

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 110626-U

Filed 8/14/12

NO. 4-11-0626

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

ALAN JONES,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
SPRINGFIELD POLICE PENSION BOARD OF)	No. 09MR112
TRUSTEES, TOM SELINGER, SCOTT KINCAID,)	
RICHARD DHUBALT, JOSEPH PISAREK, DONALD)	
KLIMET, and the CITY OF SPRINGFIELD, a)	Honorable
Municipality,)	John Schmidt,
Defendants-Appellees.)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Turner and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held:* In denying plaintiff's application for a line-of-duty disability pension, the Springfield Police Pension Board of Trustees did not make a decision that was against the manifest weight of the evidence.

¶ 2 Plaintiff, Alan Jones, formerly a Springfield police officer, applied to the Springfield Police Pension Board of Trustees (board) for a line-of-duty disability pension. See 40 ILCS 5/3-114.1(a) (West 2008). After hearing evidence, the board denied his application, granting him only a non-duty disability pension. See 40 ILCS 5/3-114.2 (West 2008). He filed a complaint in circuit court, requesting the court to reverse the board's decision. See 735 ILCS 5/3-111(a)(5) (West 2008). The court declined to do so. He appeals.

¶ 3 We are unconvinced that it *clearly* follows, from the evidence in the record, that plaintiff became disabled as a result of performing an act of duty as a police officer. See *City of*

Belvidere v. Illinois State Labor Relations Board, 181 Ill. 2d 191, 204 (1998). Therefore, we disagree with plaintiff's contention that the board's decision is against the manifest weight of the evidence, and we affirm the circuit court's judgment.

¶ 4

I. BACKGROUND

¶ 5

A. The Fall and Medical Treatment Immediately Thereafter (July 1999)

¶ 6

On July 24, 1999, in the course of his duties as a Springfield police officer, plaintiff went to a residence to serve an arrest warrant. The suspect fled on foot, and plaintiff ran after him. In the chase, plaintiff tripped over a sagging fence, which he could not see in the darkness of night, and he fell to the ground.

¶ 7

He received medical treatment in a hospital for this fall, and on either July 25 or 26, 1999, while in the hospital, he filled out and signed a workers' compensation form entitled "Employers First Report of Injury or Illness." In the form, he described his injuries as soreness in the right hand and arm; punctures of three fingers; and bruising of the left leg, right side of the groin, and abdomen. He wrote that he sustained these injuries by becoming entangled in a fence and falling onto objects on the ground.

¶ 8

In the evidentiary hearing before the board (on September 16, 2008), counsel for the City of Springfield asked plaintiff:

"Q. It does not appear on this report [(i.e., the workers' compensation form)] when it's talking about the part of the body affected or the nature of the injury that you stated you had any neck pain. Is that correct?

A. No.

Q. Why is that?

A. Everything was beat up at that point. They were looking at my shoulder, my right shoulder because I was having pain down the shoulder and into the arm. So they looked at that and I had torn the groin and I felt like it was burning so that was something I paid a lot of attention to."

¶ 9 Three days after the fall, on July 27, 1999, someone filled out an "HCNA Multi-System Examination Form" pertaining to plaintiff. ("HCNA" presumably stands for "HealthCare Network Associates.") The handwriting on the form is nearly illegible, but it appears to say, among other things, "back and neck sore."

¶ 10 B. Treatment By Dr. Leo Ludwig and a
Physical Therapist (August Through November 1999)

¶ 11 On August 20, 1999, plaintiff saw Dr. Leo Ludwig, who prescribed physical therapy. A physical therapist, Janna Seiz, wrote a "Physical Therapy Initial Evaluation." Under the heading "Subjective," she summarized what plaintiff had told her. Plaintiff told her that before injuring himself in the fall, he had been "running on a consistent basis" and had "considered himself to be in good shape." He "denied any other medical problems"; he stated he was "in generally good health." After the fall, however, he began having pain in his knees, ankles, hamstrings, and low back. As Seiz wrote:

"Now client reports that he has pain in both knees and ankles left side more than right and pain in left hamstrings. He notes that when going up and down stairs his left knee feels as if it is hyper-

extending. He notes that since his fall he has had some problems with pain and soreness in his low back but that he feels this is working out and that he will be able to handle that situation himself."

