ATTACHMENT B

STAFF'S ARGUMENT

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STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Tijeras J. Hudson (Respondent) worked as a Correctional Sergeant for California State Prison - Solano, California Department of Corrections and Rehabilitation (Respondent CDCR). By virtue of this employment, Respondent was a state safety member of CalPERS.

On June 26, 2024, Respondent applied for industrial disability retirement based on orthopedic conditions (bilateral wrists, bilateral hands, bilateral knees, and low back) and an internal condition (hypertension).

As part of CalPERS' review of Respondent's orthopedic condition, Harry A. Khasigian, M.D., a board-certified Orthopedic Surgeon, performed an Independent Medical Examination (IME). Dr. Khasigian interviewed Respondent, reviewed his work history and job descriptions, obtained a history of his past and present complaints, and reviewed his medical records. Dr. Khasigian opined that Respondent is not substantially incapacitated from performing his job duties as a Correctional Sergeant due to his alleged orthopedic conditions. Specific to his internal condition (hypertension), CalPERS reviewed medical evidence provided by Respondent and determined Respondent is not substantially incapacitated from performing his job duties as a Correctional Sergeant based on his internal condition (hypertension).

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 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 July 8, 2026. Respondent represented himself at the hearing. Respondent CDCR did not appear at the hearing and a default was taken as to Respondent CDCR 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. Khasigian testified in a manner consistent with his examination of Respondent and his IME report. During his examination, Respondent reported to Dr. Khasigian ongoing wrist, lumbar, knee, and general pain, attributing these issues to cumulative workplace injury rather than a single event. Despite his symptoms, he remained able to complete daily tasks. Respondent also reported the presence of a knot in the lower left area of his lumbar spine, which he identified as sciatica. He did not seek chiropractic care for this issue. Respondent claimed pain was triggered by standing and sitting, and he found it difficult to lie on his stomach.

Respondent also experienced pain in his knees, for which he took pain medication and wore a brace on his right knee. Kneeling down was painful, and he struggled to rise from a kneeling position. He complained of discomfort during activities such as lifting, climbing, pushing, and pulling.

Dr. Khasigian's physical examination included an assessment of Respondent's spine and his upper and lower extremities, all of which appeared normal. Respondent was able to squat and demonstrated normal ranges of motion in his hands, wrists, and knees. Neurological testing was largely unremarkable, except for decreased sensation reported in specific areas: the lower right leg, upper left leg, and from the right arm to the fingertips. Dr. Khasigian explained at the hearing that these patterns of sensitivity were non dermatomal, meaning they did not match typical nerve distributions in the body. He opined that Respondent must have been confabulating during sensation testing.

The findings from the physical examination were consistent with Respondent's abilities as observed in a surveillance video described by Dr. Khasigian at the hearing. The activities observed included walking dogs on a leash, retrieving mail, manipulating a license plate bumper, pushing a shopping cart, using tools with both hands, carrying two cases of water, and walking or jogging. Dr. Khasigian reviewed the essential job functions of a Correctional Sergeant, describing them as primarily administrative. He determined that Respondent's physical abilities were sufficient for performing the duties of his position.

Dr. Khasigian also examined Respondent's medical records, including those from Kaiser Permanente and Qualified Medical Evaluation reports. He testified that nothing in these records indicated substantial incapacity in relation to Respondent's duties as a Correctional Sergeant. After considering the physical examination, medical records, and the essential functions of the Correctional Sergeant position, Dr. Khasigian concluded that Respondent is not substantially incapacitated from performing his job duties.

Respondent testified on his own behalf and produced some medical evidence, including reports by Dean Rider, M.D and Vincent Chen, M.D., detailing his heart condition and orthopedic conditions. However, neither of them testified. Respondent did not produce any medical testimony to support his position that he is substantially incapacitated.

The medical records were admitted as administrative hearsay. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but cannot be used to support a finding.

Respondent has served as a peace officer at CDCR for 21 years. Despite his injuries, he testified that he is not unwilling to work and would actually like to work. However, he testified that he does not believe he can return to work as a peace officer. He is most concerned about his heart. He testified that responding to emergencies is difficult on his heart because of the constant increase and decrease in blood pressure. He knows of too many instances of other peace officers whose health was detrimentally affected by stress. At 47 years old, Respondent would like to spend his remaining time relatively healthy, with his family. For over a year thus far, he has been asking CDCR to find him a placement that would accommodate his restrictions, including decreased stress to avoid aggravating his heart condition. Unfortunately, CDCR has not yet identified an alternative position or assignment.

Respondent testified that he was offended by Dr. Khasigian's characterization of the Correctional Sergeant position as "primarily administrative." While true that a Correctional Sergeant, as a supervisor, spends some time at a desk performing administrative tasks, a Correctional Sergeant is still expected to physically respond to emergencies, physically subdue inmates if necessary, fire a weapon, and use a baton. He last worked in this capacity in January 2023.

Respondent further testified that he recently learned that he has a mass on his heart. Dean Rider, M.D., evaluated Respondent pursuant to his workers' compensation claim. In Dr. Rider's September 2024 report, he notes Respondent's diagnosis of hypertension. He further explained:

> With respect to the hypertension, the purpose of the cardiac testing was to determine if there was any injury to the heart. That cardiac testing has been completed. The cardiac testing included a stress EKG and echocardiogram These studies revealed no evidence of coronary artery disease. The echo revealed no concentric remodeling and borderline LVH [left ventricular hypertrophy]. However, it did reveal increased mass, which was mild. The increased mass, with reasonably probable certainty, was caused by longstanding hypertension and thus the heart is in a troubled state because of it.

In Dr. Rider's January 2025 report, he clarified that left ventricular mass index was "normal." Dr. Rider concluded that Respondent's "current hypertension is not an issue with respect to his ability to be employed."

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that when all the evidence is considered, Respondent failed to establish that at the time he filed his IDR application

he was substantially incapacitated from performing his usual and customary duties as a Correctional Sergeant, on the basis of hypertension or orthopedic (wrists, hands, knees, or back) conditions. Accordingly, his IDR application must be denied.

The ALJ found Dr. Khasigian's opinion that Respondent is not substantially incapacitated from the performance of his duties as a Correctional Sergeant to be persuasive. Dr. Khasigian did not dispute the pain that Respondent reported he experienced in his wrists, hands, knees, and back. However, based on his physical examination of Respondent and review of records, in light of a Correctional Sergeant's essential functions, Dr. Khasigian's ultimate conclusion is that Respondent's physical abilities do not prevent him from performing his duties. Consistent with Dr. Khasigian's opinion, Respondent testified he can return to work.

Moreover, that Respondent experiences pain and is concerned about his heart is reasonable. It is also reasonable that to prioritize his health, he would prefer or require a position with less stress. Nevertheless, pain is insufficient to establish substantial incapacity, and Respondent's preference for decreased stress, although reasonable, cannot form the basis for disability retirement.

The ALJ correctly concluded that Respondent is not eligible for industrial disability retirement.

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

September 16, 2026

Austa Wakily
Senior Attorney