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October 14, 2025

**Via Electronic Filing**

Maria C. Hanley – Appellate Division Clerk  
Appellate Division Clerk's Office  
P.O. Box 006  
Trenton, New Jersey, 08625

Attention: Yamina Crosland – Case Manager

**Re: Jason Sharp v. Board of Trustees,  
Police and Firemen's Retirement System of NJ,  
Docket Number: A-001728-24T2**

**On appeal from the Final Agency Decision of the  
Board of Trustees of the Police and Firemen's  
Retirement System of New Jersey After an Appellate  
Division Remand**

**Sat Below: Hon. Edward J. Delaney, A.L.J.**

Dear Ms. Hanley,

Pursuant to Court Rule 2:6-2(b), please find attached Respondent Board of Trustees, Police and Firemen's Retirement System of New Jersey's letter brief in lieu of a more formal brief on this appeal.

**TABLE OF CONTENTS**

PRELIMINARY STATEMENT ..... 2

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS . . . . . 4

ARGUMENT . . . . . 7

SHARP HAS FAILED TO SATISFY THE STRIGENT REVIEW STANDARD FOR APPEALING THE BOARD’S FAD AFTER REMAND . . . . . 7

THE BOARD CORRECTLY ANALYZED THE LAW AND FACTS AND ADOPTED AN FAD ON THE EXISTING RECORD REGARDING THE REMAND ISSUE . . . . . 10

CONCLUSION . . . . . 16

**PRELIMINARY STATEMENT**

Appellant Jason Sharp (“Sharp” or “Appellant”), former employee of the Camden County Department of Corrections (“CCDOC”), improperly tries to reverse a decision of the Board of Trustees, Police and Firemen’s Retirement System of New Jersey (the “Board” or “Respondent”) denying him Accidental Disability retirement benefits (“AD”) on appeal of an final administrative decision (“FAD”) on the remand issue.<sup>1</sup> While working in the Camden County Correctional Facility (“CCCF”), Sharp was injured during an assault by an aggressive inmate who got out of his cell. Sharp applied for AD based on his injury and he received an award of

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<sup>1</sup> The full FAD is contain in the Respondent’s Appendix (Ra), including all Exhibits “A” through “E.” Ra2-Ra55. The exhibits to the FAD are not contained in the Appellant’s Appendix (Aa).

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

Ordinary Disability retirement benefits (“OD”) from the Board. Aa40. After a full hearing in the Office of Administrative Law (“OAL”) was held on June 7, 2022, an Initial Decision, dated July 20, 2022 (“ID”), found that Sharp had failed to carry his burden of proof on the “undesigned and unexpected” element under Richardson v. Bd. of Trs., Police & Firemen’s Ret. Sys., 192 N.J. 189 (2007). Aa7-Aa17. The Board adopted the ID, denying AD to Sharp. Aa18.<sup>2</sup> He appealed and the Appellate Division issued an order affirming some issues and vacating and remanding one issue:

It appears that there was no testimony before the ALJ in this matter with respect to whether the inmate who injured Sharp was violently resisting in a manner not normally encountered by corrections officers. If the Board determines that such testimony is necessary for a proper analysis of whether the holding in Richardson requires Sharp be awarded accidental disability retirement benefits, it may transmit the matter to an ALJ for a supplemental hearing.

[Aa52].

The Appellate Division required no additional testimony. On this remand issue, the Board did not need additional testimony. Counsel for petitioner made no request for additional testimony on this issue either. Counsel for petitioner also attended the Board meeting where the vote was taken to maintain that petitioner

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<sup>2</sup> “Aa” citations refer to documents in Appellant’s Appendix, previously filed with the Court.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

had not carried his burden on the “undesigned and unexpected” issue. Ra1. The Board voted to consider an FAD sustaining that Sharp had failed to meet his burden of proof on the “undesigned and unexpected” issue on the existing record. The FAD was subsequently adopted and petitioner appeals the FAD.

**PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS**<sup>3</sup>

Sharp worked as a county correctional police officer with the CCDOC for 17 and about one-half years, until he retired in 2020. Aa26. Sharp filed for AD after a May 25, 2019 injury, alleging a left shoulder work place injury and on May 10, 2021, the Board granted him OD. Aa4-6. An OAL hearing was held on June 7, 2022. T<sup>4</sup> Aa8.

