The medic in the ambulance put a onesie on the baby and placed the deceased baby in the car seat. Stone took a step with the car seat and stopped to secure the deceased baby's harness. He testified he did this because he had young children and he didn't want something bad to happen to the baby in transition from the ambulance to the house. Stone proceeded to carry the baby back into the house and set the baby down at his feet. Dr. Fredricks and Detective Morse were doing a reenactment of how the infant might have been smothered, using a doll. They were attempting to get a better picture of what had happened.
9. Stone was required to carry the baby back and forth across the room where the investigation was being conducted. The mother asked to spend more time and hold the baby before the funeral home arrived. After the reenactment was concluded, Stone

took the deceased baby out of the car seat and handed the deceased baby to the mother. She was crying and distraught. The funeral home representative arrived and took the deceased baby.

10. May 8, 2016 was Mother's Day. Stone met his wife and daughters at church after finishing his duties at the scene. He returned to work on Monday, May 9, 2016 and was required to visit the Scott County Jail to advise the father that his baby had died.
11. Following the May 8, 2016 incident, Stone did not immediately seek care from a mental health provider. He didn't want anyone to know he needed help and he believed there to be a stigma associated with seeking help when he was the one who is called upon to provide it.
12. He testified that the situation began to affect his mental health and his performance at work. The fact he had young children at the time had an impact on him, he kept seeing them in the scene as he remembered the situation. (Tr. 31). He also testified that following the incident on May 8, 2016, the stress of the situation made him short with his own daughters and he would yell at them for things he should not be upset about.
13. Stone testified he encountered another officer who had PTSD. This officer encouraged Stone to see Dr. Robert Gillespie. Stone sought care with Dr. Gillespie on February 16, 2017. (Ex 4A-1). Dr. Gillespie initially diagnosed Stone with Adjustment Disorder with Anxiety and Depressed Mood and PTSD. (E.x. 4A-2).
14. Stone treated with Dr. Gillespie until May 10, 2017. He ceased treatment because he thought he could manage his condition on his own. In the Spring of 2019, Stone had an issue with his vehicle. The issue caused him to erupt with anger and have chest pains. (Ex. 4A-23). He returned to Dr. Gillespie on May 10, 2019 with symptoms of anger and a cloudy head. Dr. Gillespie took him off work until June 21, 2019. (Ex 4A-53, 61). Stone returned to work on June 24, 2019.
15. In October 2019, Dr. Gillespie referred Stone to Dr. Darbie Little-Cooper, a physician at Mercy Iowa City and Psychology Health Group, for medication management. On December 20, 2019, Dr. Little-Cooper recommended he take time off work, citing PTSD and depression. (Ex 4A-92). Stone left the workplace and ultimately did not return.
16. On January 31, 2020, Dr. Gillespie diagnosed Stone with major depressive disorder. (Ex. 4A-108). On February 20, 2020, approximately four years following the incident, Dr. Gillespie opined that Stone could not return to police work (Ex. 4A-120).
17. He last performed work for the Davenport Police Department on January 17, 2020 and his last day of employment was June 9, 2020. (Tr. 53).
18. Stone continues to treat with Dr. Gillespie and Dr. Little-Cooper.

