

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Joshua A. Young (Respondent) was employed by the City of San Buenaventura (Respondent City) as a Police Officer, effective January 1, 2005. By virtue of this employment, Respondent became a local safety (police) member of CalPERS subject to Government Code sections 21151, 21154, and 21156.

On November 10, 2016, CalPERS received Respondent's industrial disability retirement (IDR) application dated November 2, 2016. Respondent requested IDR from the position of Police Corporal. The IDR application did not specify the basis of the injury.

Pursuant to Government Code section 21156, because Respondent was a local safety member, CalPERS sent a letter to Respondent City, requesting it determine whether Respondent was substantially incapacitated. If Respondent City found Respondent to be disabled, CalPERS requested submission of formal resolutions that set forth Respondent City's determination of disability and industrial causation for Respondent.

On December 20, 2016, Respondent City provided CalPERS with its determination of disability resolutions which found that Respondent was substantially incapacitated from performing his usual job duties based on psychological conditions.

Thereafter, on January 25, 2017, CalPERS notified Respondent of its acceptance of the resolution finding him disabled, and Respondent began receiving IDR benefits effective October 4, 2016.

Unbeknownst to CalPERS, when it accepted Respondent's IDR application, Respondent and Respondent City were entangled in two separate personnel disputes: 1) in 2016, Respondent City conducted an Internal Affairs (IA) investigation of Respondent for two incidents of misconduct that occurred in 2015 and issued a report, sustaining the misconduct; and, 2) Respondent alleged religious discrimination against his supervisor, Commander R.M., for which he filed a claim with the Department of Fair Employment and Housing (DFEH claim); the City investigated the matter and sustained a finding of religious discrimination.

Prior to the approval of Respondent's IDR application, Respondent and Respondent City entered mediation; resolved both disputes pursuant to a Memorandum of Understanding (MOU). Pursuant to the MOU, Respondent City agreed not to impose discipline against Respondent and grant him an IDR in exchange for Respondent resigning from employment via retirement and never seeking re-employment with Respondent City. Respondent City also paid Respondent \$222,000.00 in exchange for Respondent not pursuing his religious discrimination claim. As required by the MOU, Respondent filed for IDR with CalPERS. Respondent City signed the Determination of Disability Certification (Disability Certification), approving the IDR based on

psychological conditions caused by religious discrimination, and provided the Disability Certification to CalPERS. Respondent City did not provide any disciplinary or investigative documents to CalPERS. Rather than fixing the hostile work environment – such as removing Commander R.M. from overseeing Respondent – Respondent City resolved the personnel issue by having Respondent separate from employment on an IDR and by allowing Commander R.M. to remain with Respondent City, eventually promoting him to an Assistant Chief.

On February 15, 2016, following CalPERS approval of Respondent's IDR application, Respondent and Respondent City entered into a Settlement Agreement, which included terms similar to the MOU, including Respondent's agreement to retire and not to seek re-employment with Respondent City.

In early 2023, a third party provided CalPERS with a partial copy of the Settlement Agreement. Upon receipt of the new information, CalPERS contacted Respondent City and requested that it provide CalPERS documents necessary for CalPERS to determine whether Respondent's IDR application was barred under the operation of *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292, (*Haywood*) and its progeny.

Respondent City refused to disclose any IDR-related personnel information, except selectively disclosing a Settlement Agreement and the Disability Certification between Respondent and Respondent City. Due to Respondent City's refusal to cooperate in providing the requested documents, CalPERS referred the matter to the California Department of Justice, Office of the Attorney General (Attorney General's Office), for further investigation. In December 2023, the Attorney General's Office commenced an investigation and obtained Respondent's medical and personnel documents, including the MOU and Settlement Agreement.

Based on this information, CalPERS determined that Respondent was ineligible for IDR pursuant to *Haywood, supra*, 67 Cal.App.4th 1292; *Smith v. City of Napa* (2004) 120 Cal.App.4th 194 (*Smith*); *In the Matter of Application for Disability Retirement of Vandergoot* (2013) CalPERS Precedential Dec. No. 12–01 (*Vandergoot*), and *Martinez v. Pub. Employees' Ret. Sys.* (2019) 33 Cal. App. 5th 1156, (*Martinez*).

The *Haywood* court found that when an employee is fired for cause and the discharge is neither the ultimate result of a disabling medical condition nor preemptive of an otherwise valid claim for disability retirement, termination of the employment relationship renders the employee ineligible for disability retirement. The ineligibility arises from the fact that the discharge is a complete severance of the employer-employee relationship. A disability retirement is only a "temporary separation" from public service, and a complete severance would create a legal anomaly – a "temporary separation" that can never be reversed. Therefore, the courts have found disability retirement and a "discharge for cause" to be legally incompatible.

