

is this at all relevant to your case?

7/30/73

Judge Orders Compensation for Psychological Injuries

By HARMON Y. GORDON
Of The Bulletin Staff

In a decision of far-reaching effect on all police, municipal and public employees, Common Pleas Judge Herbert S. Levin has ruled that a bona fide psychological or psychiatric service-incurred disability is just as disabling and compensable as a physical injury.

And he also ruled in a second case that the aggravation of a pre-existing asymptomatic (symptomless) condition can for the first time in Pennsylvania law constitute a compensable disability.

The two significant rulings are a departure from the previously held views that "functional" disabilities have

been deemed to be not service-connected.

Two Policemen Benefit

Judge Levin found in favor of two policemen whose disabilities had been found not service connected by the police department and later by the Civil Service Commission. The Civil Service Commission rulings were reversed by Judge Levin in both cases.

but one was sent back to the commission with directions to impanel an impartial medical board of physicians who are specialists in the areas covered in his opinion. Their conclusions are then to be evaluated by the commission following the rationale of Judge Levin's ruling.

'As Real as Disabling...'

In remanding the case Judge Levin said, "we hold that a mental or neurological condition can be as real and at least as disabling as a fractured bone or a discogenic disease."

He noted the city's physician and consultant had said "Return to duty may result in injury to himself, fellow officers, or others."

And further, he said, both the police department and the Civil Service Commission failed to pursue their own expert's suggestion to have a "functional disease" consultant for possible treatment.

On Welfare

"In failing to pursue this"



Judge Herbert S. Levin rules on disability

said the judge "the flesh and blood consequence of the case before us is that a 10-year veteran of the police department is apparently so incapacitated he is non-employable and has been and is now a recipient of public welfare largesse.

"We join with all others in denouncing the policeman who is killed in the course of his service," said Judge Levin "but we express the hope that as much concern be manifested for those who are injured while on duty.

"We do insist, because we believe the law demands, a greater concern for the living, evinced in more thorough diagnoses and treatment of those whose traumatic experience while on duty has resulted in an emotional, neurological or mental disability

and is not malingering."

And he was critical of the repetitive use of expressions which showed there was no orthopedic problem involved in the cases and the failure to deduce that there may be neurological, psychological or psychiatric support for the disability.

"I have convened an impartial panel of orthopedists under these circumstances was ill-advised", said Judge Raps Departments

Continuing his criticism, Judge Levin said "shorn of fool-de-rol and language jousting, what the commission (and, preceding that, the particular city department) is implying, and what the city's

physicians are perhaps implying, this appellant and others whose situations are parallel are malingerers."

In other areas of the law, such as the fields of negligence and workmen's compensation, if injury or accidents result in psychological, neuritic or psychiatric disturbances they are compensable, said Judge Levin.

"We see no legal reason to exclude the city's employees from that protection" said Judge Levin.

"We hold that the departments and commission may no longer slough over one's mental condition, in which we include nervous, psychological and psychic disturbances,

granted, an on-duty accident or experience, and take the position that simply because there is no objective confirmation, such a condition must necessarily be either non-disabling, not service-connected or of a malingering nature" said the judge.