Circuit Court for Prince George's County
Case No. CAL 15-04214

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2032

September Term, 2016

RODNEY E. CRAWLEY

v.

BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, MARYLAND, et al.

Kehoe,
Leahy,
Shaw Geter,

JJ.

Opinion by Kehoe, J.

Filed: April 18, 2018

The issue in this appeal is whether Rodney Crawley, a former employee of the Prince George's County Board of Education, is entitled to disability retirement benefits as well as an award from the Maryland Workers' Compensation Commission for the same injury. The Commission concluded that he was not, and its decision was affirmed by the Circuit Court for Prince George's County, the Honorable C. Phillip Nichols, presiding. Crawley raises a single issue to us, which we have reworded:

> Did the circuit court err in affirming the decision of the Maryland Workers' Compensation Commission?

We believe that Judge Nichols was correct, and we will affirm the judgment of the circuit court.

Background

The facts are not in dispute. Crawley was a long-time employee of the Board of Education. On April 2, 2012, he injured his neck and back in a work-related accident.

Crawley was unable to return to work and decided to retire. Based upon his age and years of service with the Board of Education, he received service-based retirement benefits in the amount of $2,249.74 per month, or $519.17 per week,[1] beginning on March 1, 2014.

[1] The Commission calculates its awards on a weekly basis; Crawley's retirement is paid monthly.

Crawley then submitted an application to the Maryland State Retirement Agency (the "SRA") to convert his retirement benefits to an accidental disability retirement benefit based solely upon the April 2, 2012 work-related accident. The SRA granted his application for accidental disability retirement benefits on December 19, 2014. Crawley's monthly disability retirement benefit was $3,062.17, or $706.65 per week. This was an increase of $812.43 per month, or $187.48 per week, over his service-based retirement benefit.

In June 2012, Crawley filed a workers' compensation claim with the Commission. The Commission ultimately awarded Crawley $322 per week for a period of 200 weeks, as it concluded that he suffered from a permanent partial disability as a result of the accident. However, the Board asserted that it was entitled to an offset against the award pursuant to Maryland Code, Labor and Employment Article ("LE") § 9-610, which states in pertinent part (emphasis added):

> (a)(1) [I]f a statute, charter, ordinance, resolution, regulation, or policy, regardless of whether part of a pension system, provides a benefit to a covered employee of a governmental unit . . . *payment of the benefit* by the employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of *similar benefits* under this title.
>
> (2) If a benefit paid under paragraph (1) of this subsection is less than the benefits provided under this title, the employer, the Subsequent Injury Fund, or both shall provide an additional benefit that equals the difference between the benefit paid under paragraph (1) of this subsection and the benefits provided under this title.

Crawley agreed in principle with the Board's assertion that it was entitled to an offset. The parties disagreed, however, as to the amount of the offset. The Board contended that it was entitled to a credit for the full amount of Crawley's accidental disability retirement benefit, namely, $3,062.17 a month, or $706.65 calculated on a weekly basis. Because Crawley's disability retirement was larger than his worker's compensation award, the Board reasoned that it was not obligated to pay the award.

For his part, Crawley asserted that the Board was entitled to a credit only for that portion of his accidental disability retirement benefit that *exceeded* his normal retirement benefit. By Crawley's reasoning, the Board would only be able to offset $812.43 per month, or approximately $187.48 when calculated on a weekly basis. In that scenario, the offset amount was less that the award amount, so Crawley would receive what remained of the workers' compensation award after the offset in addition to his retirement benefits.

The Commission agreed with the Board and found that the offset was for the entire accidental disability retirement amount of $706.65 per week, which was greater than the amount the Commission awarded to Crawley. Therefore, he received no payment beyond his accidental disability retirement benefits.

Crawley filed a petition for judicial review of the Commission's decision. The parties both filed motions for summary judgment. The trial court granted the Board's motion and denied Crawley's, thereby affirming the Commission. The court concluded that, "[t]o allow the Claimant to immediately turn service based retirement benefits into accidental disability and to offset only the excess amount would allow the Claimant to have a

double recovery. This is precisely the opposite intent of the General Assembly when they enacted §9-610."

