

ATTACHMENT A
RESPONDENT'S PETITION FOR RECONSIDERATION

Respondent's Petition for Reconsideration

January 9, 2014

Certified Mail-Return Receipt Requested

Attention: Cheree Swedensky, Assistant to the Board

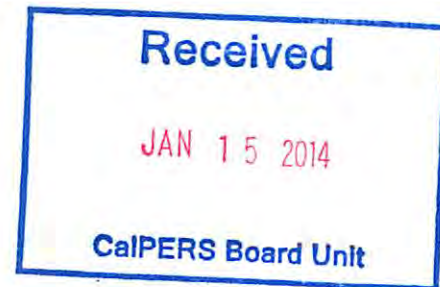
Executive Office

California Public Employees' Retirement System

P.O. Box 942701

Sacramento, CA 94229-2701

Fax: (916) 795-3972



SUBJECT: In the matter of the Earlier Effective Date of Retirement of GEORGE A. PUGA, respondent. Reference Number 8269

Dear Board of Administration of the California Public Employees' Retirement System (CalPERS):

This is a petition for reconsideration to the Board of Administration in denial of my earlier effective date of retirement.

By not providing or stating any evidence of consideration in their Resolve of my written argument, I am filing this Petition for Reconsideration to the Board based on two key elements: I was informed in a letter of my separation from the city one month after my effective date of separation; and The difficulty in obtaining documents and medical records was increased by the numerous amount of doctors to which the City of Pomona referred me. I will begin by elaborating on the latter.

On November 8th 2013, Administrative Law Judge, Amy Yerkey concluded in factual finding number 3 that my, "late application could not be excused by reason of a mistake under Government code section 20160". However, pursuant to Government code section 20160, I have found evidence to help support the reason why my application was turned in late, evidence that I did not have to present to Judge Yerkey at the time of the hearing on October 10, 2013. I claimed that the difficulty in obtaining records added to my delay in turning in my application. At the time of the hearing, I was unable to present the list of names of the doctors I was referred to, to Judge Yerkey, but I have since then found a letter from the Haider Spine Center, which summarizes and lists all of my doctors' visits in relation to my condition. Dr. Rufus Moore, on 10/15/99, Dr. William Hale, on 5/7/99, Dr. John Doyle on 5/25/99, Dr. Vic Osborne on 7/26/99,

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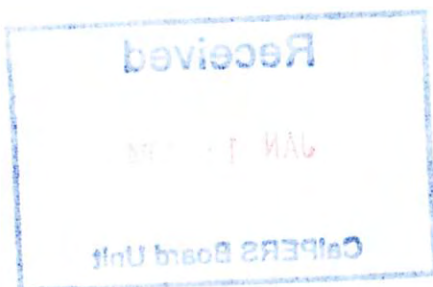
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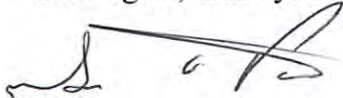
Dr. Leonetta May on 8/12/99, Dr. Ralph Steiger on 12/17/99, Dr. Ronny Ghazel on 10/17/2000 and Dr. William Dillin on 11/1/2001, were all the doctors I was referred to, to evaluate my back condition. As you can see by the extended list of doctor that I visited, it was very difficult to collect all and or any documentation, thus easily adding to my delay of a mere two days.

In addition, to exacerbate the challenge of obtaining documentation from the plethora of doctors, it was also difficult to acquire documentation from the City of Pomona. I am including a letter written by my attorney, at that time, Mathew M. Davis, to the City of Pomona, on September 8, 2004, one year and a month after my application was submitted. In this letter, it is brought to the attention of they City of Pomona, that they have failed to submit information in a timely manner that has been requested by CalPers. This is an example of how difficult it was for CalPers to obtain documentation from the city, causing the stalling of my application process. It wasn't until September 19, 2006, two years later after the letter was written and three years after I submitted my application, that CalPers was able to complete the application process for my disability. If it took CalPERS 3 years to get the necessary information (an activity they have repeated for numerous cases), that I was expected to get in 9 months, I do believe that two days late should not be an issue.

I will now discuss the first element in my Petition. In factual finding number 7, it is stated that in a letter dated December 4, 2002, the City informed me that effective November 5, 2002, I would be officially separated from City Service. By the city sending me this information a whole month later, my window to turn in my application was now decreased to eight months as opposed to nine. With that shortened window, my application which I turned in on August 7th (which is only a mere 2 days late according to CalPERS) was deemed late. If it wasn't for that one month delay, my application would have been submitted within that nine month time frame.