On May 25, 2019, Sharp and his sergeant were feeding inmates in the CCCF and they were outside the cell of an aggravated inmate. Aa9. Sharp was carrying several Styrofoam trays of food when the food pass-through door for that cell would not open. Ibid. The sergeant had the keys to the pass-through door and she tried to open the pass-through door, but it would not open. Id. The sergeant then decided to open the cell door itself, permitting the aggravated inmate to come through the cell door and attack Sharp. Id. The sergeant did not call for a back-up

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<sup>3</sup> Because the Procedural History and Counterstatement of Facts are closely related, they are combined to avoid repetition and for the Court’s convenience.

<sup>4</sup> “T” refers to transcript of hearing in this case dated June 7, 2022, previously filed with the Court.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

team before doing so. Id. The sergeant opened the cell door and the aggravated inmate charged out of the cell. Id. Two other corrections officers attempted to push the inmate back into his cell but the cell door was locked while it was in the open position. Id. The inmate came out of the cell again. Id. Sharp dropped the food trays and struggled with the inmate, bringing the inmate to the ground. Sharp was on the inmate's right side with his left hand on the inmate right wrist and the inmate was lying on the ground with his hands underneath him. T30:9-31:13. At some point, the sergeant sprayed the inmate with OC spray, causing the inmate to jerk and tense up, attempting to cover his face with his hands. Aa9-10. Around this time, Sharp felt a "pop" in his left shoulder (the "incident"). Ibid. He was medically treated, but never returned to work. Id.

The record states that Sharp's job duties for the CCDOC included "[m]aintain[ing] care, custody and control of inmates in accordance with established policies, rules, regulations and procedures." Aa26-27. Job duties also require that he "[p]hysically restrain[] inmates when necessary, to prevent injuries and maintain security." Ibid. Sharp credibly testified as the only witness and his testimony supported the fact-findings. Aa8, T.

In the ID, Sharp was denied AD because he failed to carry his burden of proof, i.e., he was not injured as a result of a "traumatic event" because the

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

incident was not “undesigned and unexpected.” Aa15. The ID applied the “undesigned and unexpected” element of the “traumatic event” definition developed after Richardson v. Police and Firemen’s Ret. Sys. Bd. of Trs., 192 N.J. 189, 212, 214 (2007) and Brooks v. Bd. of Trs., Pub. Employees’ Ret. Sys., 425 N.J. Super. 277 (App. Div. 2012). Aa11-Aa13. The ID distinguished the facts that are part of the application from the “unusual situation” described in Brooks. Aa12-Aa13. The ID found that the incident was not an “unexpected happening” as defined in Richardson, 192 N.J.at 214, because it was specified in Sharp’s job duties, the incident occurred during the performance of those duties and there was no evidence that an “unexpected happening” occurred. Aa15. The ID separated the three unexpected issues raised by Sharp: (1) the pass-through door, (2) the cell door bouncing back because it was in the lock position, and (3) the sergeant’s failure to follow protocol and call for back-up prior to entering the cell at all from the assault itself. Aa13. “They [the three events] were simply events that led up to the interactions with the attacking inmate.” Aa14. The ID concluded “[Sharp] was employed at a corrections facility, and it is reasonable to believe that an inmate would lash out, be involved in altercations, and that [Sharp] would have to intervene.” Ibid. The Board adopted the ID and these facts without exceptions. Aa18. The Board denied AD to Sharp. Ibid. Sharp appealed.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

In an unreported decision, the Appellate Division affirmed that the three actions that Sharp claimed should be part of the “traumatic event” need not be analyzed as part of the “traumatic event.” Aa38-Aa52. The Appellate Division, however, vacated and remanded the following issue to the Board to determine whether additional testimony was needed regarding whether the level of violence during the incident satisfied the “undesigned and unexpected” element. Aa52.

