2026 IL App (1st) 251997

FIFTH DIVISION
August 21, 2026

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

No. 1-25-1997

DEBRA BUENIK, Plaintiff-Appellant, v. THE CICERO POLICE PENSION FUND and THE BOARD OF TRUSTEES OF THE CICERO POLICE PENSION FUND, Defendants-Appellees.	))))))))))))	Appeal from the Circuit Court of Cook County. No. 2025 CH 00873 Honorable William B. Sullivan, Judge Presiding.

JUSTICE MIKVA delivered the judgment of the court, with opinion.
Presiding Justice Mitchell and Justice Oden Johnson concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff Debra Buenik asks us to reverse a final decision and order of the Board of Trustees of the Cicero Police Pension Fund (Board) denying her a surviving spouse pension. Ms. Buenik married her late husband, Cicero police officer George Buenik, after he began receiving a line-of-duty disability pension but before he converted that benefit to a service pension. The Board concluded that Ms. Buenik was precluded from receiving the pension upon his death by section 3-120(a) of the Illinois Pension Code (40 ILCS 5/3-120(a) (West 2024)), which denies pension benefits to a surviving spouse if the spouse married the police officer “subsequent to [the officer’s] retirement on any pension.” We disagree and, for the reasons that follow, reverse the Board’s decision.

¶ 2 I. BACKGROUND

¶ 3 A. Overview of the Pension Code

¶ 4 Article 3 of the Pension Code provides police pension and disability payments to police officers in municipalities that, like the town of Cicero, are home to 500,000 or fewer residents. See 40 ILCS 5/art. 3 (West 2024). Several provisions are relevant to this appeal.

¶ 5 Section 3-111 generally provides officers who have reached the age of 50 and logged 20 or more years of service a pension of between 50% and 75% of their former salary, depending on their total years of service. *Id.* § 3-111(a). Section 3-112(a) provides that the surviving spouse of an officer entitled to such a pension receives it upon the officer's death. *Id.* § 3-112(a).

¶ 6 Sections 3-114.1 and 3-114.2 of the Pension Code, respectively, provide line-of-duty and non-duty disability pensions intended as income replacement for disabled officers. See *id.* §§ 3-114.1, 3-114.2. The former, applicable here, provides as follows:

> "(a) 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 [of 65% of his or her salary, or as otherwise specified] ***." *Id.* § 3-114.1(a).

The non-duty provision, which provides a "a disability pension of 50%" of the officer's salary to officers who become disabled as a result of some cause other than the performance of an act of duty, likewise applies where the disability has made necessary the officer's "suspension or retirement from police service." *Id.* § 3-114.2. Both provisions provide that "[i]f a police officer on disability pension dies while still disabled, the disability pension shall continue to be paid to his or her survivors in the sequence provided in Section 3-112." *Id.* §§ 3-114.1(b), 3-114.2.

¶ 7 Under section 3-116, if an officer is found to have recovered from disability, "the [B]oard shall certify to the chief of police that the member is no longer disabled and is able to resume the duties of his or her position." *Id.* § 3-116. Officers who are "suspended because of disability" may be summoned to appear before the board and submit to an examination to determine their fitness for duty and "shall abide by the [B]oard's decision" in that regard. *Id.* In cases of emergency, any disabled officer may be recalled and assigned to service by the chief of police or chief officer of the municipality. *Id.*

¶ 8 Section 3-116.1 allows "[a] police officer age 50 or older who is receiving a disability pension" to "elect the disability pension option"—*i.e.*, "continue to receive a retirement pension for the remainder of his or her life of ½ of the salary at the date of the retirement on disability in lieu of any amounts which would have been payable to the officer under Section 3-111"—if his or her combined years of active service and receiving a disability pension are 20 or more. *Id.* § 116.1.

¶ 9 The provision of the Pension Code that is directly at issue here is section 3-120 (*id.* § 3-120). It provides that

> "[i]f a police officer marries subsequent to retirement on any pension under this Article other than a pension established under Section 3-109.3 [(a self-managed plan option)], the surviving spouse and the children of such surviving spouse shall receive no pension on the death of the officer, except as provided in subsection (b) or (c)." *Id.* § 3-120(a).

