

ATTACHMENT C

RESPONDENT'S ARGUMENT

RECEIVED
JAN 27 2020
CalPERS Legal Office

ATTACHMENT C

JAN 27 2020

GCA

January 24, 2020

To: Cheree Swedensky, Assistant to the Board, Cal PERS Executive Office

From: John A. Serrano, San Diego Unified School District Campus Police Officer

RE: Respondents Argument per OAH #2019070950/Case No. 2019-0520

On July 17, 2017, I was involved in a critical incident (stabbing of students) while working for San Diego Unified School District as a Campus Police Officer assigned to Hoover High School. On this date, at approximately 0700 hours, Acting Sgt. J. Gruner told me that there may be a fight at dismissal and to patrol the school to ensure a safe dismissal. At dismissal, I got into my police vehicle to ensure a safe dismissal and prevent any possible fights. Hoover High School is located in the heart of East San Diego where there are gangs, shootings, stabbings, narcotic activity and other types of crimes in this area. As I began patrolling the front of the school I noticed a large group of students leaving the campus crossing the street to a nearby parking lot. I picked up my police radio to advise dispatch of the situation and possible fight pending. I soon learned that my police car radio was not working. I immediately grabbed my hand held radio on my gun belt and requested assistance. Officer Ross arrived and we got out on foot to disperse the crowd. Officer Ross walked away and around the Kentucky Fried Chicken building out of my sight. I suddenly heard him screaming for cover on the police radio saying that he had a suspect with a knife at gunpoint. I got into to my police vehicle and began to look for him. Officer Ross did not provide an accurate location as to where he was. I eventually located him adjacent to an apartment building parking lot. I saw the suspect on the ground with a knife nearby and I could see a large crowd of students surrounding us. This incident is very dangerous as we could have been ambushed by the large crowd and it was just Officer Ross and I. I could hear the sound of other officers sirens coming to cover us. I immediately handcuffed the suspect and waited for the next officer to assist. During the arrest I heard on my police radio that there were four of my students that were stabbed and are being rushed to the hospital. This was truly upsetting to me as I was responsible to protect the students from any violence. I suddenly began to experience intense anxiety, heart palpitations, feeling a sense of tunnel vision, confusion, fear and a sense of danger and needing to leave the scene. After several hours at the scene Acting Sgt. Gruner directed Officer Ross and I to meet at the San Diego Police Department -Mid City Division Police Station with the suspect. (San Diego Unified Police does not have a police station to process arrestees we have to use San Diego Police Department Stations) Upon arrival, Acting Sgt. Gruner released me to go home. I was mentally drained and confused and don't remember driving home with a sense of tunnel vision. I called my wife and told her what had happened. I was emotional, crying and upset about the entire incident. I went to my local pool and swam a few laps in hopes to feel better. I arrived home and sat in front of a blank TV screen which is not my usual routine. I had no appetite and just wanted to go to bed. I went to bed at 7:00PM, but had trouble falling sleep as my heart was racing. I later received a text from Sgt. J. Montana telling me that I needed to be at Hoover High School at 0630 hours to address any

retaliation from the fight and any subsequent debriefs with students and staff. I felt that there would be no way I could go to work the following day. The next morning I called Acting Sgt. Gruner and told her I was experiencing PTSD symptoms and could not come to work. The following day I called in sick again. Acting Sgt. Gruner called me and recommended I go to see a Workmans Comp. Dr. to file a claim. I agreed and went to Sharp Rees Stealy and saw Dr. Tiffany S. Alexander. Dr. Alexander agreed that I needed to see a Workmans Comp Psychologist and submitted the reports for approval, but Dr. Alexander could only authorize one week off. The remainder of time off pending seeing a QME would have to be used by sick leave. I was later contacted by York Risk Services from San Diego Unified School District and was scheduled to see Dr. Stephen Pfeiffer, which was several weeks out for the next appointment. Dr. Pfeiffer did testing and a face to face meeting. Dr. Pfeiffer diagnosed I suffered an Acute Stress Reaction caused by the on duty injury and deemed me permanent and stationary. He opined that I not return to police work. Dr. Pfeiffer also failed to offer any treatment which I needed and perhaps could have returned to work. Since I felt I needed some immediate therapy I contacted FOCUS Psychological Services, of which I am eligible to use, from my prior service with San Diego Police Department. FOCUS Psychological specializes in treatment of law enforcement and fire department personnel within San Diego County. I subsequently met with Dr. Mark Foreman and have been seeing him since the incident. I also requested a second opinion from York. York agreed and approved me to see Dr. Rafael Morris a QME. I met with Dr. Morris, but his next appointment was a few weeks out. Dr. Morris conducted testing and a face to face interview. Dr. Morris concurred with Dr. Pfeiffer that I suffered an on duty injury and an Acute Stress Reaction. Dr. Morris stated in his report that Dr. Pfeiffer underestimated the psychopathology for treatment and suggested he treat me for 12 sessions. Dr. Morris opined that I have been in need of treatment since the critical incident. However, I was disappointed to learn from York Services that Dr. Morris failed to submit his QME report within the allotted time and his evaluation/reports were declined by York, thus my treatment was declined. I was left with NO treatment from Dr. Morris. I subsequently had to rely on FOCUS Psychological Services. I am still receiving treatment from Dr. Mark Foreman.

