

CASE NO. A06-0014

STATE OF MINNESOTA

In the Court of Appeals

In the Matter of the Claim for Benefits of
Jeffrey R. Meuleners

BRIEF OF APPELLANT
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STATEMENT OF THE ISSUE

1. Does Minn. Stat. § 299A.465, Subdivision 1 (2003) require the county to continue to pay the employer's contribution for health insurance coverage for appellant and his dependant's until appellant reaches age 65?

The public safety officer benefits eligibility panel determination: Denial of Deputy Sheriff Meuleners' claim for benefits under Minn. Stat. § 299A.465, Subdivision 1 (c) because the panel determined that Claimant did not establish that his occupational duties or professional responsibilities put him at risk for the type of illness or injury which he sustained, as required by Minn. Stat. § 299A.465, subdivision 6.

Apposite Statutory Provisions:

Minn. Stat. § 299A.465, Subdivision 1 (2002)

Minn. Stat. § 353.63 (2002)

Minn. Stat. § 353.656

Apposite Cases:

Conaway v. St. Louis County, 702 N.W.2d 779 (Minn. Ct. App. 2005)

Schmidt v. City of Columbia Heights, 696 N.W.2d 413 (Minn. Ct. App. 2005)

Apposite cases on statutory construction generally are:

Burkstrand v. Burkstrand, 632 N.W.2d 206, Minn. 2001

Vlahos v. R&I Construction of Bloomington, 676 N.W.2d 672 (Minn. 2004)

Tuma v. Commissioner of Economic SCC., 386 N.W.2d 702 (Minn. 1996)

STATEMENT OF THE CASE

The question presented in this case is whether Minn. Stat. § 299A.465 obligates Carver County to continue payment of the employer's contribution of Appellant's and his dependant's health insurance coverage until Appellant reaches age 65. Appellant was a deputy sheriff for the Carver County Sheriff's Department from September 16, 1991 to January 13, 2003. Appellant was injured in the line of duty as a deputy sheriff on December 3, 2001 and left the Carver County Sheriff's Department on January 13, 2003. Appellant subsequently accepted employment with Carver County as a civilian employee working as a background investigator. As a civilian employee of the county, Appellant does continue to receive health insurance coverage through Carver County.

Pursuant to Minn. Stat. § 299A.465, subd. 1(c) (2003) Appellant submitted an Eligibility Application Form on October 18, 2005 for the continuation of health insurance coverage for him and his dependants. On November 10, 2005, the Public Safety Officer Benefits Eligibility Panel convened to review Jeffrey R. Meuleners claim for benefits pursuant to Minn. Stat. §299A.465, subd. 1(c). The Public Safety Officer Benefits Eligibility Panel denied Jeffrey R. Meuleners' claim for benefits. See, Determination Order. A Writ of Certiorari was filed with the Clerk of Appellate Courts on January 4, 2006. Jeffrey R. Meuleners now appeals from that Determination Order because the Public Safety Officer Benefits Eligibility Panel erred in concluding that Jeffrey R. Meuleners did not establish that his occupational duties or professional responsibilities put him at risk for the type of illness or injury which he sustained, as required by Minn. Stat. §

299A.465, subd. 6.

Thus, Jeffrey R. Meuleners requests this Court reverse the Public Safety Officer Benefits Eligibility Panel's determination and award the benefits under Minn. Stat. § 299A.465 as a matter of law.

The language of Section § 299A.465 is clear and unambiguous, and thus requires Carver County to continue payment of the employer's contribution for health insurance coverage for Jeffrey R. Meuleners and his dependants. Jeffrey R. Meuleners sustained a disabling injury in the line of duty. He was unable to perform the duties of a Deputy Sheriff and separated from the Carver County Sheriff's Department as a Deputy Sheriff. He was awarded in the line of duty disability benefits in accordance with Minn. Stat. § 353.656 (PERA). Jeffrey R. Meuleners' continued employment with Carver County as a civilian employee does not preclude him nor his dependants from qualifying for and receiving benefits in accordance with Minn. Stat. § 299A.465. Thus, Jeffrey R. Meuleners requests this Court reverse the Public Safety Officer Benefits Eligibility Panel's Determination Order and award benefits under Minn. Stat. § 299A.465 as a matter of law.

