

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

Petition for Reconsideration

December 14, 2024

Ref. No. 2023-0514

CalPERS Appeal Board

RE: David J. Moore Sr.- IDR

Thank you for taking the time to further review my appeal. I apologize for the delay in my petition for reconsideration, but I have recently experienced a great deal of medical problems stemming from over 27 years in law enforcement. I have recently had to have my heart reset since I have been diagnosed with Atrial Fibrillation (AFIB). This January I am scheduled for a heart Ablation as well. Ablation is a procedure to treat atrial fibrillation. It uses small burns or freezes heart cells to cause some scarring on the inside of the heart. This helps break up or insulate the electrical signals that cause irregular heartbeats. All my medical tests confirmed my heart and body were exposed to long term stress and anxiety. If you review my medical reports, you will see all my injuries were sustained during my employment with the Fontana Police Department (FPD).

I pray that you will reconsider your decision to deny me the opportunity to receive an IDR Industrial Disability Retirement. Please take some time to thoroughly investigate the circumstance of my IDR appeal. I currently work with multiple disabilities and my body is gradually giving out on me. I may soon have to quit my current employment due to PTSD and heart problems.

Prior to the below outlined onslaught on my career, I was never disciplined for any reason. In fact, all my performance evaluations were superior or outstanding.

It should be greatly noted that on **10/03/14**, less than one month before I was unjustly relieved of duty, I suffered what doctors stated could have been a *mild heart attack* while on duty. I was required to attend a "*Fitness for Duty*" evaluation with Dr. David Hall on **October 24th, 2014**. During this session I complained about racial bias and discriminatory work experiences. One month later, after attempting to aid an elderly man in his residence, my co-worker and I were unjustly relieved of duty. Subsequently, this poor man died since the City of Fontana ignored our reports of elder abuse.

After being engulfed in an arduous battle for my employment, I was never able to continue the application process for medical retirement. After fighting the dismissal of our employment and winning, we were sent back to work. The Chief of Police Rodney Jones who attempted to unjustly terminate us was forced to resign for multiple reasons. Once back at work, we were subjected to a hostile work environment and additional racial comments. While we were reinstated, the City

Manager Ken Hunt decided to impose an unwarranted discipline of 30 days suspension without justification. We refuted the City Manager's proposed discipline and filed a civil lawsuit. After filing the lawsuit, during the deposition phase, the newly appointed Chief of Police Robert Ramsey deemed Co-Plaintiff Anderson "*Mentally Incompetent*" and forced him to medically retire. At the time, I was covertly offered a medical retirement. Although, I refused to accept the medical retirement at that time, because I did not want to leave the FPD without clearing my name. Shortly thereafter, Chief Ramsey initiated a retaliatory administrative investigation into my divorce proceedings. Chief Ramsey and the Fontana Police Admin dismissed me from employment for leaving my then wife on my insurance benefits, as they indicated this was a violation of health benefit rules. I produced a court order which stipulated that I needed to continue to provide health benefits to my wife until all pending divorce issues were resolved. I also provided a letter from my family law attorney indicating the same. The Fontana Police Administrators ignored these crucial documents and proceeded with my dismissal.

The original frivolous administrative action involving our neighbor was initiated in **November of 2014**. While we prevailed and gained our jobs back for the first assault on our careers, the harassment continued, and they ultimately retaliated against us a second time, by dismissing us for frivolous reasons as stated above in- **March of 2017**.

We filed our DFEH Complaint in **March of 2016**, and the lawsuit was filed in **June of 2016**, *long before the FPD wrongfully dismissed us from employment*.

