

To: New Jersey Law Review Commission
From: Arshiya M. Fyazi, Counsel
Re: *Mount v. Bd. of Trs., PFRS*
Definition of Traumatic Event (N.J.S. 43:16A-7(1))
Date: November 08, 2019

MEMORANDUM

Executive Summary

In *Mount v. Bd. of Trs., PFRS*,¹ the New Jersey Supreme Court reviewed two findings rendered by the Police and Fireman’s Retirement System (“PFRS”) and the Board of Trustees (the “Board”). In this consolidated appeal, the Court examined whether each police officer’s claim of mental incapacitation due to a “traumatic event”, warranted an award of accidental disability retirement benefits. The Court observed that N.J.S. 43:16A-7(1) does not define the term “traumatic event”, which has left the determination of what constitutes a traumatic event to the courts.²

Relevant Statute

The relevant portion of N.J.S. 43:16A-7(1) states the following:

Upon the written application by a member in service, by one acting in his behalf or by his employer any member may be retired on an accidental disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that the member is permanently and totally disabled as a direct result of a *traumatic event* occurring during and as a result of the performance of his regular or assigned duties and that such disability was not the result of the member's willful negligence and that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him.³

Background

- *Mount v. Board of Trustees, PFRS*

Officer Christopher Mount (“Mount”) served as a police officer for 11 years before witnessing a severe vehicle accident on January 10, 2007. Soon after the accident, he experienced

¹ *Mount v. Board of Trustees, Police and Firemen’s Retirement System*, 233 N.J. 402 (2018).

² *Id.* at 407.

³ N.J.S. 43:16A-7(1). (Emphasis added).

psychological problems.⁴ In 2010, he was diagnosed with post-traumatic stress disorder (“PTSD”).⁵ Subsequently, he left his employment as a police officer and applied for accidental disability benefits.⁶

The Board determined that Mount’s mental disability was a direct result of the accident.⁷ He did not, however, meet the standards set forth by the case law and was deemed unqualified to collect the enhanced benefits under N.J.S. 43:16A-7(1).⁸ Mount appealed the matter to the ALJ.⁹

The ALJ determined that Mount met some, but not all, of the requirements to qualify for accidental disability benefits as set forth in the case law.¹⁰ The Board subsequently adopted the ALJ’s finding as its final agency decision.¹¹ On appeal, the Appellate Division affirmed the Board’s determination.¹² Mount sought certification from the New Jersey Supreme Court.¹³

- *Martinez v. Board of Trustees, PFRS*

Officer Gerardo Martinez (“Martinez”) was a trained hostage negotiator for almost 10 years.¹⁴ Prior to the incident that gave rise to his disability claim, he had never dealt with a hostage negotiation.¹⁵ On April 25, 2010, he was involved in a hostage negotiations that lasted more than 14 hours, and ended with the death of the hostage taker.¹⁶

As a result of the incident, Martinez was diagnosed with both PTSD and depression.¹⁷ In 2011, he resigned from his position and applied for accidental disability benefits.¹⁸ The Board denied his application because it found that Martinez did not meet the standards set forth by the case law.¹⁹

On appeal, the ALJ ruled in favor of Martinez, stating that he met the qualifying standards to receive accidental disability benefits.²⁰ The Board adopted ALJ’s findings of fact, but disagreed

⁴ *Id.* at 410.

⁵ *Id.* at 411.

⁶ *Id.*

⁷ *Id.* at 412.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 413.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 414.

¹⁵ *Id.*

¹⁶ *Id.* at 415-416.

¹⁷ *Id.* at 416.

¹⁸ *Id.*

¹⁹ *Id.* at 417.

²⁰ *Id.* at 417.

with the ALJ's conclusions of law.²¹ On appeal, the Appellate Division reversed the Board's determination and ruled that Martinez was entitled to accidental disability pension benefits.²² The Board petitioned for certification.²³

Analysis

The Supreme Court reviewed the consolidated appeals, *de novo*, to determine whether the Board accurately interpreted N.J.S. 43:16A-7(1) and whether it properly applied the case law that governs eligibility for accidental disability benefits.²⁴

PFRS members are entitled to receive ordinary disability benefits if they are disabled for any reason, even for a non-work related injury.²⁵ In order to receive greater benefits under the accidental disability benefits, however, the member must meet the higher standard set forth in N.J.S. 43:16A-7 (1).²⁶

That statute provides that a PFRS member can apply for accidental disability benefits if the member can demonstrate that his or her permanent incapacity to work is a direct result of a "traumatic event" that occurred during and as a result of his job performance.²⁷ To this time, however, the Legislature has not defined the term "traumatic event" for statutes that govern public employee retirement systems.²⁸

In absence of a definition, the Courts "established governing standards for retirement system members' accidental disability benefit applications under N.J.S. 43:16A-7."²⁹ The seminal cases that set forth the standard for accidental disability benefits are *Richardson v. Bd. of Trs., PFRS*,³⁰ and *Patterson v. Bd. of Trs., SPRS*.³¹

The Court in *Richardson* established standards for accidental disability benefits that are predicated on a physical disability.³² The *Richardson* standard requires a court to examine a claim using a five-part test.³³ This test requires that the claimant prove the following: (1) that he is permanently and totally disabled; (2) as a direct result of a traumatic event that is identifiable as to

²¹ *Id.* at 418.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 419

²⁵ *Id.* at 419, citing *Russo v. Bd. of Trs., PFRS*, 206 N.J. 14, 28 (2011).

