

ATTACHMENT A

THE PROPOSED DECISION

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

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

ROBERT L GONZALES JR.,

Respondent,

and

CITY OF HUNTINGTON BEACH,

Respondent.

Agency Case No. 2024-0794

OAH No. 2025070574

PROPOSED DECISION

Administrative Law Judge (ALJ) Chantal M. Sampogna, Office of Administrative Hearings, State of California, heard this matter by videoconference on February 2, 2026.

Bryan Delgado, Staff Attorney, appeared and represented complainant California Public Employees' Retirement System (CalPERS).

Robert L. Gonzales Jr. (respondent Gonzales) appeared and represented himself.

Teresa McGinity, Attorney at Law, McGinity Macy Law, appeared and represented City of Huntington Beach (respondent City).

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on February 2, 2026.

SUMMARY

Respondent Gonzales was a police officer for respondent City for over five years. His employment was terminated in December 2021 for cause based on respondent's misconduct. In May 2024, respondent Gonzales applied for industrial disability retirement (IDR) claiming he suffered from a psychological disability caused by workplace trauma which preexisted his date of separation. CalPERS denied respondent Gonzales's application, finding respondent Gonzales was terminated for cause and his IDR application and eligibility were precluded by law. Respondent Gonzales failed to meet his burden to prove his discharge was not based on cause, therefore eliminating a necessary requisite for disability retirement. Accordingly, respondent Gonzales's appeal is denied.

FACTUAL FINDINGS

Jurisdiction

1. Respondent Gonzales was employed by respondent City as a police officer with the Huntington Beach Police Department (HBPD) between January 31,

2015, and December 20, 2021. By virtue of his employment, respondent Gonzales is a state safety member of CalPERS.

2. On April 12, 2023, beyond four months after his last day of service for respondent City, respondent Gonzales submitted an IDR application (first application). In filing the first application, respondent Gonzales claimed disability based on psychological conditions.

3. On September 6, 2023, CalPERS notified respondent Gonzales and respondent City (collectively, respondents) that respondent Gonzales's first application had been cancelled because after multiple notices that were sent to him and respondent City, respondent City failed to submit documents required for CalPERS to make its IDR determination (first cancellation). (Although the First Amended Statement of Issues claims the first cancellation was issued on May 11, 2023, the evidence established it was issued on September 6, 2023 (Exh. 10).)

4. On April 22, 2024, respondent Gonzales signed his second IDR application, which was received by CalPERS on May 1, 2024 (second application). In filing the second application, respondent Gonzales claimed disability based on psychological conditions.

5. On August 26, 2024, CalPERS notified respondents that respondent Gonzales's second application had been cancelled because he had left his employment with respondent City for reasons which were not the result of a disabling condition.

6. On September 14, 2024, respondent Gonzales timely appealed.

7. On July 8, 2025, Sharon Hobbs, acting in her official capacity as Chief of CalPERS' Disability and Survivor Benefits Division, issued the Statement of Issues.

8. On January 28, 2026, Sharon Hobbs, acting in her official capacity as Chief of CalPERS' Disability and Survivor Benefits Division, issued the First Amended Statement of Issues, the operative pleadings in this matter.

9. Based on the cause for CalPERS' cancelation of respondent Gonzales's second application, the appeal in this matter is limited to the issue of whether respondent Gonzales's second application, and eligibility, is precluded by operation of *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292 (*Haywood*); *Martinez v. Public Employees Retirement System* (2019) 33 Cal.App.5th 1156 (*Martinez*); *Smith v. City of Napa* (2004) 120 Cal.App.4th 194 (*Smith*); and CalPERS Precedential Decision No. 16-01 12 *In the Matter of the Appeal of Accepting the Application for Industrial Disability Retirement of Phillip MacFarland* (2016) (*MacFarland*).

Respondent's Termination from Employment for Misconduct

10. CalPERS presented documents and testimony of respondent City's and CalPERS employees in support of its request to deny respondent Gonzales's second application. The documents presented, and the testimonies of witnesses HBPD Lieutenant Shawn Randell (previously HBPD's custodian of records during the times relevant to this matter), respondent City's Human Resources Manager Veronica Navarro-Martinez, and CalPERS Analyst II Greg Neill, were consistent and credibly established the facts alleged in the First Amended Statement of Issues.