Thus, in this initial evaluation, plaintiff told Seiz he was having pain in his back, among other parts of his body—but Seiz's report did not mention any pain in plaintiff's neck.

¶ 12 Plaintiff underwent physical therapy three times a week, and on September 8, 1999, he went to Ludwig for a follow-up visit. The note of that visit mentions pain in both knees, sprains of both ankles, and a pulled muscle in the right groin but says nothing of any neck problem. According to the note, the ankle sprains and the pulled muscle in the groin had improved, but plaintiff still was having problems with his knees. Ludwig recommended magnetic resonance imaging (MRI) of both knees.

¶ 13 Plaintiff continued with physical therapy and improved. He returned to police work in early October 1999. According to Seiz's progress note for September 17, 1999, plaintiff had received the preliminary results of the MRI, and his knees had no meniscal tears. The MRI report itself says: "Minimal degenerative changes in the medial compartment of the knee. Chondromalacia patella most marked medially." Both knees were still painful and swollen, according to Seiz's progress notes for the period of September 17 to October 22, 1999. The notes for that period, however, do not appear to mention any problem with the spine, although the note for October 11, 1999, says: "Client notes that he occasionally catches his left toe when walking." Likewise, the note of Ludwig's follow-up examination on September 27, 1999, discusses only the knees, not the neck.

¶ 14 The next actual mention of any neck problem (since July 27, 1999) appears to be on October 25, 1999, when Seiz wrote: "Client notes that he is having some neck and back stiffness

and soreness with movement." Also, in his report of a follow-up examination on October 25, 1999, Ludwig wrote:

"He is having more pain at the base of his neck, and occasionally he wakes up with his arms on both sides feeling numb. On exam today, he does have a normal neurologic examination of his upper extremities, including reflexes, motor and sensory exams. There is good range of motion of the neck. I think overall that he just has soft tissue strain there and not significant as far as a ruptured disc."

Under the heading "Impression," Ludwig listed:

1. Left knee chondromalacia, patella, still symptomatic.
2. Cervical strain."

¶ 15 On November 22, 1999, plaintiff saw Ludwig again, and it seems that the numbness in his right arm and hand now were the main concern, eclipsing the pain and swelling of the knees.

Under the heading of "Interim History," Ludwig wrote:

"Alan was seen today in follow-up. He has a work related problem with his knee and a cervical strain. Back on 10-25-99, he did tell me that he was having pain at the base of his neck and some occasional numbness in both arms. His neurological exam at that point was normal and there was [*sic*] no deficits. Apparently, last Sunday, he woke up with his right arm completely numb. This was his entire right arm and hand. He ended up going to the ER. He went

there twice. He notes that the second time, they sent him to some therapy for some cervical traction. He is also taking Hydrocodone, muscle relaxants, and some Prednisone. He notes that he is feeling somewhat better but he is still having significant pain. He notes that he is still having numbness and tingling involving mostly the right arm and sometimes the left. He also points out an area on the dorsal radial aspect of his forearm where this is tender. This is from about the elbow and all of the way down into the dorsum of the hand."

Ludwig noted mild limitation of motion in the neck and some tenderness at the base of the neck as well as in the lower thoracic spine. His impression was that plaintiff had "a cervical strain." He decided, however, to order an MRI of the cervical spine and also "some upper extremity electrical studies to rule out a cervical radiculopathy and for peripheral nerve compressions." For the time being, he took plaintiff off work from his job as a police officer.

