COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. **Division of Administrative Law Appeals**

Kevin Kaddy,
Petitioner

v. Docket No. CR-22-0129
Dated: January 30, 2026

Worcester Regional Retirement System,
Respondent

Appearance for Petitioner:

Bryan Decker, Esq.

Appearance for Respondent:

Linda Champion, Esq.

Administrative Magistrate:

James P. Rooney

Summary of Decision

Application for accidental disability retirement remanded for a new medical panel because one of the panelists did not address the theory of recovery proposed by the applicant while the other two split, thus leaving no majority.

DECISION

Kevin Kaddy appeals the February 28, 2019 decision of the State Board of Retirement denying his application for accidental disability retirement based on a medical panel report that a back injury of his did not cause his disabling deep vein thrombosis and pulmonary embolism. I held a hearing on June 27, 2024 at the Division of Administrative Law Appeals. I admitted 29 exhibits into evidence and marked the joint prehearing memorandum as Pleading A. Mr. Kaddy was the sole witness. Briefs were filed by January 24, 2025, thereby closing the record.

Findings of Fact

Based on the testimony and exhibits presented at the hearing and reasonable inferences from them, I make the following findings of fact:

1. Kevin Kaddy became an Ashburnham police officer in 2006, after previously working for the Worcester County Sheriff's Office. (Kaddy testimony.) On November 19, 2015, he was diagnosed with superficial venous thrombosis of the left leg. He was told to "take ibuprofen & apply warm compresses to the area over the next week." (Ex. 23, pp. 34-37.)

2. On February 7, 2019, Officer Kaddy suffered a back injury at about 10:00 p.m. In an injury report he filed on February 19, 2019, he described how the injury occurred:

> While walking to [my assigned patrol] vehicle I slipped on ice causing me to lose my footing. As I was falling I quickly reached for the vehicle in an effort to keep from falling. After I recovered from the near fall I felt my lower back (lumbar area) begin to tighten up. Not thinking that I was injured I finished the remainder of my shift. As days passed my lower back became worse resulting in having to call out sick on 2/12/19. I attempted to work on 2/13/19 and was relieved of my duties due to increasing pain. On 2/14/19 I made an appointment at the Winchendon Health Center for evaluation and treatment, X-rays of my lower back were taken and medication prescribed for pain management.

(Ex. 8.)

3. On February 14, 2019, Officer Kaddy saw his primary care physician, an internist named Aruna Adaikkalam, M.D., complaining of back pain, spasm, and stiffness beginning a few days earlier. Officer Kaddy remembers that he was shaking severely and the doctor gave him an injection to calm him down. (Kaddy testimony.) The doctor ordered an x-ray of his lower back, which showed "[n]o visible arthritis in the SI joints" and "[d]egenerative changes in the lumber spine which appear minimal." He prescribed

two drugs for Officer Kaddy to take for ten days to address his back pain: Ibuprofen 800 mg, a pain reliever, and Cyclobenzaprine, a muscle relaxant. He also urged him to eat a healthy diet and exercise for 30 minutes each day to address his weight. (Ex. 23, pp. 87-89.) Officer Kaddy remembers the doctor telling him to go home and rest. (Kaddy testimony.)

4. Five days later, Officer Kaddy made a follow-up visit with Dr. Adaikkalam. He reported lower back pain of three out of ten when he took his pain medication and decreased range of motion through his hips. The doctor recommended physical therapy, which he declined "at this time." The doctor referred him to an orthopedic surgeon. (Ex. 23, pp. 91-92.) Officer Kaddy intended to start physical therapy when his pain level allowed. (Kaddy testimony.)

5. On March 14, 2019, Officer Kaddy visited Mark Kaplan, M.D., a spine specialist. He told the doctor that he suffered pain in his lower left back when wearing a gun belt. The doctor did not find any "reproduction of pain with spinal motion." He thought the gun belt was irritating "fibrofatty nodules" in his lower back. He diagnosed Officer Kaddy with mechanical/myofascial pain (a long-term pain condition) and gave him a referral for physical therapy. (Ex. 23, p. 94.)

