

ATTACHMENT C
RESPONDENT'S ARGUMENT

Fax

To: Cheree Swendensky

From: Shane R Mee

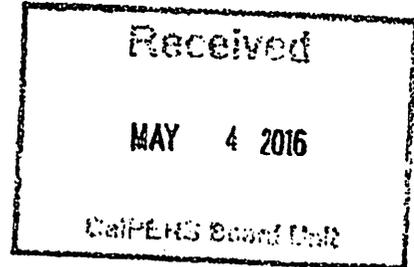
Pages: 13 (including cover letter)

Date: May 4, 2016

Subject: Earlier Effective Date of Retirement for Shane R Mee

Phone:

Fax: None



A copy will also be sent in mail 5-4-16

SHANE R. AND RENEE MEE

VIA FACSIMILE TO: 916/795-3972
May 4, 2016

Cheree Swedensky, Assistant to the Board
CALPERS Executive Office
P.O. Box 942707
Sacramento, CA 94229-2707

Re: Reference No. 2014-0755
In the Matter of Application for an Earlier Effective Date of Retirement of Shane R. Mee, Respondent, and California Department of Transportation - District 02, Respondent

Dear Ms. Swedensky:

Enclosed are two duly executed Declarations under penalty of perjury, one by the Respondent, Shane R. Mee and the other by his spouse, Renee Mee. These are being submitted in response to a letter received from Summer Hazlett on March 25, 2016 regarding our opportunity to submit written argument.

Very truly yours,


Shane and Renee Mee

Enclosures

1 SHANE R. MEE

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BEFORE THE
BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA

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8 SHANE R. MEE,

Case No.: 2014-0755

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Respondent,

10

and

DECLARATION OF SHANE R. MEE

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CALIFORNIA DEPARTMENT OF

12

TRANSPORTATION,

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Respondent.

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I, SHANE R. MEE declares as follows:

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1. I am over the age of eighteen. I have personal knowledge of each of the matters set forth herein and, if called as a witness, I can and will competently testify to them under oath;

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2. In 2004 through 2005 and 2006 the undersigned went through a hearing as well as several appeals because of what was proven to be a defective drug test. Exhibit 1 is the first and last page of California State Personnel Board's Decision by ALJ Shawn P. Cloughesy invalidating the defective drug test revoking Shane's suspension. Despite this decision by the Judge, counsel for Caltrans effectively blocked the Judge's Decision and filed a Writ of Mandate. Attached as Exhibit 2 is a letter dated June 26, 2006 (1 1/2 years after ALJ's Decision) by our

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DECLARATION OF SHANE R. MEE

1 attorney to the attorney for Caltrans. Suffice it to say, this was an extremely difficult time for my
2 wife and me.

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4 3. During this period my wife and I were having an extremely difficult time
5 financially. Therefore, my wife, Renee Mee made a telephone call to the local Caltrans' office
6 here in Redding who advised her that we had to pull out all of my CalPERS retirement benefits at
7 that time. Thereafter, my wife contacted a CPA who told us that that money was ours and we did
8 not have to pull it out.

9
10 4. Thereafter, in 2005 my wife contacted the CalPERS office in Sacramento
11 and was told to keep my retirement money in the CalPERS system until I could retire at age 50.
12 From that point forward my wife and I concluded that I could not retire until age 50. There were a
13 lot of other reasons why, had I known, I could have retired earlier I certainly would have.

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15 5. The CalPERS system in 2004 and 2005 was fully aware that I was no longer
16 working at Caltrans due to the problems with the defective drug test and the procedures that were
17 taking place at that time.

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19 6. In 2006 (November 2) I received a letter from the CalPERS system giving
20 me an "estimate of my disability retirement" at age 49. I was 44 years of age at that time and did
21 in no way interpret that letter to mean that I could retire before age 50.

