

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

Jan 09 13 01:46p

Brenda & Robert Streven

9257566826

COPY

FAX COVERSHEET

Date: January 9, 2013

Fax To: ATTN: Peter H. MixonFax #: (916) 795-3659Faxed From: BRENDA STEVENSONFaxed #: (925) 756-6826

Note: Attached are 6 pages of documents
regarding my "Petition for Reconsideration,"


1/9/13



January 9, 2013

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cheree Swedensky, Assistant to the Board
Executive Office
California Public Employees' Retirement System
P.O. Box 942701
Sacramento, CA 94229-2701
FAX: (916) 795-3972

Re: Brenda Stevenson, Ref No. 8281

"Petition for Reconsideration"

This is a petition for reconsideration to the Board of Administration for the denial of my disability claim set forth on date of December 12, 2012.

Attached is my "Respondent's Argument" of Judge Diane Schneider's proposed decision in regards to the 2nd administrative hearing which was conducted on August 23, 2012. Also attached is a certified receipt from the post office stating that this document was mailed out to your office on Wednesday, November 28, 2012. However, I did not get the returned receipt until the next week with it being stamped as received by your office on December 4, 2012. The deadline to have this document in was December 30, 2012.

This process has been going on for so long that I feel the main issue, my disability, is not being considered anymore. I'm in physical pain (my left-upper-back and neck areas) as I type this document, and that is why I'm determined to fight this case to the very end. According to Code of Civil Procedure 1094.5(b)(c) I'm filing this Petition for Reconsideration on two key elements: The hearing did not meet the requirements for a fair trial and The agency failed to proceed as required by law. Let me start with the latter.

I filed for disability retirement on June 3, 2006. I was denied and appealed and did not receive an Administrative Hearing until August 23, 2010. My appeal was denied and I filed a "Respondent's Argument" on November 1, 2010. I heard nothing from the Board or Patricia Miles, Senior Staff Attorney until a letter dated April 10, 2012, from CalPERS stating that I am instructed to report to an examination with Dr. Welborn, San Pablo, Ca. On April 25, 2012, at 4:00pm. I attended this examination which lasted approximately 15 minutes. (At the hearing, Dr. Welborn admitted to it lasting approximately 20 minutes.) On May 15, 2012, I received a letter from Norman Worden, Retirement Program Specialist, stating that my industrial disability claim was denied, along with Dr. Welborn's medical report. August 23, 2012, a remand hearing was conducted, and on November 2, 2012, the proposed decision, by Administrative Judge Diane Schnieder, denied my claim for disability retirement.

The hearing conducted on August 23, 2012 was bias and unfair. From the very start it was prejudicial and favorable toward CalPERS. The hearing was supposed to start at 9am. I arrived there at 9am straight up. Attorney Patricia Miles did not arrive until 9:20am, and when she did arrive, she did not have all the necessary documents she needed. Dr. Welborn, being the only witness, did not arrive until 9:40am, causing the hearing to start at 10:00am, because the judge allowed a 20 minute break for Patricia Miles and Dr. Welborn to talk and collect their thoughts. I can't help to think that if I were the one 20 or 40 minutes late, the hearing would have been canceled. Then when Patricia Miles was asking Dr. Welborn questions, one of the first things she asked him, "have we ever met before?" She was covering her tracks because come to find out, Patricia Miles and Dr. Lang, the prior IME at the hearing of August 23, 2010, knew each other. Then after asking a series of questions in that respect, which was not relevant to the case, Ms. Miles then talked about the medical report that Dr. Welborn presented. One thing I remember well, is when Patricia Miles asked Dr. Welborn if he read the job description for a Parole Agent, Dr. Welborn was not sure, he couldn't remember. However, he based his whole 20-minute evaluation on me, being able to perform the duties of a Parole Agent, on the job description. Also, while Mr. Welborn was being questioned, his cell phone rang, he said excuse me and said he'd turned it off. Approximately 10 minutes later, his cell phone rang again, he hurried up and turned it off, and place it on the table in front of him. Approximately 10 to 15 minutes later, his cell phone rang one more time and it became very frustrating. However, the judge did not reprimand him at all. (By the end of the hearing, Patricia Miles was so frustrated by Dr. Welborn and his disoriented attitude, that she said that he was the one in need of a doctor.) When I crossed examined Dr. Welborn, that is when he admitted to seeing me for a total of 20 minutes. He also said that Dr. Tse, and Dr. Grant, and Dr. Sidhu were all wrong about their evaluations of me, and that him and Dr. Lang were correct in their evaluations. Dr. Welborn summary of my history was totally incorrect. When he was questioned about that, he appeared totally lost and didn't have any explanation. In a nutshell, that administrative hearing was a joke and I had mentioned to the judge that Dr. Welborn's testimony should be thrown out because he was not credible.

