STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1410

In the Matter of a Public Safety Officer Death Benefit for Eric William Groebner (Deceased).

Filed May 19, 2025
Reversed and remanded
Schmidt, Judge
Dissenting, Johnson, Judge

Office of Administrative Hearings
File No. 24-2400-39738

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Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this certiorari appeal, relator challenges the denial of her application for the death benefits provided by Minnesota Statutes section 299A.44 (2024) to survivors of public safety officers killed in the line of duty. Relator argues that the administrative law judge (ALJ) erred by determining on summary disposition that her husband, a police officer, was not killed in the line of duty under Minnesota Statutes section 299A.41, subdivision 3 (2024) because the officer's final patrol shift did not involve "nonroutine stressful or

strenuous physical law enforcement . . . or other emergency response activity." Because there are issues of material fact that preclude granting summary disposition, we reverse the ALJ's summary disposition order and remand for further proceedings.

FACTS

This case arises from the death of City of Anoka Police Department Patrol Officer Eric Groebner who died from a vascular rupture at the age of 39. The record before the ALJ, viewed in the light most favorable to relator Holly Groebner[1]—Officer Groebner's spouse—reveals the following facts.

Officer Groebner served as an Anoka police officer since 2014. Officer Groebner's medical records from his preemployment physical examinations reveal that there was no evidence of heart disease. Testing after his death ruled out a genetic cause of his fatal vascular rupture. During his eight-year career, Officer Groebner saw his primary care provider at least nine times for anxiety and gastroesophageal reflux symptoms.

On September 13, 2022, the day before his death, Officer Groebner worked a 12-hour shift from 10:00 a.m. to 10:00 p.m. During his shift, Officer Groebner responded to eleven calls for service, including calls for trespassing, burglary-in-progress, and a domestic disturbance. As to the domestic disturbance call, the reporting person heard "yelling and somebody talking about a knife" and believed the comments were directed toward a child in the yard. The reporting person also noted that the child was being chased

[1] *In re Pub. Safety Officer Death Benefit for Lannon*, 984 N.W.2d 575, 580 (Minn. App. 2022) (stating summary disposition requires the evidence be viewed in the light most favorable to the nonmoving party).

across the street. Officer Groebner received the call and drove towards the scene, reaching speeds of 59 miles-per-hour through a residential neighborhood. When Officer Groebner arrived, he exited his squad car and calmly approached the child's father. After speaking to the father and the child, Officer Groebner left the scene without making an arrest.

Officer Groebner returned home after his shift. The next morning, he took his children to the bus stop around 8:45 a.m. and then sent his mother a text message at 9:39 a.m. Officer Groebner's mother later went to his home, but he did not answer the door, respond after she entered the house, or reply to the text message that she sent at 11:02 a.m. When the children returned home from school, they could not locate their father. The children called their mother who rushed home and found Officer Groebner dead on the bathroom floor at 5:00 p.m. The death certificate lists the cause of death as "rupture of ascending aortic aneurysm with cardiac tamponade."

Relator applied for federal line-of-duty death benefits. The federal reviewing officer determined that Officer Groebner died as the "result of a heart attack suffered not later than 24 hours after engaging in an on-duty situation involving nonroutine stressful physical emergency response activity, and there is no competent medical evidence to establish otherwise." The reviewing officer approved the federal death benefits.

Relator also applied for state benefits from respondent Minnesota Department of Public Safety. The commissioner of public safety responded with a letter denying relator's application, explaining that "because Officer Groebner did not die in the line of duty as a peace officer at the time of his death, as defined by Minn. Stat. § 299A.41, subd. 3, he is not eligible for the Line of Duty Death Benefit."

Relator appealed the denial of benefits to the Office of Administrative Hearings. During discovery, relator disclosed two expert witnesses—Officer Drew Moldenhauer and Officer Richard Webb—who would testify that the response to the domestic disturbance call was nonroutine, stressful, strenuous, and dangerous.[2]

Before discovery had closed, the department moved for summary disposition seeking an order affirming the denial of relator's application for benefits. The department did not dispute that Officer Groebner died within 24 hours of a shift but argued that the officer had not engaged in "nonroutine stressful or strenuous physical law enforcement . . . or emergency response activity" within 24 hours of his death. The department's motion attached an exhibit of an analysis performed by a doctor hired by relator who concluded that "[m]ore likely than not, [Officer] Groebner's exposure to the psychologically and physiologically stressful occupation of law enforcement was causally associated with the development and progression of his thoracic aortic aneurysm and atherosclerotic coronary artery disease." The exhibit did not mention whether the activity Officer Groebner engaged in during his final patrol shift contributed to his death.

