

No. A06-0014

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STATE OF MINNESOTA

IN COURT OF APPEALS

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

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**RESPONDENT'S BRIEF AND APPENDIX**

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## TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES .....	ii
LEGAL ISSUES .....	1
STATEMENT OF THE CASE .....	2
STATEMENT OF FACTS.....	3
ARGUMENT .....	5
I.    STANDARD OF REVIEW OF THE PANEL’S DECISION.....	5
II.   JUDICIAL DEFERENCE SHOULD BE GIVEN TO DECISIONS OF THE PUBLIC SAFETY OFFICERS BENEFIT ELIGIBILITY PANEL. ....	7
III.  APPELLANT IS NOT ENTITLED TO BENEFITS UNDER MINN. STAT. § 299A.465.....	9
A.   Appellant Did Not Establish That His Occupational Duties Put Him At Risk For The Injury He Sustained. ....	10
B.   There Is Substantial Evidence That Appellant’s First And Second Injuries Occurred While He Was Employed As A Civilian Employee Of The Carver County Sheriff’s Office. ....	12
CONCLUSION.....	13
APPENDIX	

## TABLE OF AUTHORITIES

	Page
<b>STATE CASES</b>	
<i>Application of Allers</i> , 533 N.W.2d 646 (Minn. Ct. App. 1995) .....	5, 6
<i>Axelson v. Minneapolis Teacher Retirement Fund Assoc.</i> , 544 N.W.2d 297 at 299, quoting <i>Dokomo v. Ind. Sch. Dist. No. 11</i> , 459 N.W.2d 671 (Minn. 1990).....	5
<i>Crookston Cattle Co. v. Minnesota Dept. of Natural Resources</i> , 300 N.W.2d 769 (Minn. 1980).....	7
<i>Dietz v. Dodge County</i> , 487 N.W.2d 237 (Minn. 1992).....	5
<i>Hazelton v. Commissioner of Dept. of Human Services</i> , 612 N.W.2d 468 (Minn. Ct. App. 2000) .....	6
<i>Krumm v. RA Nadeau Co.</i> , 276 N.W.2d 641 (Minn. 1979).....	7
<i>Mammenga v. State Dept. of Human Services</i> , 442 N.W.2d 786 (Minn. 1989).....	7
<i>Markwardt v. State</i> , 254 N.W.2d 371 (Minn. 1977).....	6
<i>Matter of Friedenson</i> , 574 N.W.2d 463 (Minn. Ct. App. 1998) .....	6, 7
<i>Matter of Pautz</i> , 295 N.W.2d 635 (Minn. 1980).....	7
<i>Matter of Quantification of Environmental Cause</i> , 578 N.W.2d 794 (Minn. Ct. App. 1998) .....	6, 7
<i>Matter of Rochester Ambulance Service</i> , 500 N.W.2d 495 (Minn. Ct. App. 1993) .....	6
<i>Minnesota Loan and Thrift Co. v. Dept. of Commerce</i> , 278 N.W.2d 522 (Minn. 1979).....	6

*Reserve Mining v. Herbst*,  
256 N.W.2d 808 (Minn. 1977)..... 6, 7, 12

**STATE STATUTES**

Minn. Stat. § 299A.465, subd. 1 (2005)..... *passim*  
Minn. Stat. § 299A.465, subd. 6 (2005)..... *passim*  
Minn. Stat. § 299A.465, subd. 7 (2005)..... 8, 11

## LEGAL ISSUES

- I. Is Appellant entitled to benefits under Minn. Stat. § 299A.465, subs. 1 and 6?

The Minnesota Public Safety Officers Benefit Eligibility Panel ruled in the negative.

*Apposite Authority:*

Minn. Stat. § 299A.465 , subd.1 (2005)

Minn. Stat. § 299A.465, subd. 6 (2005)

- II. Should the Court give judicial deference to a decision of the Minnesota Public Safety Officers Benefit Eligibility Panel in denying a claim for benefits under Minn. Stat. § 299A.465?

That issue did not come before the Board.

