ATTACHMENT C

RESPONDENT'S ARGUMENT REGARDING THE PETITION FOR RECONSIDERATION
Dear Sir or Madam,

I, Dennis Martinez, would like to submit a "Respondent's Argument". I have reviewed the findings of Judge Heather Rowan and strongly disagree with her findings.

The duties of a correctional officer are as follows according to Judge Rowan and the Department of Corrections:

- Must range-qualify with departmentally approved weapons; I can shoot a handgun, or rifle so I agree I can do that.
- Must be able to swing a baton with force to strike an inmate; I could swing a baton, but I would not be able to fight with an inmate and protect myself and my partner.
- Disarm, subdue, and apply restraints to an inmate; again I can't fight with an inmate and would be putting myself and the public at risk if I do.
- Defend self against an inmate armed with a weapon; I can't run to assist anyone in need of help. I would not be able to fight or wrestle with an inmate, armed or not.
- Walk occasionally and continually; I need the use of my cane to walk with stability. I have trouble just walking around my home.
- Run occasionally in an all out effort while responding to alarms or serious incidents...over varying surfaces, I can't run, on smooth surfaces or rough. I must have my cane in order to get from one in the of the room to the other.
- Climb occasionally to frequently, including, stairs, ladders, bunks; I can only climb a few steps at a time without needing to rest. Again I need my cane for stability.
- Crawl or crouch occasionally; With the damage to the knee I can't crawl without being in extreme pain.
- Sit or stand occasionally to frequently; I can sit for a period of time but need to be able to move around, I can't stand in one place for very long my legs will collapse. Every time I get up out of the sitting position my leg jerks and I have trouble standing.
- Lift and carry in the light or medium range (20 to 50 pounds) frequently throughout the workday and in the very heavy range (100 pounds or more) occasionally. This could include physically restraining or wrestling an inmate to the ground as well as partially lifting and dragging an inmate. I can't even carry a ten-pound bag of groceries without it causing pain and losing control of my legs.
- Pushing and pulling occasionally to frequently, with could include restrain an inmate; anything that could put extra pressure on my body could cause my legs to collapse then I would not be any help to my partner.

I have several Doctors that have said that I can't return to work as a correctional officer.

Dr. Samuel Carlton from Northeastern Medical Center stated that I not be able to return to work as a correctional officer and suggested vocational training. That was in 2013. In his
Dr. Carlton stated, "We reviewed Dennis Martinez's job description today. It seems clear that he cannot return to work as a correctional officer. He cannot defend against inmate attacks, cannot run, cannot crawl or crouch, cannot lift more than 25 lbs. and has limited ability to climb. These job restrictions should be considered permanent."

On August 10, 2017 Dr. Swanson stated, "that at this point he is not able to return back to work full duty but he can return back to work with the restrictions I have set which include no deep knee bending, no walking greater than 10 minutes, no standing greater than 10 minutes and no running, no jumping, no climbing and no lifting greater than 15 lbs."

December 1, 2014, Dr. D'Amico stated that I cannot perform the job of a correctional officer. He states yes that I cannot walk well, my right knee gives out without notice, I have to use a cane. I am unable to perform the required standing, running or lifting. I am unable to run in an all-out effort, answering alarms, unable to climb stairs, unable to crawl and crouch, stand continuously lift and carry continuously, and carry more than 25 lbs. He is unable to subdue prisoners, climb, run jump crawl as noted in the job description. Dr. D'Amico states that Mr. Martinez is substantially incapacitated for the performance of his duties.

Dr. Hal Meadows has stated that he diagnosed my problem as Hypertension with HX of what is thought to be reflex sympathetic dystrophy of the Right leg. He referred me to surgeons. Dr. Meadows also stated that I would not be able to return to work.

Dr. Harvinder Birk a doctor of neurology has put me on medication to relieve some of the symptoms that I have. He started me on Klonopin twice a day. This works to some degree but makes me very sleepy and foggy thinking. I am not supposed to drive to work while taking this drug. I was perscribed Percocet for the pain, which again causes me to have foggy thinking, harder to move around much, I loose my balance easily. But again I won’t feel safe trying to do this job.

I have also reviewed Dr. Hendrickson's report and strongly disagree with his findings. A brief medical examination is not enough to make a determination, he twisted my knee so bad that it did put me in pain for three days. The doctor stated that he does not even know what the job description of a correctional officer is, and that he doesn’t normally see this kind of case. One statement that Dr. Hendrickson made was that I didn’t need my cane during the exam, the room I was examined in was very small and I was able to hang onto items in the room. His exam room is no where near the size of a prison, I can’t walk around with the aid of a cane, my knee becomes very unstable in just a few minutes. During the exam he didn’t even have me do any weight baring tests, I wasn’t asked to stand on one foot, squat, jump or run.

I feel that I have been persecuted for not being able to hire a lawyer, a retainer is several thousand dollars, or pay for doctors to testify in my behalf in court. When this case was first decided to be looked at all the committees and judges had was the reports from the states.
doctors. If these reports were good enough to have the case reconsidered to send me back to work, then why is it that my doctors reports are not good enough for the judge to consider before making her judgment.

Please look over the binders that I have submitted with the case. Thank you for your time for the reconsideration of my case,

Dennis Martinez

[Signature]