After almost **10 years of litigation**, the City of Fontana agreed to settle this discrimination and wrongful termination suit, paying out a significant dollar amount in effort to avoid trial and exposure. *CalPERS records should reflect that I attempted to apply for an IDR several times, but I was informed I had to wait until the civil suit against FPD was resolved*. Even though we received what most people would consider a favorable settlement, my IDR application is now being rejected simply because I am not currently employed with the FPD. This line of reason rewards administrative foul play and punishes those employees who have been unjustly attacked by rogue law enforcement agencies. Only reinforcing the proverbial "*Code of Silence*," which has plague law enforcement for decades. The code of silence is enforced through intimidation, fear of retribution, and denial of benefits. The question should solemnly be: Was David Moore entitled to a medical retirement before the unjust assault on his career.

Is CalPERS allowing rogue agencies to dismiss problematic officers by offering an IDR in lieu of termination, I don't know.

In my case, the FPD has successfully prevented me from acquiring an IDR, to which I was emphatically eligible to receive.

I have been investigated by the DoD twice as I currently maintain a Top-Secret government clearance with access to Secret Compartmental Information (SCI). During my background investigation I divulged all the facts surrounding my dismissal from the FPD. This should confirm that my assertion of the facts surrounding the attack on my career are truthful. I experienced an all-out assault on my career for resisting the FPD regime, and for my outspoken voice against police brutality and discrimination.

I served my community for over 27 years as a law enforcement officer, I missed many family gatherings, birthdays, and I dedicated my life to protecting others. I was Officer of the Year, Officer of the Month four times, and was decorated by the governor for my incredible devotion and thorough investigations which put many hardened criminals behind bars. Had I not been unjustly dismissed from my employment with the FPD, I most likely would have qualified for a medical-industrial disability retirement long ago.

In closing, I established an **unequivocal matured right to a disability retirement which survived the unjustified dismissal of my employment.** I produced a QME report summarizing my injuries, which occurred *prior* to being unjustly dismissed from employment. Just before I was *unjustly* relieved of duty *the first time*, I was ordered to attend a “*Fitness for Duty*” (FFD) evaluation. This FFD evaluation was interrupted and thwarted by the unjustified assault on my employment.

Laying aside the unjustified termination of my employment, the City had an obligation to apply for a disability retirement for me following the Fitness for Duty Evaluation. The Fitness for Duty evaluation was delayed and interrupted through no fault of my own. Whether the City used the frivolous allegations of misconduct to derail my ability to achieve an IDR, would be a matter for debate. The fact is, I was never afforded the opportunity of a fair medical assessment to determine if I was entitled to an IDR.

The opposing counsel rested the decision to deny my application for disability solely on the assertion that I was unfavorably relieved of duty. This implies that I should be stripped of my right to an IDR, simply because I was dismissed from employment. ***This line of reasoning not only penalizes a person accused of misconduct twice, it also unreasonably prevents those who were unjustly terminated from gaining a righteous IDR.*** As I have explained to the opposing counsel, it was never my intention to evade a valid dismissal by claiming a medical injury. On the contrary, I refused to medically retire early, until I was vindicated through litigation.

Please review the below documents which were submitted to CalPERS Attorney Awesta Wakily.

Supporting Documents: (Additional Documents Upon Request)

1) **Independent Medical Review**, which contains a summary of my injuries as they were all sustained while working for the City of Fontana, before I was *wrongfully* dismissed from my employment on **03/27/17**.

2) The **CONFIDENTIAL C&R Workers Comp Settlement Agreement**, which lists the most recent settlement pertaining to the following injuries date long before the wrongful dismissal:

Date of Occurrence:

1. 10/30/2000-03-27-17 **Hypertension-** 801 **Circulatory**, 802 **PSYCHE**, **Gerd** -810 Digestive.
2. 11/02/06 Ruptured/herniated discs in cervical spine- numerous car accidents.

3. 07/20/13 (K9 Attack/Dog Bite) Required surgery for torn meniscus in **Knees-** 513 and **Arm-** 319
4. 09/09/16 (Fight with violent suspect) Torn frayed rotator cuff in **Shoulders-** 450

3) City of Fontana **Wrongful Termination/Discrimination Settlement Agreement**