IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs March 1, 2023

TORRANCE TAYLOR v. BOARD OF ADMINISTRATION, CITY OF MEMPHIS RETIREMENT SYSTEM

Appeal from the Chancery Court for Shelby County
No. CH-20-0911-1 Gadson W. Perry, Chancellor

No. W2022-00896-COA-R3-CV

This appeal concerns a Memphis police officer's application for a line-of-duty disability pension. Torrance Taylor ("Taylor") filed a petition in the Chancery Court for Shelby County ("the Trial Court") seeking judicial review of a decision by the Administrative Law Judge ("the ALJ") for the Board of Administration of the City of Memphis Retirement System denying his application for a line-of-duty disability pension. In 2016, Taylor injured his left knee in the course of his duty while detaining a suspect. Afterwards, Taylor retired from the police force and was recommended for ordinary disability benefits. The ALJ ruled that, based on the opinions of physicians, Taylor's disability stemmed from a chronic condition in his left knee and not from his employment. Thus, the ALJ denied Taylor's application for a line-of-duty disability pension. The Trial Court upheld the ALJ's decision. Taylor appeals to this Court. He argues among other things that, but for his 2016 injury in the line of duty, he would not be disabled. The evidence reflects that Taylor worked without restriction before the injury in 2016, which ended his police career. We find that the ALJ's decision was unsupported by substantial and material evidence. We further find that the ALJ's decision was arbitrary and capricious. Taylor is entitled to a line-of-duty disability pension. We reverse the judgment of the Trial Court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Reversed; Case Remanded

D. MICHAEL SWINEY, C.J., delivered the opinion of the court, in which CARMA DENNIS MCGEE, J., joined. JEFFREY USMAN, J., filed a separate dissenting opinion.

Timothy Taylor and Tess Shelton, Memphis, Tennessee, for the appellant, Torrance Taylor.

Jennifer Sink, Chief Legal Officer/City Attorney, and Barbaralette G. Davis, Senior Assistant City Attorney, Memphis, Tennessee, for the appellee, the City of Memphis.

OPINION

Background

Taylor served as a Memphis police officer for approximately twenty years. Over the years, Taylor dealt with several injuries. In 2003, he underwent surgery on his right knee for repair of the medial and lateral anterior cruciate ligament ("ACL"). Taylor testified before the ALJ that this 2003 injury was job-related. In 2006, Taylor was injured in an off-duty motorcycle accident in which he tore his posterior cruciate ligament, or PCL, in his left knee. In 2012, Taylor was involved in a car accident that resulted in, as pertinent, an injury to his left knee. As found by the ALJ, Taylor's left ACL was torn by 2012. Taylor testified that he was on duty at the time of the 2012 accident.[1] The evidence is uncontested that Taylor's 2012 injury was on-duty. Finally, on July 23, 2016, Taylor injured his left knee yet again, this time while detaining a suspect. Taylor's left ACL was torn. The timing of the tear in Taylor's left ACL is a key point of dispute in this case. A document from 2006 states that Taylor's left knee ACL was "unremarkable" at that time.[2] Dr. Harold Knight ("Knight") was Taylor's treating physician following the 2016 injury. It was Knight's view that Taylor was not permanently and totally disabled from his job. Knight also opined that Taylor's employment with Memphis was not the primary cause of Taylor's diagnosis.

Following treatment for his 2016 injury, Taylor reached maximum medical improvement. He was released on permanent physical restrictions that left him unable to continue working as a police officer. In October 2016, Taylor filed an application for a line-of-duty disability pension, which Memphis denied. He was recommended for ordinary disability benefits. Taylor appealed to the ALJ.

Physicians Dr. Michael Hood ("Hood") and Dr. Jeffrey Dlabach ("Dlabach") performed independent medical examinations of Taylor. Contrary to Knight's view, it was the view of both Hood and Dlabach that Taylor was permanently and totally disabled from working as a police officer. However, both physicians opined that his disability was not job-related. In his opinion letter, Hood stated in part:

[1] Memphis notes that, apart from a reference to the 2003 incident having occurred, the record contains no medical records specifically addressing either the 2003 or the 2012 incidents.

