

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Domenic Annunziata,
Petitioner

v.

Docket No. CR-24-0290

Worcester Regional Retirement System,
Respondent

Appearance for Petitioner:

Domenic Annunziata, *pro se*

Appearance for Respondent:

Linda Champion, Esq.

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

Retirement system's denial of petitioner's application for disability retirement benefits is affirmed because he did not meet the general two-year deadline to apply and the Treating Physician's Statement did not support the application.

DECISION

The petitioner, Domenic Annunziata, appeals the denial by the Worcester Regional Retirement System (WRRS) of his application for accidental or ordinary disability retirement benefits.

I held a hearing on March 4, 2026 by Webex, which I recorded and which was transcribed. Mr. Annunziata represented himself and testified. The only other witness was his

wife, Nicole Annunziata. I admitted 18 exhibits at the hearing. WRRS raised the possibility of introducing exhibits after the hearing; I do not need to rule on them.

At the end of the hearing, Mr. Annunziata relied on the exhibits and testimony to make his case. WRRS submitted a post-hearing brief in May 2026.

Findings of Fact

1. On September 6, 2023, Mr. Annunziata, who had retired with a superannuation pension as police officer with the Westborough Police Department, applied for accidental or ordinary disability retirement benefits. (Ex. 3, pp. 15, 27; Ex. 5, pp. 61, 66)¹

2. Mr. Annunziata alleged that the reason for his disability was personal injury on the following dates: “Including but not limited to: Dec. 10, 2020; March 3, 2016; Oct. 1, 2017; Jan. 15, 2018; [and] April 11, 2021.” (Ex. 3, p. 17)

3. Mr. Annunziata stated that the medical conditions for which he was applying for disability retirement benefits were post-traumatic stress disorder – flashbacks, depression, sleep deprivation, and anxiety. (Ex. 1, pp. 14, 17)

4. Mr. Annunziata stated that he ceased being able to perform all essential duties of his position of police officer on January 2, 2023, which was also the day that he retired. (Ex. 1, p. 14; Ex. 5, pp. 61, 66)

5. When asked to describe incidents or hazards, Mr. Annunziata wrote:

Long Term exposure to graphic crime scenes.

- Suicides by gun, train, fire victims
- Accident Reconstructionist; fatal accidents w/ body parts torn all over roadway

(Ex. 3, p. 17)

¹ Page numbers in the decision refer to Bates numbers on the exhibits.

6. On November 19, 2023, Dr. Dennis E. Murphy signed a Physician's Statement. (Ex. 4, p. 37)

7. When asked for the dates of Mr. Annunziata's injuries, Dr. Murphy answered: 2021, 2022. (Ex. 4, p. 33)

8. Dr. Murphy diagnosed Mr. Annunziata's conditions as anxiety disorder and post-traumatic stress disorder. (Ex. 4, p. 33)

9. Dr. Murphy stated that Mr. Annunziata was last able to perform his essential duties in November 2021. (Ex 4, p. 33)

10. Dr. Murphy stated that Mr. Annunziata was incapable of performing the essential duties of his job; his condition had not changed over time in general or in the past three months or past year; his diagnoses were stable; and he had not reached the maximum medical improvement. (Ex. 4, pp. 33-34)

11. When asked "Is the nature of the condition or injury such that it can be expected to improve over a reasonable time?," Dr. Murphy answered: "Unable to answer yes or no due to variable responses to medication and treatments in different people." (Ex. 4, p. 35)

12. Despite Dr. Murphy's answers about Mr. Annunziata's diagnoses being stable and "variable responses...in different people," Dr. Murphy opined that Mr. Annunziata's conditions were likely to be permanent. (Ex. 4, p. 35)

13. Dr. Murphy further opined that Mr. Annunziata's incapacity was such as might be the natural and proximate result of the injury he sustained or the hazard he underwent. (Ex. 4, p. 35)

14. The Employer's Statement stated: "Mr. Annunziata voluntarily retired 01/02/2023 with no known injury or disability." (Ex. 5, pp. 61, 66; see p. 69 (similar))

15. On April 30, 2024, WRRS denied Mr. Annunziata's application for accidental or ordinary disability retirement benefits. WRSS explained that it had found the evidence provided to be insufficient. (Ex. 1, p. 2)

16. On May 6, 2024, Mr. Annunziata timely appealed. (Appeal)

Discussion

Mr. Annunziata's application could properly be denied for at least two reasons. I need not discuss more than the two reasons.

