

**ATTACHMENT B**

**STAFF'S ARGUMENT**

**STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION, AS MODIFIED**

Deon E. Ruffin (Respondent) was employed by the Paroles and Community Services Division, California Department of Corrections and Rehabilitation (Respondent CDCR) as a Parole Agent I. By virtue of his employment, Respondent was a state safety member of CalPERS. On September 26, 2022, Respondent applied for disability retirement based on a cardiological condition (hypertension) and psychological conditions (Post Traumatic Stress Disorder, anxiety, and depression).

As part of CalPERS' review of Respondent's medical conditions, two board-certified specialists evaluated him. Dr. Robert B. Weber, M.D., a board-certified Cardiologist, performed an Independent Medical Examination (IME) regarding Respondent's cardiological condition (hypertension). Dr. John M. Stalberg, M.D., a board-certified Psychiatrist, performed an IME regarding Respondent's psychological conditions (Post-Traumatic Stress Disorder, anxiety, and depression). Both IMEs interviewed Respondent, reviewed his work history and job description, obtained a history of his past and present complaints, and reviewed his medical records. Both specialists opined that Respondent was not substantially incapacitated from the performance of his usual job duties as a Parole Agent I for Respondent CDCR.

To be eligible for disability retirement, competent medical evidence must demonstrate that an individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis of the claimed disability must be permanent or of an extended duration which is expected to last at least 12 consecutive months or will result in death.

After reviewing all medical documentation and the IME reports, CalPERS determined that Respondent was not substantially incapacitated from performing the usual duties of his position. Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on November 20, 2024, with the record held open until January 6, 2025, to provide Respondent additional time to upload additional documents and to provide CalPERS the opportunity to respond. Respondent represented himself at the hearing. Respondent CDCR did not appear at the hearing.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support his case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet, answered Respondent's questions, and clarified how to obtain further information on the process.

At the hearing, both Dr. Weber and Dr. Stalberg testified in a manner consistent with their examination of Respondent and their respective IME reports. Dr. Weber testified that Respondent did not have an actual and present cardiologic impairment that arose to a substantial incapacity to perform his usual job duties. Dr. Weber found that Respondent's examination showed a normal stress test and normal EKG findings. Respondent's hypertension was responding well to medication and any complaints of chest pain by Respondent were not due to a cardiac condition. Based on his physical

examination and review of medical records, Dr. Weber concluded that Respondent was not substantially incapacitated for the performance of his usual job duties due to any cardiac condition.

Dr. Stalberg also testified at the hearing that Respondent did not have an actual and present psychological impairment that arose to a substantial incapacity to perform his usual job duties. Dr. Stalberg testified that Respondent had previously been diagnosed with Post-Traumatic Stress Disorder but that it had resolved and is in remission. Based on his physical examination and review of medical records, Dr. Stalberg concluded that Respondent was not substantially incapacitated for the performance of his usual job duties due to any psychological condition.

Respondent testified that he was unable to return to work. Respondent did not call on any witnesses to testify but did seek to introduce various medical records which included prophylactic restrictions that Respondent should avoid contact with prisoners and parolees. The medical records were admitted as administrative hearsay. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but cannot be used to support a finding.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent failed to meet his burden of establishing by a preponderance of the evidence that he is substantially incapacitated. Furthermore, the only non-hearsay medical evidence established that Respondent was not substantially incapacitated. The ALJ found that both Dr. Weber and Dr. Stalberg presented competent medical evidence through their examination and review of Respondent and his medical records. The ALJ reasoned that this evidence outweighed the evidence submitted by Respondent. Accordingly, the ALJ concluded that Respondent was not substantially incapacitated for the performance of his usual job duties as a Parole Agent I for Respondent CDCR due to any cardiological or psychological conditions when he applied for disability retirement.

Pursuant to Government Code section 11517, subdivision (c)(2)(C) the Board is authorized to "make technical or other minor changes in the Proposed Decision." To avoid ambiguity, staff recommends that "industrial" be removed from paragraphs 2 and 3 on page 3; add the word "he" between the words "that" and "loved" in paragraph 28 on page 10; and remove "and uncertain" in paragraph 3 on page 11.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board, as modified.

March 19, 2025

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Bryan Delgado  
Attorney