

# State of New York Court of Appeals

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## MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 55 SSM 1  
In the Matter of Robert W. Kowal,  
Appellant,  
v.  
Thomas P. DiNapoli, &c. et al.,  
Respondents.

Submitted by Jonathan I. Edelstein, for appellant.  
Submitted by Kate H. Nepveu, for respondents

### MEMORANDUM:

The judgment of the Appellate Division should be affirmed, with costs. Substantial evidence supports the determination denying petitioner's application for accidental disability retirement benefits. Respondent rationally determined that petitioner failed to establish that his injuries were caused by a sudden, unexpected event that was not a risk

inherent in the work performed (see Matter of Kelly v DiNapoli, \_\_\_ NY3d \_\_\_, \_\_\_ [decided today]; Matter of McCambridge v McGuire, 62 NY2d 563, 568 [1984]; Matter of Lichtenstein v Board of Trustees of Police Pension Fund of Police Dept. of City of N.Y., 57 NY2d 1010, 1012 [1982]).

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On review of submissions pursuant to section 500.11 of the Rules, judgment affirmed, with costs, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided February 13, 2018