25-P-244 Appeals Court

ALLENA DOWNEY vs. CONTRIBUTORY RETIREMENT APPEAL BOARD & another.[1]

No. 25-P-244.

Suffolk. January 16, 2026. - August 20, 2026.

Present: Rubin, Grant, & Hodgens, JJ.

Contributory Retirement Appeal Board. Police, Injury on duty. Public Employment, Accidental disability retirement. Administrative Law, Substantial evidence. Practice, Civil, Review of administrative action, Judgment on the pleadings.

Civil action commenced in the Superior Court Department on July 20, 2023.

The case was heard by Catherine H. Ham, J., on motions for judgment on the pleadings.

John M. Becker (Evan W. Dandrea also present) for the plaintiff.

Thomas F. Gibson for Middlesex County retirement system.

Andrew M. Batchelor, Assistant Attorney General, for Contributory Retirement Appeal Board.

HODGENS, J. After her heart suffered premature ventricular contractions (PVCs) that resisted treatment, the plaintiff,

[1] Middlesex County retirement system.

Allena Downey, ceased working as an Ashland police officer. The Middlesex County retirement system (MCRS) denied her application for accidental disability retirement (ADR) benefits under G. L. c. 32, § 7, and G. L. c. 32, § 94 (the heart law). A magistrate of the Division of Administrative Law Appeals (DALA) reversed, and MCRS appealed. The Contributory Retirement Appeal Board (CRAB) concluded that Downey is not entitled to ADR benefits and reversed the DALA decision. Downey sought review in the Superior Court where, on cross motions for judgment on the pleadings, a judge denied Downey's motion and allowed MCRS's motion. We reverse the judgment and remand for further proceedings.

Background. Downey worked as an Ashland police officer from 2002 until September 2013. In November and December 2012, after experiencing frequent heart palpitations, shortness of breath, dizziness, and chest pain, Downey consulted with a cardiologist who found no evidence of significant coronary artery disease, but concluded that her heart experienced frequent PVCs, i.e., abnormal beats or arrythmias. The PVCs proved resistant to medications, and Downey's symptoms worsened. In January 2013, Downey required hospitalization for asthmatic bronchitis, shortness of breath, and heart palpitations, and she required additional hospitalization in April 2013 for migraines, chest discomfort, and heart palpitations.

While at work, on September 25, 2013, Downey responded to a call regarding an unresponsive person who collapsed in a bathroom. When she arrived, Downey unsuccessfully attempted to extricate the person to render life-saving aid, and the person died. After Downey's heart raced out of control, and she became nauseated with a migraine, a supervisor instructed her to return to the police station. Downey never returned to work as a police officer again.

Downey continued, without success, to seek a remedy for the PVCs. In November 2013, her cardiologist noted that her chest pain and the PVCs increased, even though she was no longer working. With medication proving ineffective, in May 2014, Downey underwent a surgical ablation procedure, but the PVCs and related symptoms persisted. As a result, her cardiologist determined that Downey was unable to return to work as a police officer.

On July 9, 2014, Downey applied to MCRS for ordinary disability retirement benefits, G. L. c. 32, § 6 (retirement benefits for disability not employment-related), and ADR benefits, G. L. c. 32, § 7 (enhanced retirement benefits for employment-related disability). To qualify for ADR benefits, Downey had to prove three elements under G. L. c. 32, § 7 (1): (1) that she was "unable to perform the essential duties of [her] job," (2) that "such inability is likely to be permanent,"

and (3) that the inability resulted from a personal injury or hazard "while in the performance of, [her] duties." Because Downey passed a physical examination when hired as a police officer, the heart law, G. L. c. 32, § 94, provided a rebuttable presumption as to the third element: "any condition of impairment of health caused by hypertension or heart disease . . . shall . . . be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence."

Pursuant to the procedures set forth in G. L. c. 32, §§ 6 (3), 7 (1), a panel of three physicians examined Downey and reviewed her medical records with an eye toward determining whether her claim established the three elements under the statute. By January 2015, a majority of the panel concluded that Downey had satisfied the three elements for ADR benefits. The dissenting physician concluded that Downey did not establish element two (permanent disability) and element three (line of duty).