The *Smith* court explained that to be preemptive of an otherwise valid claim, the right to a disability retirement must have matured before the employee was terminated. To be mature, there must have been an unconditional right to immediate payment at the time of termination unless, under principles of equity, the claim was delayed through no fault of the terminated employee or there was undisputed evidence of qualification for a disability retirement.

In *Vandergoot*, the Board agreed that “a necessary requisite for disability retirement is the potential reinstatement of the employment relationship” with the employer if it is ultimately determined by CalPERS that the employee is no longer disabled. The Board in *Vandergoot* held that “[i]n deciding this case, bright line distinctions need not be made in determining when and under what circumstances a resignation becomes a termination for cause for purposes of applying *Haywood*.” The Board held that an employee’s resignation was tantamount to a dismissal when the employee resigned pursuant to a settlement agreement entered into to resolve a dismissal action and agreed to waive all rights to return to his former employer.

The *Martinez* court affirmed the continued validity of *Haywood* and *Smith* and confirmed the soundness of the Board’s decision in *Vandergoot*. The *Martinez* court found that a resignation in these circumstances is tantamount to a dismissal for the purposes of applying the *Haywood* criteria for determining eligibility to apply for disability retirement benefits. The *Martinez* court found that the Board’s decision and reasoning in *Vandergoot* “is eminently logical.”

CalPERS determined that Respondent’s IDR application was accepted in error and that Respondent was ineligible to receive IDR benefits because of his resignation and agreement to relinquish his return rights. CalPERS determined that, pursuant to Government Code section 20160, it was obligated to correct its mistakes and cancel Respondent’s IDR application, thus resulting in cancellation of his IDR benefits. On December 15, 2023, CalPERS notified Respondent of its determination that his IDR would be cancelled retroactive to October 4, 2016, resulting in an overpayment of \$446,575.71.

Respondent appealed the 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 June 16, and 17, 2025. Respondent was represented by counsel at the hearing. Respondent City was represented by its own counsel at the hearing.

At the hearing, CalPERS presented evidence establishing that Respondent separated from employment and relinquished his return rights pursuant to the MOU and Settlement Agreement that he entered into with Respondent City. Based on this evidence, CalPERS argued that Respondent was ineligible for disability retirement under the law.

Respondent City presented the testimony of the City’s then Director of Human Resources (Director). The Director testified that she was aware that Respondent City

cannot use IDR as a substitute for the disciplinary process. The Director testified that she was unaware that any discipline was pending against Respondent, and she was unaware of the MOU or the Settlement Agreement when she certified Respondent's disability. The Director testified, however, that her subordinate attended the mediation and signed the MOU, which granted Respondent an IDR retirement. The Director testified that she found Respondent substantially incapacitated and approved him for disability retirement based on medical records.

At the hearing, Respondent testified that he was truthful in his IDR application. Respondent stated that he was never disciplined by the Police Department, had never seen the Investigation Report until his preparation for this hearing, and was unaware of any discipline pending against him. However, Respondent conceded that Commander R.M. interviewed him, in early 2016, as part of the IA investigation into alleged misconduct about falsifying information, although the interview was cut short. Additionally, Respondent claimed Commander R.M. orchestrated the IA investigation against him due to religious discrimination. But Respondent admitted that he signed the MOU. Respondent also conceded that as part of the agreement under the MOU, discipline would be removed from his personnel file.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that CalPERS' arguments that Respondent was not eligible to receive IDR benefits were persuasive and supported by the evidence in this matter. Specifically, the ALJ held that *Haywood* bars Respondent from eligibility for IDR because he lacked the requisites for disability retirement under *Haywood*, *Vandergoot* and *Martinez* – the right to reinstatement to his prior employment in the event he recovers from his disabilities.

The ALJ rejected Respondent's arguments that he had to be terminated for *Haywood* to apply. The ALJ held that *Haywood* makes clear that an employee is not eligible for an IDR when his employment has been separated and reinstatement rights extinguished. Ultimately, the ALJ found that the MOU and Settlement Agreement entered into between Respondent and Respondent City were tantamount to a dismissal for cause, as held by *Vandergoot* and *Martinez*.

The ALJ also rejected Respondent's arguments that an exception to the *Haywood* rule applies. After a thorough review of the medical evidence presented by Respondent, the ALJ held that his separation was not the ultimate result of a disabling condition, nor preemptive of an otherwise valid claim for disability retirement. The ALJ further held that the three-year statute of limitations under Government Code section 20164 is extended to 10 years because Respondent was paid IDR benefits based on the false IDR application he submitted.

The ALJ concluded that CalPERS erred in accepting Respondent's IDR application and in providing him with IDR benefits. Thus, CalPERS is entitled to correct that error under Government Code section 20160, subdivision (b).

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

November 19, 2025

Preet Kaur
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