

SUPREME COURT OF THE UNITED STATES

No. 21-126

PETITION FOR REHEARING

RE: Lucio A. Barroga v. Board of Administration,
California Public Employees' Retirement System, PERS

A letter dated October 12, 2021 from Scott S. Harris, Clerk informed that my petition for writ of certiorari was denied on that date.

**GROUND FOR PETITION FOR REHEARING: UNCONSTITUTIONAL COURTS ACTIONS
OR INACTIONS**

The courts' refusal or denial to interpret the issues of laws regarding defendant CalPERS depriving me benefits derived from the employer's contributions to the retirement fund on my behalf, is unconstitutional.

a) Fifth Amendment: No person shall be deprived of life, liberty or property without due process of law.

b) **Amendment 13, Section 1.** Neither slavery nor involuntary servitude . . shall exist within the United States,

5 U.S. Code § 706. Scope of review

To the extent necessary to decision and when presented, **the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions,**

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(B) **contrary to constitutional right,**

(D) **without observance of procedure required by law;** (Emphasis added)

The Supreme court as a reviewing court, in its review, overlooked to interpret the ISSUES OF LAWS, which the panel circuit judges of the MEMORANDUM of February 23, 2021 refused to interpret in violation of law the ISSUES OF LAWS on the p.2-5(10-22-19, 2-8-20) (19-17418) **MOTION FOR RELIEF FROM ORDER OF SEPT. 30, 2019** and p.2-5 (3-5-21)(19-17418) PETITION FOR REHEARING UNDER FRAP 40.

ISSUES OR CAUSES OF ACTION p. 2-5

. Proof that I am still a PERS member:

(Cal) Gov't Code Sec, 20390 (20340)

Condition of cessation.

A person ceases to be member (b) if he or she is paid his or her "normal contributions".

The employer's contributions on my behalf have remained in deposit with PERS and were not paid.

ISSUE I: ARE THE EMPLOYERS' CONTRIBUTIONS TO THE RETIREMENT FUND ON BEHALF OF MEMBERS, "NORMAL CONTRIBUTIONS" UNDER THE STATUTE, (CAL) GOV'T CODE SEC. 20691?

(Cal) Gov't Code Sec. 20691. Payment of member normal contributions by contracting agencies or school employer.

. . . Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. The payment shall be reported simply as normal contributions and shall be credited to member accounts.

The employer's contributions are explicit "normal contributions", therefore I am still a PERS member entitled retirement benefits.

ISSUE II: IS PERS'S ALTERNATIVE OFFER FOR THE WITHDRAWAL OF THE ACCUMULATED MEMBER CONTRIBUTIONS TO DEPRIVE PLAINTIFF OF LIFETIME RETIREMENT ALLOWANCE AFTER PLAINTIFF HAD QUALIFIED FOR RETIREMENT AFTER REACHING 50 YEARS OLD, A VIOLATION OF (CAL) GOV'T CODE SEC. 21203 (NEW 21259)?

(Cal) Gov't Code Sec. 21203 (new 21259) Nonforfeiture after qualification for retirement

Subject to compliance with this part, after a member has qualified as to . . . age and service for retirement for service, nothing shall deprive him or her of the right to retirement allowance as determined under this part.

ISSUE III : IS PERS'S DENIAL FOR CONSIDERING THE WITHDRAWN MEMBER CONTRIBUTIONS AS LOANS, A VIOLATION OF PERS'S LOAN LAWS WHICH ALLOWS WITHDRAWALS AS LOANS? OR DISCRIMINATORY?

(Cal) Gov't Code Sec. 20654 (new 20750) Redeposit of withdrawals, interest. .

. . . member may file an election with the board to redeposit in the retirement fund, in lump sum or by installment payment (1) an amount equal to the accumulated contributions.. . withdrawn, and (2) an amount equal to the interest. . and (3) if he or she elects to redeposit in other than one sum, interest on the unpaid balance. .

(Cal) Gov't Code Sec. 20211 (new 20202) Natural disaster relief loan.

(Cal) Gov't Code Sec. 20215 (new 20200) Home financing program.

ISSUE IV: CONSTITUTION, AMENDMENT 13 IS VIOLATED. PERS HAS DENIED PLAINTIFF RETIREMENT BENEFITS DERIVED FROM THE EMPLOYER'S CONTRIBUTIONS TO THE RETIREMENT FUND ON MY BAHALF, WHICH EMPLOYER'S CONTRIBUTIONS I HAD WORKED AND TOILED FOR, to quote:

Amendment 13, Section 1. Neither slavery nor involuntary servitude . .
.shall exist within the United States, . .

**ISSUE V: CALIFORNIA CONSTITUTION PREVAILS OVER 11TH
AMENDMENT IMMUNITY REGARDING PENSION BENEFITS**

California Constitution Article 3, Sec. 6 (d)

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of
California shall have standing to sue the State of California to enforce
this section, .

From the foregoing, PERS denial of retirement benefits from the employer's
contributions to the retirement fund on my behalf, and courts' refusal or denial
to interpret the issues of laws are unconstitutional, I pray the court grant this
petition for rehearing and set aside the order denying the petition for writ of
certiorari and reverse the MEMORANDUM of February 23, 2021.

Code of Conduct for United States Judges: Canon 2:

.. (A) *Respect for Law.* A judge should respect and comply with the law. .

Date: October 28, 2021

December 11, 2021

Respectfully submitted:

Lucio A. Barroga
Lucio A. Barroga
Lucio A. Barroga

Attached: a) Certificate, Rule 44,

RULE OF LAW: President Barak Obama said: the RULE OF LAW. Justice Brett
Kavanaugh at the senate confirmation hearing, said: the RULE OF LAW. If you cite
the law, you win. . .without fear or favor.

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CERTIFICATION

I certify that this PETITION FOR REHEARING is presented under RULE 44 in
good faith and not for delay.

Date: October 28, 2021


Lucio A. Barroga