[2] Another document from 2006 observed that "[t]he anterior cruciate ligament appears intact although there is of course extensive edema in the intercondylar notch."

> Having reviewed all the previously mentioned records and examining Mr. Taylor and his history, it is my opinion that with regards to his left knee the patient is disable[d] from performing his duties as a police officer safely; however, given that previous MRI findings from 2012 as well as 2006 demonstrated anterior cruciate ligament injuries as well as medial meniscus tears, I cannot relate this disability to his on-the-job injury sustained on July 23, 2016. However, certainly the on-the-job injury dated July 23, 2016 could have aggravated a chronic condition leading to complaints of instability and, therefore, contribute to his inability to return to previous level of work.

Hood also was deposed in this matter. At one point in his testimony, Hood was asked whether Taylor's previous knee injuries had kept him from working. Hood stated, in part:

> Q. Okay. Now, pardon me if I sound redundant, but I just want to summarize so I know it's all one place.
>
> So the under -- prior to the date of the injury, the underlying conditions, the ACL tear and the medial meniscus -- excuse me -- the ACL injury and the medial meniscus tear, they did not prevent him from working?
>
> A. Correct.
>
> Q. Okay. The increased symptoms of these underlying conditions did prevent him from working once the injury occurred?
>
> A. Yes, subjectively.
>
> Q. Yes. And then the [on-the-job injury] was the primary cause of those increased symptoms?
>
> A. Yes.

The record contains an opinion letter by Dlabach, as well. In Dlabach's opinion letter, he stated in part:

> It is in my opinion that Mr. Taylor is disabled from performing his duties as a police officer. I do not relate this disability to the work injury on 07/23/2016. There are medical records from Dr. Harriman pertaining to a motor-vehicle accident in 2012, at which time the MRI was consistent with a left ACL tear and left medial meniscus tear. Going further back, there was another left knee injury related to a motorcycle accident under the care of Dr. George Wood which MRI is consistent with a medial meniscus tear, abnormality of the ACL and questionable abnormality of the PCL. It is in my opinion that the ACL tear and medial meniscus tear of the left knee is chronic as documented by MRIs prior to the date of work-related injury. The

primary cause of his left chronic ACL deficient knee and chronic medial meniscus tear is not related to his employment and injury of 07/23/2016.

Dlabach also was deposed. In his deposition, Dlabach was asked about Taylor's medical history and the cause of his knee instability. Dlabach testified, in part:

> Q. In arriving at these opinions, please describe for the record what information and/or records you considered.
> A. I had records that were provided for the review regarding Mr. Taylor's left knee dating back as far as 2006. They included MRI in 2006 of that knee and MRI in 2012 of that knee, office records from Dr. Harriman around 2012, and records from Dr. Woods as far as back as 2006. I also had records regarding the care of Dr. Harold Knight for Mr. Taylor since the episode of July 2016.
> Q. Would you please indicate the significance of the injury sustained by Mr. Taylor in the motorcycle accident in 2006, vis-a-vis, his current medical pathology and/or diagnosis as it relates to the injury he sustained 7/3/2016.
> A. The injury as detailed by the MRI of October 20, 2006 reveal an injury to the ACL as well as the medial meniscus tear. Those were acute findings with edema or fluid around those structures at the time of the MRI that tells us that was an acute injury related somewhere around the time of that MRI.
>
> The MRI of 2016 did not show any edema around those structures telling us that that was a chronic injury. There was no bone contusion, which you would see with an acute injury around that time. And again, the medial meniscus was torn and the ACL was torn. Those are structures that don't heal. Once it's torn it's torn. It can't heal and then retear. The ACL has to be reconstructed.
>
> There are a small percentage of meniscus tears that you can repair surgically that may heal, but in my opinion the MRI of 2016 showed injuries that had been present since the 2006 MRI.
> Q. Similarly, please indicate the significance of the injury sustained by Mr. Taylor in the motor vehicle accident in 2012, vis-à-vis his current medical pathology and/or diagnosis as it relates to the injury sustained 7/23/2016.
> A. Very similar to the MRI of April 13, 2012, revealed an ACL tear and a medial meniscus tear and those were chronic at that time as well.
> Q. So that I can understand what you're saying, the injury in 2016 -- excuse me -- 2006 was a chronic injury and any subsequent injuries would not -- strike that.
>
> So once that injury occurred in 2006, it was there?
> A. Correct.

