

## SYLLABUS

(This syllabus is not part of the opinion of the Court. It has been prepared by the Office of the Clerk for the convenience of the reader. It has been neither reviewed nor approved by the Supreme Court. Please note that, in the interest of brevity, portions of any opinion may not have been summarized.)

### **Jaclyn Thompson v. Board of Trustees, Teachers' Pension and Annuity Fund (A-5-17) (079359)**

**(NOTE: The Court did not write a plenary opinion in this case. Instead, the Court affirms the judgment of the Appellate Division substantially for the reasons expressed in Judge Leone's majority opinion, which is published at 449 N.J. Super. 478 (App. Div. 2017).)**

**Argued April 10, 2018 -- Decided May 3, 2018**

### **PER CURIAM**

Petitioner Jaclyn Thompson alleged that she was mentally disabled as a result of three incidents at work. Petitioner sustained no physical injuries in the three incidents, save for "a little bit of a stomachache" which was minor and temporary, and she required no medical treatment. However, Thompson argues she met the requirement for mental disability because the incidents involved physical contact. The Court considers that claim.

Petitioner was a health and physical education teacher. She taught regular gym classes, coached, and served as an advisor and mentor. She also taught gym classes specifically geared toward students with disabilities. On January 21, 2011, during petitioner's health class, an approximately seventeen-year-old female student with Down syndrome punched petitioner in the stomach "very hard," and slapped her across her face. Petitioner went to the nurse's office to write a report, and "kind of laid in the nurse's office for a few minutes only because [she] had a little bit of a stomachache." Petitioner did not seek any medical attention and sustained no lasting physical injuries. As class was over, she went home, but she returned to work the next day with no ill effects.

On September 22, 2011, petitioner was teaching an adaptive physical education class. A sixteen-year-old male student became severely angry and "began to kind of push and shove" her shoulders with his hands and spat on the floor. Petitioner and an aide removed the student from the classroom. Petitioner was not physically injured and did not seek medical attention or counseling. She "was a little bit more like nervous going in the classroom" with "a little bit" of anxiety, and was "definitely on edge" about "what's next," but she had no psychiatric problems.

On October 29, 2011, a fifteen-year-old male student with autism threw a ball at another student. When petitioner corrected him, he became very angry. He loudly told petitioner "You're an ass\*le" and "I'm going to kick your ass," briefly "had [her] hands behind [her] back," then let go and threw three punches at her face, but she dodged the punches. Teacher's aides grabbed the student and escorted him out. To petitioner it "fe[lt] like forever" that her hands were behind her back. She felt "helpless," "had no control," and "was petrified." Afterwards, she was very upset but calmed down and finished the class. She had no physical injuries and went on with her day. After going home, petitioner became "hysterical" and had "a downright almost panic attack." Her husband, a police officer, had her call a psychologist for police officers. The psychologist did not think petitioner "belonged in any kind of school atmosphere" and wrote a note putting her on leave. She never returned to work.

Eight months later, petitioner filed a request for accidental disability retirement benefits based on the three incidents. Her psychiatrist diagnosed her with post-traumatic stress disorder (PTSD). The Board of Trustees of the Teachers' Pension and Annuity Fund (Board) denied her request for accidental disability benefits but found petitioner qualified for a deferred retirement.

Petitioner appealed to the Office of Administrative Law. The Administrative Law Judge (ALJ) found petitioner did not meet the standard for accidental disability benefits. However, the ALJ granted her ordinary disability benefits. The ALJ found that she suffered from PTSD, that medication was ineffective at abating her symptoms, and that she was totally and permanently disabled from the performance of her regularly assigned duties. Petitioner appealed the denial of accidental disability benefits. The Board affirmed the ALJ. Petitioner then appealed to the Appellate Division. The majority of the panel affirmed and reasoned as follows.

In Richardson v. Board of Trustees, PFRS, 192 N.J. 189 (2007), an inmate knocked a corrections officer to the ground, causing a complete tear of his wrist ligament which left him physically disabled. The Court ruled his physical disability was the direct result of a traumatic event. The Court held “the traumatic event standard will . . . be met by a work-connected event that is: (a) identifiable as to time and place; (b) undesigned and unexpected; and (c) caused by a circumstance external to the member (not the result of pre-existing disease that is aggravated or accelerated by the work).” Id. at 192. (449 N.J. Super. at 484-85.)

In Patterson v. Board of Trustees, SPRS, the Court addressed “whether an applicant who has suffered a permanent mental disability as a result of a mental stressor, without any physical impact, can be considered to have experienced a ‘traumatic event’ and, if so, what standard should apply in assessing such a claim.” 194 N.J. 29, 33 (2008). The Court held “a member must satisfy the standards in Richardson,” and “add[ed] a requirement beyond those set forth in Richardson: [t]he disability must result from direct personal experience of a terrifying or horror-inducing event that involves actual or threatened death or serious injury, or a similarly serious threat to the physical integrity of the member or another person.” Id. at 33-34, 50. (449 N.J. Super. at 485-86.)