*Apposite Authority:*

*Matter of Friedenson*, 574 N.W.2d 463 (Minn. Ct. App. 1998)

*Matter of Quantification of Environmental Cause*, 578 N.W.2d 794 (Minn. Ct. App. 1998)

*Reserve Mining v. Herbst*, 256 N.W.2d 808 (Minn. 1977)

## STATEMENT OF THE CASE

On October 18, 2005, Appellant Jeffrey R. Meuleners filed a claim with the Minnesota Public Safety Officers Benefit Eligibility Panel (hereinafter referred to as “the Panel”) requesting continuing health insurance benefits under the provisions of Minn. Stat. § 299A.465, subd. 1. (R.A. 1-3.)<sup>1</sup>

On November 10, 2005, the Panel met to consider the claim of Appellant. While Appellant claimed that his injury occurred in his capacity as a peace officer, the Panel believed that his occupational duties or professional responsibilities did not put him at risk for the type of injury he had sustained, as required by Minn. Stat. § 299A.465, subd. 6. (A. 6-7.)<sup>2</sup> The Panel voted unanimously to deny Appellant’s claim for benefits under Minn. Stat. § 299A.465, subd. 1(c) because the Panel determined that he 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. (A. 6.)

Denial of Appellant’s claim was based upon:

- 1) Appellant’s first injury occurred while he was employed as a civilian employee, not a law enforcement officer, with the Carver County Sheriff’s Office;
- 2) Appellant’s subsequent injuries occurred while he was employed either as a law enforcement officer or as a civilian employee of the Carver County Sheriff’s Office; and

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<sup>1</sup> R.A. refers to the page of Respondent’s appendix.

<sup>2</sup> A. refers to the page of the appendix of Appellant’s brief.

- 3) While Appellant is receiving a duty-related disability pension from PERA, he is currently employed as a civilian employee with the Carver County Sheriff's Office and is currently receiving health insurance benefits from Carver County. (A. 6.)

Appellant filed a Petition for Writ of Certiorari appealing the December 1, 2005 decision of the Panel. (A. 2.)

### STATEMENT OF FACTS

On his Benefit Request Form, Appellant indicated he sustained injuries to his low back and suffered from a herniated disc as a result of injuries on December 26, 1989, April 2, 2000 and December 3, 2001.<sup>3</sup> (R.A. 1-3.) Appellant stated that he was separated from service from the Carver County Sheriff's Office on January 13, 2003 and that his injuries occurred while serving as a Deputy Sheriff for Carver County. *Id.* Appellant was approved for PERA in the line of duty police disability benefits on June 6, 2002. (R.A. 4.) Appellant's first injury, listed on his Benefit Request Form, occurred when he slipped on the steps walking out of the Carver County Courthouse. (R.A. 5.) At that time, he was employed as a security officer, and was not considered a law enforcement officer. (R.A. 6.)

His second injury, listed on his Benefit Request Form (April 2, 2000), occurred while getting into a squad car. (R.A. 5.)

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<sup>3</sup> On his Benefit Request Form, Appellant lists three injuries that caused his disability. With his Form, he attached ten separate first report of injuries.

His third injury, listed on his Benefit Request Form (December 3, 2001), occurred when he slipped on the steps at an apartment building where he was serving eviction notices. (R.A. 5.)

Attached to his Benefit Request Form (R.A. 1-3), Appellant attached ten different first reports of injury. His total number of injuries, the date they occurred, and the status of his employment at the time he incurred those injuries are as follows:

	<b>Date</b>	<b>Injury</b>	<b>Employment Position</b>
1.	12/26/1989	Hurt his back by slipping on the steps walking out of the Carver County Courthouse	Security Officer
2.	7/30/1990	Injured back pushing and lifting a food cart	Security Officer
3.	4/17/1994	Hurt lower back getting into squad car	Deputy Sheriff
4.	2/2/1996	Slipped on ice and hurt little finger	Deputy Sheriff
5.	6/9/1998	Hurt lower back getting into squad car	Deputy Sheriff
6.	10/23/1998	Hurt back getting into squad car	Deputy Sheriff
7.	4/12/1999	Hurt back getting into squad car	Deputy Sheriff
8.	2/23/2000	Hurt back getting into squad car	Deputy Sheriff
9.	4/20/2000	Hurt back getting into squad car	Deputy Sheriff
10.	12/3/2001	Slipped on ice injuring his back	Deputy Sheriff

(R.A. 6-16.) Regarding the injury which occurred on April 20, 2000 where Appellant injured his back getting into his squad car, it is noted “he feels that this is ongoing since original injury several years ago.” (R.A. 14.) In explaining his injuries, he told the Panel “A combination of all of them, it wasn’t just one or the other . . . (T. 15).<sup>4</sup>

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<sup>4</sup> T. refers to the transcript of the Panel meeting on November 10, 2005.

