

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

John A. Serrano (Respondent) worked as a Campus Police Officer for Respondent San Diego Unified School District (Respondent District). By virtue of his employment, Respondent was a local safety member of CalPERS.

Respondent applied for industrial disability retirement on October 24, 2018, based on a psychological (PTSD, acute stress reaction) condition. He retired from service effective December 31, 2018 and has been receiving benefits since that time.

As part of CalPERS' review of Respondent's medical condition, Jaga N. Glassman, M.D., a board-certified Psychiatrist, performed an Independent Medical Examination (IME). Dr. Glassman interviewed Respondent, reviewed his work history and job descriptions, obtained a history of his past and present complaints and reviewed his medical records. Dr. Glassman opined that Respondent is not substantially incapacitated from performing the duties of a Campus Police Officer due to a psychological (PTSD, acute stress reaction) condition.

In order to be eligible for disability retirement, competent medical evidence must demonstrate that an individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis of the claimed disability must be permanent or of an extended duration which is expected to last at least 12 consecutive months or will result in death.

After reviewing all medical documentation and the IME reports, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of his position.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on November 25, 2019. Respondent represented himself at the hearing. Respondent District did not appear at the hearing.

Prior to the hearing, CalPERS explained the hearing process to Respondent 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.

At the hearing, Dr. Glassman testified in a manner consistent with his examination of Respondent and his IME reports. Dr. Glassman testified that Respondent told him that he experienced a traumatic incident on July 17, 2017, and that he could not return to work as a Campus Police Officer as a result of the incident. Respondent

provided the following explanation of the incident to Dr. Glassman: he was working as a Campus Police Officer at a high school and had been told by his Supervisor that there were rumors that there would be a fight after school. As school was dismissed, Respondent observed a group of about 200 students moving from the campus toward the street; he attempted to radio for assistance and then received an emergency message that his partner needed help. He located his partner and observed his partner with a gun pointed at a suspect who was on the ground, and there was “an unpredictable crowd of kids, really a riot.” Respondent learned that four students had been stabbed. Respondent felt emotionally overwhelmed with severe panic and fear. He felt the need to “get out of there.” This was his last day of work. Respondent told Dr. Glassman that he was functioning mentally and physically until the July 2017 incident.

Dr. Glassman also testified about his mental status examination of Respondent. He explained that the mental status exam involves the direct, objective observations of the person by the physician, and it includes the person’s grooming, physical condition, mood and thought processes. Dr. Glassman testified that Respondent arrived on time, was clean, neat and well-groomed, maintained good eye contact, smiled, was animated and spontaneous and had a responsive mood. Respondent’s thought processes were coherent, relevant and goal-directed with no psychotic symptoms. He did become tense, distraught and tearful when talking about the incident at the school. Dr. Glassman testified that Respondent seemed to become “vague and evasive and minimizing” when questioned about his mental health history prior to July 2017.

Dr. Glassman further noted that there were inconsistencies in Respondent’s self-reporting, including the status of his mental health prior to the incident and information obtained from his medical records. Respondent’s self-reporting was not truthful, and his history was inconsistent and conflicting. Dr. Glassman concluded that he could not be certain that Respondent’s allegations of symptoms, and his report of disability because of these symptoms, are genuine. Based on his examination of Respondent and review of the medical records, Dr. Glassman opined that Respondent is not substantially incapacitated from the performance of his duties as a Campus Police Officer, and there are no specific job duties that Respondent would be unable to perform.

Respondent submitted medical records from his treating physicians and presented the medical expert testimony of Stephen Pfeiffer, Ph.D., a Clinical Psychologist. Dr. Pfeiffer met with Respondent on August 28, 2017, about five weeks after the incident, and conducted a comprehensive psychological consultation, including standard testing and a face-to-face interview. Dr. Pfeiffer prepared a written report dated August 28, 2017, and his testimony was consistent with that report.

Dr. Pfeiffer testified that his examination of Respondent revealed no depression and minimal anxiety. Dr. Pfeiffer testified that the psychological distress that Respondent experienced in July 2017 has dissipated and is no longer impacting him in any measurable way. Dr. Pfeiffer noted that all of Respondent’s symptoms have reduced to

normal levels. Regarding Respondent's disability status, Dr. Pfeiffer opined: "I do not believe that [he] has a disability at the current time . . ." Respondent testified on his own behalf regarding the incident and his psychological condition. Respondent's recollection of the incident was consistent with the summary provided by Dr. Glassman at the hearing. Respondent testified that he has been disabled since the incident.

Respondent also called Lori Serrano, his wife, to testify on his behalf. Mrs. Serrano testified regarding Respondent's behavior on the day of the incident. She testified that no one offered to help Respondent, and she believes "the system failed him."

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that the medical expert testimony of Dr. Glassman and Dr. Pfeiffer, Respondent's treating physician, established that Respondent does not have a permanent disability. Respondent failed to meet his burden of proof, and his application must be denied.

The ALJ concluded that Respondent is not eligible for industrial disability retirement.

For all the above reasons, staff argues that the Proposed Decision be adopted by the Board.

February 19, 2020

Austa Wakily
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