22
23 7. Again, on October 2, 2008, I received yet another letter "an estimate of my
24 disability retirement" from the CalPERS system, this time estimating my age at retirement at 46.75
25 years. Again, this in no way altered my opinion, in my mind, we had been told by the CalPERS
26 system what my wife had been told by the CalPERS person in 2005, "You can keep your retirement
27 money in the CalPERS' account until you retire at age 50."

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DECLARATION OF SHANE R. MEE

1 8. During the 2004, 2005 and 2006 period, our then 18-year-old son, Brandon
2 had to help pay the monthly bills to keep our household together.

3
4 9. In 2008 I was referred to a psychiatrist, Dr. Thomas Andrews in Redding.
5 At that time Dr. Andrews diagnosed me with PTSD, ADHD and bipolar disorder, conditions
6 which in his opinion had existed for many years.

7 10. In 2009 my wife and I had to file for relief under the bankruptcy laws.

8
9 11. Ultimately, when I did attempt to apply for retirement at age 50, a CalPERS
10 representative told me that I should have applied for an earlier disability retirement dated back to
11 2007. CalPERS advised that I make an application at that time to have the disability retirement
12 clear back to 2007 in that I was physically disabled as of that time. In 2005, Dr. Corkhill had told
13 me that the back injury from which I was suffering, which ultimately led to my disability was
14 related to the work during the time I was employed Caltrans.

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16 12. I only have an 10th grade education and apparently have been suffering
17 from bipolar disorder, PTSD and ADHD for many years. Being able to retire prior to age 50 would
18 have been a great blessing for my wife and me had I known and understood that that was possible.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Dated: May 4, 2016

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24 SHANE R. MEE

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28 DECLARATION OF SHANE R. MEE

EXHIBIT 1



CALIFORNIA STATE PERSONNEL BOARD
302 Capitol Mall - Sacramento, CA 95834

In the Matter of the Appeal by

SHANE MEE

Case No. 04-2474
DECISION

From dismissal from the position of
Caltrans Equipment Operator II with
the Department of Transportation at
Redding

WHEREAS, the State Personnel Board has considered carefully
the findings of fact and Proposed Decision filed by the
Administrative Law Judge in the above matter; and

WHEREAS, by said Proposed Decision the dismissal is revoked;

IT IS RESOLVED that the findings of fact, determination of
issues, and Proposed Decision of the Administrative Law Judge in
said matter are hereby adopted by the State Personnel Board as
its decision in the case on the date set forth below, that a true
copy of the Proposed Decision shall be attached to this
Resolution for delivery to the parties in accordance with the
law, and that adoption of the Resolution shall be reflected in
the record of the meeting and the Board's minutes.

* * * * *

The foregoing resolution was made and adopted by the State
Personnel Board in Case No. 04-2474 at its meeting on
January 24, 2006, as reflected in the record of the meeting and
Board minutes.

(Mee continued)

unattended) and that appellant could have easily excused himself from the test when Sea told him that she would not test him compels a ruling that it cannot be found that respondent demonstrated by a preponderance of the evidence that there was not a mistake in the collection process. As a result, it must be found that respondent did not prove by a preponderance of the evidence that appellant tested positive for methamphetamine and amphetamine on September 27, 2004. As a result, the entire adverse action must be dismissed.

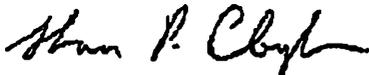
* * * * *

WHEREFORE IT IS DETERMINED that the dismissal taken by respondent Department of Transportation against appellant Shane Mee effective the end of his work shift on October 18, 2004, is hereby revoked.

* * * * *

I hereby certify that the foregoing constitutes my Proposed Decision in the above-entitled matter and I recommend its adoption by the State Personnel Board as its decision in the case.

DATED: January 15, 2006



Shawn P. Cloughesy
Administrative Law Judge
State Personnel Board

¹ Because it is found that respondent did not establish the positive sample was appellant's, the ALJ does not have to reach issues of violation of privacy and whether the test was truly random or not.