Relator opposed the motion, arguing that her application for benefits should receive the statutory presumption that Officer Groebner was killed in the line of duty because he died from a vascular rupture suffered within 24 hours of his shift that included "*multiple* situations that involved nonroutine stressful or strenuous physical law enforcement, . . . or

[2] Relator made these expert disclosures over a month before the ALJ issued its order. The department filed a motion to compel relator to provide complete expert disclosures, arguing that the disclosures relator made were deficient and incomplete. The ALJ did not rule on the department's motion to compel.

other emergency response activities[.]" In support of her opposition to summary disposition, relator attached as an exhibit the affidavit of Officer Moldenhauer.[3] Officer Moldenhauer averred that he had reviewed a redacted copy of the domestic disturbance police record and, in his opinion as a long-time licensed peace officer, responding to such a call constituted both "nonroutine stressful or strenuous physical law enforcement or other emergency response activity, and . . . the performance of duties peculiar to a peace officer that expose the officer to the hazard of being killed."

The ALJ granted the department's motion for summary disposition. In defining the term "nonroutine," the ALJ determined that an activity is "'nonroutine stressful or strenuous' if the performance of said duty exposes the officer to the hazard of being killed." With that definition, the ALJ assessed the body camera footage of Officer Groebner's response to the domestic disturbance and characterized Officer Groebner's demeanor as calm during "the entirety of the response to the domestic disturbance call." The ALJ determined that "the Officer's last shift did not constitute 'nonroutine stressful or strenuous' law enforcement" activity.

This certiorari appeal follows.

[3] At oral argument before this court, the department's counsel asserted that the affidavit of Officer Moldenhauer should not be considered in our review of the summary disposition order because relator submitted the affidavit after the ALJ issued its order. Counsel's representation is contrary to the record. Relator submitted Officer Moldenhauer's affidavit with her opposition to the motion for summary disposition. Relator's opposition brief to the ALJ also cited to Officer Moldenhauer's affidavit in arguing that "the circumstances of [the domestic disturbance] call were 'nonroutine stressful or strenuous.'"

DECISION

Relator challenges the ALJ's grant of summary disposition, which "is the administrative equivalent of summary judgment." *Pietsch v. Minn. Bd. of Chiropractic Exam'rs*, 683 N.W.2d 303, 306 (Minn. 2004). Like summary judgment, "[s]ummary disposition is appropriate only when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Lannon*, 984 N.W.2d at 580. "We review an ALJ's grant of summary disposition de novo to determine whether any genuine issues of material fact exist and whether the ALJ erred in applying the law to the facts. In doing so, we view the evidence in the light most favorable to the nonmoving party." *Id.* (citation omitted).

Relator argues that the ALJ erred by granting summary disposition and by resolving and ignoring disputed issues of material fact. Relator asks us to reverse the summary disposition order and remand for an evidentiary hearing.

The primary question before us is whether the evidence, when viewed in the light most favorable to relator, creates a genuine issue of material fact as to whether Officer Groebner's final shift included "nonroutine stressful or strenuous physical law enforcement . . . or other emergency response activity." Minn. Stat. § 299A.41, subd. 3(a)(1)(i). This question first requires us to consider the meaning of "nonroutine" as used in the statute. Second, we consider whether genuine issues of material fact exist that precluded summary disposition.

I. The ALJ erred in adopting a narrow statutory definition of "nonroutine" to be limited to activity that exposes a public safety officer to the hazard of death.

Eligibility for public safety officer death benefits is outlined in Minnesota Statutes sections 299A.41 through 299A.47 (2024). Section 299A.44 provides a death benefit to survivors of public safety officers who are "killed in the line of duty[.]" Minn. Stat. § 299A.44, subd. 1(a). "Killed in the line of duty" is partially defined in section 299A.41, subdivision 3. *See* Minn. Stat. § 299A.41, subd. 1 (providing that the definitions used in section 299A.41 apply to section 299A.44).[4] In relevant part, the statute provides that

> [k]illed in the line of duty . . . means if a public safety officer dies as the direct and proximate result of a heart attack, stroke, or vascular rupture, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty if:
>
> (1) that officer, while on duty:

