

HOLLYWOOD POLICE OFFICERS' RETIREMENT SYSTEM
Office of Retirement
4205 Hollywood Blvd., Suite 4
Hollywood, Florida 33021

April 26, 2021

MINUTES

A special meeting of the Hollywood Police Officers' Retirement System was held on Monday, April 26, 2021, at 1:00 P.M., in the Office of Retirement, 4205 Hollywood Blvd., Suite 4, Hollywood, Florida 33021.

PRESENT:

D. Strauss, Chairman, C. Marano, Board Secretary, J. Marano, C. Boyd¹, P. Laskowski, Justin Schweighardt & Mileta Djokic.

Also present were Steven Sparkman & Luis Ortiz, Retired Members; Paul A. Daragjati & Rose Daragjati, Special Counsel for the Board; Michael F Dutko, Counsel for the Plaintiffs²; Stuart Kaufman, Legal Counsel - Klausner, Kaufman, Jensen & Levinson; Terri Wright, Court Reporter; David M. Williams, Plan Administrator.

PUBLIC COMMENT

None.

CORRECTIONS MATTER

The Board of Trustees held this special meeting with regard to the request for credited service in the Hollywood Police Officers' Retirement System, by the cited Plaintiffs.

Pre-Hearing Filings were received by the Board of Trustees. A motion was made by Mr. Laskowski to enter into evidence the Motion of Stipulated Facts and Member Affidavits. The motion was seconded by Mr. Djokic and passed 7-0.

The Evidentiary Hearing was conducted as follows:

- Opening argument by the Applicants.
- Opening argument by Board Advocate.
- Presentation of the Applicants' case in chief.
- Presentation of Board Advocate's case in chief.
- Rebuttal evidence from the Applicants.

The transcript of the Hearing is attached hereto.

At the conclusion of the presentations, all parties agreed to prepare written orders citing their position for the Board to consider by May 14, 2021.

MEETING ADJOURNED

There being no further business, the meeting was adjourned at 2:06 P.M.

The next scheduled meeting is April 30th, 2021 at 10:30 A.M.

¹ Attended Remotely

² STEVEN SPARKMAN, LUIS A. ORTIZ, JOHN KIDD, ARNOLD CAMPBELL, DANIEL CASEY, DANA DOKLEAN, and MICHAEL McKINNEY

Respectfully submitted,

C. Marano, Secretary

APPROVED:

D. Strauss, Chairperson

THE CITY OF HOLLYWOOD POLICE
OFFICERS' RETIREMENT SYSTEM
BOARD OF TRUSTEES MEETING

IN RE: STEVEN SPARKMAN,
LUIS A. ORTIZ, JOHN KIDD,
ARNOLD CAMPBELL, DANIEL CASEY,
DANA DOKLEAN and MICHAEL MCKINNEY

TRANSCRIPT OF MEETING

DATE TAKEN: Monday, April 26, 2021
TIME: 1:00 p.m. - 2:10 p.m.
PLACE: 4205 Hollywood Blvd., #4,
Hollywood, FL

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

Terri Wright
United Reporting, Inc.
1218 Southeast Third Avenue
Fort Lauderdale, Florida 33316
(954)525-2221

1 APPEARANCES:

2 DAVID STRAUSS, CHAIRMAN

3 MILETA DJOKIC, TRUSTEE

4 PAUL LASKOWSKI, CPPT - TRUSTEE

5 CATHY MARANO, CPPT - SECRETARY

6 JEFFREY MARANO, TRUSTEE

7 JUSTIN SCHWEIGHARDT, TRUSTEE

8 CHRISTOPHER BOYD, CPPT - TRUSTEE (Telephonic)

9 PAUL DARAGJATI, ESQUIRE

10 ROSE DARAGJATI, ESQUIRE

11 DARAGJATI LAW

12 4745 Sutton Park Court, #503

13 Jacksonville, FL 32224-0251

14 Paul@daragjatilaw.com

15 MICHAEL DUTKO, ESQUIRE

16 KYLE ROBERTS, ESQUIRE

17 CONRAD & SCHERER, LLP

18 633 S. Federal Highway - 8th Floor

19 Fort Lauderdale, FL 33301

20 Mdutko@conradscherer.com

21 STUART A. KAUFMAN, ESQUIRE

22 KLAUSNER, KAUFMAN, JENSEN & LEVINSON

23 7080 NW 4 Street

24 Plantation, FL 33317

25 STEVEN SPARKMAN

Luis Ortiz

1 (Whereupon, the following proceedings were
2 had.)

3 MR. KAUFMAN: We're here this afternoon for the
4 hearing on the Sparkman, et al request to review
5 the -- a police officer from a correctional officer
6 with the City of Hollywood.

7 THE COURT REPORTER: I'm sorry, Mr. Kaufman. I
8 can't hear you very well.

9 MR. KAUFMAN: Okay. If Counsel would just like
10 to identify themselves for the record, I'd
11 appreciate it.

12 MR. DUTKO: Good afternoon. Michael Dutko from
13 Conrad & Scherer on behalf of the applicants. With
14 me is Kyle Roberts, an associate of mine at Conrad
15 & Scherer.

16 MR. DARAGJATI: Good afternoon to the Board.
17 My name is Paul Daragjati, with me is Rose
18 Daragjati, my associate.

19 MR. KAUFMAN: So we have the parties' joint
20 stipulation of facts, which makes it a little bit
21 easier for everybody that there are really no
22 factual disputes. And what we're left with is a
23 reasonable law to be cited by all of you, in that
24 there are no witnesses you're going to hear from.
25 The parties today -- Counsel for the parties are

1 going to make legal argument as to why credit
2 service as a police officer should be granted.

3 Alternatively, you'll hear from Mr. Daragjati
4 arguments why they should not receive credit in
5 terms as a police officer.

6 As a matter of housekeeping, Mr. Chair, I would
7 request or I would recommend you entertain a motion
8 to enter into evidence the joint stipulation of
9 facts, which also has attached to it the FDLE
10 records with regard to each claimant and personnel
11 action forms from the City of Hollywood with regard
12 to each claimant.

13 Additionally, you received today for the first
14 time a package from Counsel for Sparkman, Ortiz,
15 Kidd, Campbell, Casey, Miss Doklean and
16 Mr. McKinney. You've received affidavits signed by
17 each of them, which would also be considered
18 evidence. So a motion would be in order to enter
19 into evidence the joint stipulation of facts with
20 the attachments I've just noted, and the affidavits
21 of each of the claimants.

22 MR. STRAUSS: Okay. So everything in our
23 folder except the PowerPoint and --

24 MR. KAUFMAN: The PowerPoint is really just
25 argument.

1 MR. STRAUSS: Right. And the --

2 MR. KAUFMAN: Counsel's argument is not really
3 considered evidence, but the affidavits certainly
4 are. I would just ask Mr. Daragjati if he has any
5 objection to the affidavits coming into evidence at
6 this point in time?

7 MR. DARAGJATI: We have no objection to the
8 affidavits coming in.

9 MR. STRAUSS: Make a motion?

10 (Motion was made.)