On June 30, 2015, citing the heart law line of duty presumption, MCRS asked each panel member to clarify whether Downey suffered from "heart disease or hypertension," and asked the majority whether "other medical conditions contribute to her disability and PVC symptoms." The majority members reiterated their opinions, with one physician noting that Downey's heart suffered from an "electrical abnormality" and the second

physician noting that her heart had "significant" PVCs without coronary artery disease or significant hypertension. As to the majority's view of potential causes for the PVCs, one physician concluded that the cause was unknown (idiopathic) and the second concluded, "I remain of the opinion that she is disabled by virtue of her premature ventricular contractions, but also by virtue of her mental exhaustion, ongoing stress, and psychiatric diagnoses." The dissenting physician rejected the suggestion that the PVCs rendered Downey unable to work as a police officer and concluded that she is temporarily disabled by "psychiatric" rather than "cardiovascular" issues.

Varying administrative decisions followed. On July 20, 2015, MCRS approved ordinary disability retirement benefits, but on September 23, 2015, it rejected Downey's application for ADR benefits. Downey appealed the denial of ADR benefits, and, following a hearing, a DALA magistrate reversed MCRS's decision, concluding that the heart law presumption applied and further concluding that Downey satisfied all of the elements required for ADR benefits. MCRS appealed, and CRAB reversed the DALA decision, concluding that Downey was not entitled to ADR benefits. CRAB reached three primary conclusions: (1) the heart law presumption did not apply because Downey did not suffer from "any heart disease"; (2) even if it did apply, the presumption was overcome by competent evidence that the PVCs

were caused by stress and anxiety from home life, medication, alcohol, and opiates rather than an underlying heart disease; and (3) Downey failed to prove that she was disabled from an "underlying heart disease" as of her last day of employment.

Downey filed a complaint in the Superior Court, seeking judicial review of CRAB's decision under G. L. c. 30A, § 14. The parties cross-moved for judgment on the pleadings, and in a written decision, a Superior Court judge affirmed CRAB's decision.

Discussion. Our review "is limited to determining whether the agency's decision was unsupported by substantial evidence, arbitrary and capricious, or otherwise based on an error of law" (citation omitted). Worcester Regional Retirement Bd. v. Contributory Retirement Appeal Bd., 92 Mass. App. Ct. 497, 499 (2017). "While we review questions of law de novo, we nonetheless 'typically defer[] to CRAB's expertise and accord[] great weight to its interpretation and application of the statutory provisions it administers.'" Young v. Contributory Retirement Appeal Bd., 486 Mass. 1, 5 (2020), quoting Plymouth Retirement Bd. v. Contributory Retirement Appeal Bd., 483 Mass. 600, 604 (2019). "An erroneous interpretation of a statute by an administrative agency is not entitled to deference." Woods v. Executive Office of Communities & Dev., 411 Mass. 599, 606 (1992). "We take an approach 'of judicial deference and

restraint, but not abdication.'" Fender v. Contributory Retirement Appeal Bd., 72 Mass. App. Ct. 755, 760 (2008), quoting Arnone v. Commissioner of the Dep't of Social Servs., 43 Mass. App. Ct. 33, 34 (1997).

We disagree with CRAB's premise that the PVCs suffered by Downey do not constitute "heart disease" under the heart law. Perceiving no "cardiac abnormalities," CRAB viewed the PVCs as a mere symptom, and thrust upon Downey the additional burden of proving the "PVCs were caused by an underlying heart disease." The heart law does not define "heart disease," and appellate decisions applying the statute have not narrowly defined the phrase as CRAB did so here. See, e.g., McLean v. Medford, 340 Mass. 613, 615-616 (1960), S.C., 349 Mass. 116 (1965) (coronary occlusion and myocarditis); Ware v. Hardwick, 67 Mass. App. Ct. 325, 327 (2006) (dissecting aortic aneurysm); Lawrence v. Lawrence Patrolmen's Ass'n, 56 Mass. App. Ct. 704, 705 (2002) (embolus to the brain arising in the heart); Towler v. Contributory Retirement Appeal Bd., 37 Mass. App. Ct. 277, 277 (1994) (coronary thrombosis); Hayes v. Revere, 24 Mass. App. Ct. 671, 673, 679 (1987) ("moderate aortic stenosis and insufficiency and occult coronary artery disease indicated by calcification of the left coronary artery"). Given the exquisite design, structure, and function of the heart and its equally complex and varied pathologies, we cannot exclude