¶ 16 Dr. Claude J. Fortin performed the nerve conduction study and electromyogram on November 29, 1999. According to Fortin's report, "[t]he patient [was] a 39-year-old police officer who ha[d] had neck and right arm and hand pain and numbness since July of 1999 while falling during a chase." Fortin concluded that the electrophysiological findings were consistent with (1) a "right C6 radiculopathy, mild in degree"; and (2) a "bilateral median neuropathy at the wrists, electrophysiologically mild in nature and neuropathic in type." (From the top down, the vertebrae of the cervical section of the spine are numbered "C1" through "C6.") He noted that an "MRI scan of the cervical spine and thoracic spine dated 11/23/99 demonstrated a moderate to large sized central disc herniation at C5-6, flattening of the ventral cord, unrevealing on the thoracic spine."

Cervical traction had significantly lessened the discomfort in the right arm and the pain in the neck, and lumbar traction had lessened the "non-radiating low back pain."

¶ 17 C. Treatment By Dr. Timothy VanFleet (December 1999 Through June 2000)

¶ 18 Plaintiff met with Dr. Timothy VanFleet on December 15, 1999. After performing a physical examination and reviewing the MRI, VanFleet concluded that plaintiff was suffering from a strain of the neck and back as well as some cervical stenosis, a narrowing of the spinal canal, at C5-C6. VanFleet wrote:

"At this point his MR[I] appears to demonstrate some evidence of cervical stenosis. However, clinically he does not demonstrate any evidence of cervical stenosis. His reflexes do not appear to be hyperactive and he certainly does not demonstrate any evidence of myelopathy at this time. It is unclear as to whether his numbness may be as a result of the cervical stenosis. I am suggesting physical therapy today for his neck strain and back strain. I do feel that he would be able to return to some gainful form of light duty at this point."

¶ 19 On January 12, 2000, plaintiff returned to VanFleet's office for a follow-up examination. The physical therapy thus far had given him some, but not much, relief. VanFleet wrote:

"He has continued complaints of pain in the neck as well as numbness that radiates into the upper extremities bilaterally. He feels that the physical therapy gives him relief, primarily when he does traction on

the cervical spine. Otherwise, he continues to complain of pain without significant relief. He notes that the back strain symptoms have improved. He does continue to take Celebrix. He is doing light duty at work, which does strain him, significantly noting that at the end of the day he has pain that is severe, to the point where he needs to lie down. He has complaints of pain that radiates into the right shoulder as well as into the elbow area but no pain that radiates into the hands."

VanFleet's impression was "[n]eck strain with degenerative disc disease." His instructions were to "continue with the therapy as well [as] continue light duty."

¶ 20 On February 9, 2000, plaintiff returned to VanFleet for another follow-up examination. VanFleet wrote: "He indicates that physical therapy has helped his neck and back problem overall. He has complained of some mild numbness in the upper extremities bilaterally, but overall this is improving and he is not having any difficulty with this." VanFleet released plaintiff to full duty. He wrote:

"My suggestion today would be to return to work with no restrictions. He certainly may have some pain in his neck and back, but I do not feel that this will cause him difficulties. The numbness in his hands may be long-standing, but if this is something that is not preventing him from working, certainly we should return him to full duty with no restrictions."

¶ 21 After VanFleet released him to full duty, plaintiff continued with physical therapy.

According to VanFleet's note for April 5, 2000, plaintiff had returned to work, without any restrictions, and he "ha[d] been getting along." He still felt pain across the back of his neck as well as "intermittent paresthesias that radiate[d] into the arms bilaterally."

¶ 22 On May 2, 2000, VanFleet gave plaintiff's attorney, William J. Connor, a written opinion that all of plaintiff's present complaints to date were causally related to his fall on July 24, 1999. VanFleet wrote in his letter to Connor:

"Mr. Alan Jones has been under my care since December 15, 1999. He reports that his hardship began when he was chasing a suspect on July 24, 1999. Initially he had lower extremity pain but notes that he began to experience back and neck pain following the incident. He was initially under the treatment of Dr. Ludwig who referred him to me for his neck and back difficulties. After my evaluation and treatment, it was my estimation that the patient had a neck strain, back strain, as well as some preexisting cervical stenosis which was noted to have a C5-6 cervical disk prolapse. This was not causing any clinical signs in my estimation. After additional non-surgical management and continued conservative care, the patient was eventually returned to regular duty. My last visit on February 9, 2000 patient was released to work with no restrictions.