[4] Relator argues the phrase "killed in the line of duty" has already been defined by the Minnesota Supreme Court in *Johnson v. City of Plainview*, 431 N.W.2d 109 (Minn. 1988), and *Kramer v. State of Minn., Peace Officers Benefit Fund*, 380 N.W.2d 497 (Minn. 1986). In *Kramer*, the supreme court defined "killed in the line of duty" as "death resulting from the performance of those duties peculiar to a peace officer that expose the officer to the hazard of being killed." 380 N.W.2d at 501. The court in *Johnson* applied the *Kramer* definition and concluded that "[g]iven that the [Peace Officers Benefit Fund] was established to recognize the sacrifices made by peace officers in performing hazardous work in protection of the public, any death which results in part from the performance of such work should qualify for Fund benefits." 431 N.W.2d at 114-15.

The supreme court's definitions in *Johnson* and *Kramer*, however, occurred before the legislature amended the statute in 2016 to include the provision relating to certain causes of deaths within 24 hours after a final shift—i.e., heart attacks, strokes, or vascular ruptures. *See* 2016 Minn. Laws ch. 189, art. 14, § 3, at 1100. But we have already concluded that the definitions in *Johnson* and *Kramer* control, "*except* as to deaths specifically included or excluded by the legislature in Minn. Stat. § 299A.41, subd. 3." *Lannon*, 984 N.W.2d at 585 (emphasis added). Because this case involves the interpretation of section 299A.41, subdivision 3, we reject relator's contention that the *Johnson* and *Kramer* decisions answer the question presented in this appeal.

> (i) engaged in a situation, and that engagement involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity;
>
> . . . .
>
> (2) that officer died as a result of a heart attack, stroke, or vascular rupture suffered:
>
> . . . .
>
> (iii) not later than 24 hours after engaging or participating under clause (1); and
>
> (3) the presumption is not overcome by competent medical evidence to the contrary.

Minn. Stat. § 299A.41, subd. 3(a)(1)-(3). The statute requires three circumstances be met: an officer must have (1) died as the "result of a . . . vascular rupture;" (2) engaged in a "nonroutine stressful or strenuous physical law enforcement . . . or other emergency response activity;" and (3) suffered a vascular rupture "not later than 24 hours after engaging" in the nonroutine stressful or strenuous activity. *Id.*, subd. 3(a)(1)(i), (2)(iii).

There is no dispute that the first and third statutory circumstances are satisfied. The parties dispute whether Officer Groebner's final shift involved a "nonroutine stressful or strenuous" activity—a phrase not defined in the statute.

We review the interpretation of a statute de novo. *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 744 (Minn. 2021). The goal of statutory interpretation "is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2024). We agree with the parties that the statute is unambiguous, and therefore "we interpret it

according to the plain meaning of its text." *Pfoser v. Harpstead*, 939 N.W.2d 298, 310 (Minn. App. 2020), *aff'd* 953 N.W.2d 507 (Minn. 2021). Statutory "words and phrases are construed according to rules of grammar and according to their common and approved usage[.]" Minn. Stat. § 645.08(1) (2024).

The parties offer different approaches for interpreting the statute. Relator contends that the phrase "nonroutine stressful or strenuous physical" only modifies "law enforcement" and not the other terms that follow, including "emergency response activity." The department argues the phrase "nonroutine stressful or strenuous physical" modifies all of the statutory terms that follow. We agree with the department's interpretation.

Under the series-qualifier canon of statutory interpretation, "when several words are followed by a clause which is applicable as much to the first and other words as to the last, the natural construction of the language demands that the clause be read as applicable to all." *In re Estate of Pawlik*, 845 N.W.2d 249, 252 (Minn. App. 2014) (quotation omitted), *rev. denied* (Minn. June 25, 2014). The clause at issue—"nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity"—is written in a straightforward, parallel construction with only commas separating the listed nouns. *See id.* ("When there is a straightforward, parallel construction that involves all nouns or verbs in a series, a prepositive or postpositive modifier normally applies to the entire series." (quotation omitted)). Thus, we conclude that the phrase "nonroutine stressful or strenuous physical" modifies each of the activities listed in Minnesota Statute section 299A.41, subdivision 3(a)(1)(i).