Q. In layman's terms. It wasn't going away?
A. Wasn't going away.
Q. Within a reasonable degree of medical certainty would you state for the record whether the primary cause of Mr. Taylor's left chronic ACL deficient knee and chronic medial meniscus tear is related to his employment and the injury on 7/23/16?
A. In my opinion it is not related to the injury of 7/23/2016.
Q. Would that be because of your explanation that the injury in 2006 was a chronic injury and was not going away?
A. It was preexisting.

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Q. Did you see anything in the records indicating that he had any knee instability prior to the OJI date of July 23, 2016?
A. Not in the records other than those two documented events: 2006, 2012.
Q. Could you tell by looking at those documents whether or not Officer Taylor actually had any knee instability at the time either in 2006 or 2012?
A. I believe it was documented in those physicians' exams.
Q. That he had some instability?
A. Yes.
Q. But still the instability was not such that it prevented him from doing his job at full duty?
A. I assume not.
Q. Can you say whether or not -- strike that.

If the incident on July 23, 2016, had not occurred, would you have been able to give any opinion as to when the instability would have reached the point that prevented Officer Taylor from performing his job?
A. No. That would be the crystal ball question, but it would eventually have happened.
Q. It would have eventually happened?
A. Yeah.
Q. But there's no way to tell when?
A. Correct.
Q. He could have gone on for another ten years?
A. Possible. Unlikely, but possible.
Q. But after the OJI he certainly had the instability. Correct?
A. Correct.

Q. And once again, as far as you can tell from the records you reviewed, the underlying conditions themselves, the ACL tear and the medial meniscus tear, they did not prevent him from working at any time?
A. Not that I saw.
Q. Prior to the injury of July 23, 2016?
A. Correct.
Q. If the OJI had not occurred on 7/23/2016, is there any objective medical evidence that those underlying conditions would have kept him from continuing to work at that time?
A. At that time? Not that I can think of?
Q. I think you said, they may have eventually rendered him unable to work, but as far as when that would have happened --
A. Who knows.
Q. -- you couldn't tell.

In August 2019, the ALJ conducted a hearing on Taylor's appeal. In June 2020, the ALJ entered its findings of fact and conclusions of law in which it upheld the pension administration's decision to deny Taylor a line-of-duty disability pension. The ALJ stated, in part:

> 1[.] Line of Duty Disability pursuant to the City of Memphis Code of Ordinances is defined as follows
>
> > *Line of Duty Disability*. A physical or mental condition arising as the direct and proximate result of an accident sustained by a participant, after he became a participant and while in the actual performance of duties for the city at some definite time and place without willful negligence on his part which totally and permanently prevents him from engaging in the duties for which he was employed by the city[.] The determination of the line-of-duty disability of a participant shall be made on medical evidence by at least two (2) qualified physicians.
>
> City of Memphis Code of Ordinances, Section 25(1) (27).
>
> 2[.] The City of Memphis Code of Ordinances defines Qualified Physicians as follows.
>
> > *Qualified physician*[.] For purposes of administering this chapter a person who is licensed to practice medicine by the State of Tennessee and designated and reasonably compensated in the sole discretion of the board to make a medical determination of line-of-duty or ordinary disability or other physical or mental condition, provided, such person shall

