FILED
DEC 21 1978
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IN THE COURT OF APPEALS OF IOWA

ROBERT DEAN CLARK,	)	
Appellant,	)	Filed December 21, 1978
vs.	)	
BOARD OF TRUSTEES OF POLICE RETIREMENT SYSTEM, et al,	)	677 2-60944
Appellees.	)	

Appeal from Polk District Court - Theodore Miller, Judge.

Certiorari challenging respondent's failure to approve petitioner's application to be recommended for certification as candidate for police force. - Reversed.

Mark W. Bennett & Gordon E. Allen, Des Moines, for Appellant.

David Stoler & John Malone, Des Moines, for Appellees.

Heard by Oxberger, C. J., and Snell, Carter and Johnson, JJ. Donielson, J., takes no part.

PER CURIAM

Petitioner Robert Clark brought certiorari in the district court to test the legality of the respondent board's decision not to recommend petitioner to the civil service commission for certification to the Des Moines police academy. The district court sustained the board's action and dismissed the writ; petitioner appeals that decision. We reverse.

Initially we note that certiorari is an action at law, and we consider only whether the board's decision is supported by substantial competent evidence. Carstensen v. Board of Trustees of Police Retirement System, 253 N.W.2d 560, 561 (Iowa 1977). If the decision is so supported, we must affirm in spite of the fact that the record also supports the opposite conclusion. The relevant facts, as stipulated by the parties, are that petitioner successfully completed a prescribed agility test; he successfully completed all tests required for approval by respondents; he was denied certification by respondents because one of his legs is shorter than the other; the only evidence considered by respondents is contained in the documents certified in the return to the writ of certiorari; the Des Moines Police Department has employed a police officer who had one leg shorter than the other.

Under § 400.8(1), The Code, physical examinations of applicants for appointment to the position of policeman are held under the direction of the boards of trustees of the police retirement systems. The board makes a recommendation to the city civil service commission based on the results of the physical examination. The evidence in support of the board's disapproval of petitioner's application may be summarized as follows: petitioner received a draft deferment due to a fractured right femur; petitioner's right leg is 1-1 1/4 in. shorter than the left; petitioner walks with a limp.

We find the above does not constitute substantial competent evidence to justify the board's conclusion. None of the surrounding circumstances of petitioner's draft deferment were known to the board. There was simply no evidence that petitioner's leg abnormality would impair his ability to perform a policeman's duties. In fact, the evidence before the board was to the contrary. We recognize that the board must exercise its judgment in deciding whether an

applicant possesses the physical ability to become a police officer. To avoid acting arbitrarily, however, the board's judgment must be based on substantial evidence showing a nexus between an applicant's physical characteristics and the demands of police work. It could be true that petitioner's leg condition would prevent him from performing the job. There is no evidence in the record, however, to establish that connection.

We reverse the judgment of the district court and sustain the writ of certiorari. The case is remanded to respondent board for its decision in light of this opinion. See State v. Iowa District Court in and for Linn County, 236 N.W.2d 54, 56 (Iowa 1975).