At the January 13, 2025 Board meeting, the Board voted to adopt an FAD to be presented at the following Board meeting without taking additional testimony. Aa53. Counsel for Sharp attended the meeting on this specific matter. Ra1. At the next meeting, on February 10, 2025, the Board voted to continue to deny AD to Sharp, on the existing record, in an FAD that justifies the undesigned and unexpected issue. Ra2-Ra55. This appeal followed. Aa58-Aa64.

**ARGUMENT**

**POINT I**

**SHARP HAS NOT SATISFIED THE STRIDENT REVIEW STANDARD FOR APPEALING THE BOARD’S FAD AFTER REMAND.**

The appellate standard of review from the Board’s denial decision by this court is very stringent and is the same after remand. Case law provides that, “review of administrative agency action is limited. ‘An administrative agency’s final quasi-judicial decision will be sustained unless there is a clear showing that it

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

is arbitrary, capricious or unreasonable, or that it lacks fair support in the record.”

Russo v. Bd. of Trs., Police & Firemen’s Ret. Sys., 206 N.J. 14, 27 (2011)(citations omitted); Gerba v. Bd. of Trs., Pub. Employees’ Ret. Sys., 83 N.J. 174, 189 (1980)(“On judicial review of an administrative agency determination, courts have but a limited role to perform.”). Case law also accords a strong presumption of reasonableness to an agency’s exercise of its statutorily delegated responsibility as well as its fact-finding. See Mazza v. Bd. of Trs., Police & Firemen’s Ret. Sys., 143 N.J. 22, 29 (Handler, J., dissent). Further, an administrative agency’s determination is presumptively correct and, on review of the facts, a court will not substitute its own judgment for that of an agency where the agency’s findings are supported by substantial credible evidence. See also Atkinson v. Parsekian, 37 N.J. 143, 149 (1962); Campbell v. New Jersey Racing Comm’n, 169 N.J. 579, 587 (2001). If an appellate court “is satisfied after its review that the evidence and the inferences to be drawn therefrom support the agency head’s decision, then it must affirm even if the court feels that it would have reached a different result itself.” Clowes v. Terminix Int’l Inc., 109 N.J. 575, 588 (1988); In re Stallworth, 208 N.J. 182, 194 (2011) (citation omitted) (“A reviewing court ‘may not substitute its own judgment for the agency’s, even though the court might have reached a different result.’”); Kasper v. Bd. of Trs., Teacher’s Pension & Annuity Fund, 164 N.J. 564, 580-81

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

(2000).

Only where an agency's decision is arbitrary or capricious, or unsupported by substantial credible evidence in the whole record, may it be reversed. Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980); Atkinson, 37 N.J. at 149. Moreover, the party who challenges the validity of the administrative decision bears the burden of showing that it was “arbitrary, unreasonable or capricious.” Boyle v. Riti, 175 N.J. Super. 158, 166 (App. Div. 1980) (internal citations omitted). The same standard applies to review the FAD on this remand issue.

Counsel for Sharp requested no additional testimony regarding the remand issue, though Sharp had the burden of proof on this issue. The Board did not request additional testimony either and none was taken. At its January 13, 2024 meeting, the Board voted to prepare an FAD based on the existing record. Sharp’s counsel attended this meeting on this issue. Ra1. Afterward, Sharp did not appeal this decision from this Board meeting or request that additional testimony be taken on the remand issue. At the February 10, 2025 meeting, the Board adopted findings of fact and conclusions of law regarding the remand issue, continuing to deny AD to Sharp. Ra2-Ra55. Sharp failed to meet this stringent review standard for the FAD on the remand issue.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION  
RE: Jason Sharp v. PFRS  
October 14, 2025

**POINT II**

**THE BOARD CORRECTLY ANALYZED THE  
LAW AND FACTS AND ADOPTED AN FAD ON  
THE EXISTING RECORD REGARDING THE  
REMAND ISSUE.**

The Appellate Division remanded one issue to the Board: whether or not additional testimony was needed regarding whether the extent of violence encountered by Sharp during the incident would support a conclusion that the incident was “undesigned and unexpected” See Richardson v. Bd. of Trs., Police & Firemen’s Ret. Sys., 192 N.J. 189, 212-13 (2007). To establish whether the incident that caused the disabling injury was a “traumatic event,” a member like Sharp must show that the incident is, among other things, “undesigned and unexpected.” Ibid. The ID noted the Richardson argument that to be “undesigned and unexpected” facts must be found that “during the regular performance of [appellant’s] job, an unexpected happening, not the result of pre-existing disease alone or in combination with the work, has occurred . . . .” Id. at 214. Because the incident occurred during the performance of Sharp’s job duties - which were regularly (if not frequently) performed by him - the existing record amply supports that there was no “unexpected happening” and it was not “undesigned and unexpected.” Aa11.