The injury and complaints all seem to be related to his initial injury of July 24, 1999. I did feel that his symptoms were consistent with a chronic strain of the cervical spine as well as the lumbar spine,

all of which seem to be directly related to his injury of July 24, 1999. Additionally, I do feel his arm complaints were exacerbated by the injury to the cervical spine which did also seem to aggravate his cervical disk disease."

¶ 23 On June 9, 2000, plaintiff returned to VanFleet for a follow-up visit. VanFleet wrote: "He continues to experience pain across the back of his neck, and across the cervicothoracic junction and into the interscapular area on a regular basis. He indicates that the pain is on a quite frequent basis and does cause interference with his activities. He continues to work as a police officer, but does note that this pain can be quite bothersome. He also complains of intermittent paresthesias into the hands bilaterally."

VanFleet's impression was "[c]ervical degenerative disc disease." He began raising the possibility of surgery.

¶ 24 VanFleet referred plaintiff to Dr. Terrence L. Pencek for a second opinion. On July 11, 2000, Pencek reviewed the MRI and performed a physical examination. The MRI showed "disc degeneration at C5-6 with mild to moderate central disc herniation." Under "Assessment," Pencek wrote: "This 39-year-old police officer may have had a brachial plexus stretch causing some of his symptoms of numbness and weakness. I do not see anything in the cervical spine that would require surgery. I do not believe the C5-6 disc degeneration is causing his pain, nor would I recommend surgical intervention for this." Instead, Pencek recommended "epidural steroid injections and continued increased physical activity."

¶ 25 D. A Seven-Year Intervening Period (July 2000 Through June 2007)

¶ 26 The administrative record contains medical documentation for the seven-year period from July 2000 through June 2007, but none of this documentation appears to discuss any spinal problem. Instead, it all appears to pertain to injuries of other parts of the body. According to a note by Dr. Karolyn Senica, plaintiff fell and broke his arm while chasing a suspect in November 2001. In November 2003, he went into a construction site, looking for someone, and fell through some construction materials, banging his left knee. In May 2005, his knees got hurt again when he tumbled backward over a chair while attempting to arrest someone who was resisting. In November 2005, when responding to a burglary, he slid in the mud, injuring his knee.

¶ 27 Also, plaintiff was in some traffic accidents. In the evidentiary hearing before the board, the board's attorney, James P. Moody, asked him:

"MR. MOODY: So you probably from 2000 to 2007 you were at work except for maybe some other injuries unrelated to the neck injury. Is that correct?

THE WITNESS: Right. I had two motor vehicle accidents that I had a sore neck and back so I missed approximately maybe a week out of each one of those.

MR. PISAREK [(board member)]: When was that approximately?

THE WITNESS: I don't remember the dates[,] Joe. I really don't.

MR. CONNOR: I believe it's in the records.

MR. SELINGER [(board member)]: Were those work related accidents?

THE WITNESS: Yes, sir."

¶ 28 E. Further Treatment By Dr. VanFleet,
Including Surgery (June Through August 2007)

¶ 29 On June 20, 2007, plaintiff returned to VanFleet, complaining that the pain in his neck and back had grown worse. VanFleet wrote:

"I had seen Mr. Jones initially back in 1999 following a work-related injury. Since that time he states he has continued to have difficulty with his upper and lower extremities, as well as with neck and back pain. He indicates that he is having quite a bit of difficulty with his upper extremities and describes numbness as well as pain. This is mostly on the right side, but he also has left-sided pain as well. He indicates that he has no difficulty with fine motor control of the upper extremities. He continues to complain of neck pain as well. He has been working on some exercises at home, but notes that over the last several months his pain has gotten worse. He indicates that he has decided that he would like to have something more definitive done at this point in time. He also describes similar complaints in his lower extremities with burning into his feet and toes. This seems to be more prevalent when he is on his feet and does seem to improve somewhat when he is resting. He is a police officer, is quite active,

and is not restricted from his job at this point in time. He does have a history of having had injections in the past. Dr. Stu Holm has done some cervical injections. He has not had any lumbar epidural steroid injections."