We next must determine the definition of "nonroutine." The ALJ defined "nonroutine" as requiring circumstances that "paint a picture of exposure to the hazard of death." This definition creates an extremely high standard that is not supported by the "common and approved usage" of the term. *See* Minn. Stat. § 645.08(1). The common usage of "nonroutine" is not so limited as to only include activities that expose an officer to the "hazard of death." We, therefore, reject the ALJ's definition. Instead, we turn to the rules of construction and "look to the dictionary definition[] of [the] word[] and apply [it] in the context of the statute to determine whether the [word] has a plain and unambiguous meaning." *Fordyce v. State*, 994 N.W.2d 893, 897 (Minn. 2023) (quotation omitted).

The term "nonroutine" appears in dictionaries generally as two separate words—"non," the prefix, and "routine," the base word. *See The American Heritage Dictionary of the English Language* 1198, 1529 (5th ed. 2011). "Non" is defined as "not." *Id.* at 1198. Dictionaries define "routine" as "[a] set of customary or unchanging and often mechanically performed activities or procedures[,]" *Id.* at 1529, and "[a] regular course of procedure[,]" 14 *The Oxford English Dictionary* 172 (2d ed. 1989).[5] These definitions suggest that "nonroutine" describes activities or procedures that are not customary, mechanically performed, or part of the regular course of procedure.

[5] Online dictionary definitions of "nonroutine" include "not of a commonplace or repetitious character[,]" *nonroutine*, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/nonroutine [https://perma.cc/UF97-PUW5], and "special or unusual, rather than part of what usually happens[,]" *non-routine*, Cambridge Dictionary, https://dictionary.cambridge.org/us/dictionary/english/non-routine [https://perma.cc/SDJ9-KE7X].

Applying these definitions to section 299A.41, subdivision 3(a)(1)(i), we conclude that a survivor qualifies for line-of-duty death benefits if the peace officer died from one of the statutory-listed causes of death within 24-hours after a final shift that involved stressful or strenuous law enforcement or emergency response activities that were not customary, mechanically performed, or part of an officer's regular course of procedure. Minn. Stat. § 299A.41, subd. 3(a)(1)(i).

II. The ALJ erred by granting summary disposition to the department because genuine issues of material fact remain.

Having determined the definition of "nonroutine," we next consider whether the ALJ erred by granting summary disposition to the department. Viewing the evidence in the light most favorable to relator, we conclude that the record includes evidence to create a genuine issue of material fact that precludes summary disposition. *See O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996) ("A fact is material if its resolution will affect the outcome of a case.").

The record contains sufficient evidence to create an issue of material fact as to whether Officer Groebner engaged in nonroutine stressful and strenuous law enforcement or emergency response activity during his final shift. Specifically, the record includes evidence that Officer Groebner was dispatched to a domestic disturbance call where the reporting person heard "yelling and somebody talking about a knife" and that the comments were directed towards a child. The record also contains the affidavit of Officer Moldenhauer—a 17-year law enforcement veteran—which noted that he had reviewed a redacted copy of the domestic disturbance call. Officer Moldenhauer then attested to his

belief that responding to that call involved "nonroutine stressful or strenuous physical law enforcement or other emergency response activity" and "the performance of duties peculiar to a peace officer that expose the officer to the hazard of being killed." That affidavit—which was cited in the opposition memorandum to summary disposition and provided as an exhibit to the ALJ—raised a genuine issue of material fact as to whether the domestic disturbance call was nonroutine. *See Geist-Miller v. Mitchell*, 783 N.W.2d 197, 202 (Minn. App. 2010) ("[T]he motion for summary judgment is defeated if evidence is pointed out or identified that, if fully believed, would support a claim."), *overruled on other grounds by Kenneh v. Homeward Bound, Inc.*, 944 N.W.2d 222 (Minn 2020). The ALJ's order granting summary disposition to the department does not reference this affidavit.

Beyond failing to reference the affidavit, the ALJ also inappropriately made factual findings and weighed evidence at the summary disposition stage. *See Henry v. Indep. Sch. Dist. #625*, 988 N.W.2d 868, 880 (Minn. 2023) (holding courts do not weigh evidence or assess credibility at summary judgment stage); *Pietsch*, 683 N.W.2d at 306 (comparing summary disposition to summary judgment standards). First, the ALJ relied on its own review of the body-camera video to make an impermissible finding of fact that Officer Groebner's demeanor remained calm in responding to the domestic disturbance. *See Geist-Miller*, 783 N.W.2d at 201 ("[A] court deciding a summary-judgment motion must not make factual findings or credibility determinations or otherwise weigh evidence relevant to disputed facts."). The ALJ then inappropriately used that finding to determine that this activity constituted a routine law-enforcement activity. *See id.*

