

Matter of Sanguinedo v Kavanagh

2025 NY Slip Op 32914(U)

August 13, 2025

Supreme Court, New York County

Docket Number: Index No. 155942/2024

Judge: Verna L. Saunders

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. VERNA L. SAUNDERS, JSC PART 36

Justice

-----X

INDEX NO. 155942/2024

IN THE MATTER OF THE APPLICATION OF STEPHEN SANGUINEDO,

MOTION SEQ. NO. 001

Petitioner,

- v -

LAURA KAVANAGH, THE BOARD OF TRUSTEES OF THE NEW YORK CITY FIRE DEPARTMENT ARTICLE I-B PENSION FUND, ROBERT BRAFF, CARL GUILLAUME, and FREDERICK RAPOPORT,

DECISION + ORDER ON MOTION

Respondents.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30

were read on this motion to/for ARTICLE 78

Petitioner, a retired FDNY firefighter, commenced this proceeding seeking an order annulling respondents' determination, dated February 28, 2024, which denied petitioner's accidental disability benefits ("ADR"), and directing that he be granted retirement with ADR benefits, or alternatively, remanding the matter to the Board of Trustees of the New York City Fire Department (hereinafter, "BOT") for further reconsideration. Petitioner asserts that respondents' determination is arbitrary and capricious, and an abuse of discretion in contravention of the New York State General Municipal Law (hereinafter, "GML" § 207-k or "Heart/Stroke Bill"). According to petitioner, he was diagnosed with suffering a stroke after seeking treatment at the Staten Island University Hospital Emergency Room after he developed brief hearing loss and unsteady gate, along with involuntary movements of his left leg and left arm. The FDNY Bureau of Health Services (hereinafter, "BHS") placed petitioner on medical leave. Petitioner filed an ADR application after the Chief Medical Officer recommended that petitioner continue on light duty. Pursuant to NYC Administrative Code § 13-323, disability applications are processed by an independent Medical Board that issues recommendations to the BOT as to whether the applicants are disabled, and, if so, whether the disability is the result of a service-connected medical condition.

Respondents interposed an answer wherein they denied the allegations (NYSCEF Doc. No. 19, answer).

A three-person Medical Board of cardiologists (hereinafter, the "Cardiology Medical Board") reviewed petitioner's ADR application. Another Medical Board of neurologists (hereinafter, "Neurology Medical Board") also reviewed petitioner's ADR application. After reviewing the records, both Medical Boards recommended that petitioner's ADR benefits application should be granted under the Heart/Stroke Bill. The Heart/Stroke Bill provides a

presumption to firefighters who successfully passed a physical examination upon entry into firefighting service that a stroke which results in total or partial disability or death was “incurred in the performance and discharge of duty, unless the contrary can be proved by competent evidence.” The presumption entitles certain uniformed municipal employees to disability retirement benefits if such a disability occurs. At its July 26, 2023, meeting, the BOT voted to remand petitioner’s application to the Medical Boards to address whether the disability was caused by an accident. The BOT members disagreed as to whether the stroke symptoms began shortly after petitioner was in the nozzle position while responding to a fire, while others emphasized that the lack of evidence of occupational stress in petitioner’s medical file signals that his stroke symptoms were not work-related. Specifically, a BOT member noted the presence of patent foramen ovale (“PFO”), a congenital abnormality in petitioner, and averred that same rebuts the presumption set forth in the Heart/Stroke Bill.

Upon remand and review of all medical records and interview with petitioner, the Cardiology Medical Board concluded that the congenital abnormality rebuts the presumption under the Heart/Stroke Bill and as such, recommended that petitioner be granted ordinary disability retirement (“ODR”). The Neurology Medical Board however, reaffirmed its decision, articulating that petitioner’s “congenital PFO was not the source of the stroke as stated in the minutes but merely a portal by which the clot (embolus) travelled through the member’s circulation system ultimately reaching his brain. Again, the source of the stroke is unknown... it is possible that the clot originated in his heart or possibly in his lower extremities. It is also a possibility that excessive smoke exposure or possible dehydration contributed to the member’s cerebral infarct.” The BOT voted to retire petitioner with ODR benefits by a six/six tie.