Appellant makes another argument, Ab9,<sup>5</sup> based in Richardson, citing

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<sup>5</sup> “Ab” citations refer to Sharp’s merits brief, previously filed with the Court.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

Russo v. Teacher's Pension & Annuity Fund, 62 N.J. 142 (1973), that explains there are two types of “accidents”: 1) “an unintended external event” or 2) “an unanticipated consequence of an intended external event if that consequence is extraordinary or unusual in common experience.” Richardson, 192 N.J. at 201. In the first class of accidents, the happening of the event is “undesigned and unexpected.” In the second class of accidents, the consequence of the event is “undesigned and unexpected.” Ibid. In both cases, the external event must occur during and as a result of the performance of regular or assigned duties. Id.

In the second class of accidents, one looks to the consequence of the intended event and whether that consequence is unusual or extraordinary or not. Id. Under Russo, 62 N.J. at 154 and Cattani v. Bd. of Trs., Police & Firemen's Ret. Sys., 69 N.J. 578, 581 (1976), as reaffirmed by Richardson, a heart attack after heavy or light work effort, is an example of a consequence of an intended external event that is excluded because its occurrence is not an extraordinary or unusual consequence in common experience. Cattani v. Bd. of Trs., Police & Firemen's Ret. Sys., 69 N.J. 578, 581 (1976); Richardson, 192 N.J. at 201-203. A fireman's strenuous work effort in dragging heavy hoses without adequate manpower to assist, was not a traumatic event. Cattani, 69 N.J. at 586. In Russo, a school custodian with advanced heart disease suffered a heart attack at work. 62 N.J. at 145. He was doing “his

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

usual work in the usual way” and no traumatic event occurred. 62 N.J. at 154.

This requirement means that the disabling injury must be an unintended consequence that was extraordinary or unusual in common experience. The petitioner must establish that the disabling injury must be an unanticipated consequence that was extraordinary or unusual in common experience. Sharp’s disabling shoulder injury, after restraining an aggressive inmate, was not unusual in common experience. “Petitioner was employed at a corrections facility, and it is reasonable to believe that an inmate would lash out, be involved in an altercations, and that petitioner would have to intervene.” Aa14.

Richardson is factually dissimilar to the incident and does not dictate a reversal here, despite Sharp’s argument. Ab8. Sharp’s and the Board’s legal positions regarding the facts diverge. Unlike Richardson, Sharp did not call any other correction officers who were present during the incident and the record regarding the incident is the same after the remand, as a basis for more testimony in the record. Therefore, FAD concluded that the facts of the incident are unlike Richardson’s facts. Ra3. Nothing in this record amounts to the “kicking, punching and throwing [Sharp’s] body around” regarding the aggressive inmate during the incident. See Richardson, 192 N.J. at 193. In Richardson, Corrections Officer Richardson “straddled” the inmate while the inmate continued kicking, punching

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

and throwing his body around. Ibid. Richardson was knocked backward onto his left hand, which hyper-extended his wrist on the facility's floor. Id. Nothing from the incident can be described or imagined to resemble the Richardson facts. Here, Sharp was performing his job duties, and nothing external, i.e., some aspect or defect of the facility, intervened to cause his disability. The inmate in the incident was sprayed with OC spray by a Sergeant, which did not happen in Richardson, 192 N.J. at 211-12. Aa40("As Sharp attempted to pin one of the inmate's arms, the sergeant pepper sprayed the inmate, who jerked and tensed up, attempting to pull his hands up to cover his face."). Pepper spray is a tool utilized to achieve an inmate's compliance and a ranking sergeant applied it here. The use of pepper spray is not an external force or external influence that can establish a "traumatic event" as there is no evidence supporting this conclusion. Ibid.