11 MR. STRAUSS: All that second it?

12 (Seconded.)

13 MR. STRAUSS: Seconded by Jeffrey.

14 Everyone in favor?

15 AYE.

16 MR. STRAUSS: Chris?

17 MR. BOYD: Aye.

18 MR. KAUFMAN: So at this time, Mr. Chair, I
19 would have you turn the floor over to Mr. Dutko to
20 make the presentation on behalf of his clients. At
21 the end of his presentation, if any of the trustees
22 have any questions for him, you can certainly ask
23 anything that you wish to. As well, I may have
24 some questions as well.

25 But Mr. Dutko, the floor is yours.

1 MR. STRAUSS: Thank you.

2 MR. DUTKO: Thank you very much. First, let me
3 just say I appreciate you giving us the time to be
4 here today and make this presentation to you. Very
5 generally and succinctly we're here to ask --

6 MR. MARANO: Can I have you speak up, please?

7 MR. DUTKO: Sure.

8 MR. MARANO: I lost my hearing listening to your
9 father's accolades for all those years.

10 MR. DUTKO: We're here to ask the Board to
11 recognize what we think is legally justified and
12 right and that's that while serving as what the City
13 of Hollywood calls corrections officers or detention
14 officers, the applicants here were in fact police
15 officers, as that term is more generally defined by
16 the City of Hollywood Code of Ordinances and by
17 Florida State Statute.

18 Despite the name of the job title itself of
19 corrections officer or detention officer, based on
20 the applicants' individual duties, the applicants
21 were not correctional officers as that term is
22 defined under Florida State Statute. They are police
23 officers, and their time served as corrections
24 officers or detention officers in the City of
25 Hollywood should rightfully be credited as time as

1 police officers for pension purposes.

2 We've introduced and moved into the record the
3 affidavits as well as the stipulation. In your
4 packets you'll also notice there's a PowerPoint
5 presentation. That's not evidence in this case,
6 that's my argument now, but I thought it may be
7 helpful to follow along with exactly what the
8 arguments are and to see the paper form.

9 So as I mentioned, we are asking this Board to
10 reclassify the applicants' employment as corrections
11 officers/detention officers to that of a police
12 officer in order for the applicants to be enrolled in
13 the police officers pension from the inception of
14 their employment at the City rather than the point at
15 which they were given the actual job title of police
16 officer.

17 The Police Officers' Retirement System, there's
18 no dispute about this, but was established under City
19 of Hollywood Code Chapter 33. And there are specific
20 definitions and eligibility requirements within that
21 Chapter. When you look at those specific eligibility
22 requirements, when you look at the specific
23 definitions, what becomes clear is folks in the City
24 of Hollywood serving as what the City calls for
25 employment purposes, corrections officers or

1 detention officers, are police officers.

2 City of Hollywood's passed an ordinance defining
3 what a police officer is for purposes of the pension
4 system; and under that definition the applicants here
5 clearly qualify.

6 Going first to the conditions of eligibility,
7 Chapter 33.127 of the City's Code of Ordinances. I
8 don't think that there's any question that the
9 requirements listed in that section are met by the
10 applicants here. Such police officer satisfactorily
11 completes all required medical examinations for a
12 police officer of his classification. The
13 classification here would be corrections
14 officer/detention officer, but it's still a police
15 officer. Such police officer meets all of the
16 requirements of the City. The methods and procedures
17 to be followed with regard to the above determined by
18 the Board.

19 The most important part of this consideration I
20 think is the definitions that are spelled out both in
21 Florida State Statute and the City's Code of
22 Ordinances. And the definition of police officer in
23 both is the same essentially. So we first have the
24 definition under Florida Statutes Section 185.02,
25 specifically Subsection 16. It says: "A police

1 officer means any person who is elected, appointed,
2 or employed full time by a municipality, who is
3 certified or required to be certified as a law
4 enforcement officer in compliance with 943.1395, who
5 is vested with authority to bear arms and make
6 arrests, and whose primary responsibility is the
7 prevention and detection of crime or the enforcement
8 of the penal, criminal, traffic, and highway laws of
9 the state."

10 Breaking that down, I think to the component
11 parts of what makes our arguments correct, any person
12 employed full-time by a municipality, certified or
13 required to be certified as a law enforcement
14 officer, vested with the authority to bear arms and
15 make arrests, whose primary responsibility is the
16 enforcement of the penal, criminal, traffic, or
17 highway laws of the state. That's what these folks
18 did as detention officers, as corrections officers in
19 the City of Hollywood.

20 You'll see -- we next have the definition of
21 police officer under the City of Hollywood Code of
22 Ordinances for pension purposes, specifically Section
23 33.126. Again, parsing the words to I think what's
24 important here: "Any person employed full-time by
25 the City, who is certified or required to be

1 certified as a law enforcement officer in compliance
2 with Florida Statute 943.1395, who is vested with the
3 authority to bear arms, make arrests and whose
4 primary responsibility is the enforcement of the
5 penal, criminal, traffic, or highway laws of the
6 state".

7 The applicants here were certified as officers
8 pursuant to 943.1395. That section provides
9 different types of certifications that can be
10 obtained, but I don't think there's any dispute that
11 when serving as corrections officers or detention
12 officers for the City of Hollywood, the applicants
13 were certified pursuant to 943.1395.

14 Getting then to the definitions that I believe
15 have been presented to you previously to make the
16 case that my clients were correctional officers and
17 not police officers for purposes of Florida State
18 statutes. We'll look at that now. So under 943.10,
19 the following words and phrases are defined. "Law
20 enforcement officer means any person who is elected,
21 appointed or employed full-time by any municipality
22 or the state or any political subdivision thereof who
23 is vested with authority to bear arms and make
24 arrests and whose primary responsibility is the
25 prevention and detection of crime with the

1 enforcement of the penal, criminal, traffic, or
2 highway laws of the state."

3 That definition is the same as you'll remember
4 the definition of a police officer under Florida
5 statutes that I read previously, and the definition
6 of a police officer under the City of Hollywood Code
7 of Ordinances, which we also referenced previously.

8 The second definition there is what Florida
9 statutes define as a correctional officer.

10 "Correctional officer means any person who is
11 appointed or employed full-time by the state or any
12 political subdivision thereof or by any private
13 entity which is contracted with the state or county,
14 and whose primary responsibility is the supervision,
15 protection, care, custody and control or
16 investigation of inmates within a correctional
17 institution."

18 There is not and never has been a correctional
19 institution in the City of Hollywood. A holding cell
20 in the police department or a detention center in the
21 police department where arrestees would go prior to
22 being transported to Broward County main jail for
23 booking purposes, for first appearance purposes, for
24 all purposes, that's not a correctional facility.
25 I've seen no definition under Florida Statutes that

1 would indicate that that's a correctional facility.
2 So just definitionally, the applicants here cannot be
3 considered correctional officers under that
4 definition of Florida Statutes.

5 Now, the next slide in the PowerPoint gets into
6 why the applicants are not correctional officers.
7 The applicants' duties were that of police officers,
8 as the term is defined by the City of Hollywood Code
9 of Ordinances, regardless of what their technical job
10 classification was for employment purposes from the
11 City.