persistent PVCs that have proven resistant to treatment from the broad reach of the phrase "heart disease" under G. L. c. 32, § 94. See Selectmen of West Springfield v. Hoar, 333 Mass. 257, 260 (1955) (favoring "a broader application of the presumption than the literal reading of section 94 would seem to indicate"); Vaughan v. Auditor of Watertown, 19 Mass. App. Ct. 244, 245 (1985) (heart law presumption "modified the rigidity of" eligibility for accidental disability benefits under G. L. c. 32, § 7).

Nor does the plain language of the heart law foist upon Downey an additional burden to prove the etiology of the PVCs; to enjoy the benefit of the rebuttable presumption under the heart law, Downey had to prove "any condition of impairment of health caused by hypertension or heart disease." G. L. c. 32, § 94. In other words, to invoke the presumption under the heart law, Downey had to prove the existence of the disease (here, the undisputed evidence that her heart function suffered from PVCs that resisted treatment), not the more esoteric question about the cause. By placing an additional burden on Downey at this stage, CRAB undermined the very purpose of the heart law -- to create a presumption that a disability arises from the line of duty "without the need to prove further any such causal connection." Ware, 67 Mass. App. Ct. at 328. Instead of faulting Downey for failing to identify a cause for the PVCs,

CRAB should have initially given her the benefit of the statutory presumption that the PVCs arose in the line of duty and then determined whether "competent evidence" rebutted that presumption. G. L. c. 32, § 94.

The false premise relegating Downey's PVCs to a mere transient symptom also tainted CRAB's alternative conclusion that competent evidence overcame the presumption in any event. Undisputed evidence from Downey's medical records showed that when monitored, she experienced a significant number of PVCs. For example, in one forty-eight hour period, Downey experienced "36,124 ventricular ectopic beats including 40 couplets and one triplet[,]" representing fourteen percent of all heart beats. The PVCs resisted treatment following a course of medication and surgery. CRAB, once again viewing the PVCs as just a symptom, concluded that the PVCs were caused by periodic stress and anxiety from home life, medication, alcohol, and opiates rather than an "underlying heart disease." That distorted formulation, viewing the PVCs not as a disease but as a symptom that Downey failed to link to an underlying heart disease, was not the proper inquiry. Instead, under the heart law, CRAB should have determined whether the presumption that the PVCs were "suffered in the line of duty" had been overcome by "competent evidence" to the contrary. G. L. c. 32, § 94.

Finally, by not recognizing the PVCs as heart disease, CRAB erred by concluding that Downey failed to establish that she was disabled as of her last day of work by an "underlying heart disease." See Vest v. Contributory Retirement Appeal Bd., 41 Mass. App. Ct. 191, 194 (1996) ("employee who has left government service without an established disability may not, after termination of government service, claim accidental disability retirement status on the basis of a subsequently matured disability"). CRAB concluded that a cardiologist diagnosed Downey with the PVCs in November 2012 and further concluded that after her last day of employment in 2013, Downey continued to suffer from the PVCs despite attempts to correct the problem through medication and surgery in 2014. CRAB also adopted the DALA magistrate's findings relative to Downey's last day at work: "After seeing the corpse, Ms. Downey's heart was 'just pumping,' 'pumping way out of control.' She could feel her heart in her stomach. She had sharp chest pains, the kind that [the cardiologist] treated." If CRAB properly viewed the PVCs as heart disease rather than a mere symptom, then these facts would enable an inference that the disabling PVCs existed at the time Downey's employment terminated.

Conclusion. The judgment on the pleadings is reversed, and the case is remanded to the Superior Court for entry of a new

judgment ordering a remand to CRAB for further proceedings consistent with this opinion.

So ordered.