VanFleet's impression was that plaintiff suffered from cervical and lumbar disc disease and cervical stenosis. He ordered further MRIs of the neck and back.

¶ 30 The MRIs were performed on June 27, 2007, and the MRI of the neck showed "right-sided C5-6 and left-sided C6-7 disc osteophyte complexes," causing "considerable narrowing on both sides." The MRI of the lumbar spine showed "some mild degenerative disc changes but nothing substantial." VanFleet recommended "a C5-6 and C6-7 anterior cervical discectomy and fusion with allograft bone and anterior cervical plating using a Slim-Loc plate." After the risks of this surgical procedure were explained to him, plaintiff agreed with VanFleet's recommendation.

¶ 31 Because plaintiff had a history of coronary artery disease, with multiple stents and angioplasties, examinations and tests were performed to confirm that his heart could withstand the proposed surgery on his cervical spine. Apparently, he passed the tests.

¶ 32 VanFleet performed the discectomy and fusion on August 9, 2007, and according to the surgical report, plaintiff was transferred to the recovery room in stable condition. Shortly after the surgery, though, he suffered a heart attack. VanFleet believed the heart attack probably resulted from the discontinuation of an anticoagulant medication, Plavix, in preparation for the surgery, together with the increased cardiac stress that normally accompanies a surgical procedure. On January 11, 2008, VanFleet wrote:

"Mr. Alan Jones is a patient who, following an anterior

cervical discectomy and fusion, experienced a perioperative heart attack [(a heart attack that occurred around the time of the operation)]. He had to come off of his Plavix prior to his operation in order to safely proceed with the operative intervention. Most likely the perioperative event was related to his operative procedure, in so much that perhaps there was a relationship because of the Plavix. In addition, patient will undergo increased stress in the immediate perioperative period, which also places a higher level of stress on the cardiac muscle. Therefore, it likely represents a perioperative myocardial infarction which is directly related to his operative procedure."

¶ 33 F. Treatment By Dr. Wilfred Lam (August 2003 Onward)

¶ 34 The perioperative heart attack was not plaintiff's first heart attack. He previously suffered "an inferior myocardial infarction" in July 2003, and in August 2003, he began seeing Dr. Wilfred Lam for his heart condition. He complained to Lam of chest pain, which increased with physical exertion and emotional stress. Over the next several years, he had multiple stents implanted, but the chest pain lingered.

¶ 35 On December 16, 2005 (20 months before the discectomy), Lam wrote: "With his coronary artery disease and angina, it would not be suitable for him to be chasing criminals and doing active police work in that regard. I discussed this with him."

¶ 36 On June 19, 2006 (14 months before the discectomy), plaintiff told Lam he "continue[d] to have chest pain, which [was] almost constant now, but it seem[ed] to be slightly

worse with exertion, such as running. It [was] right sided and fe[lt] like pressure. Nitroglycerin sublingually seem[ed] to help it." Lam presumed the chest pain was anginal, considering that it worsened with exertion and subsided with nitroglycerin. Again, he warned plaintiff of the danger that police work posed to his heart. Lam wrote: "I discussed with him the concern about his work, since he may be exposed to increased physical activity as a policeman, that he should try to change his requirements of activity as much as possible in the future and limit this exposure."

¶ 37 On August 30, 2007, plaintiff returned to Lam after having his perioperative heart attack. Under the heading "History of Present Illness," Lam wrote: "As you recall, he is a 47 year old man who had an angioplasty of multiple vessels in the past, but after cervical spine surgery the patient developed an acute inferior MI [(myocardial infarction)] and requiring angioplasty, which was difficult to accomplish in August of 2007."