In denying Appellant's claims for benefits, a member of the Panel summarized "it was a combination of all injuries starting from the first that have caused his disability, those injuries not being as a peace officer." (T. 21.) As summarized by Chairman Stockstead: "I think that the motion to deny should include, based on the fact that the employee's statement is that it was a combination of all injuries starting from the first that has caused his disability, those injuries not being as a peace officer." *Id.*

Member Dennis Flaherty in making the motion to deny benefits to Appellant stated that: "I would make a motion that this be denied because the applicant indicated it's a combination of all of the first reports of injuries that caused his disability; the first two of which both occurred while he was a civilian employee of Carver County in a security officer position and these benefits are designed for peace officers only." (T. 23.)

The motion passed unanimously that Appellant's claims for benefits under Minn. Stat. § 299A.465, subd. 1 be denied. (A. 6-7.)

## ARGUMENT

### I. STANDARD OF REVIEW OF THE PANEL'S DECISION.

Review by *certiorari* is limited to looking at the legal import of the facts in the record and determining whether there was a reasonable basis for the lower tribunal's decision. *Dietz v. Dodge County*, 487 N.W.2d 237, 241 (Minn. 1992). Decisions of an agency will be reversed only if they are "fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within the jurisdiction or based upon an error of law." *Axelson v. Minneapolis Teacher Retirement Fund Assoc.*, 544 N.W.2d 297 at 299 (quoting *Dokomo v. Ind. Sch. Dist. No. 11*, 459 N.W.2d 671, 675 (Minn. 1990)); *In re*

*Application of Allers*, 533 N.W.2d 646, 652 (Minn. Ct. App. 1995), *rev. denied* (Minn. Aug. 30, 1995). Substantial evidence is “(1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than ‘some evidence’; (4) more than ‘any evidence’; and (5) evidence considered in its entirety.” *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977).

An agency’s decision may be reversed or modified by a reviewing court if it finds that the decision is not supported by substantial evidence. *Hazelton v. Commissioner of Dept. of Human Services*, 612 N.W.2d 468 (Minn. Ct. App. 2000); *Matter of Quantification of Environmental Costs*, 578 N.W.2d 794 (Minn. Ct. App. 1998), and *Matter of Friedenson*, 574 N.W.2d 463 (Minn. Ct. App. 1998).

An agency’s decision is not arbitrary or capricious if there is room for two opinions on the matter. If there is room for two opinions on the matter, an agency’s action is not arbitrary or capricious even if a court believes that erroneous conclusions have been reached. *Matter of Rochester Ambulance Service*, 500 N.W.2d 495 (Minn. Ct. App. 1993). Decisions of administrative agencies are presumed to be correct and deference should be shown by the courts to agency’s expertise and its special knowledge in the field of technical training, education and experience. *Friedenson*, 574 N.W.2d at 465; *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808 (Minn. 1977).

The parties seeking to overturn the agency’s action bears the burden of proof. *Minnesota Loan and Thrift Co. v. Dept. of Commerce*, 278 N.W.2d 522 (Minn. 1979); *Markwardt v. State*, 254 N.W.2d 371 (Minn. 1977).

Upon application of these well settled principles to this appeal, the Court should affirm the Panel's decision denying Appellant's claims for benefits under Minn. Stat. § 299A.465, subd. 1.

**II. JUDICIAL DEFERENCE SHOULD BE GIVEN TO DECISIONS OF THE PUBLIC SAFETY OFFICERS BENEFIT ELIGIBILITY PANEL.**

In recognition of the separation of powers doctrine, decisions of administrative agencies are accorded great respect by a reviewing court. A presumption of correctness attaches to an agency decision. *Crookston Cattle Co. v. Minnesota Dept. of Natural Resources*, 300 N.W.2d 769 (Minn. 1980); *Matter of Pautz*, 295 N.W.2d 635 (Minn. 1980). An agency's construction of the laws it enforces or administers is similarly entitled to great weight. *Mammenga v. State Dept. of Human Services*, 442 N.W.2d 786, 792 (Minn. 1989); *Krumm v. RA Nadeau Co.*, 276 N.W.2d 641 (Minn. 1979). As stated by the Minnesota Supreme Court in *Mammenga*:

We are not bound by an agency's interpretation of its governing statute, it is also true that "[w]hen the meaning of a statute is doubtful, courts should give great weight to a construction placed upon it by the Department charged with its administration."

