

**ATTACHMENT E**

**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:**

**RONETTE O. STROWN**

**and**

**NORTH KERN VALLEY STATE PRISON, CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION,  
Respondents**

**Agency Case No. 2024-0299**

**OAH No. 2025030153**

**PROPOSED DECISION**

Patrice De Guzman Huber, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and in person in Sacramento, California on October 7, 2025.

Sean Stowers, Senior Attorney, represented the California Public Employees' Retirement System (CalPERS).

Ronette O. Strown (respondent) appeared and represented herself.

There was no appearance on behalf of respondent North Kern Valley State Prison, California Department of Corrections and Rehabilitation (CDCR). The matter proceeded as a default proceeding pursuant to Government Code section 11520 as to CDCR only.

Evidence was received, the record closed, and the matter submitted for decision on October 7, 2025.

## **ISSUE**

Whether, at the time of her industrial disability retirement (IDR) application, respondent was substantially incapacitated from performing her usual and customary duties as a Correctional Counselor II - Supervisor for CDCR on the basis of an orthopedic condition in her neck, back, and hands.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Respondent was a Correctional Counselor II (CC II) Supervisor for CDCR at North Kern Valley State Prison. By virtue of her employment, respondent is a state safety member of CalPERS subject to Government Code section 21151. On June 1, 2023, respondent signed and thereafter submitted an IDR application to CalPERS. In her application, respondent claimed disability on the basis of "cervical neck radiculopathy" and "nerve pain" in her back and hands.

2. By letter dated January 16, 2024, CalPERS denied respondent's IDR application. The denial was based on CalPERS's determination that respondent was not

substantially incapacitated from performing her usual and customary duties as a CC II Supervisor at the time she filed the application.

3. By letter dated January 30, 2024, respondent appealed CalPERS's denial of her IDR application. On September 12, 2025, Sharon Hobbs, Chief of CalPERS's Disability and Survivor Benefits Services Division, in her official capacity, signed and thereafter filed a First Amended Statement of Issues for purposes of the 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.

## **CC II Supervisor Duties**

4. A CC II Supervisor is a sworn peace officer whose duties include the following (grammar in original):

Perform peace officer duties during adverse, stressful or unpleasant situations

[¶] . . . [¶]

Wear departmentally approved personal protective equipment [ ] [i]nclud[ing] stab proof vests protective clothing and breathing apparatus used to prevent injuries and exposures to blood/air borne pathogens

Qualify on firing range

Defend self/others Disarm subdue and apply inmate restraints, Swing arm with force

5. A CC II Supervisor “constantly” carries up to 10 pounds and “frequently” bends and twists at the neck. The duties further include moving the head and neck “frequently to continuously.” To observe and surveil inmates, a CC II Supervisor must also engage in “flexing neck downward and backward.”

## **Respondent’s Injury, Treatment, and Symptoms**

6. Respondent testified at hearing regarding her injury, treatment, and symptoms. She described what caused the injury. On March 5, 2021, respondent was exiting her office and accidentally opened the door onto her left shoulder and left side of the neck. She heard a “popping” noise. Since, she has had pain and discomfort near her left shoulder blade and the left side of her neck. Occasionally, she also experiences numbness. She testified the pain and numbness sometimes radiate down her left arm.

7. In her written appeal, respondent states (grammar in original):

Despite treatments, I have experienced significant challenges, including lifting and gazing for long periods of time. I am in constant pain, due to the disc bulges in 3 places in my neck. On a daily I suffer from numbness, tingling, and needles in my arms and hands, more on the left side. My left arm has grown weaker and unstable.

8. To address her injury, respondent has tried acupuncture approximately three times, aqua therapy for approximately six to eight weeks, physical therapy, and cervical injections. None of the interventions has alleviated respondent’s ongoing pain and limited physical ability. She experiences pain daily. Respondent cannot sleep.

9. Respondent produced at hearing magnetic resonance imaging (MRI) results from April 2025. The MRI was performed by Glade Roper, M.D., of Visalia Imaging and Open MRI. Dr. Roper did not testify to explain the MRI results or his opinion on whether respondent is substantially incapacitated.

10. Respondent also produced at hearing an October 2025 letter by Alexandre Rasouli, M.D. Respondent is currently "under [Dr. Rasouli's] care for a work comp injury sustained to her cervical spine." Dr. Rasouli's letter notes that authorization for a disc replacement has been submitted and is "currently pending review from work comp at this time." Dr. Rasouli did not testify to explain why a disc replacement is necessary or offer his opinion on whether respondent is substantially incapacitated.

11. Respondent is willing to return to work. However, in March 2024, North Kern Valley State Prison's return-to-work coordinator informed respondent that her "permanent restrictions cannot be accommodated." At hearing, respondent did not describe her specific work restrictions.