The ALJ next improperly weighed the evidence by focusing on the specific timeframe of how the call resolved. *See id.*; *Henry*, 988 N.W.2d at 880. In determining whether there is a genuine issue of fact as to whether the activity here was "nonroutine," the ALJ should have considered the circumstances of the entire response, in the light most favorable to the relator, to determine whether any of the call's events—driving to the scene, the scene itself, or the conclusion of the call—could be categorized as "nonroutine." But in its order, the ALJ only emphasized the evidence of Officer Groebner's calm demeanor after exiting the squad car for the domestic disturbance. In doing so, the ALJ depreciated evidence of the time that Officer Groebner received the call—related to sparse details of yelling and a knife, both of which was directed towards a child—and he sped towards the scene until he exited the squad car. The conceivable stress that Officer Groebner experienced on his way to the scene—including the stress on his heart in that timeframe—makes resolution of these facts inappropriate for summary disposition.

An ALJ may only make factual findings or weigh evidence after holding an evidentiary hearing where the body-camera video is received and testimony is presented related to the video. Such testimony may come from experienced law enforcement officers who can discern what public safety officers encounter during shifts and whether those encounters constitute nonroutine activities. When this evidence is presented at a summary disposition stage of the proceedings—as it was here—the ALJ must allow for an evidentiary hearing. *Lannon*, 984 N.W.2d at 580; *Henry*, 988 N.W.2d at 880.[6]

[6] To the extent no such evidence is presented for the ALJ's consideration, the lack of evidence may support a denial of benefits at the summary disposition stage. *Smits, as Tr.*

The record presented to the ALJ may not have included overwhelming evidence to support an award of benefits. But the evidence presented survives summary disposition because—when viewed in the light most favorable to the nonmoving party—a fact-finder could conclude that the officer was "killed in the line of duty" as defined by statute and clarified in this opinion. Because the ALJ erred by dismissing the case on summary disposition, we remand for further proceedings that include an evidentiary hearing.

Reversed and remanded.

for Short v. Park Nicollet Health Servs., 979 N.W.2d 436, 454 (Minn. 2022) ("speculation or conjecture about a fact will not prevent summary judgment").

JOHNSON, Judge (dissenting)

It is fitting that the state provides monetary death benefits to the families of public-safety officers who were killed in the line of duty. The existence of such a program makes it necessary to determine who is eligible for the benefits and who is not. In this case, the administrative law judge (ALJ) decided that, as a matter of law, Officer Groebner was not killed in the line of duty. I would conclude that the ALJ's decision is correct in light of the applicable law and the evidence presented by the parties.

A.

I begin by identifying the applicable law. The state must pay a death benefit to a relative or to the estate of a public-safety officer who was "killed in the line of duty." Minn. Stat. § 299A.44, subd. 1(a) (1)-(5) (2024). The phrase "killed in the line of duty" is defined primarily by caselaw. *See Kramer v. State, Peace Officers Benefit Fund*, 380 N.W.2d 497 (Minn. 1986); *Johnson v. City of Plainview*, 431 N.W.2d 109 (Minn. 1988).

The phrase "killed in the line of duty" also is defined, in part, by a statute: section 299A.41, subdivision 3. *See In re Lannon*, 984 N.W.2d 575, 582 (Minn. App. 2022) (stating that section 299A.41, subdivision 3, "provides a partial definition"). The first sentence of section 299A.41, subdivision 3(a), narrows the meaning of "killed in the line of duty" by excluding "deaths from natural causes," with certain exceptions. Minn. Stat. § 299A.41, subd. 3(a) (2024). The second sentence of section 299A.41, subdivision 3(a), expands or clarifies the meaning of "killed in the line of duty" by including "the death of a public safety officer caused by accidental means while the public safety officer is acting in the course and scope of duties as a public safety officer." *Id.* The third sentence of section

299A.41, subdivision 3(a), allows for a presumption that an officer was "killed in the line of duty" in certain circumstances. *Id.*

Relator argues that she and her children are entitled to a death benefit for two reasons: first, because she has satisfied the supreme court's definition of "killed in the line of duty" and, second, because she has satisfied the requirements of the presumption in the third sentence of section 299A.41, subdivision 3. We must consider each argument.[1]

B.

