

STATE OF FLORIDA
DIVISION OF RETIREMENT

AREANI T. DELEON, O/B/O JORGE
DELEON,

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Petitioner,

Final Order No. DMS -05-031

vs.

DOAH CASE No. 04-0266
DMS-DOR No. 03-51

CSH
Closed

DEPARTMENT OF MANAGEMENT SERVICES,
DIVISION OF RETIREMENT,

Respondent.

AT

FINAL ORDER

PRELIMINARY STATEMENT

After being formally notified of the Division of Retirement's intent to deny Petitioner's request for in-line-of duty death benefits, Areani DeLeon timely filed a petition for hearing and the case was referred to the Division of Administrative Hearings.

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, Carolyn S. Holifield, held a formal hearing at 9:30 a.m., by Video Teleconference in the above-styled case on October 5, 2004, with the Petitioner appearing at the Park Trammel Building in Tampa, Florida, and the Respondent appearing at the Division of Retirement in Tallahassee, Florida.

At hearing, the Parties offered the following depositions as joint exhibits: (1) Deposition of Dr. S. Rao Korabathina; (2) Deposition of Dr. Benedict S. Maniscalco, expert cardiologist; (3) Deposition of Sgt. Carmine Pisano, officer with the Hillsborough County Sheriff's Department; (4) Deposition of Deputy Arturo Peralta, officer with the Hillsborough County Sheriff's Department; and (5) Deposition of Dr. Susan S. Ignacio, Associate Medical Examiner for District Six. In addition, the Petitioner offered the

depositions of Deputy Charity Cosby, officer with the Hillsborough County Sheriff's Department, and Dr. John Dormois, expert cardiologist, as Petitioner's exhibits 1 and 2 respectively. She also presented her own testimony.

Respondent presented the testimony of Stanley Colvin, expert, Benefit Administrator, Division of Retirement. Respondent's exhibit 1, Deputy DeLeon's pre-employment physical report was accepted into evidence. The Respondent was granted official recognition of Chapter 121, Florida Statutes, specifically Section 121.091(7) and Section 121.021(14), Florida Statutes. In addition, official recognition was granted of Chapter 60S of the Florida Administrative Code, specifically Rules 60S-4.008 and 60S-6.001(20), F.A.C.

STATEMENT OF THE ISSUES

The issue in this case was whether the Petitioner, Areani T. DeLeon, was entitled to receive "in-line-of-duty" death benefits under the Florida Retirement System (FRS).

FINDINGS OF FACT

The Findings of Fact in the Recommended Order, attached hereto, are incorporated by reference herein.

CONCLUSIONS OF LAW

The Conclusions of Law in the Recommended Order, attached hereto, are incorporated by reference herein.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED AND DIRECTED that the Petitioner, Areani T. DeLeon, is qualified to receive "in-line-of-duty" benefits.

DONE AND ORDERED this 18th day of May, 2005, in Tallahassee,

Leon County, Florida.

Sarabeth Snuggs
SARABETH SNUGGS
STATE RETIREMENT DIRECTOR
PO BOX 9000
TALLAHASSEE, FLORIDA 32315-9000
(850) 488-5541

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF MANAGEMENT SERVICES, 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

I HEREBY CERTIFY that this Final Order was filed in the official records of the Department of Management Services on the 18th day of May 2005, and copies were furnished to Larry D. Scott, Esquire, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, FL 32399-0950; David J. Plante, Esquire, 709 W. Azeele Street, Tampa, FL 33606; and Judge Carolyn S. Holifield, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060.

Debbie Shoup
Debbie Shoup, Clerk
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399-0950
(850) 487-1082