In conclusion, I believe the two reasons stated above are grounds and sufficient evidence to support my argument of excusing me in submitting my application only two days late. I understand that this is the last step in this process with Cal PERS and I thank you in advanced for your time, patience and understanding. I also understand that if the matter is not resolved in this occasion, my next alternative would be to submit a Writ of Mandate in Superior Court.

Once again, thank you for your time,



George A. Puga

12816 Monte Vista Ave.

Chino, CA 91710

Respondent's Argument

November 27, 2013

Cheree Swedensky, Assistant to the Board

CalPERS California Public Employees' Retirement System

Executive Office

P.O. Box 942701

Sacramento, CA 94229-2701

Re: GEORGE A. PUGA, respondent, Case No. 8269, In the matter of the Earlier Effective Date of Retirement

This written response is to serve as my written respondent's argument to appeal the proposed decision which was made by Administrative Law Judge Amy Yerkey on November 8th, 2013, that I was inexcusably two days late in applying for my early retirement date.

Although Judge Yerkey did side with me in correcting CalPers that I did indeed have nine months in filing my disability application, as found in factual finding number nine in her decision, I believe she should have further considered the fact of my trouble obtaining medical records due to the fact that I was sent to multiple orthopedic (back) specialists by the City of Pomona, in addition to my own specialist. Judge Yerkey touched upon this issue in fact finding number eight, but I feel it should weigh more on the board's decision because it did cause a significant delay in my attempt to file my application.

In addition to the difficulty I incurred obtaining my medical information, I would like the board to also consider the trouble I encountered when calling CalPERS for assistance. On multiple days, I called CalPERS numerous times seeking assistance and guidance vital to completing my disability paperwork. On every occasion, I was met with a generic recording stating that due to the high volume of calls, CalPERS was unable to help me, and that I should call again. My frustration at not being able to get through to someone to help me, drove me to my decision of hiring an attorney, a decision that was not made lightly due to my inexperience at that time with using the internet and lack of access to a computer.

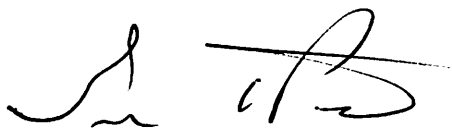
The challenge of finding an attorney was also compounded by the fact that there is a lack of local attorneys who specialize in CalPERS cases. When I finally did find an attorney who worked CalPERS cases, he was located all the way in San Diego. The distance made it difficult for me to transfer my information to him because I had to either pay for faxing services or wait for the postal service to deliver it. Furthermore, my back injury and pain limited my mobility,

Respondent's Argument

severely impacting my time restriction. Without these challenges, I am more than confident that my paperwork would have been filed on time without question.

I am very disappointed that after ten loyal years of membership with CalPERS and because I am not leaving on my own will but because I was physically hurt, two days seem to exceed your demands (Date of Separation-November 5, 2002- Filing Date-August 7, 2003). Not to mention that my effective retirement date of August 1, 2003 falls within the nine month period for filing my paperwork. I believe it is obvious that for my part, I tried very diligently to fulfill my responsibilities but was met with challenges outside of my control that I would hope CalPERS board will understand and consider when making their decision.

Thank you for your time,

A handwritten signature in black ink, appearing to read 'G. A. Puga', with a stylized flourish at the end.

George A. Puga

12816 Monte Vista Ave.

Chino, CA 91710

**THE LAW OFFICE OF
MATTHEW M. DAVIS**

13200 Kirkham Way, Suite 101
Poway, CA 92064

Telephone: (858) 513-8260

Facsimile: (858) 513-4172

September 8, 2004

Via U.S. Mail

City of Pomona
Human Resources
505 South Garey Ave.
Pomona, CA 91766

RE: Disability Retirement Application of George Puga

Dear Sir/Madam

This office represents Mr. Puga in his application for Disability Retirement through CalPERS. It has come to our attention that the City of Pomona has failed to provide documentation as requested by CalPERS. Due to this failure the processing of Mr. Puga's application has been stalled.

Please immediately forward the documents requested by CalPERS in order to expedite Mr. Puga's application and put an end to his financial difficulties.

If you have any questions do not hesitate to call me at (858) 513-8260.

Sincerely,



Matthew M. Davis, Esq.

cc. George Puga