> not be an interested party to the outcome of such determination, shall not be a participant and shall not have served the city or county in any elected, appointed or salaried position within five (5) years of the date he is asked to make any such medical determination[.]
>
> City of Memphis Code of Ordinances, Section 25(1) (36)[.]
>
> 3. The Court finds based on the evidence adduced during the hearing and on the record that Petitioner sustained an injury to his left knee during the course and scope of his employment as a City of Memphis police officer on July 23, 2016[.]
>
> 4. According to the two qualified physician's opinions, Dr[.] [Hood] and Dr. Dlabach, Petitioner is totally and permanently disabled and unable to perform his employment as a Memphis Police Officer. However, both physicians further opine that the disability is not based on Petitioner's employment with the City of Memphis.
>
> 5. Both qualified physicians agree and the Court finds that Petitioner's disability, the ACL tear and medial meniscus tear of the left knee, is chronic as documented by MRIs prior to the date of work-related injury.
>
> 6[.] The Court finds that Petitioner's disability did not result from his job as a City of Memphis Police Officer as defined by City of Memphis Code of Ordinances, as a direct and proximate result of his July 23, 2016 work-related injuries while in the actual performance of his duties, without willful negligence on his part, and while a participant in the City of Memphis Pension Plan[.]
>
> 7[.] Therefore, Petitioner's disability is not work-related and his application for Line of Duty Disability benefits pursuant to the City of Memphis Pension Ordinance should be denied[.]
>
> 8[.] The decision of the City of Memphis Pension Administration denying Line of Duty disability benefits to Petitioner is upheld[.]

In July 2020, Taylor filed a petition in the Trial Court seeking judicial review of the ALJ's decision pursuant to Tenn. Code Ann. §§ 4-5-322 and 27-9-114. In May 2022, the Trial Court heard Taylor's petition. In June 2022, the Trial Court entered its final order in which it affirmed the ALJ's decision. The Trial Court attached its oral ruling to its final order. In its oral ruling, the Trial Court explained its reasoning as follows:

> All right. I, as a matter of common sense, as a nonmedical professional, side completely with Mr. Taylor. I will tell you that right now. When I read these papers, as a nonmedical -- as a nonmedical person -- and

perhaps were I reviewing this evidence in the first instance, I would side with him.

But I think the standard at issue here is, is there substantial and material evidence in the record to go the other way? I think there is. I don't like some of it, right? I don't like Dr. Knight's opinion. I don't like it, but I'm not a medical professional, and I don't think, in this posture, I can re-weigh it.

I think weighed against the testimony from Dr. Dlabach and Dr. Hood, both of whom raise -- the testimony of whom raises some question as to causation -- and I'll highlight specifically Dr. Dlabach's testimony -- that the instability that Mr. Taylor's currently experiencing in his left knee could eventually have happened anyway -- which, again, I -- it could've happened anyway, right? And so perhaps the instability doesn't happen on July 23, 2016, but maybe it happened on July 23, 2017, or 2018 or 2019, all of which would've been before Mr. Taylor was eligible for the full retirement.

And even if I would weigh that evidence differently in the first instance, I think I'm constrained here by the statute to say, is there substantial and material evidence going the other way? I think there is. And I -- given that there is substantial and material evidence going the other way, I cannot find that there is clear error in deciding it that way, even, again, if I -- were I reviewing this information in the first instance -- even if I would decide it differently.

And so I think the petition has to be rejected, no matter how I might feel about it personally or how I might have decided it in the first instance, because I don't think either of those things is the appropriate standard of review.

Taylor timely appealed to this Court.

Discussion

Although not stated exactly as such, Taylor raises the following issue on appeal: whether the Trial Court erred in upholding the ALJ's denial of Taylor's application for a line-of-duty disability pension.

We review the ALJ's decision under the Uniform Administrative Procedures Act. Tenn. Code Ann. § 4-5-101, *et seq.*; *see Marino v. Bd. of Admin. City of Memphis Ret. Sys.*, No. W2015-00283-COA-R9-CV, 2015 WL 7169796, at *4-5 (Tenn. Ct. App. Nov. 16, 2015), *no appl. perm. appeal filed*. Tenn. Code Ann. § 4-5-322 provided:

> (h) The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
> (1) In violation of constitutional or statutory provisions;
> (2) In excess of the statutory authority of the agency;
> (3) Made upon unlawful procedure;
> (4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
> (5)(A) Unsupported by evidence that is both substantial and material in the light of the entire record.
> (B) In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.

