

ATTACHMENT A

THE PROPOSED DECISION

**BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA**

**In the Matter of the Application for Industrial Disability
Retirement of:**

**LUPE O. MENDOZA and NORTH KERN STATE PRISON,
CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION, Respondents**

Agency Case No. 2023-0699

OAH Case No. 2024020196

PROPOSED DECISION

Brian Weisel, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on June 12, 2025, via videoconference from Sacramento, California.

Austa Wakily, Senior Attorney, appeared on behalf of the California Public Employees' Retirement System (CalPERS).

Respondent Lupe O. Mendoza (Mendoza) appeared and represented himself.

CalPERS properly served respondent North Kern State Prison, California Department of Corrections and Rehabilitation (CDCR) with the Statement of Issues and

Notice of Hearing. CDCR made no appearance. This matter proceeded as a default against CDCR pursuant to Government Code section 11520, subdivision (a).

Evidence was received, the record closed, and the matter submitted for decision on June 12, 2025.

ISSUE

Was Mendoza substantially incapacitated from performing his usual and customary duties as a Correctional Officer for CDCR due to cardiovascular disease, psychological stress, and upper body injuries when he filed his industrial disability retirement application?

FACTUAL FINDINGS

Jurisdiction

1. Mendoza was employed by CDCR as a Correctional Officer. By virtue of his employment, Mendoza was a state safety member of CalPERS subject to Government Code section 21151. On January 7, 2023, Mendoza retired for service. On January 19, 2023, Mendoza submitted an industrial disability retirement (IDR) application (IDR application) with CalPERS.

2. As provided in his IDR application, Mendoza claimed disability on three bases:

- Heart – hypertension, coronary artery disease, and enlarged heart resulting in the placement of five stents.

- Psychological Stress – post-traumatic stress disorder (PTSD).
- Bilateral Upper Extremities – carpal tunnel syndrome resulting in three separate surgeries, and arm and elbow pain.

3. Mendoza did not list a specific disability date in his IDR application. Instead, Mendoza indicated his multiple ailments resulted in “cumulative trauma over a sustained period.” Mendoza further wrote, “due to my psychological and physical conditions, as well as physician’s restrictions, I am no longer able to perform the essential functions of my job.”

4. Mendoza provided his medical records to CalPERS for their review. On June 21, 2023, CalPERS notified Mendoza it reviewed his records and the reports of Ashkan Attaran, M.D., Jon Miyakawa, M.D., and James M. Schmitz, M.D. Dr. Schmitz conducted an independent medical evaluation (IME) of Mendoza on CalPERS’s behalf. CalPERS determined Mendoza was not substantially incapacitated for the performance of his duties as a Correctional Officer due to his cardiovascular issues. CalPERS also notified Mendoza that his medical records related to upper body injuries or psychological issues were insufficient to refer Mendoza for an IME or make a disability determination related to those conditions. Consequently, CalPERS denied Mendoza’s IDR application.

5. Mendoza timely appealed CalPERS’s determination. On January 29, 2024, Sharon Hobbs, in her official capacity as Chief of CalPERS’s Disability and Survivor Benefits Division, signed and later filed the Statement of Issues for purposes of Mendoza’s appeal. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Duties of a Correctional Officer

6. CalPERS obtained the essential functions and physical requirements for a Correctional Officer classification from CDCR records. Physical requirements include performing peace officer duties in stressful or unpleasant situations, restraining individuals, grasping and squeezing with the hands and wrists, conducting searches, keeping watch at an armed post, and performing foot patrols.

7. A Correctional Officer typically spends between two and one-half and five hours per day standing and walking. A Correctional Officer may also expect to spend over five hours per day pinching, holding, or grasping objects and under 30 minutes per day using a computer mouse or keyboard.

Independent Medical Evaluation

8. James M. Schmitz, M.D., graduated from the University of Wisconsin School of Medicine in 1980. He is board-certified in internal medicine by the American Board of Internal Medicine, with a subspecialty in cardiovascular disease. He previously served as the Director of Cardiovascular Services at New London Hospital in New Hampshire from 2000 to 2002. He also served as Assistant Professor of Medicine at the Outpatient Cardiology Clinic at Texas A&M Health Science Center College of Medicine from 2002 to 2014. He currently practices in Monterey, California.