STATEMENT OF THE FACTS

1. On September 16, 1991, Jeffrey R. Meuleners (Meuleners) began employment with the Carver County Sheriff's Department, where he was continuously employed full time as a deputy sheriff until January 13, 2003.
2. During the course of his employment as a deputy sheriff with Carver County, Meuleners suffered a disabling injury on December 3, 2001.
3. As a result of that injury, Meuleners made application in 2002 to the Public Employee's Retirement Association of Minnesota (PERA) for disability benefits pursuant to Minn. Stat. § 353.656, subd. 1.
4. On June 5, 2002, PERA notified Meuleners that his application for in the line of duty disability benefits had been approved by PERA.
5. As a result of the disabling injuries sustained on December 3, 2001, Meuleners separated from the Carver County Sheriff's Department.
6. On January 13, 2003, Meuleners began working for Carver County as a civilian employee performing background investigations. Meuleners continues to be employed as a background investigator for Carver County on a full-time basis.
7. As part of his compensation package for the background investigator position, Meuleners is entitled to and receives health care coverage for himself and his family through Carver County which pays a portion of the premium.
8. Meuleners contests the Public Safety Officer Benefits Eligibility Panel's Determination Order denying the continuation of health insurance coverage in accordance with Minn. Stat. § 299A.465 and brings this appeal seeking a reversal of the Determination Order and an award of benefits under Minn. Stat. § 299A.465 as a matter of law.

STANDARD OF REVIEW

The quasi-judicial decision of an administrative agency will not be reversed unless it is fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within its jurisdiction, or based on an error of law. Axelson v. Minneapolis Teachers' Ret. Fund Ass'n., 544 N.W.2d 297, 299 (Minn. 1996). The reviewing court is not bound by the agency's decision and need not defer to agency expertise, although a certain amount of deference is paid to the agency's interpretation of its' own regulations if they are unclear or ambiguous. St. Otto's Home v. Dept. of Human Servs., 437 N.W.2d 35, 39-40 (Minn. 1989). Statutory construction, however, is a question of law reviewed de novo. Brookfield Trade Ctr. #579 v. County of Ramsey, 584 N.W.2d 390, 393 (Minn. 1998).

ARGUMENT

I. THE CLEAR AND UNAMBIGUOUS LANGUAGE OF MINN. STAT. § 299A.465 ENTITLES APPELLANT TO THE CONTINUED PAYMENT OF THE EMPLOYER'S CONTRIBUTION FOR COVERAGE OF DEPUTY SHERIFF MEULENERS AND HIS DEPENDANTS UNTIL DEPUTY SHERIFF MEULENERS REACHES AGE 65.

A. DEPUTY SHERIFF MEULENERS SUSTAINED A DISABLING INJURY UNDER MINN. STAT. §299A.465.

When the language of a statute is plain and unambiguous, the plain language must be followed. Burkstrand v. Burkstrand, 632 N.W.2d 206, 210 (Minn. 2001). "Under the basic canons of statutory construction, the courts construe words and phrases according to the rules of grammar and accord their most natural and obvious usage unless it would

be inconsistent with the manifest intention of the legislature." Vlahos v. R&I Construction of Bloomington, 676 N.W.2d 672, 679 (Minn. 2004); See, also, Minn. Stat § 645.08 (1) (2003); Amaral v. Saint Cloud Hosp., 598 N.W.2d 379, 384 (Minn. 1999).

The first step in statutory interpretation is to simply read the statute. Gomon v. Northland Family Physicians, Ltd., 646 N.W.2d 413, 416 (Minn. 2002) ("When interpreting a statute, a court must first determine whether the statute's language, on its face, is clear or ambiguous."). If the words of a statute are "clear and free from all ambiguity," further construction is neither necessary nor permitted. Minn. Stat. § 645.16 (2003); See, also, Ed Herman and Sons v. Russell, 535 N.W.2d 803, 806 (Minn. 1995). The reviewing court is not permitted to read ambiguity into an otherwise clear statute under the guise of statutory interpretation. Tuma v. Commissioner of Economic SEC., 386 N.W.2d 702, 706 (Minn. 1986).