Appellant argues that "the PFRS Board is asking this Court to accept its Final Administrative Decision whereby every person applying for benefits going forward would have to create a comparison of the 'level of violence' in their cases to that of Richardson in order to demonstrate the matter meets the Undesigned and Unexpected requirement." Ab12-13. There is no support for this statement. The Board considers each application on its own and is not using Sharp's case to create a new rule regarding the "undesigned and unexpected" element. Cf. Metromedia,

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

Inc. v. Director, Div. of Taxation, 97 N.J. 313, 328 (1984) (“There are several important elements of agency action that in combination serve to define it as either an administrative rule or an administrative adjudication. A critical aspect of this definition is the ‘general applicability and continuing effect’ of the pronouncement.”). The disposition of Sharp’s AD application has no binding legal effect on the Board’s disposition of other AD applications and it has never claimed that. Suggestion that it has continued binding effect as an administrative rule or adjudication is inaccurate.

The testimony of two additional correction officers referred to in Richardson has no parallel in Sharp’s case. Richardson, 192 N.J. at 194. Sharp called no other COs to testify in support of his application, in spite of the remand. The Board does not need any additional testimony to justify its AD denial and approved the FAD without any modification/addition to the factual record. Ra2-Ra55. The FAD does not try to “fool” the Court into missing the similarities between the incident and the Richardson event. Ab at 14. “The facts of Richardson and the facts of the incident are legally distinguishable and distinct.” Ra3. The Board does not have an affirmative burden on any application issue. Ra4.

The Appellate Division found no evidence in the record that the physical details regarding the incident concerned whether the restraint occurred in a

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

“manner not normally encountered by corrections officers.”<sup>6</sup> Aa52. The subsequent FAD concludes that the details in Richardson were more violent than those of the incident including kicking, punching and throwing his body around . . . .” Ra3. The incident includes the pepper spray by the Sergeant that did not occur in Richardson. There was substantial addition testimony in the Richardson case, which was referred to by the Board in the FAD. Ra4. Richardson had a total of six witnesses testify at hearing. Ibid. Three witnesses for Richardson testified about the violence of the Richardson event, including Lt. William Riker who said that the inmate “saw blue and did not care about [Richardson].” Id. Richardson himself said the event was “like riding a horse.” Id. Nothing like this has been added to this record.

Neither Moran nor Brooks support the conclusion that the incident was “undesigned and unexpected.” Ab10-Ab12. There is nothing about the law in Moran or Brooks that supports the conclusion that the incident was “undesigned and unexpected.” No facts in these cases support the conclusion that Sharp should receive AD. There are no “unusual circumstances” or an “unusual situation” in the facts of the incident. Ab at 11. Nothing in Sharp’s brief or the record suggests otherwise. For example, Sharp draws no parallels between his own actions and those

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<sup>6</sup> The Appellate Division decision vacates the Board’s “undesigned and unexpected” conclusion, implying that it did not have enough information to adjudge this conclusion, and did not reverse it as error. Sharp does not argue in his brief that there is insufficient evidence to support the Board’s FAD that is the subject here.

SUPERIOR COURT OF NEW JERSEY-APPELLATE DIVISION

RE: Jason Sharp v. PFRS

October 14, 2025

in the Moran or Brooks decisions.<sup>7</sup>

**CONCLUSION**

For these reasons, the Board's FAD on the "undesigned and unexpected" issue satisfactorily justifies the AD denial decision after remand without additional testimony and affirming it is neither arbitrary nor capricious. This appeal should be dismissed.

Respectfully submitted,

Police and Firemen's Retirement  
System of New Jersey

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<sup>7</sup> There is no basis in the record for the claim in Sharp's brief that "[t]he Undesigned and Unexpected requirement of Richardson was designed to eliminate occupational type claims, repetitive stress injuries, from being eligible for Accidental Disability Pension Benefits." Ab at 12. No record cite is offered to establish this proposition and there is nothing in the PFRSNJ statute or regulations to support it either.