

**ATTACHMENT C**  
**RESPONDENT(S) ARGUMENT(S)**

ATTACHMENT C

## Respondent's Argument

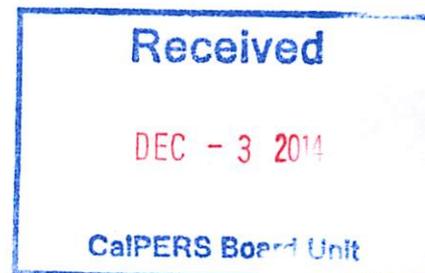
I am sending this letter to the board as my last attempt to be heard. I have spent the last 10 years retired from the Department of Corrections because of an injury/injuries sustained while working at CSP Lancaster. I originally was employed with CSP-LAC in 1994 as a Medical Technical Assistant (MTA). The position I held at the time of injury was Infirmary MTA as well as ambulance driver. I responded to emergencies throughout the institution and transported patients to the ER for treatment or to outside facilities. My job duties I know you already have, but I want to add that while performing these duties I wore a belt around my waist weighing approximately 12 lb., which was substantial considering all the different duties as a nurse. In the court exhibit, section 12, are the job duties my position required. Nowhere in the duties are there any lifting requirements; which was a part of my duties, as well as the care for a quadriplegic patient that had to be turned every 3 hours. Initially, when I returned to work after my injuries. I worked for a couple of weeks before being called to the "return work coordinators" office. According to a report by Dr. Fell, dated Feb 11, 2002, I was listed as permanent and stationary, which precluded me from very heavy lifting. I was not able to work in my current position, with that restriction.

During the court hearing, I brought up the lifting restrictions for the position, nothing was written anywhere, which stated what the required lifting capacity for a MTA/CO. The only information I have found for that requirement is a copy of my Candidates Informed Consent CDC 1247 that lists the tests required to be passed in order to be employed with the State. Additionally, I have included a copy of the current CDCCR Peace Officers Physical Fitness Test requirement. In Section 19 of the Proposed decision rendered by Judge Vorters, Dr. D'Amico states I have "classic somatoform pain" and he goes on the say "I am not malingering." I would argue that my pain is not somatoform! Case and point; I recently become a grandmother, obviously there is joy when holding my beautiful grand baby. Yet each time I hold her, whether I am feeding or rocking her for any length of time, I suffer neck pain. Furthermore, when I baby sit during the day I suffer headaches and neck pain from simply looking down at her.

My life style has changed because of my injuries. I no longer lift weights like I use to. I have to be very careful when doing any kind of movement over my head type exercises, because I will suffer extreme pain. I constantly monitor how much I do, as a mother and wife. I don't have the luxury of time to be incapacitated by pain; which does happen on occasion. Currently I reside in Virginia due to my husband receiving military orders in 2004. I only state this because when he received his orders I was informed that retraining was no longer an option due to me moving out of state. Since not receiving retraining and not working; I am now 47 years old with an expired nursing license because: 1) I was licensed in California. 2) My neck and back pain limit me from lifting patients. 3) I was told I can no longer work as a nurse.

I am asking you to reconsider and keep me retired. I am injured and evidence does support that to be true. I am an honest person. I loved nursing, even in a prison environment. But I have succumb to the fact that the medical field is a field I will never get to be a part of again. I ask you to please look at me as an individual and not just a piece of paper. Thank you for taking time to look over my information and giving me the opportunity to be heard.

Respectfully,



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**CANDIDATE'S INFORMED CONSENT  
CORRECTIONAL OFFICER/MEDICAL TECHNICAL ASSISTANT  
CDC 1247 (5/91)**

DISTRIBUTION:  
WHITE - P.A.T. FILE  
YELLOW - CANDIDATE  
PINK - MEDICAL FILE  
GOLDENROD - PHYSICIAN

To establish eligibility for placement as a Correctional Officer/Medical Technical Assistant in the California Department of Corrections, I hereby consent to voluntarily engage in a validated battery of tests which will determine my ability to perform work related duties.