In the instant case, the statutory language at issue is clear and unambiguous. Minn. Stat. § 299A.465 provides in pertinent part:

Subdivision 1. **Officer or firefighter disabled in the line of duty.** (a) This subdivision applies when a peace officer or firefighter suffers a disabling injury that:

- (1) results in the officer's .. retirement or separation from service;
- (2) occurs while the officer .. is acting in the course and scope of duties as a peace officer..; and
- (3) the officer..has been approved to receive the officer's.. duty-related disability pension.

Minn. Stat. § 299A.465, Subd. 1.

The first element of Minn. Stat. § 299A.465, Subd. 1, requires that a disabling injury result in the officer's retirement or separation from service.

Deputy Sheriff Meuleners sustained herniated discs at L4-5 and L5-S1 on December 3, 2001 when he slipped on the exterior steps of an apartment complex while serving eviction notices. He was paid worker's compensation benefits and awarded *In The Line Of Duty Disability Benefits* on June 5, 2002. In his narrative report dated April 15, 2002, Dr. Friedland opined that Deputy Sheriff Meuleners was physically unable to perform the duties of a police officer and this disability was a direct result of an injury which occurred during an act of duty.

The Public Safety Officer Benefits Eligibility Panel (hereinafter "PSOBEP") denied Deputy Sheriff Meuleners' claim, in part, due to the fact that he had previously sustained an injury which occurred on December 26, 1989 when he was employed as a civilian employee, not a law enforcement officer with the Carver County Sheriff's Department.

A peace officer is not precluded from entitlement to benefits if he has a pre-existing condition. Minn. Stat. § 299A.465 requires that a peace officer suffer "a disabling injury". It does not require that all injuries sustained by the peace officer occur in the course and scope of his/her duties. While Deputy Sheriff Meuleners sustained injuries to his low back as a civilian employee on December 26, 1989, he began working as a deputy sheriff for the Carver County Sheriff's Department on September 16, 1991, and performed all aspects of the occupational duties and the job responsibilities of a deputy sheriff for over 10 years prior to the December 3, 2001 injury. Only after the December 3, 2001

injury was Deputy Sheriff Meuleners determined to be physically unfit to continue as a peace officer.

PERA approved Deputy Sheriff Meuleners' application for *In The Line of Duty Disability Benefits* on or about June 5, 2002. When PERA approves an officer to receive a duty-related disability pension, PERA must conclude that the officer is suffering a disabling injury that resulted in long-term disability and that the injury occurred while the officer was acting in the course and scope of his or her duties. See, Minn. Stat. § 353.656, Subd. 1 (stating that an officer is entitled to duty-related pension benefits if he or she is disabled "as a direct result of any injury, sickness, or other disability...which has or is expected to render the member physically or mentally unable to perform the duties as police officer," and the injury has "incurred in or [arose] out of any act of duty"). In Conaway v. St. Louis County, 702 N.W.2d779 (Minn. Appeal 2005), the Court noted that "the legislative comments on Minn. Stat. §299A.465 show that the legislature believed PERA would be an effective screen in determining an officer's eligibility for benefits." See, Hearing on S.F. No. 233 Before The Senate on Comm. on State Gov't Operations Veteran Affairs (Apr. 8, 1997); House Floor Debate on H.F. No. 333 (Mar. 3, 1997) (Statement of Rep. Farrell). "PERA has the ability to access all of an appellant's medical records and related information from any source to determine whether an officer is disabled." Minn. Stat. § 353.656, Subd. 5. Additionally, PERA has its own physicians review evidence of an applicants disability. Minn. Stat. § 353.33, Subd. 4, 6 (a)(2004). Conaway at 784.

Thus, it is clear that Deputy Sheriff Meuleners sustained a disabling injury as used in Minn. Stat. § 299A.465.