6. On March 15, 2019, Officer Kaddy saw physician assistant Eliot Nottleson of Dr. Adaikkalam's office. He reported that he could not sit for any length of time and felt severe pain if he wore his gun belt.[1] PA Nottleson showed him stretching exercises he

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[1] The officer's references to pain when wearing his gun belt are unclear. Was he referring to pain he experienced while working before his back injury? Or had he experienced pain after the injury when, for reasons unknown, he wore his gun belt? I

could perform. He was prescribed Methocarbamol, another muscle relaxant. (Ex. 23, 95-97.)

7. By March 25, 2019, Mr. Kaddy's condition had worsened. A friend, who was a medical student, noticed his swollen right leg and told him to go to the emergency room. He went to UMass Memorial Health Care complaining of significant leg pain in his right leg that over the past few days had become "more painful and swollen." He was also experiencing tachycardia, an abnormally fast heart rate. He told Ryan Chua, M.D., that he had "been taking muscle relaxers for his back pain" and that he was "otherwise mobile and has not been sedentary," but that over "the past few days his right leg had been becoming more painful and swollen." He mentioned that he had been skiing prior to his back injury.[2] A CT scan showed "bilateral pulmonary embolism" extending into both branches of his lungs. He was also diagnosed with deep vein thrombosis in his left leg, i.e., a blood clot in a vein. He was prescribed Lovenox, a blood thinner, which was changed to Eliquis, another blood thinner, when he was discharged. (Kaddy testimony; Ex. 23, p. 100.)

8. At a follow-up visit with Maureen Burns, M.D., on April 18, 2029, the doctor thought Officer Kaddy's development of blood clots in his leg was likely the result of immobility. (Ex. 23, pp. 115-116.)

9. On June 25, 2019, Officer Kaddy applied for accidental or ordinary disability retirement. He stated that the medical reason for his application is that he suffers from

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assume the former is more likely.

[2] There is no evidence in the record that Officer Kaddy suffered a ski injury.

deep vein thrombosis and pulmonary embolism and that he ceased to be able to perform his duties as a police officer on February 9, 2019 "when [his] back injury became disabling." He described the injury, which occurred in the police department's parking lot, as:

> Slipped on ice at work during my shift, as I was about to enter cruiser to go back on patrol, injuring my back. The back injury required bed rest caused/provoked deep vein thrombosis and pulmonary embolism.[3]

(Ex. 3.)

10. The application was supported by a physician's statement from Dr. Adaikkalam, who diagnosed Officer Kaddy with lower back pain/strain as well as deep vein thrombosis in his right leg and pulmonary embolism. He noted that the officer's acute pain from his lumbar strain had eased somewhat but some pain remained, and that his pain from the embolism and thrombosis had eased but not resolved. The doctor stated that Officer Kaddy cannot stoop, twist, run, restrain a perpetrator and cannot lift in excess of 25 pounds. He also stated that the officer takes an anticoagulation medicine that restricts his ability to perform his duties. As for the cause of Officer Kaddy's disability, he opined that "low back pain caused immobility; immobility caused [right] leg DVT and subsequent pulmonary embolism," for which he needs to take anticoagulation medicine. (Ex. 4.)[4]

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[3] He also noted that he suffers from "disabling hypertension" and was submitting a separate disability application for that condition. (Ex. 3.)

[4] There is a second physician's statement, this time from Dr. Burns who specializes in cardiovascular surgery. This doctor's statement focuses on Officer Kaddy's high blood pressure. (Ex. 5.)

11. The Employer's Statement signed by the Chief of Police acknowledged Officer Kaddy's disability and declared that he could not perform the essential duties of his job as a police officer. (Ex. 6.)

12. On October 30, 2019, Officer Kaddy resigned from the Ashburnham Police Department. (Ex. 9.)

13. Officer Kaddy was examined by a medical panel made up of two orthopedists, Marc Linson, M.D. and Henry Drinker, M.D., and an internist, Aymen Elfiky, M.D. All three doctors initially concluded that the officer was disabled, his disability was permanent, and that it might be job-related. (Exs. 10, 13, and 16.)

14. Dr. Linson diagnosed Officer Kaddy with non-specified low back injury, chronic DVT, and pulmonary emboli. He concluded that these conditions prevent him from

> resuming his work as a police officer. His back has not been evaluated, studied or treated at all since his injury. However, it is documented he had a prolonged period of bed rest for his back injury which likely led to the development of DVT and pulmonary emboli. His chronic anticoagulation would preclude the full and normal duties incumbent upon a police officer.