442 N.W.2d at 792. (Citation omitted.)

Substantial judicial deference must be accorded to the fact finding processes of an administrative agency. *Matter of Quantification of Environmental Costs*, 578 N.W.2d at 799. Courts should defer to administrative agencies' expertise and its special knowledge in the field of its technical training, education and experience. *Friedenson*, 574 N.W.2d at 465; *Reserve Mining*, 256 N.W.2d at 824.

The Panel was created by the 2005 Minnesota Legislature. 2005 Minn. Laws, ch. 36, art. 8, §§ 7 and 8. The Panel consists of seven members, two members recommended by the Minnesota Police and Peace Officers Association or a successor, one member recommended by the Minnesota Professional Firefighter Association or a successor, two members recommended by the Minnesota League of Cities or a successor, one member recommended by the Association of Minnesota Counties or its successor, and one nonorganizational member recommended by the six organizational members. Minn. Stat. § 299A.465, subd. 7.

Panel Chair Mike Stockstead is a retired firefighter and was recommended by the Minnesota Professional Firefighters Association. Deputy Jim Bayer and Sergeant Marty Earley, are current law enforcement officers, and were recommended by the Minnesota Police and Peace Officers Association. Police Chief Veid Muiznieks was recommended by the Minnesota League of Cities. County Commissioner Nan Crary was recommended by the Association of Minnesota Counties. Former Panel member Dennis Flaherty, a former peace officer, was recommended by the Minnesota League of Cities.

Each of these Panel members bring their expertise as law enforcement officers, former law enforcement officers, former firefighter and elected officials to determine whether a claimant is eligible for benefits under Minn. Stat. § 299A.465, subs. 1 and 6. The Panel unanimously concluded that Appellant did not establish that he was entitled to continued healthcare benefits under the statute because he 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.

The Court should give great weight to the factual considerations made by the Panel in determining that Appellant did not establish that he is eligible for benefits under Minn. Stat. § 299A.465, subs. 1 and 6.

**III. APPELLANT IS NOT ENTITLED TO BENEFITS UNDER MINN. STAT. § 299A.465.**

Minn. Stat. § 299A.465, subd. 1 provides in part that:

(a) This subdivision applies when a peace officer . . . 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 . . . had been approved to receive the officer's . . . duty-related disability pension.

Minn. Stat. § 299A.465, subd. 1(c) provides in part:

The employer is responsible for the continued payment of the employer's contribution for coverage of the officer or . . . if applicable, the officer's . . . dependents.

To qualify for this benefit, the Minnesota legislature established a two-prong test under Minn. Stat. § 299A.465, subd. 6. That two-prong test is:

(1) Whether the peace officer has been approved to receive a duty-related disability pension *AND*

(2) 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.

The Panel in this case determined that Appellant did not establish that his occupational duties or professional responsibilities put him at risk for the type of injury he sustained.

**A. Appellant Did Not Establish That His Occupational Duties Put Him At Risk For The Injury He Sustained.**

Appellant argues that he sustained injuries in the line of duty as a deputy sheriff and therefore is eligible for continuing health benefits under Minn. Stat. § 299A.465, subd. 1. However, a close examination of his claim reveals that Appellant suffered ten separate injuries while working for Carver County. (R.A. 1-16.) Some of those injuries occurred when he was a security officer, a non law enforcement position, and some of his injuries occurred when he was a deputy sheriff.

In the first report of injury for the injury of April 24, 2000, an injury occurring while he was a deputy sheriff, the report indicates that Appellant was getting into his squad car and felt a pain in his lower back. "He feels that this is ongoing since original injury several years ago." (R.A. 14.) The Panel was justified in finding that the injury related back to his original injury of December 26, 1989 when he was employed as a security officer, in a non law enforcement position and injured his back by slipping on the steps while walking out of the Carver County Courthouse. (R.A. 5.)

Because the documentation supplied by Appellant with his Benefit Request Form indicates that this is ongoing since the original injury occurred several years ago, the Panel was justified in finding that Appellant did not establish that his occupational duties put him at risk for the injury he sustained.

