

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

Robert R. Boas



February 11, 2025

Ref. No. 2024-0480

Certified Mail – Return Receipt Requested

Board Services Unit Coordinator
California Public Employee’s Retirement System (CalPERS)
PO Box 942701
Sacramento, CA 94229-2701
Email: Board@CalPERS.ca.gov
FAX: 916-795-3972

Subject: “PETITION FOR RECONSIDERATION” In the Matter of Application for Industrial Disability Retirement of ROBERT R. BOAS

Dear CalPERS Board of Administration,

I am in receipt of your January 27, 2025 letter and the November 18, 2024 order, from Nana Chin, Administrative Law Judge, denying my application for disability retirement.

I hope that you accept this “Petition for Reconsideration” with an open mind and take into consideration all the evidence that I include in this letter. My efforts are to prove (1.) My disability to be substantially incapacitating and permanent, and; (2.) Evidence used to deny my initial application for disability retirement should have never been accepted and/or considered.

(1.) PROVE MY DISABILITY IS SUBSTANTIALLY INCAPACITATING AND PERMANENT:

REFER TO ATTACHMENT A: September 15, 2023 report, signed and dated by Doctor Stuart Kramer on October 13, 2023. (13 pages total).

Dr. Kramer reviewed medical records dating back to 06/20/2013 (approx. 10 years).

REVIEW OF MEDICAL RECORDS

Page 6 – 01/28/2019 – Pioneers Memorial Hospital report documents “Rapid Heart Beat for the past 4 hours. Symptoms intermittent for the last month. BP @ 129/87”. This BP was taken several hours after onset of symptoms and after driving to Pioneers Emergency Room.

Page 6 – 03/13/2019 – Transthoracic Echocardiography Report. Of the 7 items noted:

#2 – Mild Concentric Left Ventricular Hypertrophy #5 – Diastolic Filling Pattern Indicates Impaired Relaxation

Page 6 – 03/27/2019 – Progress Note from Family Care Medical Group with diagnosis of:

#1 – Palpitation **#2** – High Blood Pressure

Page 8 – 10/06/2022 – Progress Note from Dr. Mario Ceja with referral to Cardiologist and diagnosis of:

#1 – Elevated Blood Pressure w/out diagnosis of hypertension.

Page 8 – 11/14/2022 – Seen by Dr. Tariq as referred by Dr. Ceja on 10/06/2022 with complaints of Palpitations. Blood Pressure at time of visit = 148/92 with diagnosis of:

#1 – Palpitations **#2** – HTN (Hypertension)

Page 8 – 03/22/2023 – Taken to Pioneers Memorial Hospital Emergency Room via ambulance after having a Blood Pressure of 208/110. Complaints of Chest Pressure radiating to sides of neck, Irregular Heart Beats, Mild shortness of breath (SOB). Blood Pressure taken and documented at 161/101 (after being given meds by paramedics). Tested, Treated and Released for follow up with PCP with diagnosis of:

#1 – Palpitations **#3** – Hypertension

Page 9 – 03/27/2023 – Seen by Dr. Tariq (Cardiologist) as follow up to ER visit. Blood Pressure noted as 148/93. Treatment plan of Medications, EKG and Follow up. Diagnosis of:

#1 – Hypertension **#2** – Palpitations

Page 9 – 04/06/2023 – Echocardiogram Report Conclusion:

#1 – The Left Ventricle is thickened in a fashion consistent with mild concentric hypertrophy. There is evidence of Left Ventricular Diastolic Dysfunction.

#2 – The Right Ventricular Cavity size is mildly dilated. (not noted in Dr. Chang's report)

Page 9 – 04/13/2023 – Follow up with Dr. Tariq's Physician's Assistant (PA), Jose Pesqueda. Notes improved Blood Pressure (125/66) – Medications of: Flecainide, Losartan, and Bystolic. Diagnosis of:

#1 – Dizziness **#2** – Hypertension

Page 9 – 05/12/2023 – Seen by Dr. Tariq. Palpitations are improved but feels dizzy. Blood Pressure noted at 120/72. Diagnosis of:

#1 – Dizziness **#2** – Hypertension **#3** – Palpitations

SEPTEMBER 15, 2023 DIAGNOSES By Dr. Kramer (Page 9)

#1 – HYPERTENSIVE HEART DISEASE **#2** – UNKNOWN TYPE OF CARDIAC ARRHYTHMIA

REFER TO ATTACHMENT B: October 16, 2023 report, by Doctor Sohaib Tariq, Titled, "THIS IS A WORKMAN COMP PROGRESS NOTE" (2 pages). In this report, Dr. Tariq states the following, "His hypertension is permanent and stationary. He is currently off work until next appt. He has resistant HTN due to work and stress."

Resistant Hypertension is defined by the American Heart Association, as "Above-goal elevated blood pressure in a patient despite the concurrent use of 3 antihypertensives drug classes".

In this report, Dr. Tariq clearly articulates my hypertension to be permanent and resistant to medications.

REFER TO ATTACHMENT C: November 10, 2023 report, signed and dated by Doctor Sohaib Tariq, Titled, "Physician's Report on Disability" (Physician's portion of Application for Disability Retirement – 2 pages). In this report, Dr. Tariq is asked:

Is the member currently, substantially incapacitated from performance of the usual duties of the position for their current employer?

Doctor Tariq answers, "YES" by checking the box.