(Ex. 10.)

15. Dr. Elfiky made a similar diagnosis of Officer Kaddy. He noted that Officer Kaddy "was laid up in bed for about 15 to 16 hours a day for weeks given the significance of his back pain."[5] The officer reported that he had seen some bruising associated with the use of a blood thinner. Dr. Elfiky concluded that the:

> clotting event was a provoked event which occurred in the aftermath of the significant back injury he sustained in February 2019 while on duty. The

[5] In his report, the doctor said he learned how much time Officer Kaddy spent in bed from the medical records. (Ex. 13.) He later corrected himself, saying that he heard this from Officer Kaddy directly. (Ex. 15.)

> significance of this requirement for anticoagulation lay in the risk of significant and life-threatening bleeding in the event of any traumatic events or episodes of moderate to severe physical pressures such as he might experience in the normal course of his work as a police officer. In addition, this risk imposes a limitation on his capability.

(Ex. 13.)

16. Dr. Drinker thought that Mr. Kaddy's description of his back injury and his subsequent embolism and thrombosis was consistent with the medical records. He noted that an MRI had showed that Officer Kaddy had asymptomatic "lumbar degenerative facet hypertrophy, being the greatest at L5-S1," prior to his February 2019 injury and that the February 2019 back injury "is a major cause of the subsequent need for treatment and incapacity." (Ex. 16.)

17. The Retirement System asked multiple questions of the medical panelists seeking further information on several portions of their opinions.

18. When Dr. Linson was asked whether Officer Kaddy was disabled by his back injury or his embolism and thrombosis, he stated that:

> My answer would be that the back pain of and by itself exclusive of the DVT and pulmonary embolism would be incapacitating for performance of the full and normal duties of a police officer. I am not an expert to comment concerning the effect of the DVT or pulmonary emboli on his ability to perform his job since my area of specialty and expertise is orthopedic spine care and orthopedic surgery.

(Ex. 12.) Nevertheless, he added that "[a]s a general medical rule, it is not even necessary that [Mr. Kaddy] be at bed rest or strict bed rest for a back injury to increase the likelihood or inspire the development of a DVT and pulmonary embolism." Furthermore, he concluded that Officer Kaddy's "pulmonary embolism and DVT are the

natural and proximate result of the work injury to his back, or at the very least, represent[] a major causal factor." *Id*.

19. Dr. Elfiky, when asked his opinion regarding Officer Kaddy's back injury, stated that he did not focus on it because the application stated that the disabling conditions were thrombosis and embolism. After viewing a video of Mr. Kaddy's near fall on February 7, 2019, the doctor "did not see a reason related to the event on the video tape that would have caused such extreme pain requiring bed rest, and certainly not the extent of bed rest that [the officer] related in his narrative to me." He thought the bed rest was the likely cause of the embolism and thrombosis because, "given the timing related to Mr. Kaddy's reported injury and being laid up in bed, the development of thromboembolic DVT and PE was appropriately assessed as being provoked by bed rest/immobility." In the end, he changed his mind on causation, declaring that "given the evidence provided by the video, in which I do not see any injury that would have resulted in such incapacity requiring extended bed rest that would place him at high risk for a thromboembolic episode, it is my opinion with regard to causality that there is less than a 1% possibility of a causal relationship between Mr. Kaddy's reported injury and his permanent incapacity due to life-long anticoagulation." (Ex. 15.)

20. Dr. Drinker, when asked why he had not commented on the deep vein thrombosis and pulmonary embolism in his report, stated that he did not see "any relevance to the injury sustained on February 6, 2019,[6] or his subsequent treatment for

[6] In his testimony, Officer Kaddy stated that his back injury occurred on February 6, 2019. (Kaddy testimony.) His injury report stated that the injury occurred on February 7, 2029. (Finding 2.) I take the contemporaneous report to more reliable.

back pain." He continued to opine that the February 6, 2019 "lurching or twisting" event "remains of major cause of [Mr. Kaddy's] subsequent incapacity and need for treatment, and it is, therefore, more likely than not in my opinion to be a significant cause of that incapacity." He explained:

> Many patients that have underlying disc disease and lumbar spondylosis find that a relatively simple event such as experienced by Mr. Kaddy on February 6, 2019, is often sufficient to bring the underlying condition into the level of symptomatic awareness from which there often follows a steady deterioration of function and comfort. The significant fact that prior to the event of February 6, 2019, Mr. Kaddy was capable of carrying out all of the duties required of a police officer, and following that incident he was not. I would be remiss if I did not indicate an opinion that on that basis alone the event of February 6, 2019, did not cause a subtle alteration in the course of his pre-existing condition following which incapacity resulted.