Some of the tests will require that I exert maximum physical effort and the possibility exists of certain changes occurring during these tests. Possible changes include abnormal blood pressure, fainting, disorders of the heart beat (too rapid, too slow or ineffective), and very rare instances of heart attack. There also exists a possibility of physical injury. Signs of exceeding allowable performance standards or my inability to safely perform the tests described below will result in discontinuance of my tests.

I understand that I should not undertake such testing without approval from a medical doctor if I know or have reason to believe that I have any health problems which might impair my ability to safely undergo testing.

I further understand that I will not be permitted to test without medical clearance if there exists any contraindication to, or hazard involved in my being tested.

I release the staff and Department of Corrections of liability or financial responsibility should illness, injury or need for medical services occurs as a result of participating in the physical ability tests. I further understand the PAT staff are not medical personnel and the PAT emergency protocol consists of administering Basic First Aid, CPR and activating the Emergency Medical System (911) on an as needed basis.

TESTS	JOB STANDARD
1. PEDOL - 3 minute bicycle ergometer test with tension applied according to body weight can be compared to instant or maximal stress test for individuals below average physical condition.	In full uniform, run 500 yards in no more than two minutes and 20 seconds.
2. TRUNK STRENGTH - Requires candidate to exert maximal force against a cable tensiometer. Flexion: abdominal muscles (89 lbs). Extension: Back extensor muscles (109 lbs).	Drag an unconscious person weighing 165 lbs 20 feet in 20 seconds or less after running 500 yards.
3. GRIP STRENGTH - Hand grip dynamometer test to measure candidate's grip strength (34 kps of pressure).  4. DYNAMIC ARM - Candidate must pedal a bicycle ergometer with 2.5 kps of resistance utilizing hands and arms done from a straddle position sitting on the floor behind the bike. Complete 45 revolutions in one minute.	Carry a stretcher containing a 165 lb person 1/8 mile with the assistance of one other person, then an additional 1/8 mile with the assistance of three people.
5. DYNAMIC LEG - Candidate must pedal at a rapid pace for 1 minute with 3.0 kps of resistance and complete 70 revolutions.	Sprint 100 yards in no more than 19 seconds.

CANDIDATE'S NAME (PRINT OR TYPE)		
Kimberly J Haynes	SIGNATURE <i>Kimberly J Haynes</i>	DATE 8-30-92
WITNESS SIGNATURE		
<i>[Signature]</i>	<i>[Signature]</i>	DATE 8-30-92

*[Handwritten notes and signatures at the bottom of the page]*

15:18 04092012 SA

**VIRGINIA ORTHOPAEDIC AND SPINE SPECIALISTS**

*MAST One Building  
1040 University Boulevard, Suite 200  
Portsmouth, VA 23703  
Phone: 757-397-6930  
Fax: 757-393-4864*

RECEIVED / SURGICAL  
CALPERS  
2012 APR -9 PM 2:26  
DDC - 3

**NEW PATIENT SURGICAL CONSULTATION  
HAYNES, KIMBERLY  
DOB: [redacted]  
DOV: 03-28-2012**

**HISTORY OF PRESENT ILLNESS:** The patient is seen today at the request of Dr. Karen Rush. Ms. Haynes is a 44-year-old female with a history of depression and polyarticular arthritis pain. Her main complaint of pain is neck pain, which radiates into her left arm in possibly a C7 distribution. It began 15 years ago following a work injury while working as a corrections officer in California. She had another injury about eight years ago, both had to do with inmate or patient care. The patient ultimately underwent medical retirement. Since that time, she has had a progression of polyarticular arthralgias with pain in her neck, shoulders, elbows, hands, hips, wrists, and feet. The patient denies bowel or bladder dysfunction, fevers, chills, night sweats, weight loss or weight gain.

**PHYSICAL EXAMINATION:** The patient is a well-developed female in moderate distress. She has antalgic range of motion of her neck, shoulders, elbows, wrists, hands, hips, knees, and ankles. She has tender joints. She has antalgic range of motion of her neck with radiating pain into her left arm. She has good strength in the EHL, tib-ant, hamstrings, quadriceps, deltoids, biceps, triceps, and intrinsic. She has numbness in a C7 distribution. There is no clonus, Hoffmann's, or Babinski. Pulses are 2+. Abdomen is soft.