EXHIBIT 2

T. JAMES FISHER
LAWYER
1721 COURT STREET
POST OFFICE BOX 990460
REDDING, CA 96099-0460
(530) 244-0909 FAX: 244-0923
(870) 655-8160

COPY

VIA FACSIMILE TO: 916/223-4723

June 26, 2006

Linda Nelson
DEPARTMENT OF PERSONNEL
1515 S. Street, N. Building,
Suite 400
Sacramento, CA 95614-7243

RE: CalTrans' Petition for Writ of Administrative Mandamus

Dear Ms. Nelson:

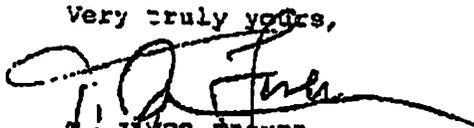
Please consider this letter as a formal request that you take the necessary steps to transfer venue of the Petition for Writ of Administrative Mandamus that was recently filed in Sacramento County, Superior Court. Clearly, this case involves the dismissal of a public employee. The proper county for trial is the county in which the dismissal takes place; in other words, the county in which the employee was employed immediately before the dismissal (see Lynch v. Superior Court, [1976] 7 Cal.App.3d 929, 931-933, 86 Cal.Rpt. 925). The evidence showed that all these events have occurred in Shasta County.

Based on discussions that you and I had many months ago in this case regarding the huge odds against prevailing in a writ of mandate proceeding, as well as the evidence in this case as expressed by the Administrative Law Judge and the State Personnel Board, I believe that your filing of this petition is frivolous, in bad faith and intended to cause undue delay in Mr. Mee's effort to bring this case to a resolution. Your having filed this case in Sacramento County, in clear contradiction of existing case law and applicable venue statutes cited within that case appear to be part of an ongoing effort on your part to harm Mr. Mee, while ignoring the clear evidence in this case.

June 8, 2006
Re: My Client : Shane Mae
Your Case No. : 04-2474
Page 2

back to the Chief Administrative Law Judge and set for hearing.

Very truly yours,



T. JAMES FISHER
IJF/da

Cc: Shane & Renee Mae
Mark Krueger

1 SHANE R. MEE

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BEFORE THE
BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA

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8 SHANE R. MEE,

Case No.: 2014-0755

9

Respondent,

10

and

DECLARATION OF RENEE MEE

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CALIFORNIA DEPARTMENT OF

12

TRANSPORTATION,

13

Respondent.

14

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I, RENEE MEE declares as follows:

16

1. I am over the age of eighteen. I have personal knowledge of each of the matters set forth herein and, if called as a witness, I can and will competently testify to them under oath;

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2. I am the wife of Shane Mee and we have been married for 35 years.

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3. In 2005 I contacted the local Caltrans' office about my husband, Shane Mee's retirement in the CalPERS system. I was told at that time that I had to pull all of the retirement out because of the fact that Shane was no longer working at Caltrans due to the ongoing problems with the failed drug test, which was ultimately proven to be invalid.

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4. I then contacted a CPA who told us that that information regarding taking all of the retirement out was not accurate. Thereafter, I contacted the CalPERS system who told

DECLARATION OF RENEE MEE

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1 me to keep the money in there until Shane retires at age 50. At that point in time, it was in my
2 opinion as well as that of my husband's that he would be unable to retire under any circumstances
3 until he was 50 years.

4
5 5. The 2006 and 2008 letters that we received from the CalPERS system did
6 nothing in any way to alter our opinion in that regard. We both assumed that the two letters we
7 received, i.e. in 2006 and 2008 were simply estimates for calculation and in no way did they mean
8 that my husband could retire prior to age 50, which we have been told previously.

9
10 6. It was not until at or about the time my husband was age 50 that we
11 contacted the CalPERS retirement system and were told that he should have applied for disability
12 in 2007 and that we should write a letter and ask that the retirement be deemed effective at that
13 date.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Dated: May 4, 2016

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19 _____
RENEE MEE

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DECLARATION OF RENEE MEE