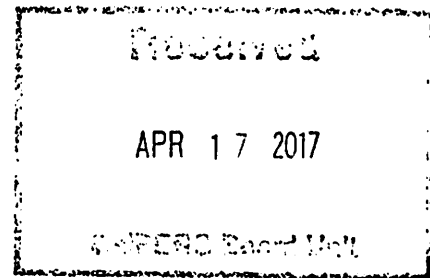


AGENDA ITEM 8s
ATTACHMENT C
RESPONDENT'S ARGUMENT

Ben Isla
[REDACTED]
[REDACTED]

Ref No. 2016-0131



SUBJECT: Respondent's Argument

Dear Board of Administration:

I do not agree on the proposed decision. I believe that I have provided and testified relevant evidence for the purpose of Industrial Disability Retirement. I also believe that the proposed decision was a biased decision in favor of CalPers. All the medical evidence that I provided at the hearing is relevant to my case and I believe that my history of injuries to my right foot do, in fact, incapacitate my performance of duty. Dr. Ha Eri, the evaluating doctor who performed the IME (Independent Medical Examination), examined me one time and I feel that his assessment was inconclusive due to the fact that he was paid by CalPers to do the examination.

After returning to full duty without restrictions on August 18, 2015, my right foot became swollen, tender, and very painful after working one week. I return back to Dr. Durazo, and I was referred back to Dr. Sanaie, the treating foot doctor. Dr. Sanie ordered another MRI but was denied by state fund.

Under the proposed decision made by Administrative Law Judge Coren D. Wong, he indicated under "Factual Findings 15. Dr. Ha'Eri...opined Mr. Isla's plantar fasciitis does not render him substantially incapacitated because he has been able to perform his usual duties, with occasional accommodations when he experiences a flare-up of pain."

California Government Code section 1031, indicates, "Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards: ...(f) Be found to be free from any physical, emotional, or mental condition that might be adversely affect the exercise of the powers of a peace officer."

Introduced copies of Dr. Durazo's August 1, 2016 Primary Treating Physician's Permanent and Stationary Report and Return-to-Work & Voucher Report indicated "EXTREMITIES: right foot very tender with palpation of the plantar fascia. swollen arch...ACTIVITIES ALLOWED: Climbing occasionally...No prolonged standing, no climbing, running, jumping..." The report also indicated I was not able to return to work with my "usual occupation."

According to the "Department of Corrections and Rehabilitation Division of Adult Institutions", as a Correctional Officer, some of the essential job functions required are as follows:

"Run occasionally: run in an all-out effort while responding to alarms or serious incidents; distances vary from a few yards up to 400 yards; running may take place over varying surfaces including uneven grass, dirt areas, pavement, cement, etc; running can include stairs or several flights of stairs maneuvering up or down.

Climb occasionally to frequently; ascent/descent or climb a series of steps/stairs, several tiers of stairs or ladders as well as climb onto bunks/beds while involved in cell searches; must be able to carry items while climbing.

Stand occasionally to continuously: stand continuously depending on the assignment".

I believe I have the substantial inability to perform my usual duties as a Correctional Officer. The frequency of duties have burden me and the medical evidence shows that I cannot run to an alarm without having chronic pain to my right foot. I disagree with the Administrative Law Judge Coren D. Wong's conclusion of my Application for Industrial Disability Retirement.

Sincerely,

Ben Isla

A handwritten signature in black ink, appearing to read "Ben Isla", with a stylized flourish at the end.