19. Stone testified that Prior to the May 2016 incident, he was able to do his job. Following the May 2016 incident, he has recurring thoughts and changes in his personality. He testified that he has never been able to fully rid himself of memories of the incident.
20. Detective Gordon D. Morse, II, a Detective for the City of Davenport attached to the property crimes unit testified as to his recollection of the May 2016 incident involving a deceased infant. He was the on-call supervisor and directed Stone to report to the scene. Detective Morse testified that Dr. Frederick's directive to bring the deceased baby back into the house was something he had never seen done before and has never done since.
21. Dr. Robert A. Gillespie testified he has worked with police officers from the City of Davenport since 2015. He regularly treats and sees police officers from Davenport and Bettendorf. He generally treats police officers for job-related stress. Dr. Gillespie recognized Stone's condition as an on the job injury. Dr. Gillespie initially diagnosed Stone as having an adjustment disorder and that he needed to be ruled out for PTSD. Dr. Gillespie stated that trained police officers see a great deal of mayhem and death. If an event is so unusual to them, they lose their professional distance. Dr. Gillespie noted that Stone continued to bring up the deceased baby situation in his sessions and that incident was the "causative incident" of Mr. Stone's PTSD. Dr. Gillespie testified it was highly unusual and bizarre to ask someone to hold a deceased 5-week-old infant under the circumstances. He characterized it as highly emotional and stated that handling a deceased 5-week-old infant is emotionally provocative "and if it doesn't get to you, something strange is going on." (Tr. 75-76). It is expected to view deceased individuals in the line of work but unusual to have to handle the deceased baby. Dr. Gillespie testified that Stone had lost his professional distance, was having difficulty sleeping, difficulty with relationships and anger. He ultimately opined that Mr. Stone could not return to work as a police officer with the City of Davenport because the intensity of his symptoms would interfere with his ability to execute his responsibilities, such that he might become a danger to himself or others.
22. Dr. Little-Cooper, MD, testified that the incident occurring on May 8, 2016 was traumatic for Stone in the respect that he had to engage in the activity and watch the mother participate in the reenactment. Dr. Little-Cooper understood that the incident with the deceased baby created mood and hyperarousal symptoms associated with PTSD and that Stone struggled with the ability to deal with performing his duties in the same capacity as he had before the incident. In December 20, 2019, she recommended he take off work because work was exacerbating his symptoms. She testified that she suspected he underreported his symptoms. She continues to treat him as of the date of the hearing. Based on her experience dealing with police officers, she does not believe he could return to the City of Davenport as a police officer because he has had a significantly high burden of symptoms and even when he has taken time off, he returned to the job and the symptoms returned. She also stated that Stone's symptoms are severe enough that it would impact his judgment as an officer. She further testified that placing the deceased infant in its mother's arms would be unusual.

23. The City appeared stating “We have accepted this case as an on the job injury and we support our employee in this matter,” but offered no evidence.

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.

3. In order to qualify for accidental, rather than ordinary, disability retirement benefits, the member must show that his incapacity is 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. See, Branson v. MFPRSI, 591 N.W.2d 193, 197 (Iowa 1999).
4. It is undisputed that Stone suffers from PTSD and that his impairment constitutes a permanent incapacity. (Ex. 5-6). On May 19, 2020, Drs. Claudia Corwin, MD, MPH and Christopher Iverson, MD, MBA opined Stone is unable to perform the duties of his position as described in the application provided by MFPRSI. They further stated that it is their opinion that Mr. Stone is physically incapacitated from the performance of the functional demands of this position as described to him by the System and that this incapacity is likely to be permanent based on the impression that it will be of at least one year's duration. (Ex. 5-6).
5. An accidental disability pension is payable under chapter 411 for a mental injury only if the traumatic incident that caused the injury constitutes workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers. See, Moon v. MFPRSI, 548 N.W.2d 565 (Iowa 1996) and City of Cedar Rapids v. MFPRSI, 572 N.W.2d 919 (Iowa 1998). The injury must also occur at some definite time and place. *Id.* at. 923. The more extraordinary the incident, the greater the stress. See, Waits v. United Fire & Cas., 572 N.W.2d 565 (1997) (holding that in personal injury case, the way in which the accident happened was relevant to prove whether the accident caused injuries to claimant and the nature and extent of any such injuries).
6. The specific facts and circumstances surrounding the May 8, 2016 incident in which Mr. Stone was required to handle and transport a deceased infant, participate in a reenactment of the deceased infant's death and hand the deceased infant to the mother, on Mother's Day constitute workplace stress of greater magnitude than the day-to-day stresses experienced by police officers.
7. The Committee finds that the incident occurring on May 8, 2016 constituted workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers and that they occurred at a definite time and place. Consequently, Stone is entitled to an award of accidental disability retirement benefits under Iowa Code §411.6(5).

DECISION

The appeal for an accidental disability pension on behalf of Craig Stone under chapter 411 is hereby granted. Stone shall receive accidental disability benefits.

Dated this 19 day of November, 2020.



Marty Pottebaum, 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 20 day of November, 2020.

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

Signature

