

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Gwendolyn Lewis-Parker (Respondent) was employed as a Parole Agent by the California Department of Corrections and Rehabilitation, Paroles and Community Services (CDCR). By virtue of her employment, Respondent was a state safety member of CalPERS. Respondent submitted to CalPERS an application for industrial disability retirement based upon a claimed psychological condition (post-traumatic stress disorder (PTSD), major depression). CalPERS staff reviewed relevant medical reports and a written job description. Matthew Carroll, M.D., a Board-certified Psychiatrist reviewed relevant medical reports, and a written job description and conducted an independent evaluation of Respondent. Dr. Carroll prepared a written report, which contained his observations, findings, and conclusions. Dr. Carroll expressed an opinion that Respondent was not substantially incapacitated from performing the usual and customary duties of a Parole Agent because of an existing or active psychological condition. CalPERS staff determined that Respondent was not substantially incapacitated from performing the usual and customary duties of her position as a Parole Agent for CDCR and denied Respondent's application for industrial disability retirement. Respondent appealed CalPERS' determination and a hearing was held on October 22, 2015.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent's questions and clarified how to obtain further information on the process.

In order for an individual to be eligible for disability retirement, competent medical evidence must demonstrate that the individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis for the claimed disability must be permanent or of an extended and uncertain duration.

Respondent did not appear at the hearing. The Administrative Law Judge (ALJ) received evidence demonstrating that the CalPERS Legal Office had provided adequate and proper written notice of the hearing to Respondent. Accordingly, the ALJ determined that the hearing would proceed as a default against Respondent.

The ALJ received into evidence and considered the contents of the written report prepared by Dr. Carroll. Dr. Carroll was familiar with the usual and customary duties of a Parole Agent for CDCR. Dr. Carroll reviewed relevant written reports regarding Respondent's claim of PTSD and depression. Dr. Carroll performed a mental status examination of Respondent. Dr. Carroll found that Respondent did exhibit symptoms of PTSD and depression following a work-related incident in 2009. However, Dr. Carroll noted that Respondent's symptoms were temporary, not permanent. Accordingly, Dr.

Carroll expressed his opinion that Respondent was not substantially incapacitated from performing her usual and customary duties as a Parole Agent for CDCR.

The ALJ found that Respondent had failed to satisfy her burden of demonstrating, through competent medical evidence, that she was substantially incapacitated from performing her usual and customary duties.

The ALJ concluded that Respondent's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a motion with the Board under Government Code section 11520(c), requesting that, for good cause shown, the Decision be vacated and a new hearing be granted.

February 18, 2016



RORY J. COFFEY
Senior Staff Attorney