

At IAS Part 41, of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 80 Centre Street, New York, NY, on the 26th day of May, 2026.

Present:

HON. NICHOLAS W. MOYNE

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In the Matter of the Application of

DENNIS O'BRIEN,

Petitioner,

For a Judgment under Article 78 of
The Civil Practice Law and Rules,

-against-

ORDER

Index No. 158038/2023

Moyne, J.S.C.
IAS Part 41

EDWARD A. CABAN, as the Police Commissioner of the City of New York, and as Chairman of the Board of Trustees of the Police Pension Fund, Article II, THE BOARD OF TRUSTEES of the New York City Police Pension Fund, Article II, and MARJORIE SCHEIBER, M.D., KATHRYN KO, M.D., DAMIAN MARTINO, M.D., BRUCE DAVID D.O., in their capacity as THE MEDICAL BOARD of the New York City Police Department, Article II Pension Fund,

Respondents,

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WHEREAS, by Notice of Petition and Petition, filed on August 11, 2023, Petitioner DENNIS O'BRIEN, a retired police officer in the New York City Police Department ("NYPD") and member of the Police Pension Fund ("PPF"), commenced the instant Article 78 proceeding seeking to annul and vacate Respondents' denial of Petitioner's application for accidental disability retirement ("ADR") benefits pursuant to Section 13-252 of the New York City Administrative Code (the "Administrative Code"), or alternatively, seeking a remand of the matter to Respondents for reconsideration; and

WHEREAS, by Verified Answer and accompanying Memorandum of Law, filed on February 13, 2024, Respondents sought to have the Petition denied on the grounds that, among other things, Respondents' disapproval of Petitioner's application for ADR benefits was supported by credible evidence in the administrative record; and

WHEREAS, Petitioner submitted a Reply on February 20, 2024; and

WHEREAS, upon consideration of all the filed papers, and upon oral argument held by the Court on October 24, 2024;

NOW IT IS HEREBY ORDERED, that the Petition is granted insofar as that the matter is remanded to the Medical Board and the Board of Trustees of PPF for further consideration of Petitioner's application for ADR benefits. Specifically, the Medical Board should consider whether the line-of-duty injuries that Petitioner suffered to his lower back on May 5, 2013 and June 5, 2014 were the proximate cause of Petitioner's permanent disability, diagnosed as "Status Post Lumbar Discectomy with Residual Right Foot Drop and Left Lower Extremity Complaints;" and further the Medical Board should state its findings as to such considerations in its opinion. Thereafter, the Board of Trustees should render a new determination on Petitioner's application for ADR benefits.

ORDERED, that Judgment is entered accordingly.

Judgment entered on this 26th day of May 2026.

ENTER



HON. NICHOLAS W. MOYNE