

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent James Greer (Respondent) applied for Industrial Disability Retirement based on orthopedic conditions (knees, right ankle, right elbow, right hand and wrist, back), a cardiac condition and a neurological condition. By virtue of his employment as a Correctional Officer (CO) for Respondent Preston Youth Correctional Facility, California Department of Corrections and Rehabilitation (Respondent CDCR), he was a state safety member of CalPERS. CalPERS determined that Respondent was not disabled, and Respondent appealed. A hearing was completed on July 21, 2016.

On April 5, 2016, CalPERS sent a letter to the Respondent which explained the hearing process and the need to support his 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. Respondent represented himself at the hearing.

Respondent testified that he had a heart attack in January 2004 and that his orthopedic and neurological injuries were due to the cumulative trauma to his body while working as a correctional officer. He further testified that he would be unable to perform the essential functions of his job as a CO because of his orthopedic, cardiac and neurological conditions.

As part of CalPERS' review of his medical condition, Respondent was referred for an Independent Medical Examinations (IME) to Orthopedic Surgeon Dr. James McCoy, Cardiologist Raye Bellinger and Neurologist Steven McIntire. Dr. McCoy interviewed Respondent, took Respondent's work history, and reviewed Respondent's job descriptions, medical records and diagnostic studies. He also performed a comprehensive IME examination. At the hearing Dr. McCoy testified to his examination and report.

Dr. McCoy opined that there were no specific job duties that Respondent was unable to perform, and that Respondent was not substantially incapacitated from performing the duties of a CO.

Dr. Bellinger interviewed Respondent, took Respondent's work history, and reviewed Respondent's job descriptions, medical records and diagnostic studies. He also performed a comprehensive IME examination. Dr. Bellinger opined that there were no specific job duties that Respondent was unable to perform, and that Respondent was not substantially incapacitated from performing the duties of a CO. At the hearing, Dr. Bellinger testified to his examination and report. Dr. Bellinger's medical opinion is that Respondent is not substantially disabled.

Dr. McIntire interviewed Respondent, took Respondent's work history, and reviewed Respondent's job descriptions, medical records and diagnostic studies. He also performed a comprehensive IME examination. Dr. McIntire opined that there were no specific job duties that Respondent was unable to perform, and that Respondent was

not substantially incapacitated from performing the duties of a CO. At the hearing, Dr. McIntire testified to his examination and report. Dr. McIntire's medical opinion is that Respondent is not substantially disabled.

Dr. McIntire opined that there were no specific job duties that Respondent was unable to perform, and that Respondent was not substantially incapacitated from performing the duties of a CO. At the hearing, Dr. McIntire testified to his examination and report. Dr. McIntire's medical opinion is that Respondent is not substantially disabled.

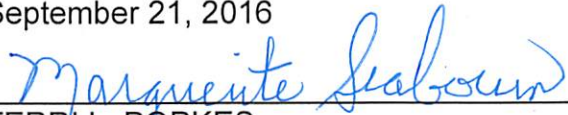
Respondent testified on his own behalf. He did not call any physicians or other medical professionals to testify.

The Administrative Law Judge (ALJ) found that Respondent bears the burden to show by a preponderance of evidence (based on competent medical evidence) that his symptomology renders him unable to perform his usual job duties. The ALJ found that Respondent failed to carry his burden of proof and that Respondent did not establish by competent, objective medical opinion, that, at the time of application, he was permanently disabled or incapacitated from performing his usual duties of a CO for Respondent CDCR.

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 Writ Petition in Superior Court seeking to overturn the Decision of the Board.

September 21, 2016

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