

## HOLLYWOOD POLICE OFFICERS' RETIREMENT SYSTEM

### FINAL ADMINISTRATIVE ORDER DENYING RE-CLASSIFICATION OF CREDITED SERVICE

THIS CAUSE came before the Board, on proper notice, on June 28, 2019 on the request of Steven Sparkman and others similarly situated (the applicants)<sup>1</sup> to reclassify time served as a city of Hollywood corrections officer from the General Employee Retirement System to the City of Hollywood Police Retirement System credit. For the reasons which follow, that request is denied.

The applicants all were originally hired as corrections officers for the City of Hollywood Police Department. They were all certified as corrections officers pursuant to Chapter 943, Fla. Stat. Their assigned duties were primarily custody and transportation of inmates in the City jail. The applicants did have the authority to wear a firearm and did have authority to apprehend any escaped prisoner.

Following a period of service in the City jail, the applicants returned to the police academy and received certification as a law enforcement officer. Following this certification, the applicants were hired as police officers and enrolled in this Plan.

The terms of the Plan and the Section 185.02 limit membership in this Plan to "police officers." See, 185.02(16), Fla. Stat. and 33.126, Hollywood City Code.

The term "police officer" was essentially unchanged between the original adoption of Chapter 185 in 1953 and the addition of the certification requirement in 1991. See Chapter 91-45, Laws of Florida 1991. This addition is significant.

In *Headley v. Sharpe*, 138 So. 2d 536 (Fla. 3d DCA 1962), the Third District Court of Appeal found that the job description for corrections personnel in the city of Miami Police Department met the then applicable definition of police officer for pension purposes. That changed however, in 1970 when the same court determined that differing job descriptions within the police department led to approval of different pay classifications for persons in the police department corrections division, even though the corrections personnel were classified as police officers. See, *City of Miami v. Rumpf*, 235 So. 2d 341 (Fla. 3d DCA 1970). This evolutionary process ended with *City of Miami v. Musial*, 291 So. 2d 77 (Fla. 3d DCA 1974) when the same court denied a transfer from the City's General Employee Retirement plan to the fire and police plan because of the different training for persons in records and identification from those who were police officers, even though the employees all had a police classification. Significantly, the court also noted that a multi-year delay in requesting reclassification constituted a waiver of any potential misclassification.

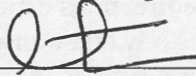
---

<sup>1</sup> The applicants are Steven Sparkman, Michael McKinney, Luis Ortiz, James Barnick, Arnold Campbell, Sergio Lopez, Daniel Casey, John Kidd, Arnold Campbell, Jeff Mathis and Dana Doklean.

The applicants have all been police officers for some years. Had they been corrections officers in 1962, the *Headley v. Sharpe* precedent would have applied. However, the passage of time since the applicants were classified from corrections to police and the development of separate certification pathways for corrections and police in Florida support the conclusion that the applicants request must be denied. While the Board values their service as corrections officers, the language of 185.02 and 33.126 control.

Accordingly, the applicants request for reclassification of their corrections service be and the same is hereby denied.

Done at Hollywood, Broward County, Florida, this 28 day of June, 2019.



Chairman

#### NOTICE OF APPELLATE RIGHTS

This is a final administrative order denying your request for reclassification of service. You have a right to seek review in the Circuit Court of the 17th Judicial Circuit of Florida by filing a petition for certiorari with the clerk of the Circuit Court within 30 days of the date this order is filed with the Administrator/Clerk of the Board in the manner prescribed in Rule 9.100, Florida Rules of Appellate Procedure. Failure to seek review within the time prescribed by law will make this order final. In any judicial proceeding, the unsuccessful party is required to pay the attorneys' fees of the prevailing party.

FILED WITH THE ADMINISTRATOR/CLERK OF THE BOARD THIS 28 DAY OF JUNE, 2019.