12 Under Florida statutory framework, "a
13 correctional officer is someone whose primary
14 responsibility is the supervision, protection, care,
15 custody and control or investigation of inmates
16 within a correctional institution".

17 Again, that's not what we have here. The City
18 Jail where applicants carried out most of their
19 duties was not a correctional institution in any
20 sense as a holding cell in the City of Hollywood
21 Police Department. Rather than house criminals over
22 night, they held arrestees for a limited time until
23 they were transferred to the main detention center.
24 The City Jail did not feed arrestees, did not clothe
25 arrestees, did not provide normal services that a

1 correctional institution would.

2 The applicants also assisted in the arresting
3 process for suspected violations of the penal and
4 criminal laws of the State of Florida.

5 All that is spelled out in the affidavits from
6 each of my clients, which detail what their job
7 duties and responsibilities were and which
8 demonstrate that those duties and responsibilities
9 were of police officers, they were not correctional
10 officers under the Florida State Statutory
11 definition.

12 What are correctional officers under Chapter
13 943? Well, they work in long-term correctional
14 institutions, they don't have arrest powers, they're
15 required to call local police to arrest if someone
16 turned themselves in at the gates of an institution.
17 And correctional officers and institutions are not
18 issued a firearm, rather a firearm would be checked
19 out for particular purposes and limited time. We
20 know that because of the affidavit of John Kidd, who
21 also served as a correctional officer. So he's able
22 to detail what the duties and responsibilities were
23 of that job and it's not the duties and
24 responsibilities of my clients when they work for the
25 City of Hollywood.

1 There were three cases that were presented to
2 the Board at its original hearing when you considered
3 this request. Those cases were Headley versus
4 Sharpe, City of Miami versus Rumpf, and City of Miami
5 versus Musial. I contend and we'll argue that to the
6 extent those cases have any applicability here
7 whatsoever, which I think for some of them is more
8 dubious than others. They actually support our
9 request and don't provide this Board a legal basis to
10 deny the reclassification.

11 Looking first at Headley versus Sharpe, which
12 was the first case chronologically. In Headley, the
13 Third District Court of Appeal, which is the court of
14 appeal for the area around Miami, held that there is
15 substantial evidence to support the findings of the
16 chancellor holding that desk sergeants, booking
17 officers, prison guards and matrons are policemen
18 within the intentions of Chapter 185 of Florida
19 Statute and are entitled to the benefits under the
20 Miami Police Relief and Pension Fund.

21 So holding the Court stated that the duties of
22 the appellees, which included prison guards, were
23 undoubtedly a police function under Chapter 185. The
24 duties of the appellees in that instance, primarily
25 the supervision of City Jail and supervision of the

1 prisoners and their activities during the terms of
2 their confinements, there's no question that these
3 services rendered by the appellees can be classified
4 as a police function in that they keep the public
5 peace; that they conserve both life and property and
6 that their activities are vital to the public welfare
7 of the State pursuant to Chapter 185.01.

8 Definitions have changed since the time of Headley
9 vs. Sharpe in 1962. And I believe that its
10 applicability is questionable because of that.
11 However, the holding in Headley vs. Sharpe is
12 important here, which is it is the duties of the
13 applicants which control the decision on whether
14 they're classified as police officers or classified
15 in some other way for pension purposes. It's the
16 actual duties and responsibilities that's important,
17 not the name that someone in H.R. figured would be a
18 good job title for a particular position; not the
19 semantics of it, but what are the duties and
20 responsibilities and how do those match up to the
21 statutory definitions and code definitions that the
22 City of Hollywood has determined are appropriate
23 here.

24 Second case was City of Miami versus Rumpf. In
25 Rumpf the question was whether personnel in the

1 corrections division of the police department were
2 entitled to the same pay as police officers in the
3 enforcement division of the department. The Third
4 District Court of Appeal, again, the same appellate
5 court down in Miami held that they were not entitled
6 to the same pay because the City Charter gave the
7 Civil Service Board authority to establish different
8 classifications of employees, and those
9 classifications were not challenged in this case.

10 The Court there distinguished the facts from the
11 previous Headley case that we just talked about, but
12 didn't receive from that hold - didn't receive from
13 that case, right? So that was still good law after
14 the City of Miami versus Rumpf. And the Court stated
15 that a person may be a police officer within the
16 broad definition of Chapter 185 for pension purposes,
17 but not a police officer within the import of manual
18 job descriptions of the City of Miami.

19 That's what we have here. We have two different
20 classifications for folks who, under the general
21 definition of police officer that was put together by
22 the City of Hollywood and the city commissioners,
23 different classifications of folks who are police
24 officers. But that doesn't change the fact that even
25 with those different classifications, my clients when

1 serving as detention officers or correction officers
2 were, in fact, police officers under that general
3 definition under the Code.

4 The last case that was discussed previously was
5 the City of Miami versus Musial. In that case the
6 Third District Court of Appeals, same Court again,
7 noted that the significant difference and primary
8 reason for not allowing a transfer was the difference
9 in training that persons in the records and
10 identification section underwent as compared to the
11 training for police officers.

12 Here there is no such distinction. The
13 corrections officers, my clients, underwent nearly
14 identical training to police officers. Further,
15 unlike the City of Miami, in Musial the City of
16 Hollywood did not classify correction officers and
17 police officers different for pension purposes.
18 That's an important point. You notice in the Code of
19 Ordinances there's a definition for police officers.
20 There's no definition for corrections officer or
21 detention officer because it's not a different
22 classification, it's not a different thing. Folks
23 who are working as corrections officers or detention
24 officers are police officers.

25 Now what are my clients or what were my clients'

1 duties and responsibilities at the time they were
2 serving as correction officers? Employed full-time
3 by the City of Hollywood Police Department, certified
4 as required by 943.1395, had the primary
5 responsibility of enforcing the penal and criminal
6 laws of the State under command of the police patrol
7 sergeant, were issued firearms, duty belts, body
8 armor from the Police Department, had the authority
9 to arrest, complete probable cause affidavits on
10 warrants and issue notices to appear, both inside and
11 outside the City Jail.

12 They were entrusted with the care, custody and
13 control of arrestees during the process where those
14 arrestees were going from the scene of a crime to
15 eventually Broward County main booking facility.
16 They had the power to apprehend escaped arrestees,
17 they completed in-service trainings with police
18 officers, drove marked patrol vehicles or marked
19 police vehicles, I should say, directly participated
20 in operations as an officer with other police
21 officers in arresting and transporting arrestees.

22 And the City of Hollywood Jail, the City Jail
23 within the Hollywood Police Department, did not house
24 arrestees overnight, nor did it feed, it was not a
25 correctional institution, as that word can in any

1 common sense way be understood.

2 Accordingly, we ask that this Court recognize
3 what we think is fair and equitable to my clients,
4 which is the time that they served with the City of
5 Hollywood under the given title of corrections
6 officers or detention officers should be
7 re-classified from the General Employee Retirement
8 System to the City of Hollywood Police Pension System
9 and credited as such.