Tenn. Code Ann. § 4-5-322(h).[3]

The term "substantial and material evidence" has been defined as "'such relevant evidence as a reasonable mind might accept to support a rational conclusion and such as to furnish a reasonably sound basis for the action under consideration.'" *Papachristou v. Univ. of Tennessee*, 29 S.W.3d 487, 490 (Tenn. Ct. App. 2000) (quoting *Clay Co. Manor, Inc. v. State*, 849 S.W.2d 755, 759 (Tenn. 1993)). This Court has also described it as requiring "'something less than a preponderance of the evidence ... but more than a scintilla or glimmer.'" *Gluck v. Civil Serv. Comm'n*, 15 S.W.3d 486, 490 (Tenn. Ct. App. 1999) (quoting *Wayne Co. v. State Solid Waste Disposal Control Bd.*, 756 S.W.2d 274, 280 (Tenn. Ct. App. 1988)). Judicial review of an administrative agency's decision under the "substantial and material evidence" standard, however, subjects the agency's decision to close scrutiny. *Sanifill of Tennessee, Inc. v. State Solid Waste Disposal Control Bd.*, 907 S.W.2d 807, 810 (Tenn. 1995).

When reviewing a trial court's review of an administrative agency's decision, this Court essentially is to determine "whether or not the trial court properly applied the ... standard of review" found at Tenn. Code Ann. § 4-5-322(h). *Papachristou*, 29 S.W.3d at

[3] The General Assembly amended Tenn. Code Ann. § 4-5-322(h)(5), with the amendment applicable "to disciplinary actions taken or information first received on or after the effective date of" May 18, 2021. Tenn. Pub. Acts, Ch. 461, § 6. This followed the conclusion of the administrative proceedings below and the filing of Taylor's petition in the Trial Court. Neither party contends that the amended version of the statute applies or that it would affect the outcome if it did. We apply Tenn. Code Ann. § 4-5-322(h) as it read prior to the effective date of the 2021 amendment.

490 (citations omitted). This Court addressed its judicial review of evidence contained in the administrative record as follows: "While this Court may consider evidence in the record that detracts from its weight, [this] [C]ourt is not allowed to substitute its judgment for that of the agency concerning the weight of the evidence...." *Gluck*, 15 S.W.3d at 490 (citations omitted); *see also McClellan v. Bd. of Regents of State Univ.*, 921 S.W.2d 684, 693 (Tenn. 1996) (holding that this Court "is not at liberty to reevaluate the evidence or substitute our judgment for that of the factfinder") (citation omitted). In short, the applicable standard is quite limited. However, courts reviewing administrative decisions are not utterly passive in their deference. Our Supreme Court has discussed:

> *In Jackson Mobilphone Co. v. Tenn. Pub. Serv. Comm'n*, 876 S.W.2d 106 (Tenn. Ct. App. 1993), the Court of Appeals confirmed the limited nature of review under the Uniform Administrative Procedures Act. That court observed that only those agency decisions not supported by substantial and material evidence qualified as arbitrary and capricious but determined that even those decisions with adequate evidentiary support might still be arbitrary and capricious if caused by a clear error in judgment. *Id*. at 110. Our Court of Appeals warned against a mechanical application of the standard of review under subsections (4) or (5):
>
> > In its broadest sense, the standard requires the court to determine whether the administrative agency has made a clear error in judgment. An arbitrary [or capricious] decision is one that is not based on any course of reasoning or exercise of judgment, or one that disregards the facts or circumstances of the case without some basis that would lead a reasonable person to reach the same conclusion.
> >
> > Likewise, a reviewing court should not apply Tenn. Code Ann. § 4-[5]-322(h)(5)'s "substantial and material evidence" test mechanically. Instead, the court should review the record carefully to determine whether the administrative agency's decision is supported by "such relevant evidence as a rational mind might accept to support a rational conclusion." ... The evidence will be sufficient if it furnishes a reasonably sound factual basis for the decision being reviewed.
>
> *Id*. at 110-111 (citations omitted).

> By virtue of these guidelines, our review is confined to whether the decision of the Commission qualifies as either arbitrary or capricious or, in the alternative, has insufficient support in the evidence. While the Chancellor, in this instance, appropriately recognized the principle that an administrative decision should not be disturbed when there is substantial or material evidence to support one of two results, it is our conclusion that even under a limited scope of review, these facts warrant a result contrary to that of the Commission. *See Martin v. Sizemore*, 78 S.W.3d 249, 276 (Tenn. Ct. App. 2001) (stating that rejection of an administrative agency's factual findings is appropriate "if a reasonable person would necessarily draw a different conclusion from the record").