I had to submit my Cal PERS retirement application and pending disability retirement paperwork as I was out of sick leave and on half pay as I could not return to work nor did the San Diego Unified Police Department offer me any other work. I later received a call from Cal PERS retirement office employee Sophia Gomez who stated that she needed me to see another QME for an update. Gomez said he just needed to say I was disabled beyond 6 months. I agreed and went to see Dr. Glassman. I had a face to face interview with Dr. Glassman. Dr. Glassman reviewed the reports and concurred that I suffered an Acute Stress Reaction but felt I was not disabled, which I disagreed. Dr. Glassmans evaluation was not thorough as he merely reviewed Dr. Pfeiffers and Dr. Morris reports and asked a few questions. Dr. Glassman seemed to just be going through the motions not truly invested in me and I felt rushed through the interview. At the end of the interview with Dr. Glassman he asked what Cal Pers needed for this disability retirement. I told him they needed an update in regards to me being permanently disabled due to the on duty injury. Dr. Glassman stated then I will tell them you are permanently disabled. However, his reports do not reflect that statement.

During the Administrative Hearing Dr. Glassman arrived with his teenage son in the courtroom. My wife, who is a witness in this case and testified, is an Administrative Assistant with the San Diego Unified School District-assigned to Clairemont High School. She told me prior to the hearing that Dr. Glassmans son had many disciplinary and criminal contacts with San Diego Unified School District Police Officers. My wife had contacts with his son in the office as well. I asked Judge M. Vomhof that Dr. Glassmans son be excluded from the courtroom as he had a negative impact on my witness on this case and testimony. I also requested that Dr. Glassman testimony be excluded as he has a vested interest with San Diego Unified School District Police and is not neutral party in this matter as he knew I was employed as a San Diego Unified School District Police Officer prior to the interview and his son is a student with the district and had issues with School Police. The judge declined my request and allowed Dr. Glassmans son to remain in the courtroom and allowed Dr. Glassman to testify of which I disagreed. This judicial decision denied my due process in this matter.

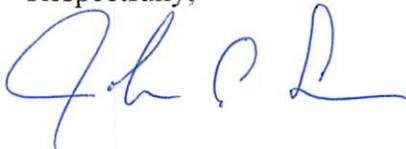
In the interest of justice, I am requesting that I be granted a new QME opinion as Dr. Glassman did not provide an independent analysis and clearly has as nexus with the San Diego Unified School District Police Department.

In addition, due to this on duty injury I was forced to retire and not offered any other options within the San Diego Unified Police Department or San Diego Unified School District.

Per Cal Pers IDR, "Disability" and "Incapacity" for performance of duty" as basis of retirement, mean disability of permanent OR extended duration, which is expected to last at least 12 consecutive months..... My injury from July 2017 has been of extended duration and I have been seeking my own treatment from FOCUS Psychological from this incident.

I am respectfully requesting that the Board take a fresh look at this case and subsequent failures of Dr. Pfeiffer underestimating my need for treatment and Dr. Morris' negligence to submit his QME reports prior to the deadline. If his reports were to have been submitted in time I could have received the treatment and perhaps still be employed versus being forced to retire. I am requesting the Board reject the Proposed Decision. Please feel free to contact me as I am willing to discuss this matter.

Respectfully,



John A. Serrano