10 They are police officers. They were police
11 officers at the time. And it would be unjust for
12 this Board to consider them anything other than that.

13 That's the end of my presentation. I'm happy to
14 answer any questions that you may have that may be
15 helpful. Otherwise, I thank you for your time.

16 MR. KAUFMAN: Did the trustees have any
17 questions for Mr. Dutko?

18 MR. MARANO: You said something about probable
19 cause affidavits, so if they were in the facility and
20 they found either contraband or a weapon, they would
21 do an ADD charge on a probable cause affidavit and
22 sign the affidavit?

23 MR. DUTKO: Sure. So, I'm hesitant to answer
24 that question myself. And I believe one of my
25 clients may be most suited to answer just because

1 they answer that question is not necessarily in
2 evidence at this point. So we're happy to offer the
3 testimony that would be necessary to answer that.

4 MR. KAUFMAN: I wouldn't have a problem with
5 that if Mr. Daragjati has no objections for the
6 limited purposes of answering the questions,
7 selecting one of your class members to testify on
8 behalf of the (inaudible) --

9 MR. DARAGJATI: I have no objection. That's
10 fine.

11 MR. DUTKO: Mr. Sparkman, would you like to
12 answer that question?

13 (Whereupon, Steven Sparkman was sworn in by the
14 Court Reporter.)

15 MS. MARANO: Please state your name for the
16 record.

17 OFFICER SPARKMAN: Steven Sparkman,
18 S-P-A-R-K-M-A-N.

19 In answer to your question, Jeff, in a
20 circumstance like that I had done that, where I have
21 add charged, especially if they had already left the
22 detention center. The most common experience I had
23 in doing probable cause affidavits are when somebody
24 would come to the fishbowl, information desk would
25 call up and say somebody was turning themselves in on

1 whatever type of warrant it was. Instead of having a
2 road patrol officer come in, I would go downstairs,
3 bring them to detention, verify the warrant and then
4 I would do the probable cause affidavit.

5 MR. MARANO: Okay. And is battery on -- if
6 they perpetrate a battery on you -- I guess keep
7 going? If they perpetrated a battery on you, would
8 they be charged under the same statute?

9 OFFICER SPARKMAN: Yes, battery on a law
10 enforcement officer.

11 MR. MARANO: Do you remember a point in time
12 that correction officers were in the Collective
13 Bargaining Agreement between the Broward County PBA
14 and the City of Hollywood?

15 OFFICER SPARKMAN: I know that happened. That
16 happened after I had already been promoted according
17 to --

18 MR. MARANO: Do you have that at all, Mr. Dutko?

19 MR. DUTKO: I don't believe so.

20 MR. KAUFMAN: We can get that information prior
21 to reaching a decision.

22 MR. MARANO: And at any time were any of the
23 detention officers ever party to a 1983 civil case as
24 if, you know, as if officers were at the same time?

25 Was there a point in time where I believe

1 somebody in your unit was subject to a 1983?

2 OFFICER SPARKMAN: I believe so. It wasn't me,
3 but I do remember. I can't recall who it was. I
4 don't believe they're here anymore.

5 MR. MARANO: That's all.

6 MR. KAUFMAN: Very good. While OFFICER
7 SPARKMAN is under oath, I don't know if any of the
8 other trustees have any questions for him.

9 MR. LASKOWSKI: I just have a question in
10 general. The corrections academy compared to the
11 police academy is how many weeks?

12 OFFICER SPARKMAN: I can tell you what the hours
13 are, I have certificates for hours

14 The corrections academy is 496 hours.

15 MR. DUTKO: I think the answer to that question
16 is --

17 MR. STRAUSS: 796.

18 OFFICER SPARKMAN: 796.

19 MR. DUTKO: The answer to those questions too,
20 is contained in the global profile sheets that are
21 included as attachments to the joint stipulation.

22 MR. LASKOWSKI: If you're certified as a police
23 officer, I assume you can come here where you can
24 take a cross class, you actually had to attend the
25 full academy. The corrections academy you didn't get

1 credit for it in the academy.

2 OFFICER SPARKMAN: That was not for everybody in
3 corrections. At the time I was hired, that was Chief
4 Witts' rule. So I know that myself, Mike McKinney,
5 Luis Ortiz, or others all had to go back.

6 MR. LASKOWSKI: But there was potentially --

7 OFFICER SPARKMAN: Other people that came after
8 us, I believe Dana Doklean and John Kidd and some
9 other people, they went to the cross certification
10 academy because the chief changed.

11 MR. LASKOWSKI: That's all only questions.

12 MR. DUTKO: If I could give a little more
13 insight in answer to that question. Both the
14 corrections academy and the police academy are
15 certifications for purposes of the relevant Florida
16 Statute. They're both included within that in terms
17 of eligibility to be a law enforcement officer. So I
18 don't think any distinctions should really make a
19 difference in terms of what this Board's ultimate
20 decision is.

21 MR. STRAUSS: Steve, a few questions, so just
22 for everyone, Dave sent the minutes out but when
23 Steve came in April of 2019, he stated his case.
24 Everyone I would say was in agreement because of what
25 you said. And then two months later when

1 Mr. Klausner came back with these three cases, he
2 didn't leave us an opening and that's basically why
3 we're here today.

4 So are you looking at being in our fund totally
5 and getting out of that fund - or like Cindy Camella
6 and other people, did you want to get your 22 and 80
7 here and then continue? Because what happens if the
8 City doesn't want to transfer their money or they
9 don't agree because they're a different pension
10 board, and they keep paying you and now you six are
11 getting more than every other police officer because
12 you're getting your two and a half or your one year
13 there and your full 22 here.

14 OFFICER SPARKMAN: From the consensus of
15 everybody that's part of our suit, we want our money
16 out of the civilian and in the police pension. When
17 I had my meeting with one of the pension
18 administrators at the City, she basically told me
19 they didn't want our money, they wanted us to be in
20 the police pensions. I mean, while I was sitting
21 with her.

22 But yes, our group would like to be strictly in
23 the police and just have to deal with the police
24 pension.

25 MR. STRAUSS: Right. And we never got to that

1 point.

2 MR. DARAGJATI: Can you make that representation
3 on behalf of all six of the applicants that he just
4 made, because I'm not sure if legally he can make
5 that representation for all of them.

6 MR. DUTKO: I can't, but we'd be happy to get
7 the answer to that question and supplement the record
8 here so that you do have the answer on behalf of all
9 six.

10 MR. STRAUSS: By May? We can probably have it
11 in about 15.

12 MR. DUTKO: So the Board is aware, I think there
13 was talk about this, but the intention is that there
14 will be no final decision today, that the parties
15 prepare written submissions, written closing
16 submissions that will be submitted to you that will
17 contain arguments, and we're happy to supplement the
18 record through that process so you'll have the
19 documentation well in advance of any decision that
20 you make.