B. DEPUTY SHERIFF MEULENERS WAS SEPARATED FROM SERVICE AS A PEACE OFFICER AS A DIRECT RESULT OF THE DISABLING INJURY SUSTAINED ON DECEMBER 3, 2001.

The PSOBEP erred in denying Deputy Sheriff Meuleners' claim for benefits on the basis that Appellant is currently employed as a civilian employee with the Carver County Sheriff's Department and is currently receiving health insurance benefits from Carver County.

Minn. Stat. § 299A.465 deals exclusively with peace officers and firefighters. The use of the words "separation from service" must be read in context of the overall statute. The Minnesota Legislature, through the Public Employee's Retirement Association (PERA) statute, has provided special statutory provisions to protect public safety officers such as Deputy Sheriff Meuleners:

It is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protecting the property and public safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivor benefits based on the particular dangers inherent in these occupations.

Minn. Stat. § 353.63 (2002).

In Conaway, the court observed that the legislature linked Minn. Stat. §299A.465 to Minn. Stat. § 353.656 (2004).

"Minn. Stat. § 299A.465 subd. 1(a)(3), provides that an officer must be

approved to receive a "duty related disability pension" under Minn. Stat. § 353.656 in order to receive continued health insurance coverage. That latter section provides benefits to an officer:

who becomes disabled and physically unfit to perform duties as a police officer...as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform the duties as a police officer...for a period of at least one year, shall receive disability benefits.

Minn. Stat. §353.656, subd. 1. We see a remarkable similarity between the two statutes. The phrase "suffers a disabling injury that... results in the officer's or firefighter's retirement or separation from service" in Minn. Stat. § 299A.465 subd. 1(a)(1) is the functional equivalent of the phrase "becomes disabled and physically unable to perform the duties as a police officer...which has or is expected to render the member physically or mentally unable to perform the duties as police officer" in Minn. Stat. § 353.656.

Conaway v. St. Louis County, 702 N.W. 2d 779, 783 (Minn. Appeal 2005).

As a direct result of the disabling injuries sustained by Deputy Sheriff Meuleners on December 3, 2001, he was deemed to be physically unable to perform the duties of a peace officer by PERA and his treating physicians. He last worked for the Carver County Sheriff's Department on or about January 13, 2003. As such, it is clear that he has been "separated from service" as a peace officer.

The PSOBEP's determination that Deputy Sheriff Meuleners' civilian employment as a background investigator precludes him from receiving the continuation of health care coverage under Minn. Stat. § 299A.465 contravenes the legislative intent of the statute and is contradictory to public policy. Minn. State. § 299A.465 does not place restrictions on a disabled officer from returning to work in a different field or profession. In fact, the

statute specifically provides entitlement to benefits where a disabled peace officer or firefighter "retires or separates from service." One of the purposes of the Minnesota Workers' Compensation Act is to return injured employees to work, and if possible, with the same employer. Rehabilitation fundamentally means assistance in preparing for or obtaining employment. Langa v. Fleischmann-Kurth Malting Co., 481 N.W.2d 35, 37, 46 W.C.D.156, (1992); Hanmur v. Wes Barrette Masonry, 403 N.W.2d 839, 39 W.C.D. 758, (1987). Minn. Statute § 176.102 (1)(b) defines the scope of rehabilitation:

Rehabilitation is intended to restore the injured employee so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability.

The general purpose of rehabilitation is to allow injured workers to return to their former employment or, if precluded from returning to their pre-injury job, to allow the injured employee to return to a modified job and also to encourage injured workers to increase their employability by acquiring new or additional skills through on-the-job training or retraining. Jerde v. Adolfson and Peterson, 484 N.W.2d 793, 46 W.C.D.620 (1992). If Deputy Sheriff Meuleners' continued employment with the County is deemed to preclude entitlement to benefits it will discourage future disabled peace officers and firefighters from considering alternative employment with the city, county or state agency with whom they were formerly employed out of fear of their being denied the continuation of health care coverage under Minn. Stat. § 299A.465.