**RADIOGRAPHS:** MRI of the cervical spine demonstrates polyarticular arthritis in her neck with disc injury pathology at multiple levels, most significantly at C5-C6 and C6-C7, where there is left foraminal stenosis of moderate to marked severity.

**ASSESSMENT/PLAN:** Certainly her neck and arm pain can be considered caused by this cervical pathology. From her history, it appears that this was the major injury that was caused in her work-related injury with a cervical disc herniation giving rise to upper thoracic, periscapular pain, as well as radiating neck and arm pain. This is likely due to the cervical disc herniation. Intervention, if considered, would be a cervical discectomy and fusion. She also has polyarticular arthritis. It affects all of the joints in her body, and for this I would recommend evaluation by rheumatology.

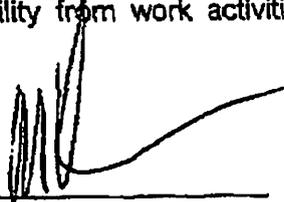
**RE: HAYNES, KIMBERLY**

MARCH 28, 2012  
PAGE TWO

Another issue she is coping with is one of depression, for which she is being treated by her family doctor.

I discussed the matter at length with her. I would recommend rheumatology evaluation, as well as continued management of her depression. If things stabilize and her pain in her neck was her primary disabling factor and she wished to consider surgery, surgery would be in the form of a two-level cervical discectomy and fusion at C5-C6, C6-C7.

I have been asked to comment on her disability at the request of CalPERS. I make this report based on the medical information provided, the patient's physical examination, and my experience as an orthopaedic spine surgeon. This patient, at this time, has a total disability from return to her usual duties. Her neck pain and arm pain that I believe were part of her initial work injury are due to a cervical disc herniation and do not allow her to perform the essential duties of a medical technical assistant as determined in the guidelines presented. The patient is in ongoing pain. This pain is made more difficult for her to cope with because of her diagnosis of depression. Her polyarticular arthritis is also associated pathology with it. At this point, the patient appears to have a permanent and total disability from work activities. I would recommend her disability status be continued.



Mark B. Kerner, M.D.  
Medical Director

(DICTATED BUT NOT READ)

MBK:amb DOD: 03-29-2012 DOT: 03-29-2012

cc: California Public Employee Retirement System  
Benefit Services Division  
PO Box 2796  
Sacramento, CA 95812-2796

Karen Rush, MD

Display Pacs Report

ATTORNEY

CALIFs

Bon Secours Hampton Roads  
PATIENT RADIOLOGY STUDY REPORT

=====  
Patient ID:  
Patient Name: HAYNES, KIMBERLY JOY  
Birth Date:  
Sex: F

Accession Number: :  
Procedure Description: MRI CERV SPINE WO CONT  
Exam Date : 06-08-2013 08:45  
Ordering Physician: KERNER, MARK B

Reason For Exam :  
Clinical Comments:  
=====

EXAM: MRI CERV SPINE WO CONT

INDICATION: cervical spindylolysis

COMPARISON: MR cervical spine January 4, 2011

TECHNIQUE: MR imaging of the cervical spine was performed including sagittal T1, T2, STIR; axial GRE, T2, T1. Contrast was not administered.

FINDINGS: ①  
Straightening and mild reversal of the cervical spine with apex at C3-C4. Mild degenerative discogenic disease C3-C4 through C6-C7. Vertebral body heights are maintained. Endplate edema at C5-C6. The craniocervical junction is intact. The course, caliber, and signal intensity of the spinal cord are normal.

C2/3: The spinal canal and neural foramina are widely patent.

C3/4: Disc osteophyte complex with more prominent right paracentral component image 23 axial T2. There may be contact with the traversing right nerve root. Mild to moderate right foraminal stenosis. Mild left foraminal stenosis. Mild central canal stenosis, AP diameter is 8 mm. ②

C4/5: Disc osteophyte complex. Moderate foraminal stenosis. Mild central canal stenosis, AP diameter is 8 mm. Cervical cord is mildly flattened. ③

C5/6: Disc osteophyte complex. Mild facet arthropathy. Moderate to severe foraminal stenosis. Mild/moderate central canal stenosis, AP diameter is 7.5 mm.