Petitioner argues that the evidentiary burden under the Heart/Stroke Bill requires respondents to affirmatively disprove the service-connection causation presumed by the statute. According to petitioner, it was arbitrary and capricious for the BOT to adopt the Cardiology Board’s recommendation, thereby ignoring and rejecting the Neurology Board’s recommendation despite petitioner’s disability from a stroke being neurological in nature. Petitioner further notes that only the Neurology Board was assigned to specifically evaluate petitioner’s claim under the stroke-related provisions of GML § 207-k, as illustrated by the BOT meeting minutes. The record demonstrates, petitioner insists, that the Cardiology Board was tasked with reviewing the application as it pertains to only the heart-disease-related provisions of GML § 207-k. Petitioner argues that the court should find in his favor since the BOT, who are not physicians, must not be permitted to reject the findings of their own medical experts and reject the statutory presumption, as they did in the instant matter.

Next, petitioner contends that findings of the Cardiology Board are unrelated to his claim, since he has not claimed to be disabled as the result of his heart condition, by itself. Petitioner insists that he has always maintained that he is disabled as the result of a stroke. Petitioner notes that after remand, the Cardiology Board changed their recommendation, from approval under the “Stroke Bill” to denial under the “Heart Bill.” The BOT provides no proper basis to ignore and reject the findings of the Neurology Board, argues petitioner, and the application should be granted as a matter of law.

Petitioner further posits that the alleged absence of occupational stress or presence of a preexisting condition are not legitimate basis upon which to deny petitioner's application. Petitioner insists that the Medical Boards did not explicitly consider whether he suffered from hypertension, i.e., high blood pressure, or whether his disability was related to hypertensive heart disease. According to petitioner, the guiding legal jurisprudence provides that a petitioner's application for ADR cannot be denied under the Stroke Bill solely on the absence of hypertension or other "stress-related" pathologies. Petitioner underscores that he suffered his stroke while actively engaged in firefighting duties at a fire scene, buttressing his claim that job-related stress contributed to the cause of his stroke. According to petitioner, neither the Neurology Board nor the Cardiology Board ever raised the hypertension issue during their reviews of petitioner's application, and therefore, respondents' determination denying his ADR application was not based on credible evidence, as required. Thus, argues petitioner, the mere existence of a preexisting condition, or the absence of hypertension cannot negate an emergency responder's entitlement to benefits under a presumptive statute, and the respondents' mere invocation of a preexisting condition will not satisfy their burden of proof under the existing jurisprudence (NYSCEF Doc. No. 17, *memo of law*). In support of the application, petitioner furnishes a copy of the BOT minutes in addition to a copy of the Medical Board decisions and documentation reviewed by both Medical Boards (NYSCEF Doc. Nos. 3-26).

In opposition, respondents assert that the purpose of the Heart/Stroke Bill is not to automatically grant accident disability benefits to all firefighters and police officers who develop a disabling heart or stroke condition, but only to those whose heart or stroke condition was caused by stress or other occupational strains. As such, respondents contend that the Heart/Stroke Bill's presumption is rebutted where, as here, there is competent evidence that the disabling condition is not stress related. Respondents assert that the presumption is rebutted by evidence establishing the absence of any condition that would suggest that petitioner's stroke was job-related or caused by stress. They posit that petitioner's underlying congenital condition supports the BOT determination denying the ADR benefits application. According to respondents, the proof describing petitioner's heart condition and its history, including numerous physicians' reports, reports of scans and tests, and hospital records constitute credible evidence that petitioner's disabling stroke condition was not caused by occupational stress. Respondents articulate that while the cause of petitioner's stroke was unknown, the Medical Boards noted that petitioner suffered from PFO, rebutting the statutory presumption in light of the lack of evidence that the stroke was caused by occupational stress. Respondents further posit that petitioner's PFO increased the risk of stroke because it allowed clots to travel to the brain. They rely on the absence of evidence of hypertension in petitioner's medical files to contend that petitioner's stroke was not caused by "gradual and progressive degeneration as a result of the continuous stress and strain of the job" but instead was caused by the PFO.

