

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

IN THE ALLEN CIRCUIT COURT  
CAUSE NO. [REDACTED]

ROGER EMBER, )  
 )  
Plaintiff, )

vs. )

PUBLIC EMPLOYEES RETIREMENT )  
FUND OF INDIANA; 1977 POLICE )  
AND FIREFIGHTERS PENSION )  
FUND OF THE STATE OF INDIANA; )  
TRUSTEES OF THE 1925 POLICE )  
PENSION FUND OF THE CITY OF )  
FORT WAYNE; AND, THE CITY OF )  
FORT WAYNE, INDIANA, )

Defendants. )

**RECEIVED**

MAY 19 1986

**PUBLIC EMPLOYEES  
RETIREMENT FUND**

ALLEN CIRCUIT COURT

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PATRICIA CONRAD CLERK

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court makes the following Findings of Fact in the above captioned cause:

1. Defendant Public Employees Retirement Fund of Indiana is an organization established by the laws of the State of Indiana to provide pension and disability benefits to public employees.
2. Defendant 1977 Police and Firefighters Pension Fund of the State of Indiana was established pursuant to the provisions of I.C. § 36-8-8-1 et seq., and was established to provide certain pension and disability benefits for police officers and fire-fighters.

3. Defendants Trustees of the 1925 Police Pension Fund of the City of Fort Wayne administer a pension fund for police officers of the City of Fort Wayne which provides certain retirement and disability benefits. Said fund was established under the provisions of I.C. § 36-8-6-1 et seq.

4. Defendant City of Fort Wayne is required to make certain contributions and provide certain benefits under the provisions of all three of the defendant pension funds.

5. Plaintiff is a former police officer of the Police Department of the City of Fort Wayne who was required to leave

his employment of such police department by reason of a medical disability on September 27, 1984.

6. Plaintiff was appointed as a police officer of the City of Fort Wayne on the 22nd day of June, 1964. He served until the 28th day of February, 1974 at which time he voluntarily left the police force. He was reinstated as such a police officer on the 16th day of May, 1980.

7. During his first tour of duty between 1964 and 1974, the plaintiff was a member of the 1925 Police Pension Fund of the City of Fort Wayne.

8. Upon reinstatement as a police officer in 1980, plaintiff made application to be reinstated in the 1925 Police Pension Fund of the City of Fort Wayne. Defendant trustees of the 1925 Police Pension Fund of the City of Fort Wayne, by resolution duly adopted on July 8, 1980, reinstated the plaintiff as a participant in said fund.

9. Plaintiff is a participant and member of the 1925 Police Pension Fund of the City of Fort Wayne.

10. Plaintiff is not a member or participant of the Public Employee Retirement Fund of Indiana.

11. On June 20, 1980, plaintiff was advised by defendant 1977 Police and Firefighters Pension Fund that he was only eligible to be a member of that fund and was required to make certain contributions thereto based upon his wages. Under protest, the plaintiff has made contributions to said fund and to the Public Employees Retirement Fund in the total amount of [REDACTED] and the defendant City of Fort Wayne has made contributions to the 1977 Fund and the Public Employees Retirement Fund in the amount of [REDACTED] all of which contributions were returned and refunded by defendant Public Employees Retirement Fund of Indiana to defendant 1925 Police Pension Fund of the City of Fort Wayne, which was a proper transfer of said funds.

12. On September 26, 1984, defendant Trustees of the 1925 Police Pension Fund of the City of Fort Wayne, placed plaintiff

on disability pension for medical reasons effective September 27, 1984 and forwarded its resolution to defendant Public Employees Retirement Fund, successor to the defendant 1977 Police and Firefighters Pension Fund of the State of Indiana, along with supporting documentation of disability.

13. Since September 27, 1984, plaintiff is and has been entitled to disability payments from defendant 1925 Police Pension Fund of the City of Fort Wayne based upon 35% disability computed by multiplying 2.5% per year of service times plaintiff's 14 years of police service. Disability payments are based upon 35% of the a patrolman's current base pay.

14. Defendant 1925 Police Pension Fund of the City of Fort Wayne has in fact paid plaintiff's disability entitlements due for the above time periods to plaintiff in the amount of

██████████ Said payment was made on September 1, 1985 and was a proper payment.

15. Plaintiff is entitled to continue to receive disability pay from defendant 1925 Police Pension Fund of the City of Fort Wayne pursuant to the provisions of the Indiana Code § 36-8-6-1, et seq.

16. Plaintiff is not a member or participant in the 1977 Police Pension Fund of the State of Indiana.

17. Defendant City of Fort Wayne has a current and continuing responsibility and obligation to fund all of plaintiff's benefits.

CONCLUSIONS OF LAW:

The law is with the plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. The Court ratifies and confirms the transfer of funds made from the Public Employees Retirement Fund of Indiana to the 1925 Police Pension Fund of the City of Fort Wayne on behalf of plaintiff.

2. The Public Employee Retirement Fund of Indiana is

relieved of any responsibility or further liability to the plaintiff and is accordingly now dismissed from this lawsuit.

3. Plaintiff is not a member or participant in the 1977 Police and Firefighters Fund of the State of Indiana and said Fund is therefore relieved of any responsibility or liability to the plaintiff and is accordingly dismissed from this lawsuit.

4. Plaintiff is declared to be a member and participant of the 1925 Police Pension Fund of the City of Fort Wayne and is entitled to all the pension and disability benefits therein.

5. The 1925 Police Pension Fund of the City of Fort Wayne is responsible and liable to plaintiff to compensate plaintiff for his disability and to make continuing disability payments to plaintiff pursuant to the Indiana Code § 36-8-6-1, et seq.

6. Defendant City of Fort Wayne is ordered to meet its current and continuing responsibility to fund all of plaintiff's benefits pursuant to Indiana Code § 36-8-6-1, et seq.

7. Costs are <sup>paid</sup> ~~assessed~~ to the City of Fort Wayne.

DATE

May 15, 1986

Thomas L. Ryan  
THOMAS L. RYAN, JUDGE  
ALLEN CIRCUIT COURT

APPROVED:

[Signature]  
CITY ATTORNEY, CITY OF FORT WAYNE

[Signature]  
J. PHILIP BURT,  
Attorney for 1925 Police Pension  
Fund of the City of Fort Wayne

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