21 MR. STRAUSS: Right. Because we never -- in
22 the June meeting we never got to the point of
23 discussing any of those things because of the way our
24 lawyers, you know, came back with these three cases.
25 So if it's proved today to be the other way, in my

1 opinion in May, you know, it should be if the City
2 doesn't want to transfer the money, then if it
3 continually comes to you, that part of this suit will
4 be that you would be transferring it into the
5 pension, you know, to make it all even.

6 But that might be out of our hands even after we
7 make this decision. And it's happened with other
8 people that had GE and police time for different
9 reasons other than this.

10 OFFICER SPARKMAN: I understand we can kind just
11 of cross one bridge when we get there.

12 MR. KAUFMAN: So the trustees know, I have
13 discussed with Counsel just prior to the hearing that
14 in lieu of making the final decision today, that they
15 would submit proposed orders for you to consider both
16 of them and then we would make a final decision at
17 the May meeting in that, you know, I had asked the
18 parties in the pre-hearing order to submit their case
19 law that they relied on and any statutes and you were
20 just hit with the affidavits today as well.

21 I would like you to have the opportunity to
22 fully review them prior to making a final decision.
23 So I would ask for, yes, post hearing submissions in
24 the form of a post order, which includes findings of
25 facts, and conclusions of law. And at the next

1 meeting we would adopt one of those proposed orders.

2 MR. STRAUSS: At the May meeting?

3 MR. KAUFMAN: Yes.

4 MR. STRAUSS: Not the next one.

5 MR. KAUFMAN: Correct

6 MR. STRAUSS: Thanks. Just some questions I
7 had, wondering about the statute of limitations and
8 what your position is as to whether or not the
9 statute of limitations applies in that the request
10 for A classification wasn't made until 14 years after
11 they became police officers in the plan. When I took
12 a look at it, I looked at the statute of limitations
13 for a five year period of breach of contract.

14 There's case law out there in Florida that says that
15 a pension benefit is considered a contract. So, you
16 know, I would find -- or I would think that the five
17 year statute of limitations applies. But I would ask
18 Mr. Dutko what his position is with regard to that.

19 MR. DUTKO: Statute of limitations applies to a
20 court case. That's not what we're in right now. We
21 are before the City of Hollywood Police Pension Board
22 and it's well within your authority to grant our
23 request. There was some talk in the case of -- is it
24 the Musial case? In the case of Miami versus Musial,
25 which we discussed before, of an issue, it's a

1 technical legal issue, but it's called the Doctrine
2 of Laches.

3 Essentially in that case the Court found that
4 the petitioner had waited too long to bring his
5 request for reclassification and therefore, a
6 doctrine, a legal doctrine called Laches applied,
7 which is essentially, there was undo delay and
8 because of that, in equity, the petitioner should not
9 be allowed to get the relief they're seeking.

10 First off, I'd say the Doctrine of Laches does
11 not apply for a quasi judicial board, it doesn't
12 apply to the Police Pension Board that is sitting
13 here today. And on top of that, the Doctrine of
14 Laches is an equitable defense. That means it's a
15 defense in fairness; it would be unfair to do
16 something otherwise.

17 I think that when all the facts are considered
18 here, you really come to the other conclusion which
19 is, it would be unfair to try to use a legal
20 technicality that doesn't apply to this Board and
21 doesn't bar our ability to bring this request for
22 reclassification. It would be inherently unfair to
23 use that inapplicable legal doctrine to deny this
24 request.

25 That's why I said, you know, these cases to the

1 extent they apply at all, which I think because of
2 that issue is a reason that the Musial case is not
3 controlling authority on this Board. But to the
4 extent that they apply at all, they really support
5 our conclusion here, our request, which is my clients
6 were police officers. The City had classifications
7 within what it generally describes as police officers
8 and correction officer, detention officer is one of
9 them. We're not making any challenge to that
10 classification. The issue is the folks under that
11 classification are still police officers.

12 And then finally, there is no bar to our
13 bringing this request because the equitable doctrines
14 that we talked about, one, don't apply; and two,
15 shouldn't apply because it would be unfair. It would
16 not be equitable to deny our request on those
17 grounds.

18 MR. MARANO: I have one more, because I do
19 believe they were in the collective bargaining
20 agreement at some point in time, and historically
21 speaking, the general police union was very
22 apprehensive about releasing any kind of members from
23 their unit to go anywhere else. So I'm wondering if
24 there was an order by PERC or a decision by PERC that
25 allowed them to leave and come under the

1 representation of the Broward PBA. I don't know if
2 that PERC ever issued an order, but there may be,
3 somebody can verify it.

4 MR. DUTKO: Sure. And I don't know the answer
5 to that question. What I'd say is, as your Counsel
6 has informed you, you're under no obligation to make
7 a decision today. In fact, it's the intention that
8 you don't.

9 But should there be additional information that
10 would be helpful to you in considering this request,
11 there's nothing that prevents us - if you allow us,
12 there's nothing that prevents us from supplementing
13 the record or presenting additional testimony or
14 additional information to you at a later time that
15 could answer those questions. So I'm happy to get
16 the information for you and follow up on that. And
17 we can submit it to the Board for your consideration.

18 MR. MARANO: Thank you

19 MR. SCHWEIGHARDT: Were they ever allowed to
20 work as a patrol officer in that capacity at any
21 point during the time of their employment as a
22 corrections officer?

23 OFFICER SPARKMAN: No.

24 MR. SCHWEIGHARDT: And then directly
25 participating operations as an officer with other

1 police officers and arresting and transporting
2 arrestees, what was that?

3 OFFICER SPARKMAN: That was when we used to have
4 the four street crime squads and we would be assigned
5 to street crimes. And we'd go out, and if they were
6 doing stings, operations, whatever, we would go out
7 with street crimes and either be in marked police
8 vehicles or in a van, if we had one that worked, and
9 we would do the take-downs and things along those
10 lines for street crimes.

11 MR. STRAUSS: Any other questions?

12 MR. KAUFMAN: Tacking onto that, I read that
13 a -- if a police officer could work as a corrections
14 officer, but a corrections officer could not work as
15 a police officer; is that correct?

16 OFFICER SPARKMAN: We were never asked to go out
17 and be police officers. If we were not -- if we were
18 shorthanded, oftentimes a police officer would come
19 and be assigned to the jail.

20 MR. STRAUSS: By policy?

21 OFFICER SPARKMAN: Correct.

22 MR. KAUFMAN: It was a different pay level also.
23 When you became a police officer, you received an
24 increase in salary.

25 OFFICER SPARKMAN: Yes, it was two different pay

1 levels for me.

2 MR. KAUFMAN: And lastly, so we're clear, there
3 are two separate certifications, you were never
4 certified as a police officer for the period of time
5 that you --

6 OFFICER SPARKMAN: No, I was a certified
7 corrections officer when I worked in the detention
8 center.

9 MR. KAUFMAN: We can turn to the floor over to
10 you, Mr. Daragjati. Do you have any questions?

11 MR. DARAGJATI: Since this individual gave
12 testimony, do I get cross-examination?

13 MR. KAUFMAN: Sure.

14 MR. DARAGJATI: Mr. Sparkman, or Officer
15 Sparkman, I apologize. You testified earlier that
16 you served warrants at the jail. To be clear, these
17 were warrants and capiases equally; correct?