City of Memphis v. Civ. Serv. Comm'n, 216 S.W.3d 311, 316-17 (Tenn. 2007). In addition, regarding a board's responsibility to ultimately make the decision on whether to award a pension based upon the medical evidence before it, this Court has stated:

> As to petitioner's contention that the last sentence of section 25-1(27) dictates that both the diagnosis and the award of a line-of-duty disability should be left solely to the discretion of the two examining physicians, we find this contention to be without merit. It is the responsibility of the board to make the decision whether to award a pension based upon the medical evidence presented.

Splain v. City of Memphis, No. 02A01-9511-CH-00259, 1996 WL 383297, at *3 (Tenn. Ct. App. July 10, 1996), *no appl. perm. appeal filed*.

Taylor makes several arguments in support of his contention that the Trial Court erred in upholding the ALJ's decision to deny him a line-of-duty disability pension, to wit: that it was only after his 2016 injury that he no longer could work as a police officer; that his previous injuries did not in and of themselves render him disabled; that a tear in the ACL of his left knee is the underlying basis of his disability but the evidence shows that the earliest such tear stemmed from his 2012 on-duty injury, not his 2006 off-duty injury; and that the only rational conclusion is that his 2016 injury caused his disability. Taylor asserts that the ALJ's decision was unsupported by substantial and material evidence and was arbitrary and capricious. For its part, Memphis states that the physicians' opinions constitute substantial and material evidence sufficient to uphold the ALJ's decision. Memphis also observes that, under the applicable standard, courts may not substitute their judgment for that of the ALJ.

To review, the ALJ found as relevant: that "[Taylor] sustained an injury to his left knee during the course and scope of his employment as a City of Memphis police officer on July 23, 2016[.]"; that "[a]ccording to the two qualified physician's opinions, Dr[.] [Hood] and Dr. Dlabach, [Taylor] is totally and permanently disabled and unable to perform his employment as a Memphis Police Officer."; that "[b]oth qualified physicians agree and the Court finds that [Taylor's] disability, the ACL tear and medial meniscus tear of the left knee, is chronic as documented by MRIs prior to the date of work-related injury."; that "[Taylor's] disability did not result from his job as a City of Memphis Police Officer as defined by City of Memphis Code of Ordinances, as a direct and proximate result of his July 23, 2016 work-related injuries while in the actual performance of his duties…."; and that "[Taylor's] disability is not work-related and his application for Line of Duty Disability benefits pursuant to the City of Memphis Pension Ordinance should be denied[.]".

As pointed out by Taylor, there is a contradiction in the evidence concerning when he first tore the ACL in his left knee, the timing of which was a major pillar of the physicians' opinions and the ALJ's ultimate decision. A medical document from 2006, when Taylor was injured in an off-duty motorcycle accident, reflects that Taylor's left knee ACL was "unremarkable." A torn ACL would warrant more of an observation than "unremarkable." The ALJ specifically found that Taylor's 2006 injuries consisted of "fractures of C6 through 7 transverse process fractures, Sternal fracture, right 2nd rib fracture, left 1-7 rib fracture…, left pneumothorax/hemothorax, grade III splenic laceration and *a posterior cruciate injury to the left knee*[.]". (Emphasis in original). Despite the medical documentary evidence showing no sign of an ACL tear in his left knee before 2012 when Taylor testified that he was injured in an on-the-job accident, Hood and Dlabach concluded that Taylor tore his left ACL sometime before 2012. It is not entirely clear in each instance whether the physicians' opinions as to the origin of Taylor's left ACL tear were based upon their review of written MRI reports or from their independent examination of MRI images. Dlabach testified, for instance, that "[t]he injury as detailed by the MRI of October 20, 2006 reveal an injury to the ACL as well as the medial meniscus tear." In any event, the MRI images themselves are not in the record. Meanwhile, the medical documentary evidence in the record shows that Taylor's left knee ACL was "unremarkable" in 2006, seemingly contradicting Hood's and Dlabach's statements. This contradiction is significant because the ALJ characterized Taylor's disability as "the ACL tear and medial meniscus tear of the left knee, is chronic as documented by MRIs <u>prior to the date of work-related injury</u>." (Emphasis added). We are unable to determine from their testimony whether the physicians simply made a mistake in their timeline of the medical history or whether they independently concluded, despite the medical documents, that Taylor tore his left ACL in 2006. The medical documentary evidence does not support the latter and tends to fairly detract from the weight of the physicians' accounts. Additionally,