²⁶ *Id.*

²⁷ *Id.* at 406.

²⁸ *Id.* at 419.

²⁹ *Id.* at 407.

³⁰ *Richardson v. Board of Trustees, PFRS*, 192 N.J.189 (2007).

³¹ *Patterson v. Board of Trustees, SPRS*, 194 N.J. 29 (2008).

³² *Mount* at 421, citing *Richardson* 192 N.J.189 (2007).

³³ *Id.* at 421

time and place, un-designed and unexpected; and, caused by a circumstance external to the member; (3) that the traumatic event occurred during and as a result of the member's regular or assigned duties; (4) that the disability was not the result of the member's willful negligence; and, (5) that the member is mentally or physically incapacitated from performing his usual or any other duty.³⁴

The Court in *Patterson* established standards for accidental disability benefits claim based on "a permanent mental disability as a result of a mental stressor, without any physical impact."³⁵ The Court required the claimant to prove that the mental disability resulted from a "direct personal experience of a terrifying or horror-inducing event that involved actual or threatened death or serious injury, or a similarly serious threat to the physical integrity of the member or another person."³⁶ In addition, the event must be significant enough that a reasonable person in similar situation would also suffer a disabling mental injury.³⁷

These two standards are applied sequentially on case by case basis. If the PFRS member meets the standard set forth in *Patterson*, then the Court would apply the *Richardson's* five prong test to ascertain a claimant's eligibility under N.J.S. 43:16A-7(1). If, however, the claimant fails to meet the *Patterson* threshold, the Court will deny accidental disability benefits without applying the *Richardson* test.³⁸

The Supreme Court determined that both Mount and Martinez demonstrated that they met the standards proscribed by *Patterson*. According to the Court, both occurrences were "terrifying" and "horror inducing" events because each was objectively capable of causing a reasonable person in similar circumstances to suffer a disabling mental injury.³⁹ The Court distinguished between Mount and the Martinez when it applied the *Richardson* test. One of the prongs under five-pronged *Richardson* test requires the member to prove that the traumatic event was "un-designed and unexpected."⁴⁰ The Court noted that in order to apply the *Richardson* test, all aspects of the event and not just the job responsibility and training of the officers are to be considered when determining if an event was un-designed and unexpected.⁴¹

The Court found that Mount experienced a traumatic event for the purposes of *Richardson* test.⁴² In its analysis the court considered the facts that Officer Mount observed the horrific traffic accident at close range, was not trained or equipped with firefighting equipment or protective gear

³⁴ *Id.*

³⁵ *Mount* at 423, quoting *Patterson* 194 N.J. 29 (2008).

³⁶ *Mount* at 407, quoting *Patterson* 194 N.J. 29 (2008).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 408.

⁴⁰ *Id.* at 421.

⁴¹ *Id.* at 427.

⁴² *Id.* at 428.

to help the teenage victims involved in the accident.⁴³ Additionally, Mount viewed the victim's arm hanging from the vehicle window, faced imminent threat of explosion and learned that as a result of the explosion the young victims' bodies were melted into the interior of the vehicle.⁴⁴ The totality of the circumstances indicated that Mount faced a un-designed and unexpected traumatic event. The Court therefore remanded the matter to the Appellate Division and ordered them to determine whether Mount's disability was a direct result from the January 10, 2007 incident.⁴⁵

In *Martinez*, the Court applied a similar analysis but reached a contrary decision. The Court found *Martinez* had been trained as a hostage negotiator and held that position for almost ten years.⁴⁶ He was aware that hostage negotiations sometimes fail, and end with the use of lethal force.⁴⁷ The events of a failed hostage negotiation, are neither "un-designed nor unexpected" under a *Richardson* analysis.⁴⁸ The Court therefore reversed the Appellate Division's decision and held that *Martinez* was not eligible for accidental disability benefits under N.J.S. 43:16A-7(1).⁴⁹

The Court's opinion highlighted the fact that the Legislature did not define the term "traumatic event."⁵⁰ The Court noted that matters that involve mental disability arising exclusively from mental stressors pose particular challenges to system members, boards, and counsel, and invited the "Legislature to refine the statutory language to clarify its intent regarding the term "traumatic event."⁵¹

Conclusion

Staff seeks authorization to conduct additional research and outreach regarding this issue to determine whether defining "traumatic event" for purposes of N.J.S. 43:16A-7(1) would be helpful in considering accidental disability benefit claims.

⁴³ *Id.* at 427.

⁴⁴ *Id.*

⁴⁵ *Id.* at 428.

⁴⁶ *Id.* at 414.

⁴⁷ *Id.*

⁴⁸ *Id.* at 431.

⁴⁹ *Id.*

⁵⁰ *Id.* at 406, 420 and 431.

⁵¹ *Id.* at 431.