¶ 10 B. Facts Pertaining to This Appeal

¶ 11 The relevant facts here are undisputed. George Buenick was born on October 7, 1938. He was hired by the Cicero Police Department on January 16, 1962, and he injured his neck, shoulder, and arm in a job-related accident on November 14, 1983. He applied for a line-of-duty disability pension under section 3-114.1 of the Pension Code (Ill. Rev. Stat. 1983, ch. 108½, ¶ 3-114.1) on September 27, 1984.

¶ 12 At that time, Officer Buenik was 45 years old, had completed just under 23 years of service, and was divorced with two children. The application form stated: "I hereby make application for (disability or retirement) pension, or refund of contributions (circle benefit) from the Police Pension Fund," and Officer Buenik circled the words "disability" and "pension." The Board granted his application, effective November 16, 1984, noting that he had been placed on total disability on November 15, 1984, and that "[a]ll medical reports and evaluations" indicated he was "unlikely to return to duty as a full time Police Officer."

¶ 13 Officer Buenik married Ms. Debra Buenik on September 23, 1988, when he was 49 years old. Just over six years later, on October 25, 1994, he asked the Board, as permitted by section 3-116.1 of the Pension Code (40 ILCS 5/3-116.1 (West 1994)), to convert his line-of-duty disability pension to a service pension under section 3-111 (*id.* § 3-111), and the Board granted that request on December 1, 1994.

¶ 14 On November 17, 1999, Officer Buenik provided this relevant history to the Public Pension Division of the Illinois Department of Insurance (Pension Division), which section 1A-106 of the Pension Code directs to "render advisory services to the pension funds on all matters pertaining to their operations." 40 ILCS 5/1A-106 (West 1998). Officer Buenik inquired whether Debra Buenik would be entitled to his pension upon his death. The Pension Division responded in the affirmative. "It is the position of the Pension Division," its advisory opinion stated, "that your wife would be entitled to your pension, should you die."

¶ 15 Officer Buenik died on February 2, 2022, and Debra Buenik applied for a surviving spouse pension. The Board solicited an opinion letter from its counsel on whether she "qualifie[d] as a surviving spouse within the meaning of the Illinois Pension Code." The Board's lawyer answered that she did not. He explained, in a March 28, 2022, letter to the Board contained in the administrative record, that this court's opinion in *Stec v. Board of Trustees of the Oak Park Police Pension Fund*, 355 Ill. App. 3d 974 (2005), was dispositive of the matter, stating:

> "[T]he Appellate Court found that a line of duty disability pension is a 'retirement on account of disability' and is one of the retirement pensions considered under 3-120 of the Illinois Pension Code. In doing so, Plaintiff, in that case, was not entitled to surviving spouse pension benefits. The facts here are the same as *Stec*, and *Stec* controls case law in the instant matter."

Counsel for the Board was aware of the Pension Division's advisory opinion but concluded that it "must be set aside," on the basis that it was not binding and, in any event, was invalidated by *Stec*.

¶ 16 The Board held a hearing on July 12, 2024, and, following a short recess, voted to deny Ms. Buenik's application. In its final decision and order issued on January 10, 2025, the Board determined that "[t]he facts in *Stec* could not be more on point with the case at hand," and the bright-line rule announced in that case controlled. *Stec* stood for the proposition that any officer receiving a line-of-duty disability pension was receiving a retirement pension for purposes of section 3-120 of the Pension Code and was therefore "retired on account of disability." The Board concluded that the Pension Division's several advisory opinions to the contrary, including the one in this case, were not binding. Two predated *Stec*, and the others relied on *Frodin v. Calumet Park Police Pension Board*, 292 Ill. App. 3d 1113 (1997) (table) (unpublished order under Illinois Supreme Court Rule 23), a nonprecedential order issued under Illinois Supreme Court Rule 23 (eff. July 1, 1994) that the Board viewed as "outdated and inconsistent with" *Stec*.

¶ 17 Ms. Buenik sought administrative review in the circuit court and, following briefing and argument, the court entered an order affirming the Board's decision.

¶ 18 This appeal followed.

¶ 19 II. JURISDICTION

¶ 20 The circuit court affirmed the Board's final decision and order on September 4, 2025, and Ms. Buenik filed a timely notice of appeal on October 1, 2025. We have jurisdiction over this appeal pursuant to section 3-112 of the Code of Civil Procedure (735 ILCS 5/3-112 (West 2024)), which makes final orders in administrative review cases reviewable by appeal as in other civil cases, and Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) and Rule 303 (eff. July 1, 2017), which govern appeals from final judgments entered by the circuit court in civil cases.