TERMINATION

11. On December 21, 2021, respondent Gonzales was served by respondent City with a Disciplinary Report (Report), which he acknowledged and signed on that day. The Report informed respondent Gonzales that HBPD concluded he had engaged

in misconduct between October 9 and December 10 2020, and based on this misconduct his employment with respondent City would be terminated, effective December 21, 2021.

12. The Report summarized HBPD's investigation into three incidences of misconduct. The first incident occurred on October 9, 2020, and involved respondent Gonzalez engaging in an unsafe pursuit and failing to know when to terminate a pursuit. On that date, respondent resumed a pursuit of a stolen vehicle without proper communication with HBPD command staff. Respondent Gonzales's pursuit of the vehicle included the suspect driving the stolen vehicle at a high rate of speed, sometimes on sidewalks, in a pedestrian and traffic-heavy location of the City, and contributed to a vehicular collision between the stolen vehicle and an innocent victim's vehicle.

13. The second incident of misconduct occurred on November 5, 2020, and involved respondent Gonzales reporting to a welfare check of a female individual who had, the previous night, been reported to have committed domestic violence against the male complainant. The following day the male complainant was concerned that the suspect was suicidal, provided HBPD the suspect's cell phone number, and requested a welfare check be conducted on her. When respondent Gonzales arrived at the suspect's residence, he did not conduct a welfare check. Rather, he observed her getting into a rideshare vehicle and initiated an inappropriate text exchange with her, including stating to her that she could have a career in modeling, and referencing that he was single and loved "crazy." (Exh. 8, p. A87.) Later that afternoon, the suspect texted the male complainant about the texts from respondent Gonzales. The male complainant texted respondent Gonzales and asked if he was a police officer and

respondent Gonzales denied he was a police officer and suggested the male complainant call 911.

14. The third incident of misconduct occurred on December 17, 2020, and involved respondent consuming alcohol and being intoxicated while at work and on duty. Also on that date, respondent Gonzalez was found not to be in possession of two HBPD-issued firearms: a rifle, which he was storing at his home, and a handgun, which he had left with a private third-party armorer for servicing, in both cases without prior authorization by HBPD supervision.

APPEAL OF TERMINATION

15. Respondent appealed HBPD's termination. On December 15, 2021, HBPD conducted a *Skelly* conference regarding the proposed discipline. During the *Skelly* conference, respondent Gonzales acknowledged a pattern of poor judgment and did not dispute the facts alleged. Rather, respondent Gonzales presented evidence of his efforts towards sobriety and the completion of online coursework offered by the Peace Officer Standards and Training Learning Portal focused on ethical decision making and stress management. The HBPD Interim Chief of Police considered respondent Gonzales's rehabilitative efforts but concluded the nature of the misconduct demonstrated respondent Gonzales's inability to consistently exercise three of the most essential elements of an HBPD police officer - proper judgment, sound decision-making, and ethical behavior, and upheld the termination.

16. Respondent Gonzales appealed the *Skelly* determination. On March 29, 31, and April 3, 2023, respondent Gonzales's appeal was heard by a neutral hearing officer. On September 11, 2023, respondent was served with the hearing officer's administrative decision (administrative decision) which found respondent Gonzales

was terminated for cause and that the appropriate remedy was to uphold the termination. Respondent Gonzales did not appeal the hearing officer's administrative decision.

Respondent Gonzales's Evidence

17. Respondent Gonzales requested two exhibits be admitted, his Independent Medical Reevaluation in the Specialty of Psychiatry and Psychiatric Testing, dated April 7, 2022, and his Workers Compensation Stipulation Request for Award and Award, dated August 2, 2022. However, the ALJ determined both exhibits, both relating to respondent Gonzales's workers' compensation (WC) claim, were not relevant to the question of his eligibility to apply for IDR and were excluded.

18. In his testimony and second application, respondent Gonzales asserted he has Post Traumatic Stress Disorder (PTSD) caused by his work as a police officer which was found to be responsible for 100 percent of his WC award. Respondent further asserted his PTSD preexisted his termination. Finally, respondent Gonzales asserted he self-medicated his PTSD with alcohol consumption and these illnesses were the cause of his misconduct and ultimate termination by respondent City.

