

ATTACHMENT B

Staff Argument

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION, AS MODIFIED

Jonathan D. Blix (Respondent) was employed as a Correctional Officer II for the County of Nevada (Respondent County). By virtue of his employment, Respondent is a local safety member of CalPERS.

On February 14, 2023, Respondent submitted an application for disability retirement based on orthopedic conditions (left shoulder and chest). As part of CalPERS' review of Respondent's medical condition, Anthony Bellomo, M.D., a board-certified Orthopedic Surgeon, performed an Independent Medical Examination (IME). Dr. Bellomo interviewed Respondent, reviewed his work history and job description, obtained a history of his past and present complaints, and reviewed his medical records. Dr. Bellomo opined that Respondent was not substantially incapacitated from performing his job duties as a Correctional Officer II.

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 report, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of his position. Respondent was notified of CalPERS' decision and his right to appeal the determination by letter dated September 12, 2023.

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 October 22, 2025. Respondent represented himself at the hearing. Respondent County did not appear at the hearing, and a default was taken as to Respondent County only.

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, answered Respondent's questions, and clarified how to obtain further information on the process.

At the hearing, Dr. Bellomo testified in a manner consistent with his examination of Respondent and the IME report. Aside from his examination of Respondent and the review of his medical records, Dr. Bellomo reviewed video recordings of Respondent taken mostly during late March and early April 2023, but at least one was shot in September 2022, which shows him shopping and coaching at a gym. There is also footage of him lifting a child who looks to weigh about 30 pounds in and out of a truck, several times. There is a clip of him and a companion lifting a large box with a label describing a six-foot by five-foot storage shed into a truck bed, and Respondent reaching over his head to strap it down. In September 2022, he is seen engaging in a

timed CrossFit workout – running back and forth over a 25-foot distance, lifting a 155-pound barbell from the ground and over his head several times, more running, and for 15 minutes, performing several “muscle-ups” (jumping up to an overhead bar and pulling his chest above the bar and pushing until his hips were at bar level).

Dr. Bellomo looked at medical records from several providers regarding Respondent’s treatment, surgery, and post-surgical treatments. Respondent was advised to avoid “pushing, pulling, carrying, or lifting” with his left arm, with an emphasis on no overhead lifting by several providers.

During Dr. Bellomo’s examination of Respondent, he noted “a significant amount of muscular development in the upper extremities and chest region” with a “defect involving the left lateral chest region in the area of the pectoralis insertion.” However, when comparing range of motion restrictions in Respondent’s left shoulder as compared to his right shoulder, he found normal and symmetrical muscular stability surrounding both joints.

Dr. Bellomo’s medical opinion after his examination of Respondent, reviewing Respondent’s job description, medical records, and videos, is that Respondent is not substantially incapacitated from performing his duties as a Correctional Officer II. His upper body strength and the visual display of tasks and exercises he performs would not be possible for someone with the level of left shoulder impairments he claims he has.

Respondent testified on his own behalf. He admits that the videos show that he has a great deal of strength, but also stated that he can control the amount of effort and strength used in the gym, whereas in his capacity as a Correctional Officer II on duty, he can’t. He testified that he pushes through the pain and sometimes limits himself due to pain or instability when exercising. He is proud of his recovery and strength but testified that he is uncertain that he could protect himself and others if called to do so while on duty.

Respondent did not call any witnesses other than himself to testify on his behalf, nor did he admit any items of documentary evidence.

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent’s appeal. The ALJ found that Respondent had the burden of proving his eligibility for disability retirement benefits, and he did not meet that burden. The ALJ found that Dr. Bellomo’s testimony was credible, consistent with the medical evidence, applied the correct legal standard for CalPERS disability retirement, and was persuasive. The ALJ determined that Dr. Bellomo’s opinion was the only credible medical opinion given since Respondent’s treating physicians did not testify or have the opportunity to view the videos introduced at the hearing.

The ALJ concluded that Respondent is not substantially incapacitated from performing his usual and customary duties as a Correctional Officer II for Respondent County and is therefore not eligible for disability retirement.

Pursuant to Government Code section 11517, subdivision (c)(2)(C), the Board is authorized to “make technical or other minor changes in the Proposed Decision.” To avoid ambiguity and correct typographical errors in the Proposed Decision, staff recommends replacing the phrase “of permanent and extended duration” with the phrase “of permanent or extended duration” on page 7, paragraph number 1.

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

January 20, 2026

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