August 21, 2019

**Item Name:** Proposed Decision After Remand – In the Matter of Accepting the Late Application for Disability Retirement of PAUL A. BELLAMY, Respondent, and CALIFORNIA REHABILITATION CENTER, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

**Program:** Retirement Benefit Services Division

**Item Type:** Action

**Parties’ Positions**

Staff argues that the Board of Administration should adopt the Proposed Decision After Remand.

Respondent Paul A. Bellamy’s (Respondent Bellamy) position is included in Attachment C, if any.

**Strategic Plan**

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

**Procedural Summary**

Respondent Bellamy appealed CalPERS’ rejection of his late application for disability retirement. The matter was heard by the Office of Administrative Hearings on December 12, 2017. Due to Respondent California Rehabilitation Center, California Department of Corrections and Rehabilitation’s failure to appear, the case proceeded as a default under Government Code section 11520, as to that party only. A Proposed Decision was issued on May 30, 2018, affirming CalPERS’ determination and denying the appeal.

On August 15, 2018, the CalPERS Board of Administration decided to reject the Proposed Decision and remand the matter to the Office of Administrative Hearings for the taking of additional evidence. The Board requested that the Administrative Law Judge “receive and consider additional evidence in light of the current language” of Government Code section 21252, subdivision (a). The remand hearing was held on May 1, 2019. Respondent Bellamy was not present at the hearing. However, prior to the hearing, Respondent Bellamy’s attorney submitted a brief on his behalf. Respondent California Rehabilitation Center, California Department of Corrections and Rehabilitation did not appear at the hearing and the case proceeded as a default under Government Code section 11520, as to that party only.
A Proposed Decision After Remand was issued on May 23, 2019, affirming CalPERS’ determination and denying the appeal.

Alternatives

A. For use if the Board decides to adopt the Proposed Decision After Remand as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System hereby adopts as its own Decision the Proposed Decision After Remand dated May 23, 2019, concerning the appeal of Paul A. Bellamy; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides not to adopt the Proposed After Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision After Remand dated May 23, 2019, concerning the appeal of Paul A. Bellamy, hereby rejects the Proposed Decision After Remand and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision After Remand dated May 23, 2019, concerning the appeal of Paul A. Bellamy, hereby rejects the Proposed Decision After Remand and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System requests the parties in the matter concerning the appeal of Paul A. Bellamy, as well as interested parties, to submit written argument regarding whether the Board’s Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.
2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Paul A. Bellamy.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**
Attachment A: Proposed Decision After Remand
Attachment B: Staff's Argument
Attachment C: Respondent(s) Argument(s)

Donna Ramel Lum  
Deputy Executive Officer  
Customer Services and Support