



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 8

MEETING DATE: April 21, 2021

SUBJECT: Felony Forfeiture Review – Shauna Bishop

SUBMITTED FOR: Consent Deliberation and Action Receive and File

RECOMMENDATION

Staff recommends the Board not exercise or enforce the felony forfeiture statutes against Shauna Bishop's retirement benefits.

BACKGROUND

Shauna Bishop (hereinafter "Member") is a 46-year-old former Deputy Sheriff, who previously worked for the Sheriff's Department and accrued 5+ years of service in Safety Tier 4 in the Sacramento County Employees' Retirement System (SCERS). Member began her employment with the Sheriff's Department as a temporary Deputy Sheriff in June 2014, became a permanent Deputy Sheriff in October 2014, and terminated her employment in August 2019.

In reviewing this matter, Staff followed the due process procedures outlined in the SCERS Felony Forfeiture Policy (Policy). The Policy directs Staff to conduct an investigation and analysis concerning whether a SCERS member has been convicted of a felony arising out of or in the performance of the member's official job, then present a recommendation concerning forfeiture to the Board of Retirement at its monthly meeting. Staff reviewed various records and reports including the Warrant Request Form from the Sacramento District Attorney's Office; a Crime Report and Investigation Narrative from the Folsom Police Department; a Report of the Probation Officer; the Minute Order and Order of Probation; and the felony complaint submitted in *The People of the State of California, Plaintiff vs. Shauna Maloy Bishop, Defendant*, Sacramento Superior Court Case No. 19FE010472.

SCERS also requested Nossaman LLP perform an analysis regarding Member's felony conviction to determine whether the conviction was work-related and fell within the scope of the felony forfeiture statutes set forth in Government Code sections 7522.72 or 7522.74. Member was provided the required notice under the Policy that this recommendation will be presented to the Board.

SUMMARY FACTUAL BACKGROUND

Member was in a relationship with a colleague in the Sheriff's Department and during this time Member assisted with co-parenting her boyfriend's two children. The relationship ended after approximately 18 months and Member subsequently became close friends with her boyfriend's ex-wife and maintained a close relationship with the two children.

Member's friendship with the ex-wife continued for about a year. During this time it was alleged that Member had a sexual encounter with the younger child, who was 16 at the time. The police were subsequently contacted and an investigation was launched.

Member was arrested in June 2019 and was charged with five criminal counts. In July 2020, Member pled guilty to unlawful sexual intercourse with a minor in violation of Penal Code section 261.5(c). She was sentenced in September 2020.

LEGAL FRAMEWORK

The felony forfeiture statutes are set forth in Government Code sections 7522.72 and 7522.74. Section 7522.72 applies to public employees first employed before January 1, 2013, while section 7522.74 applies to public employees first employed after January 1, 2013.

Because Member began her employment in 2014, section 7522.74 applies. As relevant here, subdivision (b) of that section provides in part:

(1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct **arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits**, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that **was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties**, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(Gov. Code § 7522.74, subd. (b) [emphasis added].)

ANALYSIS

To fall within the scope of Government Code section 7522.74, subdivision (b)(1), a public employee must be convicted of a felony for conduct either (i) arising out of or in the performance of his or her official duties; (ii) in pursuit of the office or appointment; or, (iii) in connection with

obtaining salary, disability retirement, service retirement, or other benefits. (See Gov. Code § 7522.74, subd. (b)(1).)

No evidence was discovered indicating that Member's contact with the victim arose out of or in connection with the performance of her job duties. Further, Member's felony conviction bears no connection to her pursuit of an office or appointment with the County, nor in connection with obtaining any County benefits. Accordingly, there appears to be no factual basis upon which to conclude that Ms. Bishop's felony conviction falls within the scope of subdivision (b)(1) of Government Code section 7522.74.

To fall within the scope of Government Code section 7522.74, subdivision (b)(2), a public employee must (i) have contact with children as part of his or her official duties; and (ii) commit a felony within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties. (See Gov. Code § 7522.74, subd. (b)(2).)

There is no evidence that Member had contact with the victim as part of her official duties as a deputy or that she committed a felony within the scope of her official duties. Accordingly, there appears to be no factual basis upon which to conclude that Member's felony conviction falls within the scope of subdivision (b)(2) of Government Code section 7522.74.

CONCLUSION

Based on the factual information contained in the investigatory and court records obtained relating to Member's felony conviction, Member's conviction does not fall within the scope of the felony forfeiture statutes set forth in Government Code sections 7522.72 and 7522.74.

Staff contacted the Sheriff's Department regarding SCERS' recommended decision in this matter to provide the department an opportunity to object to or provide any information contrary to the findings and conclusion. The Sheriff's Department did not provide any objections and confirmed that it did not have any information contrary to SCERS' findings and conclusion.

Prepared by:

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