Analysis

A.

"Because the reviewing court 'has the same information from the record and decides the same issues of law as the trial court, its review of an order granting summary judgment is de novo.'" *Injured Workers' Insurance Fund v. Orient Express Delivery Service*, 190 Md. App. 438, 451 (2010) (quoting *ABC Imaging of Washington v. Travelers Indemnity Company*, 150 Md. App. 390, 394 (2003)).

The outcome of this appeal turns on our interpretation of LE § 9-610. In construing a statute,

> (1) Our purpose is to "ascertain and effectuate the real and actual intent of the Legislature*." Employees' Ret. Systems of City of Baltimore v. Dorsey*, 430 Md. 100, 112 (2013);
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> (2) In this context, "intent" means "the legislative purpose, [that is] the ends to be accomplished, or the evils to be remedied" by the statute in question, *id*.;
> (3) We usually identify the legislative purpose by considering the plain language of the statute "within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute." *State v. Johnson*, 415 Md. 413, 421–22 (2010); and
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> (4) In the process of discerning the "statutory scheme" to which a particular statute belongs, we bear in mind that, laws passed by the General Assembly are usually written so that no provision of any statute is superfluous or meaningless. *Moore v. State*, 424 Md. 118, 127 [34 A.3d 513] (2011).
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> Finally, "[an] examination of interpretive consequences, either as a comparison of the results of each proffered construction, or as a principle of avoidance of an absurd or unreasonable reading, grounds the court's interpretation in reality."

> *Town of Oxford v. Koste*, 204 Md. App. 578, 586 (2012*), aff'd*, 431 Md. 14 (2013).

Kelly v. Montgomery County Office of Child Support Enforcement, 227 Md. App. 106, 108–09 (2016).

B.

For the reader's convenience, we again set out the pertinent part of LE § 9-610:

> (a)(1) [I]f a statute, charter, ordinance, resolution, regulation, or policy, regardless of whether part of a pension system, provides a benefit to a covered employee of a governmental unit . . . payment of the benefit by the employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of similar benefits under this title.
>
> (2) If a benefit paid under paragraph (1) of this subsection is less than the benefits provided under this title, the employer, the Subsequent Injury Fund, or both shall provide an additional benefit that equals the difference between the benefit paid under paragraph (1) of this subsection and the benefits provided under this title.

In *Reger v. Washington County Board of Education*, 455 Md. 68 (2017), the Court considered LE § 9-610's legislative history and relevant case law. The Court distilled this material down to three salient points:

> First, the overall legislative intent behind the offset provision now contained in LE § 9–610 was that the General Assembly wished to provide only a single recovery for a single injury for government employees covered by both a pension plan and workers' compensation, and to thereby prevent employees from receiving a double recovery for the same injury.
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> Second, . . . the specific language in the statute that "payment of the benefit by the employer satisfies, to the extent of the payment, the liability of the employer ... for payment of *similar benefits* under this title" reflects a legislative intent that the offset apply only to comparable benefits, which are *benefits accruing by reason of the same injury. . . . When benefits are not traceable to the same injury, they are dissimilar, and the statutory offset does not apply*.

> Third, although early cases discussing the statutory offset provision suggested it should apply to offset workers' compensation benefits against any other benefit that compensates the employee for wage loss, this Court [has] explicitly rejected that rationale . . . . emphasizing that our statute focuses only on dual recoveries for a single on-the-job injury" and "does not encompass setoffs for every type of wage-loss benefit available."

Id. at 116–17 (citations, quotation marks and brackets omitted) (emphasis in the original).

The first step in our analysis is to decide whether Crawley's accidental disability benefits and the workers' compensation benefits are "similar benefits." In *Reger*, the Court of Appeals considered this question in a similar context, and wrote that "if the record reflects that the cause of the incapacity for which ordinary disability retirement benefits were awarded was the same workplace accidental injury or occupational disease that was the basis for a workers' compensation award, the two sets of benefits are 'similar' and the offset in LE § 9–610 applies." 455 Md. at 121.