### **Independent Medical Evaluation (IME)**

12. Following a referral from CalPERS, Paul Edward Kaloostian, M.D., authored an IME report on November 10, 2023, concerning his evaluation of respondent's condition and records. Dr. Kaloostian has performed approximately 20 IMEs for CalPERS. He is board-certified in neurological surgery and also a Fellow of the American Association of Neurological Surgeons and the American College of Surgeons. Dr. Kaloostian earned his medical degree in 2005 and has completed multiple fellowships and residencies in neurosurgery. Since 2018, Dr. Kaloostian has operated a

private practice specializing in complex spinal oncology, brain tumors, and cranial and spinal trauma. He testified at hearing consistent with his IME report.

13. The purpose of Dr. Kaloostian's evaluation was to determine whether respondent suffered from an actual and present orthopedic condition which rose to the level of substantial incapacity to perform her job duties. Dr. Kaloostian reviewed respondent's medical records and interviewed and examined respondent. During his physical examination of respondent, Dr. Kaloostian observed her strength and reflexes were "normal." He noted pain in respondent's mid back and sacroiliac tenderness in her left side. Dr. Kaloostian observed respondent's range of motion of the cervical spine to be diminished by 25 percent in all directions due to neck pain.

14. Dr. Kaloostian reviewed respondent's medical records which indicated diagnoses such as radiculopathy, disc displacement, and spinal issues. He disagrees with these diagnoses because they were not supported by clinical findings such as MRI results. However, Dr. Kaloostian agrees with respondent's records indicating she experienced a muscle sprain.

15. Dr. Kaloostian ultimately diagnosed respondent with posterior cervical, trapezial, and thoracic myofascial strain. He believes 12 weeks of "conservative care" during which respondent avoids heavy lifting, bending, or twisting would heal the sprain. According to Dr. Kaloostian, "muscles will always heal because they are vascular." He believes after completing the treatment he recommends, respondent would not be substantially incapacitated from performing her job duties.

## **Analysis**

16. Respondent seeks disability retirement based on an orthopedic condition in her neck, back, and hands. She bears the burden to prove, by competent medical

evidence, that she is entitled to disability retirement. Respondent produced results from an MRI by Dr. Roper and a letter by Dr. Rasouli indicating that she is seeking approval for a disc replacement procedure. However, neither Drs. Roper nor Rasouli testified. Neither explained his opinion on whether respondent is substantially incapacitated from the performance of her duties as a CC II Supervisor.

17. Dr. Kaloostian acknowledged that respondent's medical records contained diagnoses such as radiculopathy, disc displacement, and spinal issues. However, he explained credibly that these diagnoses did not appear to be supported by clinical findings. His opinion that respondent suffered from a muscle sprain and his diagnosis of posterior cervical, trapezial, and thoracic myofascial strain are persuasive. Relatedly, his opinion that respondent is not substantially incapacitated, on the basis of her muscle sprain, is also persuasive. While respondent testified credibly about her constant pain and numbness, and even Dr. Kaloostian observed pain in her mid back, sacroiliac tenderness in her left side, and a 25 percent diminishment in her cervical spine's range of motion, pain is insufficient to establish substantial incapacity.

18. When all the evidence is considered, respondent failed to establish that at the time she filed her IDR application she was substantially incapacitated from performing her usual and customary duties as a CC II Supervisor, on the basis of an orthopedic condition in her neck, back, and hands. Accordingly, her IDR application must be denied.

## **LEGAL CONCLUSIONS**

1. Respondent is applying for disability retirement pursuant to Government Code section 21151, subdivision (a), which provides, any state safety member

“incapacitated for the performance of duty as a result of an industrial disability shall be retired for disability . . . regardless of age or amount of service.” As the applicant, respondent bears the burden of proving by a preponderance of the evidence that she is entitled to disability retirement benefits. (*McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051; Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].) A preponderance of the evidence means “evidence that has more convincing force than that opposed to it.” (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

2. To qualify for disability retirement, competent medical evidence must establish that at the time the applicant applied, she was “incapacitated physically or mentally for the performance of [her] . . . duties.” (Evid. Code, § 115; Gov. Code, § 21156, subd. (a)(1); *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.) As defined in Government Code section 20026:

“Disability” and “incapacity for performance of duty” as a basis of retirement, mean disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board, . . . on the basis of competent medical opinion.

3. Incapacity for the performance of duty “means the substantial inability of the applicant to perform [her] usual duties.” (*Mansperger v. Public Employees’ Retirement System* (1970) 6 Cal.App.3d 873, 876.) An inability to perform a function that is a remote occurrence does not establish substantial incapacity. (*Id.* at pp. 876–877.) A substantial inability to perform usual duties must be measured by considering

an applicant's abilities. Discomfort, which makes it difficult to perform, is insufficient to establish permanent incapacity. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207, citing *Hosford v. Bd. of Admin. of the Public Employees' Retirement System* (1978) 77 Cal.App.3d 854, 862.)

4. Respondent failed to establish she was substantially incapacitated from the performance of her duties as CC II Supervisor at North Kern Valley State Prison, CDCR, at the time she filed her IDR application. Therefore, she is not entitled to disability retirement pursuant to Government Code section 21151.

## ORDER

Respondent Ronette O. Strown's application for industrial disability retirement is DENIED.

DATE: October 27, 2025



PATRICE DE GUZMAN HUBER

Administrative Law Judge

Office of Administrative Hearings