18 OFFICER SPARKMAN: Yes.

19 MR. DARAGJATI: And those are basically probable
20 cause affidavit or probable cause has been found and
21 established by an independent magistrate; correct?

22 OFFICER SPARKMAN: That's correct.

23 MR. DARAGJATI: And to be clear, you've never
24 been assigned as a solo or you were never assigned as
25 a solo police officer to go out and enforce traffic

1 or any type of law of the State of Florida during
2 your time as a correctional officer; correct?

3 OFFICER SPARKMAN: Traffic law, no, I did not do
4 traffic.

5 MR. DARAGJATI: And whenever you made what you
6 would -- what you were calling in your affidavit, an
7 arrest, it was always in support of a police
8 operation; correct?

9 OFFICER SPARKMAN: No, not always. Sometimes if
10 it was a battery on one of our correction officers,
11 we would do a probable cause. If we found contraband
12 after that person left, we would do a probable cause,
13 it would go up on our own, that would go up to the
14 County. So those were not already designated.

15 MR. DARAGJATI: I don't dispute that. I guess
16 my -- maybe I didn't articulate my question
17 correctly. Were you ever assigned to a solo patrol
18 unit or to any type of unit where you would go out on
19 your own, make felony arrests or even misdemeanor
20 arrests, did you ever answer a domestic violence
21 call, were you ever designated to write a (inaudible)
22 for lack of a better term while you were a
23 correctional officer?

24 OFFICER SPARKMAN: No, I was never assigned a
25 zone. I did respond to calls when we would be out

1 assisting the street crimes unit if an officer got on
2 the radio and requested a backup. And if I was in
3 the area, I would back that officer up. I did it
4 several times at Memorial Hospital when we would be
5 transporting a, you know, we have off duty details,
6 there was an officer assigned at Memorial that was
7 involved in an issue and I responded as his backup
8 officer.

9 MR. DARAGJATI: And you would -- that officer
10 would make an arrest and you would transport that
11 individual back to the station?

12 OFFICER SPARKMAN: In that instance, the subject
13 was already under arrest, he was being medically
14 cleared, and I guess started assaulting staff and the
15 officer and that's when I responded.

16 MR. DARAGJATI: I have no other questions.

17 MR. KAUFMAN: Anybody else have any questions?
18 If not, we can turn the floor over to Mr. Daragjati
19 to make his presentation.

20 MR. DARAGJATI: To the Chair, I want to first
21 thank everyone for giving me this opportunity to
22 speak with you. Let me start by saying I represent
23 police officers and correctional officers throughout
24 the State of Florida. And I'll be the first to tell
25 you if someone is owed something for doing this job,

1 they should get it, without a doubt.

2 However, in the same way that each of you is
3 constricted by criminal laws and how you can conduct
4 yourself as police officers, we are constricted by
5 laws of the State of Florida and how you grant
6 benefits. The state of the law in Florida is that if
7 there is a question as to whether or not to grant a
8 benefit to an individual, you err on the side of
9 granting the benefit. That's the state of the law.

10 However, this is a big however, in this case
11 what the applicants are doing is coming to you and
12 asking you to construe your local ordinance and
13 Chapter 185 in granting the benefit. They're asking
14 you to make a construction to interpret that statute
15 in your ordinance. I don't think there's any dispute
16 that one must be a police officer to be part of this
17 plan. It's required under Florida Statute 185.02.

18 The definition of a police officer is
19 essentially the same in your local plan ordinance and
20 the state statute. The definition over the years has
21 changed quite a bit. I left a document on your
22 desks, and what this is is the actual amendment in
23 1986 to the definition of police officer. At the
24 time, before 1986, the definition of police officer
25 was pretty fluid. It basically was a full-time

1 police officer will receive compensation from
2 municipal funds of any incorporated municipality in
3 the State of Florida for services rendered. That was
4 it.

5 So, it makes sense that the Court in Headley
6 listened to what the description of what a
7 correctional officer at the time essentially was
8 doing and made a judgment call as to whether or not
9 they were in support of police officers.

10 However, in 1986, the Florida legislature made a
11 judgment call and they changed the definition of
12 police officer, and they made it into basically what
13 it is today. "A person who is elected, appointed or
14 employed full-time by any municipality who is
15 certified or required to be certified as a law
16 enforcement officer in compliance with the Florida
17 Statute 943.14". That specific subsection was
18 changed in '92 to reflect the change in just
19 basically placement of definitions within 943, but
20 it's essentially the same.

21 So what does that mean for your purposes? In
22 construing a statute, the courts have been clear that
23 when construing a state statute or municipal
24 ordinance, the rules of construction are the same.
25 And the primary rule of construction in construing a

1 statute and interpreting a statute is when the
2 language of the statute and clear and unambiguous and
3 conveys a clear and definite meaning, the statute
4 must be given its plain and obvious meaning.

5 And that came straight out of the case by the
6 name of Salinas vs. Ramsey by the Florida Supreme
7 Court. And just for the record, that site is 234
8 So.3d 569. And basically what that means is that if
9 the statute is plain and unambiguous, there is no
10 more need to do any interpretation. This statute -
11 the statute that this plan works under says you have
12 to be certified as a law enforcement officer under
13 943.

14 There is no dispute that at the time that these
15 individuals were working as correctional officers for
16 the City of Hollywood, they were not certified as law
17 enforcement officers.

18 There are two separate certifications; one for
19 correctional officers, one for law enforcement
20 officers. The people in the State of Florida through
21 the legislature have made a judgement call that they
22 are going to exercise two different levels of
23 certification and qualification to do these jobs.

24 As you heard before, there's not as much
25 training that is required to become a certified

1 correctional officer. All of the high liability
2 stuff is the same. All of the -- some of the legal
3 stuff is the same. However, there is a lot more
4 training that's involved in being a police officer
5 and all of you know this because you do the job, than
6 being a correctional officer, and that's really
7 important.

8 And circling back to the cases we talked about
9 earlier, all of these cases were argued and decided
10 prior to 1986. In Headley, the Third District Court
11 of Appeals made a decision, and they basically
12 decided that there - and I'm quoting from the case -
13 "There is no question that these services -- and what
14 they're talking about is the services that were
15 provided as correctional officers taking care of the
16 local jail in Miami. "These services rendered by the
17 appellees can be classified as a police function in
18 that they keep the public peace, they conserve both
19 life and property and that their activities are vital
20 to the public welfare of this State".

21 Again, that language that the Court made, that
22 decision under the old iteration of the Statute prior
23 to the legislature changing the Statute in 1986.

24 The Third District Court of Appeal made a
25 judgment call based upon what they saw as the

1 function of a correctional officer at the time.
2 Later, the same Court, as Mr. Dutko explained, had
3 reason to revisit that case. And the second case
4 basically what the correctional officers were doing
5 is they were asking the Court to interpret the civil
6 service rules of the City of Miami and make a
7 determination that they should get the same pay as
8 police officers. And basically the Court said, you
9 can't rely on that Headley decision because this is
10 strictly about civil service rules and whether or not
11 the City has the authority under Florida law to
12 create civil service rules and make distinctions and
13 create classifications; and they said yes, they can
14 do it, and reversed the lower court opinion, actually
15 providing a higher rate of pay for these correctional
16 officers.