As stated above, the phrase "killed in the line of duty" is defined primarily by caselaw. In *Johnson*, a firefighter was called to a fire and was working with three other firefighters to set up a 1,000-gallon portable drop tank, which consisted of five-foot high pipes weighing approximately 80 pounds, by attaching a 55-pound hose to the bottom of the tank. 431 N.W.2d at 111. He collapsed of a heart attack and was dead on arrival at a hospital. *Id.* at 111-12. In the same appeal, a different firefighter was called to a fire and was working on transformers near downed power lines. *Id.* at 112. He "was rendered

[1] The opinion of the court states that *Johnson* and *Kramer* do not apply because they predate a 2016 amendment of the statute. *See supra* at 7 n.4. It is true that "*Johnson* and *Kramer* control, '*except* as to deaths specifically included or excluded by the legislature in Minn. Stat. § 299A.41, subd. 3.'" *See supra* at 7 n.4 (quoting *Lannon*, 984 N.W.2d at 585). But that part of *Lannon* summarizes a discussion of the *first and second sentences* of section 299A.41, subdivision 3, which specifically exclude "deaths from natural causes" and specifically include deaths "caused by accidental means" while on duty. *See* 984 N.W.2d at 584. The *Lannon* opinion does not discuss the *third sentence* of section 299A.41, subdivision 3, which does *not* specifically include or exclude any particular cause of death from the meaning of "killed in the line of duty." The third sentence merely allows an applicant to establish a *presumption* that an officer "died as the direct and proximate result of a personal injury sustained in the line of duty." Minn. Stat. § 299A.41, subd. 3. That presumption is a means of satisfying the supreme court's definition of "killed in the line of duty." The presumption does not displace the supreme court's definition.

helpless by severe chest pains" and was taken to a hospital, where it was learned he had suffered a heart attack. *Id.* A week later, he suffered a stroke while at home, and he died at a hospital a week after that. *Id.* The supreme court concluded that both firefighters were entitled to a death benefit, reasoning that, "at the time of their heart attacks both men were involved in firefighting duties which exposed them to the risk of being killed." *Id.* at 114.

In *Kramer*, a police detective "slipped while descending steps" at his workplace and "felt a sharp pain in his upper back," which turned out to be a heart attack. 380 N.W.2d at 498. More than a year later, he "suffered a second heart attack while walking a half block to work through heavy wet snow." *Id.* He retired 21 months later. *Id.* at 499. He died of a third heart attack 18 months after his retirement while at home. *Id.* The supreme court concluded that the detective was not killed in the line of duty. *Id.* at 501-02. The supreme court reasoned that "the phrase 'killed in the line of duty' is to be understood as death resulting from the performance of those duties peculiar to a peace officer that expose the officer to the hazard of being killed." *Id.* at 501. The supreme court reasoned that, when the detective suffered his first heart attack, he was at his workplace, "apparently engaged in the ordinary activity of administrative office routine," but "was not then engaged in a duty peculiar to peace officers that exposed him to the hazard of being killed." *Id.* at 502.

Relator argues that, under the holdings of *Kramer* and *Johnson*, Officer Groebner was killed in the line of duty. But Officer Groebner is unlike the first firefighter in *Johnson*, who suffered a heart attack at the scene of a fire and died there or on his way to a hospital. 431 N.W.2d at 111-12. Officer Groebner also is unlike the second firefighter in *Johnson*, who suffered a heart attack at the scene of a fire and "died a few days later as a direct result

of the heart attack he suffered at the fire." *Id.* at 114. Officer Groebner did not die while on duty and did not die shortly after experiencing a severe health event while on duty. Thus, relator cannot establish that Officer Groebner was killed in the line of duty based on supreme court caselaw.

C.

In their arguments concerning the presumption in the third sentence of section 299A.41, subdivision 3, the parties focus on subdivision 3(a)(1)(i), which asks whether, at a relevant time, an officer "engaged in a situation, and that engagement involved *nonroutine stressful or strenuous physical* law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity." Minn. Stat. § 299A.41, subd. 3(a)(1)(i) (emphasis added).

This long clause, though consisting of familiar words, is arranged in such a way that it could raise numerous issues of statutory interpretation. For example, does the word "nonroutine" modify only the word "stressful," or the phrase "stressful or strenuous?" Does the word "nonroutine" modify the word "physical?" Do the words "stressful" and "strenuous" work together as a disjunctive modifier? Are the phrases "nonroutine stressful" and "strenuous physical" independent compound modifiers? Does the word "strenuous" modify only the word "physical" (as if to mean "physically strenuous")? Which of these words modifies the particular "activity" at issue, thereby making it an essential element of the presumption in every case?