¶ 38 On November 8, 2007, plaintiff told Lam he was having "almost always constant chest pressure," which worsened when he was working but also was present when he rested. Lam wrote:

"With regard to work, I have advised him to avoid situations where symptoms could impair his ability to do his job such as physical activities or fights. He should not overly stress himself with his known coronary artery disease.

I have advised him in the past, and now again, have advised him to avoid these situations. He says he cannot do his job without physical activities or stresses or strains of a policeman's job. I have recommended that [he] talk with his employer and I did not advise

him to be placed in those kind[s] of situations. I explained to him in no uncertain terms that he should avoid situations of physical or mental stresses."

¶ 39 G. Dr. Frank V. Aguirre's Evaluation (January 2008)

¶ 40 On January 23, 2008, Dr. Frank V. Aguirre examined plaintiff and performed a functional-capacity evaluation. He opined: "The capabilities of performing routine activities on the police force based on this functional capacity would appear to be extremely limited." Aguirre believed that plaintiff's "ability to return back to work [would] most likely be limited, at best."

¶ 41 Indeed, in the administrative hearing, it was undisputed that plaintiff's heart condition incapacitated him from performing the duties of a police officer.

¶ 42 H. The Independent Medical Evaluations

¶ 43 After plaintiff filed his claim for a line-of-duty disability pension, three physicians examined him for the purpose of independent medical evaluations: Dr. Adeb Ahmed, Dr. Jeffrey Brower, and Dr. Stephen Pineda. Pineda concluded that the "vascular problem" that plaintiff suffered after the surgery was "probably related to discontinuation of Plavix," but because "[h]is current capability would be based on his cardiac status" and because Pineda was not a cardiologist, he "would need to defer [his] opinions to a cardiologist with regards to the gentleman's work capability or disability at this time." Ahmed and Brower signed affidavits attesting that plaintiff had a disability rendering him unable to serve any longer in the Springfield police department.

¶ 44 In addition, Ahmed wrote Moody a letter on July 10, 2008, opining as follows:

"In my opinion, the patient's disability was caused from the cervical injury he sustained while in service which led for him to have

cervical discectomy causing him to have stent thrombosis and the consequent cardiomyopathy from discontinuation of Plavix for surgery. I hope this would suffice at this time."

¶ 45 I. VanFleet's Testimony

¶ 46 On February 21, 2007, six months before the discectomy, VanFleet testified in an evidence deposition in a workers' compensation case. He testified that when plaintiff first consulted him, imaging studies "showed a little bit of disk protrusion at the C5-6 level." The distortion of the disk "did seem to narrow down his spinal canal somewhat but didn't see [*sic*] to cause any find [*sic*] of spinal cord compression." Therefore, VanFleet's "diagnosis at that point was neck strain and back strain." He prescribed physical therapy and light duty.

¶ 47 Connor asked VanFleet:

"Q. For clarification purposes, you did not feel that the C5-6 disk problem was in any way causing any of his subjective complaints, is that correct?

A. Well, I did not feel it was clinically significant.

Q. Through the course of your treatment, Doctor, did you arrive at a diagnosis?

A. Well, as I mentioned earlier, it seemed to be neck and back strain with a little bit of cervical stenosis.

Q. And did you feel that cervical stenosis could have been aggravated by this accident?

A. It's possible it could have. It could have led to some arm

pain, some arm dysfunction, but at the time of my examination he didn't have any neurologic dysfunction and certainly it most likely had improved by that point in time."

¶ 48 Connor then showed VanFleet petitioner's deposition exhibit No. 3, the "HCNA Multi-System Examination Form" dated July 27, 1999. The history in the form referred to a sore back and neck. Connor asked Van Fleet if he agreed that plaintiff " had subjective complaints of neck pain after the date of the accident," assuming the history were correct. VanFleet answered yes. Then Connor asked him:

"Q. Doctor, based upon the history, your examination, examination of the medical records, do you have an opinion, within a reasonable degree of medical and surgical certainty, whether you[r] diagnosis of cervical strain and lumbar strain was causally connected to the accident as described in the history of Mr. Jones?