¶ 21 III. ANALYSIS

¶ 22 Our review of the Board's decision is governed by the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2024)). On appeal, it is the Board's decision, rather than the circuit court's, that we review. *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 504 (2007). Our standard of review depends on the nature of the question presented. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001). Generally, we defer to the agency's factual findings, unless they are against the manifest weight of the evidence. *City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 204 (1998). Questions of law, including the construction of statutes, we review *de novo*. *AFM Messenger Service,* 198 Ill. 2d at 390-91.

¶ 23 The issue before us is a question of law. The parties in this case propose different interpretations of what it means in section 3-120 of the Pension Code to be "retire[d] on any pension." That section provides, with several exceptions that they agree are not applicable here, that "[i]f a police officer marries subsequent to retirement on any pension under this Article," the surviving spouse "shall receive no pension on the death of the officer." 40 ILCS 5/3-120(a) (West 2024). The "cardinal rule of statutory construction" is to "ascertain and give effect to the legislature's intent." *Acme Markets, Inc. v. Callanan*, 236 Ill. 2d 29, 37 (2009). We look first to "the language used in the statute itself, which must be given its plain and ordinary meaning." *Roselle Police Pension Board v. Village of Roselle*, 232 Ill. 2d 546, 552 (2009). We evaluate the statute as a whole, construing each provision in connection with every other (*id.*), and where the language is clear and unambiguous, there is no need to resort to aids of construction (*Branson v. Department of Revenue*, 168 Ill. 2d 247, 254 (1995)).

¶ 24 We agree with the Board that a disability pension under section 3-114.1 of the Pension Code, which is what George Buenik received when he was injured on duty in 1983, comes within the definition of "any pension under this Article" as that phrase is used in section 3-120. See 40 ILCS 5/3-120 (West 2024).We need not rely on the legislative history the Board has provided to understand that "any" pension means "any" pension and that this benefit is therefore one to which section 3-120's restriction on surviving spouse pensions applies. Given the plain language of the statute, we cannot accept Ms. Buenik's argument that "any pension under this Article" means only service pensions under section 3-111.

¶ 25 However, that does not resolve this case. George Buenik did not retire on his disability pension in 1983. He did not retire until years later when, in 1994, he converted his disability pension to a regular retirement pension under section 3-111. Section 3-120 applies to any pension in article 3 of the Pension Code, but it does not apply to every pensioner. Rather, it applies only to those pensioners who married "subsequent to *retirement on*" such pensions. (Emphasis added.) *Id.*

¶ 26 The disability benefits in the Pension Code may be awarded to an officer who retires or to one who leaves active service temporarily because of his disability. The language of the statute makes this clear. The benefits are awarded—for both line-of-duty and non-duty pensions—where the disability "render[s] necessary [the officer's] suspension *or* retirement from the police service." (Emphasis added.) *Id.* §§ 3-114.1(a), 3-114.2. Use of the subjunctive "or" indicates the recipient of a disability pension *may* be retired but may also simply be suspended from active duty. See *Elementary School District 159 v. Schiller*, 221 Ill. 2d 130, 145 (2006) ("The word 'or' is disjunctive. As used in its ordinary sense, the word 'or' marks an alternative indicating the various parts of the sentence which it connects are to be taken separately.").

¶ 27 Other sections of the Pension Code support this reading. Section 3-108.3, for example, defines a "[b]eneficiary" as "[a] person receiving benefits from a pension fund, including, but not limited to, *retired pensioners, disabled pensioners*, their surviving spouses, minor children, disabled children, and dependent parents. (Emphasis added.) 40 ILCS 5/3-108.3 (West 2024). If, as the Board insists, the recipient of a disability pension is by definition "retired," then the legislature would have no reason to separately list disabled pensioners after referring to retired pensioners. See *People ex rel. Illinois Department of Corrections v. Hawkins*, 2011 IL 110792, ¶ 23 (noting that we must "give effect to every word, clause, and sentence" in a statute so as not "to render any part superfluous or meaningless").