17 And then Musial, basically the same thing except
18 in this case it was folks that work in the ID
19 division were trying to get into the police pension
20 plan. The Court said under the rules of the civil
21 service system of the City of Miami at the time, they
22 had the authority to make that judgment call and they
23 can say no.

24 I think what's really important with these three
25 cases is that as you see the progression from the

1 first case in 1962, the Court made a decision based
2 upon this ambiguous definition of police officer in
3 the Statute. Whereas by 1974, they were burrowing
4 down on what the definition of a police officer is
5 because the City of Miami Civil Service System
6 actually provided a pretty distinctive definition.

7 In the same vein, in 1986 the Florida
8 legislature changed the definition of a police
9 officer. They basically said you have to be
10 certified by CJCC to be considered a police officer
11 in the State of Florida.

12 I don't doubt that these officers, the
13 applicants, they engage in some of the functions of a
14 police officer in a support role. If you look at the
15 affidavits and the testimony you heard, they provide
16 a valuable service to the police department at the
17 time and to the City of Hollywood. However, they
18 weren't out patrolling on their own, they weren't
19 assigned a zone, they didn't go through the extra
20 almost 300 hours of training required just at the
21 academy to engage in that function. There's no
22 testimony by -- they didn't go through FDO training
23 prior to being assigned to assist in these operations
24 that they did.

25 There is a difference between correctional

1 officer and police officer. There is a difference,
2 and it's recognized under statute. It's recognized
3 under the CJSTC rules and regulations. And it's
4 recognized in Chapter 185.02.

5 If the legislature wanted to allow correctional
6 officers to be part of a police pension plan, they
7 would have said that in the legislation. They would
8 have included that provision of 943 in there to say
9 they can be part of it. It's a judgment call by the
10 legislature. And because it's so clear-cut, this
11 body would be engaging in error if they decided to
12 look at what they did -- what specific job functions
13 they had at the time and basically substitute that
14 and substitute your discretion for what's clearly in
15 the Statute.

16 The Statute doesn't give really any room to
17 breathe here. It designates whether or not you are
18 certified as a law enforcement officer.

19 If you look at the factual stipulations, it's
20 clear they were not certified as law enforcement
21 officers. Again, I commend them for their services
22 to the citizens of Hollywood.

23 However, unfortunately, we all have to work
24 within these structures, we all have to work within
25 the confines of the law. We don't have the

1 discretion here to say even though they may not have
2 been certified as law enforcement officers, they kind
3 of did the job some of the time, so let's let them
4 in. You would be violating the provisions of
5 185.02 in my opinion if this Board did make that
6 decision.

7 One thing I do want to address that Mr. Dutko
8 brought up was the issue of definition of
9 correctional officer. Correctional officer is
10 charged with the care, custody and control of inmates
11 in a correctional institution. He's right. Section
12 943 doesn't define what a correctional institution
13 is. When I draft my proposed order, I'll respond to
14 it, but there are cases under the criminal law that
15 deal with battery on a law enforcement officer. In
16 those cases they do define what a correctional
17 institution is, and it's a pretty broad definition.
18 Basically anywhere where an inmate is temporarily
19 housed and assaults someone inside there, they can be
20 charged with battery in a detention facility. And
21 again, I don't have any law to pass out right now to
22 prove that up, but I'll put it into my proposed
23 brief.

24 Circling back, as I stated before and I won't
25 belabor the point, but under the rules of

1 construction, if there is no ambiguous -- ambiguity
2 in the statute, construction of the statute,
3 interpretation of the statute stops right there.
4 It's done. There's no need for you to go any
5 further.

6 That's all I have. I'll answer questions if
7 anyone has any.

8 MR. STRAUSS: You're saying that in the one
9 highlighted 185.02, when you say the Board is going
10 to violate 185, you're mostly talking about
11 Subsection 16, police officer, which we have that
12 same definition in our plan under 33.126?

13 MR. DARAGJATI: Yes, sir. I would submit -- I
14 would argue to the Board that if you departed from --
15 if you construed 185.02, Subsection 16 to include
16 time as a correctional officer without being
17 certified as a police officer, it would run contrary
18 to not only the spirit of the statute, but the actual
19 language of the statute.

20 MR. STRAUSS: And then that same definition is
21 in our ordinance because we copied it?

22 MR. DARAGJATI: Yes, sir.

23 MR. MARANO: Paul, do we know what the
24 legislative intent was for the clarification in 1986,
25 or is that even possibly getting out --

1 MR. DARAGJATI: I -- I looked hard trying to
2 find some -- same analysis or anything, but I
3 couldn't find anything.

4 MR. MARANO: Did anybody ever try and get an
5 opinion from the division on what we're trying to do
6 here, what's before us?

7 MR. DARAGJATI: I'm not familiar with one. The
8 only opinion that I found even close to anything like
9 this was actually an attorney general opinion. And
10 this came up a few years ago when a lot of the
11 departments were moving towards granting more and
12 more job duties to the - they're called different
13 things in different places - community service
14 officers basically, the guys that are unsworn
15 officers that handle traffic crashes and stuff. I'm
16 not sure if you guys have them here in Hollywood.

17 But there were certain departments that were
18 pushing more and more duties to them. And the
19 Commissioner of FDLE asked for an opinion by the AG
20 as to whether or not -- at what point do they have to
21 be certified. And the AG rendered an opinion that
22 you don't go by what their title is, you go by what
23 their job duties are. And if their job duties fall
24 under the definition of a police officer in 943, then
25 they have to be certified. And I say that because

1 even in that realm, you can't conduct the work
2 without being certified. It's vitally important.

3 MR. MARANO: And are there cases where boards
4 have -- I don't want to say deviated, but interpreted
5 on their own, say something of this nature and the
6 division took exception to it?

7 MR. DARAGJATI: I think probably your Counsel
8 would be better to answer that than I would. I know
9 when I did pension work exclusively, there were cases
10 where boards have denied correctional officer time
11 when those guys -- it wasn't the same factual
12 scenarios as we have here, those were times when they
13 were working in actual full (inaudible) correctional
14 facilities for the state, and they denied that time.
15 They've approved time and buying police time when
16 they were actually working in different parts of the
17 country.

18 I'm familiar with one case where they ruled time
19 as a police officer in another country, in Jamaica.
20 But you can kind of line up that the job description
21 that they had fit the job description under 943. And
22 here, I just don't think it fits.

23 MR. MARANO: Okay.

24 MR. KAUFMAN: I mean, it's a little bit
25 different in those cases where it was denied because

1 in those instances they were working for a
2 correctional facility other than the same
3 municipality. Here we're dealing with a case where
4 corrections time is actually under the municipality
5 of the City of Hollywood.