(Ex. 18.)

21. Sometime after the three doctors had made their reports and after they were sent clarification request letters, all of the three doctors' reports were inadvertently sent to each of them. Only Dr. Linson accessed the other doctors' reports. The Board decided to request that the Public Employee Retirement Administration Commission (PERAC) replace Dr. Linson, over Mr. Kaddy's objection. PERAC approved the replacement request. (Exs. 19-21.)

22. Mr. Kaddy was then examined by Ryan P. Friedberg, M.D., an orthopedist. Mr. Kaddy conveyed to him that he saw his primary care doctor when the pain in his back got progressively worse. Then:

> several days later [he] was told to rest and take a muscle relaxant. He stated that for the next several weeks he did rest quite a bit. He then started getting significant leg pain and was seen in the emergency room for leg pain in the end of March 2019.

> At this point, he was diagnosed with multiple blood clots in his legs as well as his lungs. He was put on Eliquis [a blood thinner]. He did not have a lot of hematologic testing done. He stated they could not find the exact etiology of why he got blood clots and stated that it was attributed to him being sedentary over the past month. Currently, he continues to be on Eliquis. He never did get any treatment for his back.

(Ex. 22.)

23. Dr. Friedberg diagnosed him with a lumbar strain and bilateral pulmonary embolus with bilateral lower extremity clots. He concluded that Mr. Kaddy was disabled, his disability was permanent, and there might be a job-related cause. He explained:

> With regard to incapacity, specifically with regard to his lumbar spine, I do feel it is quite premature to determine whether Kevin Kaddy would be able to return to work as a police officer. He sustained a strain injury. He had no workup [or] treatment for this back injury, and thus, at this point, I do not see any reason why he would not be able to return as a police officer due to a lumbar strain injury.
>
> Unfortunately, Mr. Kaddy did develop significant blood clots to both his legs and lungs for which he is currently on Eliquis. At this point, due to the statement that he may be disqualified to return to work if the return to work would pose an unreasonable risk of serious harm to the member or a third party, due to the fact he is on Eliquis and due to the dangerous nature of being a police officer, he would be at risk of having significant bleeding with minor trauma. Thus, this would put him at increased risk of serious harm. He has been told by multiple doctors that he is unable to return to work due to this fact, and thus he is physically incapable of performing the essential duties of his job as described in the job description.
>
> With regard to permanent impairment, I would state that this would be a permanent impairment due to the fact that his hematologist believes he should be on Eliquis for the rest of his life. I would question the reasoning as to why this is true since, based on his report, they have not found an etiology of his blood clot. If it is felt it was due to the back injury and the sedentary nature, one would think that he may be able to get off of the Eliquis in the future. That being said, I am not a hematologist, and would defer that to a hematologist.
>
> At this point, based on the statute of permanency, there is no definite time for which he would come off of Eliquis, so it does appear this incapacity is likely to be permanent. With regard to causality, at this point the exact nature of the

> blood clot remains unclear. It has been suggested to him that the fact that he had been sedentary for over 1 month due to his back injury, that [prompted] those blood clots. Since they have not found another cause of these blood clots with possible clotting disorders, I do feel this explanation is as plausible if not more plausible than a genetic predisposition for blood clots. Thus, I do feel the incapacity is the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed.
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> Once again, I am not a hematologist. I cannot definitively state how the blood clots occurred. Based on the causality standard, since no other etiology of these blood clots has been determined, I do feel it is more likely than not that the blood clots were caused from him being sedentary for over 1 month following his injury.

Id.