One possible interpretation of subdivision 3(a)(1)(i) is that the "activity" at issue must be (1) nonroutine, (2) "stressful or strenuous," and (3) "physical." Another possible interpretation is that the "activity" at issue must be either (1) "nonroutine stressful" or (2) "strenuous physical." There may be other possibilities. The majority interprets the statute to require that the particular activity at issue was "nonroutine." *See supra* at 9-11. For purposes of this nonprecedential opinion, I accept that premise.

Nonetheless, I would not define the word "nonroutine" as broadly as does the majority. I do not believe that a police officer's work ever is "mechanically performed," at least not when an officer is engaged with members of the public. *See supra* at 11. When considered in context, the most pertinent senses of the word "routine" are "having no special quality" and "ordinary." *The American Heritage Dictionary of the English Language* 1529 (5th ed. 2018). Thus, I would interpret "nonroutine" to mean special or extraordinary (or, if used as adverbs, especially or extraordinarily).

D.

In light of the procedural posture of this case and the parties' arguments, the central question on appeal is whether there is a genuine issue of material fact as to whether, within 24 hours of his death, Officer Groebner engaged in "law enforcement" activity or "other emergency response activity" that was "nonroutine." *See* Minn. Stat. § 299A.41, subd. 3(a)(1)(i); *see also Lannon*, 984 N.W.2d at 580 (stating that summary disposition is "administrative equivalent of summary judgment" (quotation omitted)). On the specific issue of Officer Groebner's activities during his last day of work as a police officer, the entirety of relator's argument in her principal brief is as follows:

> Officer Groebner engaged in multiple emergency response activities during the day prior to his death. Specifically, during Officer Groebner's final 12-hour shift as a police officer on September 13, 2022, he engaged in 11 calls for service, and most, if not all, of these calls involved emergency response activity. For example, at 10:04 a.m. he engaged in a felony-level burglary-in-progress emergency response. At 2:18 p.m., Officer Groebner responded to an emergency response trespassing call with concern that the suspect would break into a house. At 12:17 p.m., Officer Groebner responded to a "L2-Urgent" traffic stop. At 5:34 p.m., he responded to a call involving "yelling and somebody talking about a knife" with reports that the comments "may be directed [toward] the child." Additionally, he also engaged in two suspicious person calls, another traffic stop, another domestic, a warrant investigation, and a theft call. Most, if not all, of these calls during Officer Groebner's last shift involved emergency response; however, to the degree that this is in dispute, these factual determinations must be resolved in the estate's favor applying the summary disposition standard. Thus, the second requirement of the presumption is met.

In support of this argument, relator cites some of the incident reports maintained by the Anoka police department for the 11 calls to which Officer Groebner responded. Those reports do not provide detailed information concerning the incidents or, more importantly, Officer Groebner's activities while responding to the incidents. Notably, relator's evidence does not include any affidavits or statements of other officers who were present during Officer Groebner's responses to the 11 incidents.

The majority emphasizes the incident related to the 5:34 p.m. call, implying that it was the most serious or most stressful incident experienced by Officer Groebner on September 13, 2022. *See supra* at 11-13. The first incident report regarding that call was prepared by a different officer, who summarized the call as follows: "Check welfare of two

parties at the location yelling in the road." The officer provided the following narrative of the incident:

> Officer dispatched to the area for two people yelling in the street about a knife. Officer arrived and spoke with [father] and [son]. [Son] was stating that he was being yelled at by his mom for chasing his sister. [Father] stated that [son] wasn't listening and caused a scene in the street, so that someone would call the police. Officer gave both parties their options and mediated. Both parties went back into the residence and agreed to separate. Clear.

To the extent that the first incident report describes Officer Groebner's activities while at the scene of the call, it does not indicate that he engaged in activities that reasonably could be described as "nonroutine."

The second incident report relating to the 5:34 p.m. call appears to quote a dispatcher's recitation of the 911 caller's statements. The second incident report does not indicate whether Officer Groebner was aware of the 911 caller's statements before he arrived at the scene of the incident. Most importantly, the second incident report says nothing about what Officer Groebner did after arriving and responding to the incident.