¶ 28 Section 3-116, concerning the examination and potential recall of disabled officers, likewise distinguishes between police officers who are "suspended because of disability" and those who are "retired for disability" (40 ILCS 5/3-116 (West 2024)), and section 3-114.4, concerning certain adjustments to the benefit received, specifically contemplates that a disabled officer may return to active police service following the cessation of his or her disability (*id.* § 3-114.4).

¶ 29 The only language in the statute that is arguably inconsistent with this reading is the reference, in section 3-114.1(a), to the line-of-duty disability benefit as a "disability *retirement* pension." (Emphasis added.) *Id.* § 3-114.1(a). Section 3-114.2, governing the non-duty disability benefit, which employs similar but not identical language throughout, simply refers to the benefit provided as a "disability pension." *Id.* § 3-114.2. The Board is correct that references are made throughout article 3 of the Pension Code to individuals who have "retire[d] on disability" or are "retired for disability," but officers who are "suspended because of disability" are also referenced. See *id.* § 3-116; see also *id.* §3-114.1 (referring, as noted above, to "suspension or retirement" and also to the officer's "date of suspension of duty or retirement"); *id.* 3-114.2 (same).

¶ 30 When construing a statute, we must take care to avoid, if at all possible, an interpretation that would nullify or render insignificant the words employed by the legislature. *City of Champaign v. Hill*, 29 Ill. App. 2d 429, 448-49 (1961). Although section 3-114.1 refers to a duty-disability benefit as a "disability retirement pension," that same section makes clear, as do other sections within article 3, that a disabled officer entitled to that benefit may not in fact be retired. The reference to a line-of-duty disability pension as a "retirement" pension, when the same sentence of the Pension Code contains an acknowledgement that a disabled officer may be either retired or suspended, does not change our view that, as a whole, the legislature clearly intended that the recipient of a disability benefit under section 3-114.1 or 3-114.2 will be *either* retired *or* suspended from active duty.

¶ 31 In sum, the Board is correct that a disability pension is a pension that a surviving spouse may be precluded from receiving under section 3-120, but that preclusion applies only where the officer receiving that pension was retired, and not merely suspended from active duty, when the two were married.

¶ 32 That is precisely what this court concluded some 20 years ago in *Stec*, 355 Ill. App. 3d at

979-81, a case that the Board relies on but, in our view, has failed to correctly apply here. The plaintiff in *Stec* had married her husband, a former Oak Park police officer, in 1991, several years after he began receiving a non-duty disability pension under section 3-114.2 of the Pension Code. *Id.* at 976. When he died in 1998, she applied for a surviving spouse pension under that section. *Id.* The pension board in *Stec* concluded that section 3-120 of the Pension Code disqualified the plaintiff from receiving that benefit. *Id.* at 977. The circuit court disagreed, reversing the decision on administrative review, and the pension board appealed.

¶ 33 The appellate court reversed the circuit court in *Stec* and affirmed the pension board's decision. *Id.* at 981. It concluded that "[s]ection 3-120 of the Pension code does not distinguish between permanent retirement on account of age or service," under section 3-111, and "retirement on account of disability," under sections 3-114.1 or 3-114.2. *Id.* at 980. The *Stec* court explained that "the phrase 'any pension under this Article' would be mere surplusage" if construed otherwise. *Id.* That is the portion of the *Stec* court's opinion the Board seizes on here, but it is not why the court ultimately upheld the denial of benefits in that case.

¶ 34 The *Stec* court did not presume that the officer in that case had retired simply because he was receiving a disability pension. Rather, the court concluded that he had "retired as a disabled officer" when he resigned from the police department days after applying for disability benefits. *Id.* at 979. He could not be viewed as merely suspended from active duty because his resignation had severed his connection to the police department. *Id.* at 979-80.

¶ 35 The Board here argues that the officer's resignation in *Stec* was an inconsequential detail, that the *Stec* court "merely placed that in the record to ensure a full recitation of the facts" but did not rely on it in any way. That is simply not true. The *Stec* court made clear that the officer, as a disability pensioner, was either suspended or retired, and it set about determining which. *Id.* at

979. When the record on appeal provided no answer to that question, the court turned to its previous decision in that case, taking judicial notice of the fact that the officer had resigned from the police department just days after applying for disability benefits. *Id.* "Accordingly," the *Stec* court concluded, "he retired as a disabled officer" on that date, before his marriage to the plaintiff in that case, and she was therefore not entitled to a surviving spouse pension. *Id.* at 979, 981.