24. On March 20, 2022, the Worcester Regional Retirement System granted Officer Kaddy ordinary disability retirement, but denied his application for accidental disability retirement. The Retirement System explained that it had found that Officer Kaddy's:

> February 7, 2019 injury in the performance of his duties did not proximate[ly] cause the permanently incapacitating Deep Vein Thrombosis and Pulmonary Emboli conditions from which he suffers. Moreover, to the extent that there is a Panel majority support to causally relate to Mr. Kaddy's permanently incapacitating Deep Vein Thrombosis and Pulmonary Emboli conditions to his February 7, 2019 injury, the Board found that the evidence's preponderance did not support such a claim.

(Ex. 1.)

25. Officer Kaddy filed an appeal on March 30, 2022. (Ex. 2.)

Discussion

An applicant may receive accidental disability retirement when he can show that as of his last day of work, he was a "member in service" and (1) was "unable to perform the essential duties of his job," (2) "such inability is likely to be permanent," and (3) the

disability was caused "by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties." M.G.L. c. 32, § 7(1).

The legislature has sensibly sought to aid retirement boards (and DALA magistrates) in the evaluation of medical issues connected to disability retirement by requiring that applicants be evaluated by a medical panel. Thus, no application may be approved until the applicant has been examined by a three-physician medical panel whose function is to determine medical questions that are beyond the common knowledge and experience of a local retirement board. *Malden Ret. Bd. v. Contributory Ret. Appeal Bd*., 1 Mass. App. Ct. 420, 423 (1973). The panel must issue a report certifying its opinion as to whether "the employee was incapacitated for further duty, whether the incapacity was likely to be permanent, and whether the disability is one that might have been caused by a personal injury upon which the disability benefits application is based." M.G.L. c. 32, §§ 6(3)(a) and 7(1).

An accidental disability retirement application cannot be approved unless a majority of the panel answers yes to these three questions. *Blanchette v. Contributory Ret. Appeal Bd*., 40 Mass. App. Ct. 479, 483. If the panel does not support the application, the application must be denied unless the applicant can show that the medical panel did not "conform[] to the required procedure of physical examination," it lacked "all the pertinent facts," it used an erroneous legal standard, or the medical certificate was "plainly wrong." *Kelley v. Contributory Ret. App. Bd.*, 341 Mass. 611, 617 (1961).

Officer Kaddy asserts that the panel supported his application because two of the panelists wrote reports in his favor. The Worcester Regional Retirement System contends otherwise, pointing out that the two favorable doctors reached different conclusions as to the nature of Officer Kaddy's disability and thus a majority of the panel did not agree on what disables him.

The difficulty begins here with the complicated nature of Officer Kaddy's disability claim. He maintains that he suffered a back injury when slipping on ice and that, because he was in considerable pain, he spent most of the next few weeks resting. This period of bed rest led him to suffer from blood clots in his legs and those blood clots travelled to his lungs causing a pulmonary embolism, which he treats with anticoagulation medicine that makes it impossible for him to serve as a police officer.

Is his claim that he is disabled by the initial back injury or by the later deep vein thrombosis and pulmonary embolism? His application makes clear that he is basing his claim not on the back injury *per se*, but on the subsequent development of clots that led him to take anticoagulant medication on a permanent basis. This is the theory that is supported by Dr. Adaikkalam in his physician's statement.

DALA has previously looked with disfavor on changes in theories of eligibility as the application moves through the administrative process, saying that such changes turn a claim into a "moving target." *Poulten v. Boston Ret. Bd*., Docket No. CR-11-88, Decision at 31 (Div. Admin. L. App., May 22, 2014), aff'd (Contributory Ret. App. Bd., Apr. 14, 2015). Thus, my analysis must focus on the theory Officer Kaddy asserted in his application to justify granting accidental disability retirement.

Dr. Drinker did not comment on deep vein thrombosis or pulmonary embolism in his initial report. When asked why he had not addressed this aspect of Officer Kaddy's claim, Dr. Drinker explained that he thought the officer's back injury by itself was a significant cause of his disability. This may be an alternative theory Officer Kaddy should consider propounding on remand, but it fails to address the theory he actually proposed: that his back injury led to bed rest that then led to deep vein thrombosis and pulmonary embolism.