In Russo v. Board of Trustees, PFRS, 206 N.J. 14, 17 (2011), the Court “revisit[ed]” Richardson and Patterson. Police Officer Russo “was involved in a terrifying fire rescue in which he was injured and the victim died.” Id. at 18. Specifically, Russo tried to reach the victim who was crying out for help, but Russo became disoriented, dizzy, and nauseous. Id. at 19. Russo was rescued by firefighters, received first aid, and was hospitalized overnight for smoke inhalation. Id. at 19-20. While still at the fire scene, Officer Russo saw the victim’s body brought out, and the victim’s family “confronted Russo, blaming him and the other officers for the victim’s death.” Id. at 20. Even though Officer Russo was physically injured, the Court applied the Patterson requirement. Id. at 33. Thus, the Court assigned an important role to the Patterson requirement—to prevent idiosyncratic and subjective claims of mental disability from crossing the high threshold for the award of accidental disability benefits. That purpose is served by its application as in Russo to claims based on mental disability due to mental stressors even if accompanied by minor or temporary physical injuries. (449 N.J. Super. at 486-91.)

Petitioner argued that she is not required to satisfy the Patterson requirement under Caminiti v. Board of Trustees, PFRS, 431 N.J. Super. 1 (App. Div. 2013). However, Caminiti failed to recognize the effect of Russo’s application of the Patterson requirement to a member suffering both temporary physical injury and disabling mental injury. In any event, petitioner’s case is clearly distinguishable from Caminiti. (449 N.J. Super. at 491-93.)

Considering the totality of the circumstances, the panel majority agreed with the ALJ and the Board that the three incidents, whether considered individually or collectively, failed to meet the Patterson requirement. None of the incidents here were “a terrifying or horror-inducing event that involve[d] actual or threatened death or serious injury, or a similarly serious threat to the physical integrity of the member or another person.” Patterson, 194 N.J. at 50 (emphasis added). It is the Board, not a member’s psychiatrist, which determines whether the incident meets Patterson’s objective reasonableness standard. Here, the ALJ found petitioner’s mental disability in response to these incidents was “the very definition of an idiosyncratic response.” The Board affirmed. That finding was not arbitrary, capricious, or unreasonable. While petitioner’s idiosyncratic response entitled her to ordinary disability benefits, it failed to satisfy the Patterson requirement for accidental disability benefits. Being assaulted was not part of petitioner’s job description or training. Therefore, the Board erred in concluding the incidents were not undesigned and unexpected. However, because petitioner failed to meet the Patterson requirement, the Board properly rejected her claim for accidental disability benefits. (449 N.J. Super. at 493-504.)

Judge Ostrer joined the majority’s determination that the Patterson objective reasonableness test applies to this case, in which petitioner suffered both mental injury and minor physical injury, but dissented to express the view that petitioner met that test. (449 N.J. Super. at 504-12.)

The Court granted certification. 230 N.J. 565 (2017).

**HELD:** The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Leone’s majority opinion.

**CHIEF JUSTICE RABNER and JUSTICES LaVECCHIA, ALBIN, PATTERSON, FERNANDEZ-VINA, SOLOMON, and TIMPONE join in this opinion.**

SUPREME COURT OF NEW JERSEY  
A-5 September Term 2017  
079359

JACLYN THOMPSON,

Petitioner-Appellant,

v.

BOARD OF TRUSTEES, TEACHERS'  
PENSION AND ANNUITY FUND,

Respondent-Respondent.

Argued April 10, 2018 - Decided May 3, 2018

On appeal from and certification to the Superior Court, Appellate Division, whose opinion is reported at 449 N.J. Super. 478 (App. Div. 2017).

Richard A. Friedman argued the cause for appellant (Zazzali, Fagella, Nowak, Kleinbaum & Friedman, attorneys; Richard A. Friedman, of counsel and on the briefs, and Edward M. Suarez, Jr., on the briefs).

Amy Chung, Deputy Attorney General, argued the cause for respondent (Gurbir S. Grewal, Attorney General, attorney; Melissa H. Raksa, Assistant Attorney General, of counsel, and Amy Chung and Robert S. Garrison, Jr., Deputy Attorney General, on the briefs).

PER CURIAM

The judgment of the Superior Court, Appellate Division is affirmed, substantially for the reasons expressed in Judge Leone's majority opinion, reported at 449 N.J. Super. 478 (App. Div. 2017).

CHIEF JUSTICE RABNER and JUSTICES LaVECCHIA, ALBIN,  
PATTERSON, FERNANDEZ-VINA, SOLOMON, and TIMPONE join in this  
opinion.