Dr. Tariq then provides responses to the following, "***If yes, you must describe specific job duties/work activities that the member is unable to perform due to incapacity.***"

- **Unable to respond to emergencies**
- **Unable to handle stressful situations**
- **Unable to disarm/restrict an inmate in emergency situation**
- **Unable to go up more than one flight of stairs with running**

Dr. Tariq then provides answers to the following questions:

Q "Will the incapacity be permanent?"

A "Yes"

Q "Was the job duty statement/job description reviewed to make your medical opinion?"

A "Yes"

Q "Was the Physical Requirements of Position/Occupational Title form reviewed to make your medical opinion?"

A "Yes"

In this report, Dr. Tariq clearly articulates my disability to be substantially incapacitating and permanent.

REFER TO ATTACHMENT D: May 4, 2024 report, signed and dated by Doctor Stuart Kramer on May 6, 2024. Titled, Supplemental Panel Qualified Medical Evaluator's Permanent and Stationary Internal Medicine Report (4 pages total).

Dr. Kramer states, "Regarding his Cardiac Arrhythmia, this began while the patient was on the job on 1/28/19, and they have remained with him ever since. The arrhythmia is characterized by frequent premature ventricular contraction (PVC's) and premature atrial contractions (PAC's), which are being successfully treated with the daily use of the anti-arrhythmia drug, Flecainide."

"Considering that evidence based medical references establish a nexus between significant stress exposure and the precipitation of both PVC's and PAC's, it is my opinion with reasonable medical probability that Mr. Boas' cardiac arrhythmia was industrially caused."

REFER TO ATTACHMENT E: May 22, 2024 letter from State Compensation Insurance Fund (1 page) that states, "The Qualified Medical Evaluator, Dr. Stuart Kramer, has determined in the comprehensive medical evaluation that your injury is permanent and stationary and has resulted in permanent disability, which we estimate at 67%."

This letter clearly articulates my disability to be estimated at 67% of my whole body and disability is determined to be permanent.

REFER TO ATTACHMENT F: Document, Titled, Department of Corrections and Rehabilitation, Division of Adult Institutions, Correctional Administrator, Essential Functions List (3 pages).

Several of the Physical/Mental Peace Officer Tasks include:

- Wearing Personal Protective Gear and using a Breathing Apparatus.
- Physical capability to disarm, subdue, and restrain inmates.
- Defending oneself and others from inmate aggression.
- Patrolling grounds and facilities, escorting inmates and visitors.
- Quickly responding to emergencies across the institution.
- Ascend/descend a series of steps/stairs, several tiers of stairs or ladders and while carrying items.
- Lifting, carrying, or dragging to restrain individuals or rescue them from danger.

On November 10, 2023, Dr. Tariq permanently restricted me from the following activities:

- Unable to respond to emergencies.
- Unable to handle stressful situations.
- Unable to disarm / restrict an inmate in emergency situation.
- Unable to go up more than 1 flight of stairs with running.

My burden of proof conclusion: I believe there is an overwhelming amount of evidence, included in just the few pages of this letter, to conclude my disability to be "Substantially Incapacitating and Permanent".

(2.) LEGALLY AND PROFESSIONALLY UNACCEPTABLE EVIDENCE USED TO INITIALLY DENY AND TO DENY, UNDER PROTEST DURING AN APPEAL HEARING, MY APPLICATION FOR DISABILITY RETIREMENT

REFER TO ATTACHMENT G: May 7, 2024 CalPERS letter denying my application for disability retirement (2 pages). In this letter, CalPERS clearly states, based on the "evidence" from the reports submitted by Athar Ansari, M.D., Sohaib Tariq, M.D., Stuart Kramer, M.D., and Kirk Chang, M.D. they (CalPERS) determined my cardiological (hypertension) condition to be not disabling. Of those four reports, Dr. Ansari does not provide a medical opinion. Doctors Tariq and Kramer both support my disability to be substantially incapacitating and permanent. That brings us to the only one of the four doctors, Dr. Chang, that provided an opinion different than the others. As I reviewed Dr. Chang's report, I immediately noticed it was not as thorough as the reports from other doctors, did not include any information (sleep apnea) he stated he was going to wait for, prior to submitting his opinion. Additionally, there was no date, nor a signature (wet or electronic) on his report.

REFER TO ATTACHMENT H: Thirteen-page report, presumably authored by Dr. Kirk Chang. This report, in the state that you see it, with no date or signature, was accepted by CalPERS as a legal document to deny my initial application for disability retirement. This is something, that even to this date, I can not believe CalPERS accepted. How much effort would it have taken to reach out to Dr. Chang's office and request a signature? But this did not happen. The document was accepted and a decision was made to deny my application, without a signature from Dr. Chang, declaring under penalty of perjury, that the information provided by him was accurate and true. In any office of government (or any office period) that I have ever worked, the act of accepting and using a document that is not signed would not be acceptable. This is a very dangerous practice and I'm very surprised that CalPERS is acceptable to this sloppy practice. Without a signature, CalPERS cannot confirm that Dr. Chang even authored this document.

During my Appeal Hearing, one of the very first things I mentioned, was the fact that Dr. Chang's report was accepted at the time of the initial denial and should not be allowed then and should not be allowed as evidence during this hearing. Nana Chin, Administrative Law Judge, decided to accept Dr. Chang's report, after Dr. Chang declared it was his report during the hearing as a witness. However, I protested that it was too late for him to declare it was his report, because it had already been used as evidence in the initial denial, months prior. Under my protest, Judge Chin elected to accept Dr. Chang's report in the hearing as evidence and ultimately, my application for disability retirement was denied on appeal.

I appreciate and thank you in advance for your consideration in this matter.

Sincerely,



Robert R. Boas