Moreover, Deputy Sheriff Meuleners' current entitlement to health care benefits as

part of his compensation for work as a civilian employee does not preclude him from receiving the determination of entitlement to health care continuation coverage under § 299A.465. Minn. Stat. § 299A.465 Subd. 1 (c)(3) provides, in pertinent part:

(c) The employer is responsible for the continued payment of the employer's contribution for coverage of the officer or firefighter and, if applicable, the officers and firefighters dependants. Coverage **must** continue for the officer or firefighter and, if applicable, the officers or firefighters dependants until the officer or fire fighter reaches the age of 65. (Emphasis added).

Minn. Stat. § 765, Subd. 1 (c)(3). If the PSOBEP's denial of benefits is upheld, Appellant would be required to work until he reaches the age of 65 which limits his ability to change careers or employers due to his disability and/or would limit his flexibility to retire.

C. DEPUTY SHERIFF MEULENERS DISABLING INJURIES OCCURRED WHILE HE WAS ACTING IN THE COURSE AND SCOPE OF DUTIES AS A PEACE OFFICER.

The second provision of Minn. Stat. § 299A.465 requires that the disabling injury occur while the officer is acting in the course and scope of the duties as a peace officer. In making this decision, the Panel shall determine whether or not the officer's occupational duties or professional responsibilities put the officer at risk for the type of illness or injury actually sustained. Minn. Stat. § 299A.465, Subd. 6.

The determination by the Minnesota Public Employees Retirement Association (PERA) pursuant to Minn. Stat. § 353.656, subd. 1 (2004), that a peace officer is disabled is binding on a county as an employer for purposes of determining whether the officer

qualifies for continued health-insurance coverage under Minn. Stat. § 299A.465. "If an officer satisfies the third criterion of Minn. Stat. § 299A.465, subd. 1 (a), by qualifying for a duty related pension, the officer necessarily has satisfied the other two criteria as well. Conaway v. St. Louis County, 702 N.W. 2d 779, 785. (Minn. App. 2005).

The PSOBEP's determination that Deputy Sheriff Meuleners did not establish that his occupational duties or professional responsibilities put him at risk for the type of illness or injury sustained is arbitrary, unreasonable, unsupported by substantial evidence and is based on an error of law. Deputy Sheriff Meuleners was serving eviction notices as a Carver County Deputy Sheriff when he sustained the disabling injuries. There was no contradictory evidence or testimony. Deputy Sheriff Meuleners received workers' compensation benefits and was awarded *In The Line of Duty Disability Benefits* by PERA.

The PSOBEP incorrectly suggests that it has a different standard than worker's compensation and PERA. See, Transcript of the Panel's Consideration, p.16-17; that the disabling injury sustained by an officer must arise out of a "hazardous condition" associated with the duties of their occupation. No such higher standard exists under Minn. Stat. § 299A.465. The statute is clear and unambiguous and does not include any limitation on the type of duty or offer a definition of "occupational duties or job responsibilities."

Because the determination made by PERA that Deputy Sheriff Meuleners is disabled is binding on the county and given the clear and unambiguous language of the statute, the court must conclude that Deputy Sheriff Meuleners sustained a disabling injury

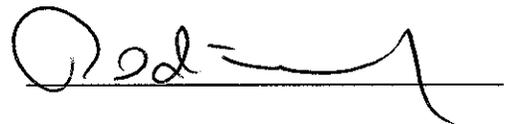
while acting in the course and scope of duties as a peace officer.

CONCLUSION

Appellant respectfully requests that this Court reverse the Public Safety Officer Eligibility Benefits Panel's Determination Order because the clear and unambiguous language of the statute requires Carver County to pay the employers contribution for health insurance coverage for Appellant and his dependants until Appellant reaches age 65, regardless of his employment status with the County. The Public Safety Officer Benefits Panel erred in denying Jeffrey R. Meuleners benefits in determining that Meuleners' occupational duties and professional responsibilities did not put him at risk for the type of illness or injury which he sustained.

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Dated: 2-27-06



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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2) (with amendments effective July 1, 2007).