6 You could certainly -- you could task me with
7 seeing if --

8 THE COURT REPORTER: I'm sorry.

9 MR. KAUFMAN: -- division had an opinion on it, I
10 don't know whether they would or not. If it's found
11 that you have violated 185 by allowing them service,
12 you could take the position that they were going to
13 withhold their premiums and lose all your money,
14 (inaudible) but that's way far off in the future.

15 MR. MARANO: The situations in the past where we
16 haven't complied or the City didn't comply, I mean it
17 was years that it was held. I mean we just went
18 through that.

19 MR. KAUFMAN: I think they withheld our chapter
20 monies for years, the City was contributing with that
21 supplement, yeah.

22 MR. STRAUSS: Paul, do you know -- so I know
23 there's what Sergio Lopez is in it, but would this go
24 for people that aren't part of this group? And would
25 this -- second part of my question was, does this

1 also go to people that were just detention officers
2 and never became police officers that have the GE
3 pension that currently aren't with these people - if
4 they would all come to the Board in the future? So
5 both of those things.

6 MR. DARAGJATI: I would submit to the Board that
7 whatever decision this Board makes on this group
8 would be res judicata towards -- would be already
9 decided for anyone else similarly situated to these
10 guys.

11 I don't know if these six are the only ones in
12 this universe, there could be more, I don't know the
13 answer to that. But if there are, whatever the Board
14 decides here applies to those guys as well.

15 MR. STRAUSS: Any other questions for them?

16 MR. KAUFMAN: I have nothing further.

17 Perhaps you could turn the floor back to
18 Mr. Dutko for rebuttal arguments from them.

19 MR. DUTKO: Sure. And I'll be brief. I don't
20 want to take up more time than is necessary.

21 Counsel talked about the difference between
22 definitions in Florida Chapter 185, Florida Statute
23 Chapter 185, between a correctional officer and a
24 police officer. We don't deny that. I don't deny
25 that there's a difference. I don't deny that a

1 correctional officer as that word is defined in the
2 Florida Statutes is different than a police officer.

3 Our point is that the applicants here are not
4 and were not ever correctional officers as that word
5 is defined by Chapter 185. They don't fit the
6 definition. Therefore, they were not correctional
7 officers. They more rightfully fit the definition of
8 police officer or law enforcement officer.

9 So I'm not asking you to willfully violate
10 Chapter 185. What I'm saying is our request is
11 consistent with 185. I should point out that at no
12 point in their job descriptions or in their job
13 titles were the applicants given any title of
14 correctional officer. It's semantics, I know, but
15 words are important, they were corrections officers
16 or detentions officers. They were never a
17 correctional officer as that word is used and defined
18 if Florida statutes.

19 Regarding the legislative intent - I know there
20 was a question about the change back in 1986 - I'm
21 not -- we're happy to look into that, too if there's
22 any additional legislature intent that we're able to
23 identify, we're happy to submit to you.

24 And I'd just say regarding your last question
25 regarding the application of your decision here on

1 others who may come in. The important part about
2 what Mr. Daragjati said was "similarly situated
3 individuals", right. In order for there to even
4 arguably be some sort of res judicata effect based on
5 this decision, you're going to need folks that have
6 the same sort of factual background as the applicants
7 here. And in that instance they should be qualified
8 as police officers, they should be categorized as
9 police officers.

10 So don't take that as, you know, any decision
11 you make automatically applies to all these other
12 folks who served in these different roles. And the
13 cases that were cited to the extent they have any
14 applicability whatsoever, clearly show that, you
15 know, the City is able to come up with different
16 roles or different functions or different
17 classifications.

18 What was the second case? The Rumpf case, the
19 City of Miami versus Rumpf case, that dealt with
20 differences in pay and there could be differences in
21 pay based on different classifications. Of course
22 that's true. We're not saying that, you know, folks
23 who were previously considered corrections officers
24 should have been paid the same as somebody who had a
25 different technical job title in the City of

1 Hollywood.

2 The issue is very simply that under the
3 definitions of Florida State statutes and what the
4 City of Hollywood Board of Commissioners has decided
5 applies through its Code, my clients were police
6 officers and they should be credited as such for
7 pension purposes.

8 MR. STRAUSS: For the 185.02, which Jeff just
9 asked, are you going to follow up? I don't know if
10 we could have an answer by May 28th?

11 MR. KAUFMAN: I'm sure we can.

12 Is that it, Mr. Dutko?

13 MR. DUTKO: Yes.

14 MR. KAUFMAN: Very good. So I suggest as
15 follows, that the parties submit proposed orders by
16 May 14th, which is a Friday. Next meeting, I
17 believe, is going to be May 21st. So we could
18 deliberate and make a final decision at the May 21st
19 meeting with you having the benefit of having the
20 written argument of both parties in hand a week
21 before the meeting.

22 Read it, think about what your decision is going
23 to be. Think about reasons why that's an important
24 decision you are going to make because it's always
25 helpful, should this be an appealed, that the Court

1 knows where the trustees are coming from in making
2 their decision.

3 I'll tell you that we're guided by the burden of
4 proof in this case would be a preponderance of the
5 evidence. So you have to find that Mr. Dutko proved
6 entitlement to his claim and more than 50 percent of
7 the evidence weighs in his favor. Other than that,
8 unless there are any other questions for myself or
9 both Counsel, I would like to commend Counsel for the
10 argument they made this afternoon. It was very well
11 presented on behalf of their client and behalf of the
12 Board.

13 Thank you for the time and effort. I know the
14 trustees appreciate that. And thank you to the
15 trustees for taking the time to hear this today.
16 These are some of the most difficult decisions that
17 you have to make whenever you have an administrative
18 hearing be it a disability of a claim for benefits or
19 a forfeiture, because you're deciding whether a
20 fellow officer is entitled to something from the
21 pension fund.

22 So it's always difficult. But I think that
23 after you read the proposed orders, you'll have a
24 better understanding of how the law has progressed
25 over the years and be able to come to a conclusion at

1 the board meeting on May 21st.

2 MR. MARANO: When and if the time comes, will
3 we deliberate like in the shade session?

4 MR. KAUFMAN: You have to deliberate in the
5 Sunshine, so it will all be out in the open. The
6 only time it can go into executive session is if
7 there is a lawsuit pending and you want to discuss
8 strategy or settlements.

9 MR. DARAGJATI: Question. As far as the format
10 of the proposed order, any specific requests
11 regarding format, font, size, anything of that
12 nature?

13 MR. KAUFMAN: It's up to you. I'm liberal. I
14 don't have any -- doesn't matter as to page
15 limitations or font size or anything. I just think
16 it should be a proposed letter with statement of the
17 facts and then conclusions of law.

18 MR. STRAUSS: Anybody have anything else?
19 Meeting adjourned.

20 MR. KAUFMAN: Very good. That will conclude the
21 hearing this afternoon.

22 (Whereupon, the hearing was concluded at
23 2:10 p.m.)

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STATE OF FLORIDA)
COUNTY OF BROWARD)

I, TERRI L. WRIGHT, Notary Public in and for the State of Florida at Large, certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 21st day of May, 2021.

Terri L. Wright
Terri L. Wright



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