A. Yes, it was."

¶ 49 On cross-examination, VanFleet acknowledged that when he first saw plaintiff in December 1999, he reviewed Ludwig's records and that, in these records, the first mention of any problem with the neck was on October 25, 1999—even though plaintiff had seen Ludwig on three prior occasions: August 18, September 8, and September 27, 1999. In other words, three months passed between the date of the fall (July 24, 1999) and the date when plaintiff first complained to Ludwig of neck pain (October 25, 1999), at least according to Ludwig's records.

¶ 50 VanFleet would not consider this delay to be "really relevant" if plaintiff had been feeling neck pain all along but had simply "neglected" to mention it earlier to medical providers or,

alternatively, if Ludwig had forgotten to write it down. On the other hand, if silence about neck pain were an indication that the neck strain had resolved before October 25, 1999, VanFleet would be inclined to think that plaintiff's later neck problems had nothing to do with the fall. VanFleet testified:

"But, if he had pain after the injury and that pain spontaneously resolved to the point where he was not complaining to anybody about it, then, yes, that would be a different story and that would imply that perhaps there is something else going on and perhaps it's not related to the fall."

¶ 51 In VanFleet's opinion, plaintiff had a degenerative disc disease before his fall in July 1999, and the neck strain (however long it lasted) was "superimposed" over that degenerative disc disease.

¶ 52 J. The Board's Decision

¶ 53 On February 13, 2009, the board issued a decision awarding plaintiff a *non-duty* disability pension but not a line-of-duty disability pension. The board found no causal connection between the degenerative condition of C5-6 and plaintiff's fall on July 24, 1999. Rather, the board found that this degenerative condition preexisted the fall. Nor did the board find any credible evidence that the fall had aggravated the preexisting degenerative condition. In the board's view, plaintiff was indeed disabled from further service in the police department, but the disability resulted from his coronary artery disease, a condition unrelated to any specific identifiable act of duty unique to police work. See *Robbins v. Board of Trustees of the Carbondale Police Pension Fund*, 177 Ill. 2d 533, 542 (1997).

¶ 54

K. The Circuit Court's Decision

¶ 55 On June 22, 2011, the circuit court made the following docket entry: "Cause called on for Administrative Review. Court has DENIED the Motion [*sic*] for Administrative Review" (by which the court evidently meant the "complaint for administrative review").

¶ 56 This appeal followed.

¶ 57

II. ANALYSIS

¶ 58 Section 3-114.1(a) of the Illinois Pension Code (40 ILCS 5/3-114.1(a) (West 2008)) provides: "If a police officer as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty, is found to be physically or mentally disabled for service in the police department, so as to render necessary his or her suspension or retirement from the police service, the police officer shall be entitled to a disability retirement pension ***."

¶ 59 Plaintiff had the burden of proving to the board these statutory conditions of receiving a line-of-duty disability pension. See *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 505 (2007). He contends that, under any reasonable view, he carried his burden by proving the following propositions. First, on July 24, 1999, he was running after a suspect named in an arrest warrant, and he thereby was "perform[ing] *** an act of duty." 40 ILCS 5/3-114.1(a) (West 2008). Second, when chasing the suspect, he tripped over a fence and fell to the ground, sustaining a chronic neck strain, which aggravated a preexisting degenerative condition in his cervical spine; this was an "injury incurred in *** the performance of an act of duty." *Id.* Third, he underwent surgery in August 2007 to alleviate the defective condition of his cervical spine, a defective condition owing in part to (aggravated by) the chronic cervical strain he suffered in July 1999. Fourth, as a result of the surgery, which in turn was necessitated partly by the chronic neck strain, he suffered a heart

attack. See *Barber v. Board of Trustees of the Village of South Barrington Police Pension Board*, 256 Ill. App. 3d 814, 818 (1993) ("The Code states that the debilitating injury must have been incurred or must have resulted from the performance of an act of duty. There is no requirement that the duty-related incident be the originating or primary cause of the injury, although a sufficient nexus between the injury and the performance of the duty must exist."); *Olson v. Wheaton Police Pension Board*, 153 Ill. App. 3d 595, 598 (1987) ("We conclude that section 3-114.1 does not bar the award of line-of-duty disability pension based upon aggravation of a preexisting physical condition."). Fifth, the perioperative heart attack "render[ed] necessary his *** retirement from the police service." 40 ILCS 5/3-114.1(a) (West 2008).