the ALJ ignored that the 2012 injury occurred on the job. The physicians also ignored or never were informed that the 2012 injury was on the job. To the extent that the 2012 injury contributed to Taylor's disability, then it too must be regarded as in the line of duty, further undercutting the ALJ's decision. In view of these inherent contradictions concerning when Taylor first tore his left ACL, we find that the ALJ's decision lacks substantial and material evidence in the light of the entire record. In so finding, we do not substitute our judgment for that of the ALJ. However, the relevant evidence upon which the ALJ based its decision was less than a scintilla or glimmer.

Taylor argues further that the ALJ's decision was arbitrary and capricious. We agree. Even if we err and the ALJ's decision had sufficient evidentiary support, the fact remains that Taylor was working normally until he was injured while detaining a suspect in 2016. After his 2016 injury, Taylor was recommended for an ordinary disability pension and had to retire. In other words, there was a distinct before and after. Hood testified that Taylor's 2016 injury had the effect of aggravating damage already done to his left knee. Even still, whether couched as 'aggravating' or a totally new injury, Taylor's 2016 injury was the seminal turning point beyond which he no longer could work as a police officer. It was a sharp dividing line. Before the 2016 injury, he was working normally. Even if Taylor tore his left ACL in 2006, he still worked as a police officer for another decade. In his deposition testimony, Dlabach stated that he could not say exactly when Taylor's knee instability would have reached a point where he no longer could do his job. Asked if it might have been another ten years, Dlabach said that this was possible but unlikely. We need not rely on hypotheticals. Regardless of whether Taylor eventually would have had to retire because of instability in his left knee at some indeterminate future point, he indisputably injured his knee in 2016, and that injury abruptly marked the end of his police career. The direct and proximate causal relationship of the 2016 injury to Taylor's retirement is clear. Taylor went from working normally as a police officer without any medical restrictions to being disabled and having to retire. The plainly identifiable turning point was his 2016 on-the-job injury. A reasonable person could reach no other conclusion based on this evidence. Accepting Memphis' argument would mean accepting that Taylor was working normally as a police officer as he had for years, injured his left knee in 2016, and then coincidentally had to retire due to instability in his left knee right after the injury. That defies common sense. Under Tenn. Code Ann. § 4-5-322(h), the standard of review is very narrow, but it does not totally insulate the ALJ's decision. Respectfully, the ALJ's conclusion that Taylor's disability was not the result of his employment as a police officer was a clear error of judgment. We find that the ALJ's decision was arbitrary and capricious.

In summary, Taylor injured his left knee in 2016 while detaining a suspect in the actual performance of his duty. The incident took place at a definite time and place. No

willful negligence on Taylor's part is alleged. There is no dispute that Taylor was a participant in the Memphis pension plan. After this 2016 incident, Taylor was permanently and totally disabled from resuming his work as a police officer. The only reasonable conclusion in light of the entire record is that Taylor's 2016 injury in the line of duty rendered him disabled. Taylor's 2016 injury was the direct and proximate cause of his career-ending disability regardless of his previous injuries, none of which left him disabled and permanently unable to return to work as the 2016 injury did. Taylor has met all of the criteria entitling him to a line-of-duty disability pension. The ALJ's determination that Taylor's disability did not result from his employment as a Memphis police officer, and that consequently he was not entitled to a line-of-duty disability pension, is unsupported by substantial and material evidence in the light of the entire record. In addition, or alternatively, the ALJ's decision was arbitrary and capricious, and based on a clear error of judgment. Taylor is entitled to a line-of-duty disability pension. We reverse the judgment of the Trial Court.

Conclusion

The judgment of the Trial Court is reversed, and this cause is remanded to the Trial Court for collection of the costs below. The costs on appeal are assessed against the Appellee, the City of Memphis.

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D. MICHAEL SWINEY, CHIEF JUDGE