Appellant argues that a peace officer is not precluded from entitlement to benefits if he has a preexisting condition. (A.B. 6.)<sup>5</sup> Appellant states that Minn. Stat. § 299A.465 requires that a peace officer suffer “a disabling injury” and does not require that all injuries sustained by the peace officer occur in the course and scope of his/her duties.” *Id.* Those assertions are misplaced.

Minn. Stat. § 299A.465 does not address the issue of preexisting conditions. What the statute does provide is that 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.

Appellant argues that the statute does not require that all injuries sustained by a peace officer occur in the course and scope of his/her duties. However, if that was the case, the legislature would not have enacted the two-prong test under Minn. Stat. § 299A.465, subd. 6 for an officer to be eligible for benefits. Adopting Appellant’s arguments would require that a peace officer who has been approved to receive a duty-related disability pension would automatically qualify for the benefits under Minn. Stat. § 299A.465. If that is what the legislature intended, the legislature would not have had to create the Panel under Minn. Stat. § 299A.465, subd. 7 and make its determination using the two-prong test required by Minn. Stat. § 299A.465, subd. 6.

Under the arguments put forward by Appellant, as soon as an officer qualifies for an in line of duty disability pension, continued health insurance benefits would be an

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<sup>5</sup> A.B. refers to the page of Appellant’s brief.

automatic right. That is not what the legislature adopted, and is not what the legislature intended.

**B. There Is Substantial Evidence That Appellant's First And Second Injuries Occurred While He Was Employed As A Civilian Employee Of The Carver County Sheriff's Office.**

Substantial evidence is "(1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than 'some evidence'; (4) more than 'any evidence'; and (5) evidence considered in its entirety." *Reserve Mining Co. v. Herbst*, 256 N.W.2d at 825.

On December 26, 1989, Appellant injured his back while going out the north door of the Carver County Courthouse, slipped on the metal grate steps, fell and pulled muscles in his lower back and right buttocks. (R.A. 1, 5, 6.) At the time of his first injury, Appellant was working as a security officer and was not a deputy sheriff or a law enforcement officer. (T. 11.) His second first report of injury was suffering from lower back pain from pushing and lifting a food cart while employed as a security officer by Carver County. (R.A. 7.) Thus, the first two injuries sustained by Appellant occurred while he was employed in a non law enforcement position.

In his Benefit Request Form, Appellant notes dates of injury of December 26, 1989, April 20, 2000, and December 3, 2001. He did not list all ten injuries contained in the first reports of injury which was filed with his Benefit Request Form. In the documentation for the April 20, 2000 injury, it states that "Jeffrey was getting into his squad car and felt a pain in his lower back. He feels that this is ongoing since original injury several years ago." (R.A. 14.) Thus, the Panel concluded that this injury was an

aggravation of the original injury on December 26, 1989. Appellant sustained two injuries while he was a civilian security officer, the first on December 26, 1989 and a second injury occurred on July 28, 1990 (R.A. 7) while he was pushing and lifting a food cart.

Because the first two injuries, (12/26/89 and 7/28/90) occurred in a non-law enforcement position; and the law enforcement injury on April 20, 2000 was reported as “ongoing since the original injury several years ago,” the Panel had substantial evidence to determine that Appellant did not establish that his occupational duties put him at risk for the injuries he sustained.

### **CONCLUSION**

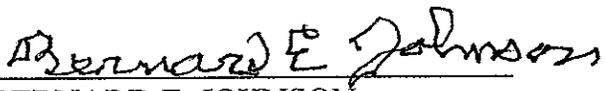
The Panel determined that Appellant was not entitled to benefits under Minn. Stat. § 299A.465, subd. 1 because Appellant did not meet the second prong of the test established under Minn. Stat. § 299A.465, subd. 6 requiring the Panel to determine whether the officer’s occupational duties or professional responsibilities put him at risk for the type of illness or injury actually sustained. Because Appellant’s first two injuries occurred while he was employed in a civilian non-law enforcement position, and his subsequent injuries related back to his original injury several years ago, the Court should

give judicial deference to the Panel's decision that Appellant has not established that he is eligible for benefits under Minn. Stat. § 299A.465 and affirm the Panel's determination Order.

Dated: March 29, 2006

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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).