LEGAL CONCLUSIONS

Authority

1. The management and control of CalPERS is vested in the Board of Administration of CalPERS (Board). (Gov. Code, § 20120.) (Undesignated statutory references are to the Government Code.)

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2. The Board is responsible for determining and may modify benefits for service and disability consistent with the Public Employees' Retirement Law (PERL) (§ 20000 et seq.)

3. The purpose of the PERL is "to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits." (§ 20001.)

Burden and Standard of Proof

4. An applicant for an industrial disability retirement has the burden of proving by a preponderance of the evidence that he or she is entitled to it. (*Glover v. Board of Retirement* (1989) 214 Cal.App.3d 1327, 1337; *McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044, 1051, fn. 5.)

5. The preponderance of the evidence standard requires respondent to present 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.)

Industrial Disability Retirement

6. Section 21152, subdivision (d), provides that an IDR application for retirement may be made by the member or any person on his or her behalf.

7. Section 21154 provides the following:

The application shall be made only (a) while the member is in state service, or . . . (c) within four months after the

discontinuance of the state service of the member, or while on an approved leave of absence, or (d) while the member is physically or mentally incapacitated to perform duties from the date of discontinuance of state service to the time of application or motion. . . .

8. In *Haywood, supra*, 67 Cal.App.4th at p. 1307 the court rejected a construction of section 21154 that would establish eligibility for disability retirement whenever a timely application is submitted. Rather, the court concluded that firing for cause constitutes a “complete severance” of the employer-employee relationship, “thus eliminating a necessary requisite for disability retirement.” (*Id.* at p. 1306.)

9. The court in *Haywood, supra*, 67 Cal.App.4th at p. 1307, further concluded:

[W]here . . . 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, the termination of the employment relationship renders the employee ineligible for disability retirement regardless of whether a timely application is filed.

10. If the disciplinary process is used and results in termination for cause, the termination is a permanent separation from state service, while disability retirement is only temporary. (*Martinez, supra*, 33 Cal.App.5th at p. 1174.)

11. In *Smith, supra*, 120 Cal.App.4th 194, the court considered an IDR application of a local safety member who had been terminated for cause. Relying on

Knickerbocker v. City of Stockton (1988) 199 Cal.App.3d 235 (*Knickerbocker*), the court concluded that the applicant's failure to appeal the decision of the administrative agency which decided the termination was for cause precluded the applicant from relitigating the adverse determination in subsequent action at law. (*Smith, supra*, 120 Cal.App.4th at 199, citing *Knickerbocker, supra*, 199 Cal.App.3d at pp. 243, 245.)

Analysis

12. Respondent Gonzales was terminated by respondent City for cause based on multiple acts of misconduct in 2020. Although respondent Gonzales appealed respondent City's initial determination, he did not appeal the administrative decision which upheld the termination for cause. Respondent Gonzales may not relitigate the adverse determination in this subsequent IDR application appeal. (Factual Findings 10-16; Legal Conclusion 11.)

13. Respondent Gonzales is ineligible for disability retirement. Respondent Gonzales was terminated for cause by respondent City; he was not terminated as a result of a disabling medical condition nor was his termination preemptive of an otherwise valid claim for disability retirement. (Factual Findings 10-16; Legal Conclusions 6-12.)

14. Respondent failed to establish by a preponderance of the evidence he is eligible to apply for IDR. Respondent Gonzales's appeal of CalPERS denial of his IDR application is denied.

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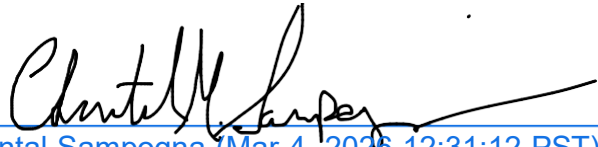
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ORDER

The appeal of respondent Robert L. Gonzales Jr. is denied. CalPERS' decision to cancel respondent's IDR application is affirmed.

DATE: 03/04/2026


Chantal Sampogna (Mar 4, 2026 12:31:12 PST)

CHANTAL M. SAMPOGNA

Administrative Law Judge

Office of Administrative Hearings