After reviewing Judge Schnieder's report, I find that she's relied heavily on Dr. Lang's evaluation of me. Although Doctors Tse, Sidhu, Grant, and Chen were put into "direct evidence," it seems Judge Schnieder's still reviewed them as "hearsay," making the statement that Dr. Chen was not there to defend his examination of me, which left the impression that he was not credible because Dr. Welborn said so. I feel that Judge Schnieder did not take in account my own personal testimony of my physical condition and weighed her decision on pass information from IME Dr. Lang, who along with Dr. Welborn are Doctors who are representing CalPERS. CalPERS instruct their doctors to answer a series of questions when it comes to evaluating claims. These questions are bias and unfair, because it gives the impression that if any given doctor wants to be selected to represent (get paid by) CalPERS, they should denied, denied, denied! (This was Dr. Welborn's first time representing CalPERS.) For example, one of the questions is: *Is this member cooperating with the examination and putting forth their best effort, or do you feel there is exaggeration of complaints to any degree?* Dr. Welborn stated that, *She is cooperating with the examination and putting forth her best effort.* If this is the

case, then why when I complaint and told him about my physical ailments, why am I not believed? Or in some cases my complaints are not even mention? Not only am I'm not believed, but so are numerous doctors whom examined me more than once and longer than 20 minutes. In July, 2012, I was involved in two separate minor car accidents, which were not my fault, These accidents escalated the pain in my back and I was forced to see my occupational physician who is now Dr. Jenkins. I tried to put this into evidence but was not allowed. Patricia Miles stated to the administrative judge that these accidents happened after the examination of Dr. Welborn and should not be allowed into evidence. The judge agreed. This is not fair seeing as though I initially retired from the Department of Corrections on May 19, 2011, (due to my disability) and in good faith, because I have nothing to hide, still chose to see Dr. Welborn in April 2012, concerning my disability retirement claim. I feel Ms. Miles is taking this case personal and is withholding pertinent information for the benefit of her winning this case. (There is no telling of what is missing in my files or what is in my files that I'm not aware of. During the administrative hearing, Ms. Miles kept saying something to the fact that "I wasn't in the office yesterday, I didn't touch the files.") I did not know of the Board's decision to reprimand the first administrative hearing and to initiate a second administrative hearing until the day of the hearing when Ms. Miles placed it into evidence. I was totally in the dark of what was going on with my disability claim for two years. Legally, there should be some sort of penalty for this disability claim process to carry out for so long, otherwise CalPERS will drag out disability claims forever!

In conclusion, I have exhausted all processing procedures with CalPERS in regards to my disability claim. I'm advised to do so before taking my case to the next and final level. I'm now asking the Board to please considered this petition and expedite your decision as soon as possible. Thank you in advanced for your consideration in this matter.

Sincerely,



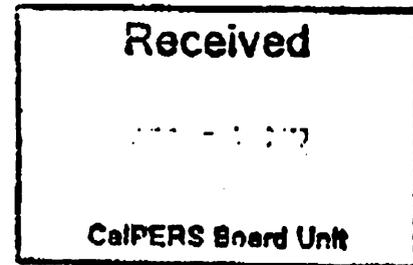
Brenda C. Stevenson

Attachments:

Copy of Certified receipt dated November 28, 2012
Respondent's Argument

November 28, 2012

Cheree Swedensky, Assistant to the Board
CalPERS Executive Officer
P.O. Box 942701
Sacramento, CA 94229-2701



Re: Brenda Stevenson, Case No. 8381, REMAND hearing date of August 23, 2012

"Respondent's Argument"

This is a brief written response to appeal the **Proposed Decision after Remand** administered by Administrative Judge Diane Schneider dated 11/2/12. Judge Schneider denied my claim for disability retirement.

On November 8, 2012, I received a phone call by the Secretary of Senior Staff Attorney, Patricia B. Miles, stating that she just emailed me a copy of the decision of the August 23, 2012 Remand Hearing. I informed her I wasn't aware of this and that I didn't even know how to get on my email. She then told me that she was mailing me a copy of the Remand Hearing and that I had until November 30, 2012, to reply with a written response. On November 9, 2012, I received a copy of the Remand Hearing decision, by way of Fed Ex. I find this very ironic that I have three weeks to respond to the denial of the Remand Hearing and CalPERS had six plus years to respond to my claim for disability retirement, and it is still ongoing.

With time restraints put upon me, and the serious nature of my claim, I am requesting that I be allowed to present an oral argument on my behalf to the Board of Administration's on December 12, 2012, which is the date they will be making a decision on my appeal. Although I was informed that I cannot present an oral argument from the Legal Office, and a written response is the only resource I can present, according to the General Procedures for Administrative decisions, I may come and argue the case before the Board, and/or submit written argument. I choose to submit an oral argument. My argument will include:

- Time limitation for disability appeal process. (Disability retirement app. filed 2006)
- Senior Staff Attorney, Patricia Miles, withholding information.
- The competency of Dr. Wellburn. (View the hearing transcript)
- Bias universal questions that CalPERS' appointed doctor's must answered which leans most decisions in CalPERS' favor in denying one's claim.
- My physical condition.

I will address these arguments in detail, so I am now respectfully requesting ample time in doing so.

If I don't hear from you on whether I'm allow to attend the Board of Administration's meeting or not. I will assume that my request has been denied; as I will not drive all the way out to Sacramento on the chance that I may be able to speak! (Anyway, I don't know the location.)

Also, at this time I am not asking the Board to designate their decision as precedent. When the whole appeal process is finally exhausted, then I will decide whether my case should be precedent. (I thought precedent means to expedite. Certainly after all these years. expedience can't be a concern?)

I look forward to hearing from you in the near future. If I do not hear from you prior to December 12, 2012. the date of the Board meeting, please send me the Board's decision regarding my appeal, and all pertinent information, within a timely manner.

Thank you in advance for your cooperation.

Sincerely,



Brenda C. Stevenson