Dr. Elfiky, in his initial opinion, accepted Officer Kaddy's theory that a "significant back injury" was the cause of the officer's deep vein thrombosis and pulmonary embolism and of his need to take an anticoagulant. After the Retirement System showed him the video of Officer Kaddy slipping on ice and injuring his back, he changed his mind because he did "not see any injury that would have resulted in such incapacity requiring extended bed rest that would place him at high risk for a thromboembolic episode."

Presumably, the doctor was by then questioning Office Kaddy's credibility, but he does not seem to have changed his view that the deep vein thrombosis and the pulmonary embolism were caused by bed rest. Although he thinks Officer Kaddy would not have needed extensive bed rest for the pain he was experiencing, he does not explain why Office Kaddy should have realized that bed rest to avoid pain would be bad for him. Even accepting the doctor's conclusion that any pain Officer Kaddy was experiencing was minor, the officer would not have been the first person to have attempted to address pain by finding a comfortable position that lessened the pain.

While the caselaw on accidental disability retirement makes clear that injured members should follow their doctors' advice, when there is no evidence that any doctor told Officer Kaddy not to rest too long in bed, it is hard to see how it is Officer Kaddy's fault that he developed deep vein thrombosis and pulmonary embolism because he spent too much time in bed.[7]

Dr. Friedburg thought Officer Kaddy's back injury was just a strain and that with proper treatment he should have been able to return to work as a police officer. However, he accepted as plausible that the officer's deep vein thrombosis and pulmonary embolism was the result of bed rest occasioned by the back injury, but with the caveat that he is not a hematologist and does not understand why Officer Kaddy needs to continue taking Eliquis.

Dr. Friedberg's report more or less follows Officer Kaddy's theory that he became disabled because his back injury led to his clotting problem. It is positive, if

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[7] The Retirement System contends that Officer Kaddy was ignoring his doctor's advice because he was advised to undergo physical therapy, which he decided to put off. Although this advice was significant, it was not the same thing as telling him to avoid excessive bed rest because it might lead to clotting problems.

Officer Kaddy developed blood clots within five weeks of his doctor recommending that he go to physical therapy. Whether it would have been appropriate to start physical therapy when Officer Kaddy was still in considerable pain or whether physical therapy would have prevented blood clots from developing are questions that require medical opinions. Lacking such opinions, I do not address these questions in this decision.

It may be that the fact that Officer Kaddy had superficial venous thrombosis of his left leg two years before his back injury may have some bearing on whether he was likely to develop clotting problems. But none of the doctors who treated him initially mentioned it in their medical records and there is no evidence that any of them suggested to him that he might be prone to clotting problems and should take steps to avoid that possibility.

equivocal. That the officer's back injury might have been treatable, if that was all that happened, is unfortunate but not necessarily significant to resolving this matter. Even if a member's initial injury might not have necessarily had initially obvious long-term implications, if that injury led to complications that were disabling, then the member would have a basis for a claim. But of more significance here, Dr. Friedburg raises an issue as to what specialist should evaluate whether there is a connection between the back injury and the clotting problem. None of the four specialists who were on the medical panel was a hematologist. Dr. Linson, the former member of the medical panel, expressed a similar concern about the lack of a hematologist's evaluation. It might make sense on remand to consider having a hematologist on the panel.

The net result of the medical panel reports is that there is one positive panelist, one negative panelist, and one who did not address the theory of recovery propounded by Officer Kaddy. This is thus neither a negative panel nor a positive panel.

Conclusion

Officer Kaddy is entitled to have a medical panel that decides one way or another about the theory of recovery he advanced. I am therefore remanding this matter for reviewed by a new medical panel. *Cf*. Brown v. Springfield Retirement Bd., CR-96-908 (Divis. of Admin. Law App., July 29, 1997) (parties entitled to a comprehensible panel certificate).

Given the difficulty the Retirement System had in getting the panelists to focus on the theory of injury and recovery proposed by the officer, the parties may wish to give new panelists some instructions before they examine Officer Kaddy on what

questions they should address in their report. It may also be wise to consider whether a hematologist should be one of the specialists on the panel and whether it makes sense to have the panelists exam Officer Kaddy as a group so that the panel may have the benefit of the different expertise the panelists bring to this matter.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Dated: January 30, 2026

James P. Rooney

James P. Rooney
First Administrative Magistrate
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