9. Dr. Schmitz reviewed Mendoza's medical records, employment history, IDR application, and the physical requirements of a Correctional Officer provided by CDCR. Dr. Schmitz conducted an IME of Mendoza in his office in June 2023. Dr. Schmitz prepared a report summarizing the visit, his review of Mendoza's records, and his opinion regarding Mendoza's potential incapacity from coronary artery disease.

10. Dr. Schmitz described Mendoza's medical history. In 2010, Mendoza experienced chest pain. Coronary imaging confirmed Mendoza experienced blockage in one of the major blood vessels of his heart. Mendoza underwent a surgical procedure to install a stent to improve blood flow. Mendoza performed "exceptionally well" for the next eight years.

11. In 2018, Mendoza again complained of chest pain. Further imaging revealed blockage in the same coronary vessel. Another stent was successfully deployed.

12. After the 2018 surgery, Mendoza generally controlled his risk factors well. He exercised regularly, managed his blood pressure with medication, and maintained a healthy weight.

13. In December 2022, Mendoza completed an obstacle course style race. He ran six miles approximately one week later without difficulty. The day after his run, Mendoza again experienced chest pain. Subsequent imaging of his heart showed restricted blood flow in the same area. His doctor deployed another stent. Mendoza made a full recovery. He was cleared to return to work in January 2023. However, Mendoza decided to retire. At the time of Dr. Schmitz's examination in June 2023, Mendoza did not experience chest pains or present any other symptoms consistent with additional cardiovascular disease.

14. Dr. Schmitz opined that Mendoza's prognosis is "very good." Mendoza is "exceptionally active" and takes his cardiovascular health seriously. Dr. Schmitz explained that continued disease of the same vessel is not uncommon. However, each time Mendoza experienced signs of cardiovascular disease, increasing blood flow to the damaged vessel alleviated his symptoms. Though cardiovascular disease can

always recur, there is nothing Dr. Schmitz observed in Mendoza's medical records or his personal examination that indicates Mendoza was incapacitated for the performance of his duties on January 19, 2023, the date of his IDR application.

Mendoza's Testimony

15. Mendoza graduated from the correctional academy in 1997. He worked 25 of his 26 years as a Correctional Officer at North Kern State Prison.

16. In the early 2000s, Mendoza started to observe signs of cardiovascular disease. In 2010, his doctor recommended surgery to install the first stent to improve blood flow. Mendoza took his health seriously and improved his condition. He began running for exercise. Mendoza participated in a "Spartan" obstacle course race in early December 2022. The race involved carrying 60 pounds up and down hills, climbing ropes, and navigating multiple obstacles over approximately two to three miles.

17. Mendoza considered himself to be in the "best shape of his life." Approximately one week after his Spartan race, Mendoza ran six miles in the morning. Afterwards, he felt like he was "going to die." Mendoza sought medical attention. He learned the same vessel again experienced reduced blood flow. His doctor successfully deployed an additional stent. Mendoza recovered for a few weeks. He was cleared to return to work in January 2023.

18. When Mendoza attempted to return to work, he felt overwhelmed by anxiety. The previous stress of his career combined with the recent health episode caused Mendoza to worry when the "next event" would happen. Mendoza agreed he is physically fit. However, after his 2022 procedure he felt he could no longer safely work in stressful environments with significant physical activity. Mendoza informed his supervisor the next day of his intent to retire.

19. Mendoza self-described suffering from PTSD and anxiety for many years. He did not seek formal psychological treatment. Mendoza met with a therapist once in 2010 but did not return. He stated many Correctional Officers do not attend therapy for fear of appearing "weak-minded."

20. Mendoza underwent three surgical procedures for carpal tunnel syndrome in 2010, 2017, and 2018. After each procedure and a period of recovery, Mendoza returned to full duty. He did not seek treatment for any wrist injury after 2018. Mendoza experiences other shoulder and arm pain at times but has not received a diagnosis related to those issues.

Analysis

21. Mendoza filed his IDR application based on claimed cardiovascular disease, injuries to his upper extremities, and PTSD. He bears the burden at hearing to support his IDR application. Mendoza failed to submit evidence based upon competent medical opinion that, when he applied for industrial disability retirement, he was incapacitated for performing the usual duties of a Correctional Officer for each of his three claimed ailments.