Next, respondents dispute petitioner's claim that the Cardiology Board was tasked with reviewing the application as it pertains to only the heart-disease-related provisions of GML § 207-k, contending that since the heart provisions and the stroke provisions of GML § 207-k are the same, the Cardiology Board was well equipped to make findings about petitioner's heart. Respondents urge the court to remand the matter to the BOT should the court find that denial of petitioner's ADR application is unwarranted.

In reply, petitioner asserts that respondents' arguments in opposition are based on selective application of the record submitted. According to petitioner, since the Heart/Stroke Bill provides for "any condition of impairment of health caused by diseases of the heart, or by a stroke, resulting in total or partial disability or death," respondents' failure to accept the Neurology Board's recommendation demonstrates that their determination was arbitrary and capricious, as it was not based on credible evidence. This is especially true where, as here, the BOT relies on their own opinion in contravention of the Medical Board's expertise, claims petitioner (NYSCEF Doc. No. 30, *reply*).

"In an article 78 proceeding challenging the disability determination, the Medical Board's finding will be sustained unless it lacks rational basis, or is arbitrary or capricious" (*Borenstein v New York City Emples. Ret. Sys.*, 88 NY2d 756, 760 [1996]). The Medical Board's determination must be supported by substantial evidence, which must be credible, relevant evidence reasonably adequate to support a fact or conclusion (see *Cusick v Kerik*, 305 AD2d 247, 248 [1st Dept 2003]). The courts may not "substitute [their] own judgment for that of the Medical Board" (*Matter of Seiferheld v Kelly*, 70 AD3d 460, 462 [1st 2010]).

"The Heart Bill provides essentially that any impairment of health caused by diseases of the heart, resulting in total or partial disability or death of any fireman or policeman who successfully passed a physical examination upon entry into the service shall be presumptive evidence that it was incurred in the performance of duty unless the contrary be proved by competent evidence" (*Goldman v McGuire*, 101 AD2d 768, 769 [1st Dept 1984]). The statutory presumption set forth under the Heart Bill is sufficiently rebutted if the cause of the disabling condition is unknown (see *Titza v Kelly*, 138 AD3d 498, 498[1st Dept 2016]).

Here, the application is denied. Petitioner has not shown that respondents acted arbitrarily or capriciously or that the denial of ADR benefits application lacked rational basis. Contrary to petitioner's contentions, the Neurology Medical Board found that the source of the stroke is unknown, and the First Department has consistently held that "[a] finding of unknown origin itself rebuts the statutory presumption that the disabling condition was incurred in the line of duty" (see *In re Hogg v Kelly*, 93 AD3d 507, 508 [1st Dept 2012]; *Matter of Titza*, 138 AD3d at 498.) Accordingly, the Medical Board rebutted the statutory presumption set forth in General Municipal Law § 207-k that petitioner's stroke was incurred in the line of duty especially where, as here, there is a lack of evidence of hypertension or occupational stress (see *Matter of O'Connor v Bratton*, 173 AD3d 416, 417 [1st Dept 2019]; *Matter of DeMonico v Kelly*, 49 AD3d 265, 266 [1st Dept 2009]). The fact that the stroke occurred while petitioner was engaged in firefighting duties, standing alone, is insufficient to warrant overturning the Board of Trustees' determination. Further, the Board of Trustees determination is entitled to deference where, as here, the Medical Board panels offered conflicting recommendations insofar as it has been held that "[i]t [is] the sole province of the Medical Board and the Board of Trustees, not the court, to resolve conflicts in the medical evidence" (see *Matter of Goodacre v Kelly*, 96 AD3d 625, 626 [1st Dept 2012]). All other arguments have been considered and are without merit. Accordingly, it is hereby

ORDERED that petitioner's application challenging the Board of Trustees determination is denied, and the action is dismissed; and it is further

ORDERED that, within twenty (20) days after this decision and order is uploaded to NYSCEF, counsel for respondents shall serve a copy of this decision and order, with notice of entry, upon petitioner.

This constitutes the decision and order of this court.

August 13, 2025


HON. VERNA L. SAUNDERS, JSC

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	