An application for disability retirement benefits cannot advance without a treating physician's statement. G.L. c. 32, §8(1); 860 CMR 10.06.1.b.

A Treating Physician's Statement is invalid if it does not support the petitioner's claim in the application. *E.g., Timothy Leonard v. Essex Regional Retirement Board*, CR-16-506 (DALA 2018)." *Joseph Keegan v. Quincy Retirement Board*, CR-19-0312 (DALA Jan. 13, 2023).

Whereas Mr. Annunziata stated that he ceased being able to perform all essential duties of his position of police officer on January 2, 2023 (Ex. 1, p. 14), Dr. Murphy stated that Mr. Annunziata was last able to perform his essential duties in November 2021. (Ex 4, p. 33)

Whereas Mr. Annunziata stated that he was injured on specific dates in 2016, 2017, 2018, 2020, and 2021, among other unspecified dates (Ex. 3, p. 17), Dr. Murphy stated that Mr. Annunziata was injured on unspecified dates in 2021 and 2022. (Ex. 4, p. 33)

Although Dr. Murphy asserted that he was unable to answer whether Mr. Annunziata's conditions would improve, he also opined that Mr. Annunziata's conditions were likely to be permanent. (Ex. 4, p. 35)

The Treating Physician's Statement does not support Mr. Annunziata's application. Therefore, the statement is invalid. Therefore, the application cannot proceed.

In addition, Mr. Annunziata's application for accidental disability retirement benefits fails. On September 6, 2023, Mr. Annunziata applied for disability retirement benefits alleging that his last injury was April 11, 2021. (Ex. 3, pp. 17, 27) Therefore, he applied for accidental benefits more than two years after his last alleged injury. However, a

...member of a state retirement system who applies for accidental disability retirement benefits must generally do so within two years of sustaining an injury or undergoing a hazard. G.L. c. 32, § 7(1). Four exceptions exist.

1. The two-year deadline does not apply if the member filed a written notice with the appropriate retirement system within 90 days of sustaining the injury or undergoing the hazard, or if someone filed a notice on his or her behalf. G.L. c. 32, § 7(1).

2. The two-year deadline does not apply if the member received workers' compensation for the injury or hazard. G.L. c. 32, § 7(3)(a).

3. The two-year deadline does not apply for (A) a member in Groups 2, 3, and 4 who is not eligible for workers' compensation (B) "if a record of such injury sustained or hazard undergone is on file in the official records of his department." G.L. c. 32, § 7(3)(a).

4....If a department head notifies the appropriate retirement board, the member's two-year deadline does not apply. G.L. c. 32, § 7(3)(b).

Gayle Clifford v. State Board of Retirement, CR-16-187 (DALA Oct. 20, 2017). None of these four exceptions applies to Mr. Annunziata and he has not argued otherwise.

The phrase “Including but not limited to” before a list of five dates when he was allegedly injured (Ex. 3, p. 17) does not save Mr. Annunziata’s application from being denied for missing the general two-year deadline. Mr. Annunziata has not argued that the phrase would save his application. An application for accidental disability must specify a date of injury. (G.L. c. 32, §7) An application cannot have a placeholder with dates to be identified or proved later. One reason is so that a retirement board and the Division of Administrative Law Appeals can determine whether an applicant has met the general two-year deadline.

Mr. Annunziata did not meet the general two-year deadline for applying for accidental disability retirement benefits. Therefore, his application for those benefits must be denied.

Conclusion and Order

WRRS’s denial of Mr. Annunziata’s application for accidental or ordinary disability retirement benefits is affirmed.

Dated: October 9, 2026

/s/ Kenneth Bresler

Kenneth Bresler
Administrative Magistrate
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