¶ 60 To be sure, the record contains some evidence to support plaintiff's theory of the case. In May 2000, VanFleet wrote to Connor that plaintiff suffered "a chronic strain of the cervical spine" when he fell in July 1999. "Chronic" means long-standing or frequently recurring. VanFleet also said, in this letter, that "the injury to the cervical spine *** did also seem to aggravate his cervical disc disease." Plaintiff underwent surgery in August 2007 to alleviate the symptoms of this cervical disc disease. VanFleet opined, in a letter of January 2008, that plaintiff's perioperative heart attack probably resulted from the discontinuation of the anticoagulant Plavix in preparation for the surgery as well as from the stress of the surgery itself. The board does not dispute that the heart attack and its aftereffects definitively preclude plaintiff from returning to service as a police officer.

¶ 61 In addition to this evidence from VanFleet, plaintiff presented a letter by Ahmed, in which he opined that "the patient's disability was caused from the cervical injury he sustained while in service which led him to have cervical discectomy causing him to have stent thrombosis and the consequent cardiomyopathy from discontinuation of Plavix." So, plaintiff's theory of the case has

some support in the evidence.

¶ 62 The question before us, however, is not whether plaintiff can point to evidence supporting his theory of the case. Rather, the question is whether the evidence *clearly* proves plaintiff's theory of the case such that no reasonable mind could agree with the board's decision. See *City of Belvidere*, 181 Ill. 2d at 204; *Farmers State Bank of McNabb v. Department of Employment Security*, 216 Ill. App. 3d 633, 640 (1991).

¶ 63 Not all reasonable persons would *have* to agree that the neck strain plaintiff suffered when he tripped and fell on July 24, 1999, was chronic to the extent of lasting eight years. The "HCNA Multi-System Examination Form," dated July 27, 1999, mentions soreness of the neck, but the medical records thereafter appear to contain no further mention of any neck problem until October 25, 1999—even though plaintiff saw Ludwig and Seiz several times during that period and even though, each time, they wrote down parts of his body that he said were hurting. VanFleet himself admitted, in his evidence deposition, that such a three-month hiatus could indicate that the neck strain had healed and that when plaintiff's neck began hurting again in October 1999, "something else [was] going on and perhaps [it was] not related to the fall." VanFleet also admitted, in his evidence deposition, that by the time he examined plaintiff, in December 1999, the neck strain "most likely had improved." The board could rationally assign more weight to VanFleet's sworn testimony than to his unsworn letters.

¶ 64 Even though doctors wrote letters backing up plaintiff's theory of the case, those letters are only part of the evidence, and the board did not have to consider them to be dispositive. In his letter of July 10, 2008, Ahmed opined that "the patient's disability was caused from the cervical injury he sustained while in service." But an expert's opinion is only as good as the reasons

underlying it (*Schultz v. Northeast Illinois Regional Commuter R.R. Corp.*, 201 Ill. 2d 260, 298-99 (2002)), and Ahmed did not explain his reasons for this opinion. A trier of fact could reasonably disbelieve the asserted causal relationship between the neck strain that plaintiff suffered in July 1999 and the discectomy he underwent eight years later in August 2007. A trier of fact could reasonably conclude that the discectomy was necessitated by the degenerative disc disease, which preexisted the fall, and that the neck strain was a temporary condition with no clear causal connection to the much later surgery.

¶ 65

III. CONCLUSION

¶ 66

For the foregoing reasons, we affirm the trial court's judgment.

¶ 67

Affirmed.