

ATTACHMENT C

**RESPONDENTS' ARGUMENT REGARDING THE
PETITION FOR RECONSIDERATION**

Respondent's Argument

Joel Marzan

October 3, 2015

California Public Employees' Retirement System
CalPERS Executive Office



To The Board of Directors,

Dr. Andrea Bates has determine I am able to perform my duties as a Correctional Officer as she stated, "rehabilitated himself and that he could perform the essential job functions". The mental requirements of a Correctional Officer position includes:

- Must have mental capacity to be aware/alert in their observation/identification of security risk. Correctional Officers are at risk to variety of inmates behaviors, including but not limited to aggressive or violent inmates, psychological manipulation or verbal abuse/harassment. Correctional Officers mush also have mental capacity for exposure to very unpleasant situations including inmates who have attempted or committed suicide by hanging themselves in their cells or slashing their wrist, or inmates who throw bodily fluids at them.
- Must have the mental capacity to judge an emergency situation, determine the appropriate use of force, and carry out that use of force. Use of force can range from advising an inmate to cease an activity to firing a lethal weapon at an inmate when another life is threatened with great bodily harm or death.
- Must have the mental ability to recall incident in order to accurately document the incident in writing.

I have been diagnosed and recommended treatment by following:

Dr. Wayne Fulton, Psychologist for SCIF,

- Adjusted Disorder with Mixed Anxiety and Depressed Mood
- GAF Score = 65
- Recommends cognitive-behavioral psychotherapy and considered psychopharmacological medication consultation

By Dr. Luigi Piciuccio, Psychologist for SCIF,

- 319.28 Adjustment disorder with Mixed Anxiety and Depressed Mood
- 308.91 Posttraumatic Stress Disorder - Chronic
- 307.89 Pain Disorder Associated with Both Psychological Factors and a General Medical Condition.
- GAF Score = 65 Mild symptoms. GAF of 65 is equivalent to 8% (eight percent) WPI (Whole Person Impairment)
- He is restricted from performing the usual functions of a Correctional Officer
- Recommends cognitive behavior therapy for PTSD and Depression.

Respondent's Argument

By Dr. Benjamin Kaufman, Psychiatrist for CalPERS, who has stated I am permanent incapacitated from performing my duties as a Correctional Officer. Dr. Kaufman has diagnosed me with,

- Post-Traumatic Stress Disorder (308.91); anxiety Disorder with mixed anxiety and depressed mood (309.28)
- GAF Score = 60
- Should be treated with psychotherapy and medication

And by Craig Otterson, License Clinical Social Worker, self referral, currently in treatment for psychotherapy from 05/2014 - current

- 309.81 PTSD
- GAF Score = 50

Since my diagnosis, I been evaluated by Dr. Fulton and had a few visit. He had recommended Cognitive-behavioral psychotherapy and considered psychopharmacological medication consultation. Dr. Piciucco has recommended additional session for psychotherapy. My self-Rehabilitation for my PTSD and depression is by suppressing my thoughts.

I did not understand the diagnosis and treatment for PTSD and depression. How it will affect my family and myself if I did not get professional treatment. No one told me how important treatment was and how to get treatment. Being self-rehabilitated is not the right treatment for PTSD and depression, cognitive-behavioral psychotherapy and medication are recommended for treatment. Without getting professional treatment, I am not capable to perform the duties as a Correctional Officer and my symptoms could be triggered if it is not treated professionally.

Dr. Bates evaluation was four years after and I was not in an environment that could trigger my symptoms. I graduated from college and had a temporary assignment in an office setting with my own cubicle, working on health insurance. That is where I learned mental health is covered by personal health insurance.

In addition, there was no mention of Dr. Benjamin Kaufman, who is a Psychiatric Independent Medical Evaluator who was appointed by CalPERS to evaluate my Industrial Disability Retirement. Dr. Kaufman reviewed the same medical documentations and determined I am substantially incapacitating. Dr. Bates reviewed the same medical documentations for her evaluation. And the same medical documentations now is said not evidence my injuries are substantially incapacitating for the purposes of disability retirement.

Dr. Kaufman reviewed PERS Form 359, a self-report of disability information, job description, physicians report on disability signed by Dr. Fainsztein, medical report, medical report of psychological examination by Dr. Piciucco, medical report by Dr. Fainsztein dated 1/18/11, recommended no interaction with inmate, medical report dated 9/22/10, and multiple reports. Dr. Kaufman's had found me incapacitated to perform the duties of a Correctional Officer.

At my hearing, Cynthia Rodriquez, Senior Staff Attorney for CalPERS asked if any of the doctors that was listed was a CalPERS doctor. I said, no. The only doctors that was mention was Dr. Fulton, Dr. Piciucco, and Craig Otterson. Dr. Kaufman was not mention because he was assigned as a CalPERS doctor which I did not know at that time. I did not know I needed to see a CalPERS doctor for my injuries. I was told if I see a doctor for my injuries, they need to be in the SCIF network and must be approved.

I have been recommended for treatment and for vocational rehabilitation because I am not cable of functioning as a Correctional Officer. I have been approved for vocational rehabilitation and future

Respondent's Argument

medical and psychological treatment because of my injuries. I am being reinstated because Dr. Bates has determine that rehabilitating myself without professional treatment that I am capable of performing the duties of a Correctional Officer putting myself, officers, staff, and inmates in danger. Dr. Bates and the previous Doctors has diagnosed me with the same or similar diagnosis but Dr. Bates has my GAF score at 75, indicating I can function normal placing me not incapacitated.

I am asking the Board of Directors to reconsider the decision and look at the medical facts of PTSD, depression, and not having professional treatment. Dr. Bates made an opinion of being self-rehabilitated for PTSD and depression that I could return as a Correctional Officer. I have been recommended by Dr. Fulton, Dr. Piciucco, and Dr. Kaufman for treatment and not capable of functioning as a Correctional Officer.

Thank you,

Joel Marzan

