

April 1, 2005

California Correctional Supervisors Organization  
1481 Ullrey Ave.  
Escalon, CA 95320

DANIEL J. WIRTH; CALIFORNIA	)	Case No: 04CS00440
CORRECTIONAL SUPERVISORS	)	
ORGANIZATION,	)	
	)	SUMMARY OF RULING ON
Plaintiff,	)	PETITION FOR WRIT OF
	)	MANDATE CONCERNING
Vs.	)	INCREASES TO SALARY AND
	)	BENEFITS FOR SUPERVIORS OF
STATE OF CALIFORNIA, GRAY DAVIS,	)	UNIT SIX RANK AND FILE
GOVERNOR, DEPARTMENT OF	)	MEMBERS
PERSONNEL ADMINISTRATION,	)	
	)	
Defendants.	)	
_____	)	

CCSO filed a Petition for Writ of Mandate pursuant to Government Code §19849.18 to compel the State of California and its Department of Personnel Administration to comply with §19849.18 by giving a generally equivalent increase in salary and benefits to the supervisors of Unit 6 rank and file members received for the 2003-2004 fiscal year.

§19849.18 provides that:

“Supervisors of state employees represented by State Bargaining Unit 5, 6 or 8 shall receive salary and benefit changes that are at least generally equivalent to the salary and benefits granted to employees they supervise. For purposes of this section, ‘salary’ means base pay and shall not be construed to include such forms of compensation as overtime. The benefit package shall be the economic equivalent, that the benefits need not be identical. The determination of the specific benefits that supervisors of state employees represented by State Bargaining Unit 5, 6 or 8 shall be made to the meet and confer process as

defined in §13533.

For the 2003-2004 fiscal year, Unit 6 rank and file Correctional Officers received a 6.8% increase in pay along with a 1% increase in longevity pay and an increase in educational incentive pay. The supervisors received only a 2.2% increase in pay along with an extra day off per month which DPA has called a PLP or PLD day, which they argue is equivalent to 4.67% in salary.

CCSO argued that DPA failed in its obligations under §19849.18 by refusing to give an equivalent salary increase to the supervisors and that the one day off per month, while it may have a value of 4.67%, existed only on paper: if a supervisor took a day off in any given month, he or she would not receive any more money; if a supervisor did not use the day he or she could not cash it in until he or she separates from service. Since the day off per month had no current cash value to the supervisors, CCSO argued that it is merely a benefit, not an increase in salary. Moreover, the supervisors received no longevity or educational pay increase as Unit 6 members did.

DPA argued that it was entitled under §19849.18 to give the same percentage increase but that increase to the supervisors need not be in salary; that is, as long as the total value of salary and benefits increase, in whatever proportion of salary and benefits, equal to the total salary and benefit increase to the rank and file, that satisfied DPA's obligation under the statute.

Judge Lloyd Connelly of the Sacramento Superior Court agreed with the DPA that §19849.18 only requires DPA to give similar total increases of mixed salary and benefits as long as the total increase was equivalent. This means under the Judge's interpretation that if the rank and file received a salary increase but not a benefit increase, DPA could grant to the supervisors merely an increase in benefits as long as it had the same value, and no increase in salary whatsoever. Apparently the judge does not understand that a supervisor cannot use PLD to buy groceries.

The Superior Court's interpretation of §19849.18 is clearly contrary to the plain language of the statute. The statute contemplates maintaining a real world differential between supervisors and those that they supervise. As everyone knows, this legislation was enacted to solve the problem that is being perpetuated by the Judge's interpretation of §19849.18: rank and file members taking home more pay than supervisors. This is also contrary to Government Code §19849.22, which requires DPA to maintain a sufficient differential between supervisors and rank and file so as to encourage state employees to promote to supervisory positions. CCSO submitted the legislative history of the at-issue code section demonstrating the problem of members demoting from supervisory positions to rank and file simply so that they can have higher take home pay. Unfortunately, the Judge was not persuaded by this evidence.

§19849.18 clearly requires that the amount of salary increase given to rank and file members be matched for supervisors. There is no negotiating or meeting and conferring over the amount of the salary increase. The statute does require, on the other hand, that whatever benefits are given to supervisors should economically match the

benefits given to rank and file, and that CCSO meet and confer over what form that benefit increase should take. §19849.18 does not allow DPA to negotiate over the form of the salary of the increase or whether it may be given in benefits rather than salary. Because the Legislature contemplated only discussions over what types of benefits should be given and not the salary increase, the statute clearly requires that the salary increase to rank and file be matched for supervisors.

CCSO fully intends on appealing this matter to the Court of Appeal. Since this is purely a matter of interpretation of statutory law, the Court of Appeal need not defer to the trial court's interpretation of §19849.18 and may interpret it on its own anew.

LACKIE & DAMMEIER LLP

Very truly yours,

Michael D. Lackie

MDL:jp  
Enclosure (Copy of Ruling)