C6/7: Mild disc osteophyte complex with prominence on the left. Moderate left and mild right foraminal stenosis. No significant central canal stenosis.

C7/T1: The spinal canal and neural foramina are widely patent.

IMPRESSION:

Multilevel degenerative changes most prominent at C3-C4 where there is right paracentral component narrowing the right neural foramen and right central canal, as above. Significant bilateral foraminal stenosis at C5-C6 and significant left foraminal stenosis at C6-C7.

Several levels of mild to mild to moderate central canal narrowing, most prominent at C4-C5 and C5-C6.

Thank you for this referral.  
=====

Interpreting Radiologist: HASAN, SEEMA  
Contributing Radiologist:  
Signed Date / Time: : 06-08-2013 11:11



# Peace Officer Careers

CDCR expects to hire approximately 7,000 correctional officers... read more

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## Selection Components

Thank you for considering a career opportunity as a Correctional Peace Officer with the California Department of Corrections and Rehabilitation (CDCR). To be eligible for appointment a candidate must be successful in each of the following selection components:

### Written Examination and Qualifications Assessment

Written Examination and Qualifications Assessment is scheduled by appointment only. Candidates that do not appear for or withdraw from the Written Examination and Qualifications Assessment will be disqualified and will not be able to reapply for one (1) year from the disqualification date. Written Examination and Qualifications Assessment date and time cannot be rescheduled. To learn more about the types of questions asked on the Written Examination, click here, the Sample Test. A Qualifications Assessment is a structured form with pre-determined scoring/rating criteria. It assesses a candidate's experience, knowledge, and skills.

### Physical Fitness Test (PFT) (Pass/Fail)

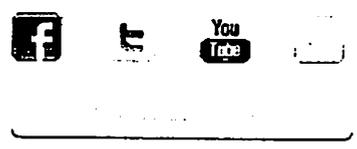
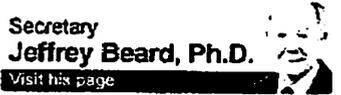
Correctional Officers (COs) must be able to respond to a variety of physically demanding activities to maintain the safety and security within a prison environment. The CDCR's Physical Fitness Test (PFT) evaluates each candidate's strength, endurance, and agility required to satisfactorily perform the essential duties and functions expected of a CO. The PFT administered is modeled after and tests for the same abilities as those required of peace officer cadets to graduate from the 16-week CO Academy. This test is designed to assess the probability of success expected in performing various physical functions at both the Academy, and then later once cadets have graduated and have reported to their assigned institution.

To assess these abilities, you will need to:

- Run a 500-yard course (approximately) on a variety of different surfaces
- Run up and down one flight of stairs
- Complete a mini obstacle course
- Carry two (2) 45-pound hand-held weights over a distance of 50 yards and set them down;
- Then, carry one (1) 45-pound weight over 75-yards and then set it down; and,
- Lastly, carry one (1) 30-pound weight over a final distance of 110-yards and then set down
- To successfully pass the PFT portion of the selection process, candidates must complete the course in the required time of 5 minutes and 35 seconds.
- Please view the PFT VIDEO to watch an example of the nature of the course you may encounter.

### PLEASE NOTE!

- The Physical Fitness Test (PFT) is available by scheduled appointment only.
- If you do not appear for the PFT, and have not made contact with our office, you will be disqualified and will not be able to reapply for one (1) year from the disqualification date.
- If you are unsuccessful at your first PFT, you are provided with one (1) additional attempt within six (6) months from your initial PFT test date.



## Peace Officer Career Opportunities

### BECOME A PEACE OFFICER

- Join Our Team
- Before You Apply
- Selection Components
- Out of State Applicants
- Military and Veteran Applicants
- Peace Officer Reinstatement
- Reemployment
- Sign Up For eNotification
- Frequently Asked Questions
- Contact Us - Customer Service Unit (includes Testing Locations)

### Forms

- Candidate Forms
- CO Cadet Academy Check-in
- YCO Cadet Academy Check-in
- YCC Cadet Academy Check-in