The majority relies heavily on the affidavit of Officer Moldenhauer. *See supra* at 11-12. Relator does not mention the Moldenhauer affidavit in her principal brief; she mentions it in only one sentence of her reply brief. It is not surprising that the ALJ did not mention the Moldenhauer affidavit because the affidavit has practically no evidentiary value. The Moldenhauer affidavit is a classic example of a conclusory affidavit. The caselaw is clear that a conclusory affidavit cannot defeat a summary-judgment motion (and, thus, cannot defeat a motion for summary disposition). *See Guzick v. Kimball*, 869 N.W.2d

42, 51 (Minn. 2015); *Stroud v. Hennepin Cnty. Med. Ctr.*, 556 N.W.2d 552, 556 (Minn. 1996); *Nowicki v. Benson Props.*, 402 N.W.2d 205, 208 (Minn. App. 1987). This is especially true if a conclusory affidavit merely "parrots back" the applicable law. *See Conlin v. City of Saint Paul*, 605 N.W.2d 396, 402-03 (Minn. 2000); *Magnolia 8 Props., LLC v. City of Maple Plain*, 893 N.W.2d 658, 665 (Minn. App. 2017). The Moldenhauer affidavit merely parrots back the applicable law by stating only the following with respect to the statutory presumption: "In my opinion, . . . responding to the [5:34 p.m.] domestic disturbance call described above involved . . . nonroutine stressful or strenuous physical law enforcement or other emergency response activity . . . ." Furthermore, the Moldenhauer affidavit lacks evidentiary value because the affiant states that his opinion is based solely on his review of the two incident reports. As stated above, the incident reports for the 5:34 p.m. call do not show that Officer Groebner engaged in a nonroutine activity while responding to that call.

The Moldenhauer affidavit is further undermined by the videorecording of the 5:34 p.m. incident that was created by Officer Groebner's body-worn camera, which Moldenhauer apparently did *not* review. The ALJ reviewed the videorecording and stated:

> Despite [relator's] argument with respect to the domestic disturbance, the objective body camera footage does not support the assertion that any *genuine issue of material fact* remains to be decided. By the time the officer arrived at the scene, the situation had already begun to deescalate. The Officer's demeanor appears to be calm throughout the entirety of the response to the domestic disturbance call. (Emphasis added.)

The ALJ did not make findings of fact or improperly weigh the evidence when discussing the videorecording. *Cf. supra* at 12-13. To the contrary, the ALJ expressly framed the discussion in terms of whether the evidence creates a genuine issue of material fact.

The majority emphasizes the "conceivable stress" that Officer Groebner might have experienced while driving to the scene of the 5:34 p.m. incident. *See supra* at 13. The videorecording shows that Officer Groebner spent approximately one minute driving to the scene, usually at a speed that is typical for a residential neighborhood. While driving, he made no statements or gestures that might indicate any stress. Whether Officer Groebner experienced nonroutine stress while driving to the scene of the 5:34 p.m. incident is nothing more than speculation.

When Officer Groebner arrived at the scene of the 5:34 p.m. incident, he exited his squad car and said to the father, in a friendly and casual voice, "What's going on, [father's name]?" Officer Groebner spoke with the father for a few minutes while another officer spoke with the son across the street. Officer Groebner mostly listened and sometimes asked follow-up questions in a conversation that was free of conflict. Officer Groebner then had a one-on-one conversation with the 13-year-old son in which he offered advice about how the boy could control his anger and get along with his sister and parents. Officer Groebner then had another conversation with the father while the other officer was present but silent. As a whole, the videorecording reveals a non-stressful, non-threatening incident, which a factfinder could not reasonably describe as special or extraordinary in terms of stress or physical strenuousness.

Thus, I would conclude that relator's evidence does not create a genuine issue of material fact as to whether, during the 5:34 p.m. incident or any other incident to which he responded on September 13, 2022, Officer Groebner engaged in law-enforcement or emergency-response activity that satisfies the requirements of the presumption in the third sentence of section 299A.41, subdivision 3(a)(1)(i).

E.

Nothing in this opinion should be construed to diminish Officer Groebner's service as a police officer for eight years or the loss to his family, friends, and community due to his untimely death. And nothing in the evidentiary record casts any doubt on his ability and willingness to respond to any situation that might have arisen during his work as a police officer. The record simply shows that, during the last 24 hours of his life, he was not asked to engage in a situation that can reasonably be described as "nonroutine." The absence of such evidence compels the legal conclusion that there is no statutory presumption that Officer Groebner was "killed in the line of duty."

In sum, I would affirm the decision of the ALJ, who correctly concluded that the department is entitled to summary disposition. Therefore, I respectfully dissent from the opinion of the court.