22. Mendoza testified that he suffers from PTSD and anxiety. However, he did not provide any evidence of psychological diagnoses. Mendoza did not seek treatment from a psychiatrist or psychologist. He attended therapy once approximately 15 years ago. Mendoza's subjective belief is insufficient to prove he suffers from PTSD or anxiety such that he is incapacitated for work as a Correctional Officer.

23. Mendoza also failed to prove his prior injuries rendered him incapacitated at the time of his IDR application. He underwent surgical procedures to

repair wrist injuries three times, most recently in 2018. Each time, Mendoza recovered and returned to work on full duty. He has no other diagnoses related to arm or elbow pain. Though Mendoza credibly testified he felt the aggregate effects of arm or wrist injuries over time, he failed to prove how they rendered him incapacitated when he filed his IDR application in 2023.

24. Finally, Mendoza failed to prove that his cardiovascular issues rise to the level of incapacitation. Dr. Schmitz credibly opined that Mendoza recovered from each of his stent surgeries and performed “exceptionally well.” Though he required further treatment in 2018 and 2022, Mendoza fully recovered, and even thrived, after each procedure. By his own admission, Mendoza is in excellent cardiovascular condition. Six months after Mendoza’s latest surgical procedure, Dr. Schmitz examined Mendoza and noted no recurring cardiovascular issues.

25. Mendoza argues the cumulative effects of his psychological, cardiovascular, and physical ailments made him incapacitated and unable to return to work. He worried the “next event” could happen at any moment. Mendoza determined that risk was untenable and retired. However, none of the medical evidence presented at hearing indicated he was unable to perform his job duties at the time of his IDR application. Mendoza’s concerns, though sincere, are all prospective. They relate to a future possible risk of another health event, and not his ability to perform the duties of a Correctional Officer at the time of his IDR application.

26. An applicant’s disability must be presently existing and cause an inability to perform, rather than an increased risk of future injury or aggravation. (*In the Matter of the Application for Reinstatement from Industrial Disability Retirement of Willie Starnes* (Precedential Decision 99-03); *Wolfman v. Bd. of Trustees* (1983) 148 Cal.App.3d 787, 791.) And discomfort, which may make it difficult to perform one’s

duties, is insufficient to show permanent incapacity from performance of one's position. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207, citing *Hosford v. Bd. of Administration*, 77 Cal.App.3d 854, 862.)

27. When all the evidence is considered, Mendoza credibly stated he believes he can no longer work as a Correctional Officer. However, he failed to present competent medical evidence to demonstrate that his ailments rendered him incapacitated for the performance of his usual duties at the time of his IDR application. Consequently, his appeal must be denied.

LEGAL CONCLUSIONS

1. The party asserting the affirmative at an administrative hearing has the burden of proof, including the initial burden of going forward and the burden of persuasion by a preponderance of the evidence. (*McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051.) The burden of proof is on an applicant to demonstrate, via competent medical evidence, he is permanently and substantially unable to perform his usual duties such that he is permanently disabled. (*Harmon v. Bd. of Retirement of San Mateo County* (1976) 62 Cal.App.3d 689, 697; *Glover v. Bd. of Retirement* (1980) 214 Cal.App.3d 1327, 1332.) This burden requires proof by a preponderance of the evidence. (Evid. Code, § 115, 500.)

2. Government Code section 21151, subdivision (a), provides:

(a) Any patrol, state safety, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial

disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

3. To qualify for industrial disability retirement, Mendoza must prove that he is "incapacitated physically or mentally for the performance of [his] duties" (Gov. Code, § 21156, subd. (a)(1).) Government Code section 20026 defines "disability" and "incapacity for performance of duty" as a basis of retirement, to mean "disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death...on the basis of competent medical opinion."

4. Considering the Factual Findings and Legal Conclusions as a whole, Mendoza did not establish he was incapacitated for the performance of his duties as a Correctional Officer at the time of his IDR application. Therefore, his appeal must be denied.

ORDER

Respondent Lupe O. Mendoza's application for industrial disability retirement is DENIED.

DATE: July 3, 2025

Brian Weisel

Brian Weisel (Jul 3, 2025 13:33 PDT)

BRIAN WEISEL

Administrative Law Judge

Office of Administrative Hearings