

ATTACHMENT C

RESPONDENT(S) ARGUMENT

Respondent's Argument

Hello,

In consideration of my appeal calendared for June 20, 2023 regarding an Industrial Disability Retirement (IDR) best benefiting myself of a future CalPERS member. I designate the decision of as precedent, in whole or in part, if adopted.

As a State industrial member of CalPERS at the time of my retirement the current Government Code section 20048 would only apply to an IDR if a non custody staff member/ State Industrial member be violently attacked by an inmate or parolee as a direct result of their work related injury and disability. Although I was not violently attacked by an inmate, the result remains the same and led to my disabilities and retirement subsequently. A custody staff member does not even have to be violently attacked by an inmate or parolee.

I have been diagnosed with rheumatoid arthritis, which resulted from the rod and 7 pins placed in my forearm they believe during that surgery and exasperated my work related injuries. This has taken 5 years, a string of doctors and countless tests to finally have some answers. For the rest of my life I may have to take medication which is extremely hard but but I have hope it will alleviate some symptoms. This entire process has lead to so many other questions and symptoms, depression, at some points I have questioned my own sanity.

I went from an independent working person to needing a care provider, my goal still remains the same that I get back to my old self and am able to be independent and take care of self. I first applied for an Industrial Retirement as CalPERS staff Members like myself and others who were injured outside of the government code are only eligible to receive a disability retirement based on years of State Service. Being appointed incorrectly, my years of State Service not matching so I do not even have the 10 plus years or the Worker's comp years to assist me in ensuring my retirement is compensable and allows me my independence. Someone such as myself who was appointed incorrectly, put into the incorrect retirement and has had to fight to have these items addressed and corrected and yet it still has not been completed to my knowledge has been so difficult. All of this has put a toll on my mental health as well. I was not given that opportunity to work my 30 plus years and retire and have a pension to take care of myself. I would like to appeal to the Board to look at cases individually or place a clause in the government code outside of those two circumstances, employees have worked and in some instances put their health at risk trying to work for their retirement and are disabled but still a work related injury/disability.

CalPERS own website states the difference between a Disability Retirement and Industrial Disability Retirement is a job related illness or injury, Disability is defined as an injury or illness that doesn't need to be job related.

Thank you in advance for your time and consideration.

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In conclusion I would request that the Board consider any and all mitigating circumstance in an instance where the CalPERS member has extenuating circumstances. When their work related injury is a direct consequence of an act perpetrated on his or her person where their disability is directly impacted by work related injuries.

I testified at hearing. I started working for CDCR in January 2011. In 2012 I was injured while moving offices at work. Additionally, here are the circumstances I was told by the Chief Support Executive (CSE) to pack my office by myself, I had been packing for three-four weeks until the day of the move. I was told to pack several large wardrobe boxes and the inmates would come and move the office day of. The day of the move, there was a inmate freeze and there was no inmate movement therefore myself and two additional employees would move the office on our own. The carts were loaded, and moved by us. I moved into the new wing not far from the previous office, boxes and office equipment dropped into the new office and I unpacked everything on my own and set up the new office.

Thereafter, I sustained further cumulative injury from repetitive keyboarding and mouse use, eventually rendering me unable to perform my job duties in November 2017. I then took extended leave until I applied for IDR. I have not worked in any job since November 2017 and I'm still being treated by Workers Comp physicians, recently I was diagnosed with rheumatoid arthritis as a result of a Workers Comp surgery in 2018. The rheumatologist has determined that the metal put in my arm and seven pens triggered an autoimmune disease. I have recently started medication to address the symptoms of the rheumatoid arthritis, and I'm hopeful to gain any amount out of relief.

I am presently 47 years old. My condition has worsened substantially, I am often unable to get out of bed. I am completely reliant on my three adult children to help care for myself. I am following the advice and recommended treatment of my doctors, who are unsure why my condition has deteriorated so significantly. So far treatment has rendered little success.

I do not dispute that I was never violently attacked by an inmate or parolee. However, I do not understand why CalPERS limits IDR for state industrial members to disability caused by violent acts of inmates or parolees. The CalPERS representative, who assisted me with the IDR application, told me to check the box for IDR on the basis that my disability arose from my employment. My disability has deprived me of completing sufficient years of service to earn a full retirement, and the non-IDR benefits that I currently receive are woefully insufficient to support myself. Moreover, although I was never attacked by an inmate or parolee, I was harassed by a former CDCR manager, to the point where I had to be escorted to my vehicle at times, and I have PTSD. I am also depressed and have anxiety.

As the applicant, I was a state industrial member of CalPERS. There is no evidence that my disability resulted from an injury that was a direct consequence of a violent act by an inmate or parolee. I concede that I wasn't violently attacked by an inmate or parolee. Any harassment, as of now by a former manager, does not qualify as violent act by an inmate or parolee.

Additionally, any erroneous representation by CalPERS Frontline employee regarding potential eligibility for IDR cannot override the statutory eligibility requirements. Thus I do not qualify for IDR.

To be sure, my testimony about my disability, and the impact it has had on my life, was credible and sympathetic for the court. It's also true that a state safety member potentially qualifies for IDR if their disability merrily results from an injury or disease arising out of in the course of their employment. See government code 20046. However, the decision to treat state safety members differently from State industrial members for purposes of IDR is a policy decision by

the legislature. Neither CalPERS, nor this tribunal/court has discretion to depart from the plain language of a state statute enacted by the legislature. Any concerns regarding perceived, unfairness, or inadequacy, must be addressed to the legislative branch of government. I am appealing this decision to the board based on these findings.

Thank you in advance for your time and attention regarding IDR and potential policy changes.

FAX

6/1/2023 4:37 PM (PDT)

SENDER

From: Christina Alderete-Gray

Phone: 

MESSAGE

Attn: Sabrina Savala

Attached please find respondents argument regarding IDR for an industrial retirement appeal

Thank you,

FAX

6/1/2023 10:13 PM (PDT)

SENDER

From: Christina Alderete-Gray
Phone: [REDACTED]

MESSAGE

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