

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

848

CA 10-00196

PRESENT: MARTOCHE, J.P., FAHEY, CARNI, SCONIERS, AND GREEN, JJ.

IN THE MATTER OF PAUL D'ACCURSIO,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

MONROE COUNTY AND MONROE COUNTY SHERIFF,
RESPONDENTS-APPELLANTS.

JENNIFER M. SOMMERS, ROCHESTER, FOR RESPONDENTS-APPELLANTS.

TREVETT CRISTO SALZER & ANDOLINA, P.C., ROCHESTER (DANIEL P. DEBOLT OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from a judgment (denominated order) of the Supreme Court, Monroe County (Matthew A. Rosenbaum, J.), entered April 7, 2009 in a proceeding pursuant to CPLR article 78. The judgment granted the petition.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner, a "Deputy Sheriff Jailor" with the Monroe County Sheriff's Department, commenced this CPLR article 78 proceeding seeking, inter alia, to annul the determination denying his application for General Municipal Law § 207-c benefits on the ground that petitioner did not sustain the injury in question in the performance of his job duties. Supreme Court properly concluded that the determination was arbitrary and capricious and granted the petition.

"General Municipal Law § 207-c provides for the payment of full regular salary or wages to certain law enforcement officers . . . injured in the performance of their duties or taken sick as a result of the performance of their duties 'so as to necessitate medical or other lawful remedial treatment' " (*Matter of Laudico v Netzel*, 254 AD2d 811, 812, quoting § 207-c [1]). The statute "does not require that [officers] additionally demonstrate that their disability is related in a substantial degree to their job duties" (*Matter of White v County of Cortland*, 97 NY2d 336, 339). Rather, an officer "need only prove a direct causal relationship between job duties and the resulting illness or injury" (*id.* at 340). Indeed, a preexisting condition does not bar recovery under section 207-c if the officer establishes "that the job duties were a direct cause of the disability" (*id.*).

Based on the record before us, we conclude that petitioner established "such a direct causal relationship and thus demonstrated his entitlement to benefits under General Municipal Law § 207-c" (*Matter of Casselman v Village of Lowville*, 2 AD3d 1281, 1281-1282).

Entered: June 18, 2010

Patricia L. Morgan
Clerk of the Court