

ATTACHMENT B

STAFF'S ARGUMENT

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

Daniel P. Greco (Respondent) was employed by County of Glenn (Respondent County) as a Juvenile Hall Counselor II. On August 5, 2006, Respondent filed a disability retirement application with CalPERS based on reported back and shoulder injuries. CalPERS denied Respondent's request for disability retirement based on his back and shoulder injuries; however, by letter dated June 6, 2007, CalPERS approved Respondent for disability retirement based on a psychological condition. Respondent was placed on disability retirement effective March 13, 2006.

CalPERS notified Respondent by letters dated March 14, 2024, and April 17, 2024, that it conducts reexamination of persons on disability retirement, and that he would be reevaluated for purposes of determining whether he remains substantially incapacitated and is entitled to continue to receive a disability retirement.

As part of CalPERS' review of Respondent's medical condition, Respondent was sent for an Independent Medical Examination (IME) by Alberto G. Lopez, M.D., M.P.H. Dr. Lopez interviewed Respondent, reviewed his work history and job descriptions, obtained a history of his past and present complaints, and reviewed medical records. Dr. Lopez also performed a comprehensive IME. Dr. Lopez opined that Respondent is no longer substantially incapacitated from performing his job duties based on his psychological condition.

After reviewing all medical documentation and the IME report, CalPERS determined that Respondent was no longer substantially incapacitated, was no longer eligible for disability retirement, and should therefore be reinstated to his former position as a Juvenile Hall Counselor II.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. A hearing was held on May 28, 2026. Respondent represented himself at the hearing. Respondent County did not appear at the hearing and a default was taken, pursuant to Government Code section 11520, subdivision (a), 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. Lopez testified in a manner consistent with his examination of Respondent and the report prepared after the IME. Dr. Lopez administered the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and considered CalPERS' substantial incapacity standard during his examination. He obtained Respondent's history and reviewed Respondent's medical records and the job duties of a Juvenile Hall Counselor II. Respondent's medical records were incomplete in 2006 and 2007.

However, it appears Michael Barnett, M.D., diagnosed respondent with clinical depression on March 16, 2007. Dr. Lopez authored a report concerning Respondent's condition on September 19, 2024, and testified regarding his examination and report.

Dr. Lopez testified that Respondent presented at the IME as polite, well-groomed, and pleasant. Dr. Lopez noted respondent complained of inconsistent appetite and sleep. He reported he felt depressed approximately twice per week. Respondent also felt more depressed at the time of the examination because he was not working. He felt stress about his employment status and this appeal. He denied any suicidal ideation.

Dr. Lopez further testified that, according to the results of the MMPI-2, Respondent appeared to be inhibited and overcontrolled. In Dr Lopez's opinion, Respondent relies on denial and repression to cope with anxiety and conflict. He exhibits some difficulty managing routine affairs, memory, and concentration. His answers indicated some unrealistically virtuous ideation. Dr. Lopez explained that a subject exhibiting denial and unrealistically virtuous ideations may downplay or deny their own flaws. The MMPI-2 accounts for this to some degree. However, denial or minimalization can affect the results of the MMPI-2 examination. Dr. Lopez opined that respondent's mental health status was normal. Respondent did not present any significant abnormalities in his medical history or the results of the MMPI-2 that would warrant a psychological diagnosis.

Respondent did not report any mental health treatment in the past 20 years. He told Dr. Lopez that he does not need psychological treatment. Respondent worked at a casino since his retirement from the County until his recent leave from work for his foot injury, without any significant psychological issues. Respondent has not taken any medication, received a diagnosis, or attended therapy since his depression diagnosis in 2007.

Respondent testified on his own behalf. Respondent worked for the County as a Juvenile Hall Counselor II for more than five years. In 2003 or 2004, he injured his back while on duty and testified that he has dealt with back and shoulder issues since. Respondent's back injury caused him to miss work. Time off work caused Respondent to feel depressed. Respondent stated when his physical injury "flares up," it causes him to feel depressed again. When CalPERS filed the instant Accusation, Respondent felt the same mental health issues reemerge that he thought no longer remained. Respondent testified that he feels his psychological disability is linked to his physical injuries.

Respondent began work at Rolling Hills Casino and Resort in 2008 as a vault fill bank cashier. In 2021, he injured himself when a machine fell on his foot. He received treatment and returned to work for a few years. Respondent testified that the foot injury still causes pain. Respondent is not currently working at the casino while he waits for foot surgery. He may have another legal matter pending regarding the injury to his foot and the casino, though that is unclear.

Respondent further testified that he has not seen a psychiatrist or therapist. He explained that he was raised to hide his emotions and work through problems without

help from others. He deals with psychological issues in his “own way.” He reports he has never missed a day of work at the casino for psychological issues.

After considering all the evidence introduced as well as arguments by the parties at the hearing, the ALJ denied Respondent’s appeal. The ALJ found that the only competent medical evidence, which was presented by Dr. Lopez, established that Respondent is no longer substantially incapacitated from performing his duties as a Juvenile Hall Counselor II for Respondent County.

The ALJ found Dr. Lopez’s IME report and testimony to be persuasive. Dr. Lopez established that there is no objective medical evidence to support that Respondent is substantially incapacitated based on a psychological condition. Respondent does not exhibit behavior consistent with a depression diagnosis. He has not sought treatment or taken medication for a psychological condition. He has worked for 20 years without missing work due to a psychological issue. The evidence did not establish that he is unable to perform the duties of any position, including a Juvenile Hall Counselor II.

The ALJ further found that Respondent’s claim that his physical ailments inform his feelings of depression was not persuasive. Respondent credibly testified that he feels depressed in the colloquial sense of the word. However, Dr. Lopez persuasively opined that Respondent’s self-report of feeling depressed does not rise to the level of a clinical diagnosis. Respondent stated he feels more depressed when he is hurt or stressed. Dr. Lopez credibly explained that is inconsistent with a depression diagnosis. Respondent stated he suffers from physical ailments in his back and foot originating from his work as a Juvenile Hall Counselor II and his subsequent work at the casino. However, his original disability retirement application based on back and shoulder issues was denied. His disability retirement application was granted based only on a psychological condition. That condition no longer persists. Therefore, he must be reinstated to CalPERS membership.

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, staff recommends deleting the word “uncertain” in paragraph 2 on page 10 of the Proposed Decision.

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

September 16, 2026

Austa Wakily
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