¶ 36 *Stec* seems to have caused the parties here some confusion. The Board, emphasizing the portion of the *Stec* court's analysis it agrees with—the fact that an officer *can* retire on a disability pension—ignores what was determinative in that case—the fact that the officer in *Stec* had clearly done so by formally severing his relationship with the police department. The Board cites nothing in the record here suggesting that Officer Buenik, like the officer in *Stec*, retired when he first went on disability. In fact, the record shows the opposite: a number of years later—and after he had married Debra Buenik—Officer Buenik retired by converting his disability pension to a service pension. Thus, the Board relies on *Stec* without addressing the key distinguishing fact in that case.

¶ 37 On the other side, Ms. Buenik urges us to disregard *Stec* as wrongly decided, outdated, or inapplicable, suggesting that pension law has changed in a way that undermines the court's analysis in that case. However, her arguments fail to appreciate how strongly the *Stec* court's holding supports her position here. Despite her urging to the contrary, we follow *Stec* and find that it requires us to reverse the Board's decision.

¶ 38 We also note that the *Stec* decision is fully consistent with *Frodin*, 292 Ill. App. 3d 1113, an earlier, unpublished decision of this court, that Ms. Buenik relies on here and that the Pension Division relied on in its advisory opinions. We agree with the Board that *Frodin* should not be cited as authority, as it was issued before 2021, when Illinois Supreme Court Rule 23 (eff. Jan. 1, 2021) was amended to permit citation of unpublished orders as persuasive authority.

¶ 39 However, the decision is contained in the administrative record—now the record on appeal—and the parties have discussed it at length. Although it has no precedential or persuasive value, *Frodin* happens to be both correct and fully consistent with *Stec*. We adopt its reasoning in this published decision.

¶ 40 The officer in *Frodin* was an active member of the Calumet Park Police Department until 1979, when he was granted a line-of-duty disability pension under section 3-114.1 of the Pension Code. *Frodin*, slip order at 2. He and the plaintiff in that case were married three years later, when he was 49 years old, and he died in late 1994. *Id.* The pension board denied the plaintiff's application for a surviving spouse pension, on the basis that her late husband was " 'retired on a disability pension' " when they married, and she was therefore precluded by section 3-120 from receiving his pension. *Id.* at 3.

¶ 41 The circuit court reversed that determination on administrative review, and this court affirmed the reversal on appeal. *Id.* at 4. The pension board in *Frodin* had interpreted section 3-120(a) to apply to both regular retirement pensions as well as disability pensions and, "[g]enerally speaking," the appellate court stated, "that interpretation was correct." *Id.* at 16. The provisions of section 3-120(a) did not apply to all pensioners, however, the court explained, but were "confined to those who marr[ied] subsequent to retirement." *Id.* The officer in *Frodin* was not retired when he married the plaintiff in that case. *Id.* at 13-14. He had not converted his disability pension into a regular retirement pension, as permitted by section 3-116.1, and in fact, at the age of 49, he was not old enough to do so. *Id.* He was subject to physical examinations and possible reinstatement under section 3-116 and was therefore not retired but merely suspended due to his disability. *Id.* at 14-16.

¶ 42 Although, unlike the officer in *Frodin*, Officer Buenik lived long enough to convert his disability pension into a service pension, he had not yet done so when he and Ms. Buenik were married. The relevant facts are thus the same. The *Frodin* court's reasoning was correct, it applies here just as it did there, and it is fully consistent with this court's analysis and holding in *Stec*.

¶ 43 In sum, the Board's determination that section 3-120 of the Pension Code precludes Ms. Buenik from receiving her late husband's pension is contrary to the language of the Pension Code and inconsistent with this court's interpretation of that section both in *Stec* and in *Frodin.* For the reasons set out in those decisions, and in this one, we reverse the decision of the Board.

¶ 44 IV. CONCLUSION

¶ 45 Circuit court judgment reversed; Board decision reversed.

***Buenik v. Cicero Police Pension Fund*, 2026 IL App (1st) 251997**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 2025-CH-00873; the Hon. William B. Sullivan, Judge, presiding.
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