Crawley's initial retirement benefits were based on his years of service to the school district, rather than his injury, so they were not similar to the workers' compensation benefits for the purposes of LE § 9-610. *See, e.g., Zakwieia v. Baltimore County Board of Education,* 231 Md. App. 644, 655 n.4 (2017), *cert. denied,* 454 Md. 676 (2017) ("Ordinary service retirement benefits . . . are not a wage loss benefit intended to compensate a disabled/injured employee, and are not subject to any type of offset under the worker's compensation law.").

Crawley's disability retirement benefits are a different matter. These benefits were awarded to him because of the same job-related injury that was the basis of the workers' compensation award granted by the Commission. Therefore, they are similar benefits,

and the Commission and the circuit court were correct in finding that LE § 9-610's offset provision applies. Established Maryland law dictates this conclusion. *See Reger*, 455 Md. at 121 ("[W]e hold that if the record reflects that the cause of the incapacity for which ordinary disability retirement benefits were awarded was the same workplace accidental injury or occupational disease that was the basis for a workers' compensation award, the two sets of benefits are 'similar' and the offset in LE § 9–610 applies."); *Newman v. Subsequent Injury Fund*, 311 Md. 721, 728 (1988) ("Our cases have made it abundantly clear . . . that the legislature intended to preclude double-dipping into the same pot of comparable benefits.'"); *Reynolds v. Board of Education of Prince George's County*, 127 Md. App. 648, 655 (1999) ("We hold, on the facts of this case, that the ordinary disability retirement benefits awarded to appellant are similar to the workers' compensation permanent partial disability benefits awarded to appellant, and the offset provision applies.").

Crawley does not deny that the accidental disability retirement benefits he receives are similar to the workers' compensation benefits that he seeks and therefore subject to an offset. Instead, he proposes a different way to calculate the amount of the offset, one which would exempt the amount equal to his previously-held service-based benefits and only take into account the excess amount he is granted through the accidental disability retirement benefits, i.e., $812.43 per month.

The difficulty with Crawley's approach is that it cannot be reconciled with the plain language of LE § 9-610(a)(1), which states that "payment of the benefit by the employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of similar benefits under this title." It is impossible for us to conclude that, when the legislature used the phrase "payment of the benefit by the employer satisfies, to the extent of the payment," it actually meant "payment of the benefit by the employer satisfies, but only to the extent that the payment incrementally exceeds what the claimant could receive as normal retirement benefits, the liability of the employer. . . ."

At its heart, Crawley's argument is one of policy, and the appropriate audience for it is the General Assembly. It is not this Court's prerogative to shrug off the clear language of the statute and the equally clear language of *Reger* and the other decisions of the Court of Appeals interpreting it.[2]

[2] At least in the present case, the accidental disability retirement benefits are not merely service-based benefits with a slightly higher payout, but are rather a more generous type of benefit calculated according to different criteria. For example, in addition to the difference in monthly benefits (see below), there is no earnings limitation for an individual receiving accidental disability benefits, whereas a service based retirement recipient is subject to a cap on earnings.

The issue of how much the payments would total over time was discussed at oral arguments and thereafter supplemented by letters from both parties, which we have added to the record. The parties, using a hypothetical term of 23 years, agree that the accidental disability benefits would be worth $845,158.92, not taking into account any cost of living adjustments. The combination of service based benefits, $620,908.24 for the same period, and the Commission's award, $64,400, would add up to $685,328.24.

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.

Appellant argues in his letter that the correct comparison is to the total he would receive from his service-based disability retirement benefits and permanent total disability benefits he values at $624.00 per week, or $746,304.00 over 23 years, that would not be subject to the offset. These benefits would total $1,367,232.24. But, as we have explained, Crawley's calculations are not consistent with the statutory language.