

71925-4

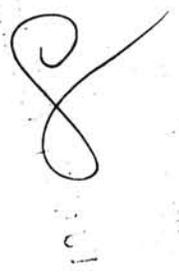
71925-4

RECEIVED

NOV 24 2014

ATTORNEY GENERAL OFFICE  
SEATTLE

THE COURT OF APPEALS  
OF THE  
STATE OF WASHINGTON



JONATHAN PEARSON, SR., a single )  
 individual, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 STATE OF WASHINGTON, )  
 Department of Transportation, )  
 an agency of the State of Washington )  
 \_\_\_\_\_ )

Appeal  
 Case # 71925-4-1  
 Superior #: 12-2-23140-1

Appeal of Summary Judgement Order Of The Superior Court, King County,  
Honorable Carol Schapira, Judge

APPELLANTS OPENING BRIEF

Jonathan Pearson  
pro se

*Jonathan Pearson*  
24 NOV 2014

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Errors:

Factual documentation that I submitted at the summery motion hearing was ignored or miss characterized. I submitted a letter from the US Department of Labor that represents an investigation of reemployment rights case involving my employment at the Washington State ferries.. Exhibit 1 This was disregarded. I submitted a Washington State Ferries pay order that was returned to me from the Washing State Ferries payroll department in 2002 when I was ordered to active duty for two weeks on short notice . Exhibit 2 .I had just completed several steps that my immediate supervisor Port Capt. Tim Saffle had requested . The judge characterized this document as willy-nilly saying that you can't just request military leave when you feel like it. Washington state RCW's covering military leave exhibit 3a & exhibit 3b Both documents support my claim of discrimination for participating i the national guard and reserves.

The judge erred by accepting the State's accusations at face value. In the finding of facts by the Public employee relations commission they stated that my hire date was 1988. My factual employment date is 1984. Washington State ferries prepared it's case against me with information that was gathered from a personnel file other than mine. Thus the alleged facts are tainted.

AT the April 4, 2014 summary judgment hearing judge Schapira read from Mr. Roger's testimony (Page 20 clerk's papers) exhibit 4, before the employee relations commission. Mr. Rogers, WSF operations manager testified that he had never encountered a situation where and employee in military service or national guard member was discriminated against by WSF. Mr. Rogers should've known of a WSF discriminating against members of the military, by my personnel file and a recent case involving WSF employee Franke Caraska. If Mr. Rogers had actually reviewed my personnel file, as he said he did, he would have seen letters from the WSF operations manager to the US Department of Labor investigator Mr. Martin. Exhibit 5.

Other evidence of faults information submitted by the defendant is as follows: the washing state termination letter May 9, 2009 , WSF refers to my job position as 20 years Master. Exhibit 6 Also defendant's attorney Kent Liu In defendant's Motion for summary judgment, he refers to my position as master. In fact I had no regular assignment. I was classified as an on-call mate.

The defendant accused me of not submitting a request for extended leave , exhibit 7 is a medical leave form filled out by a neurologist at the time Dr. Dandre a sleep specialist .exhibit 8 Is a leave form that I submitted and it was approved by my supervisor Capt. Tim Saffle HR Port Capt.. I did not receive this until 2010 when a union attorney requested my administrative file.

EX 1

U.S. Department of Labor

January 14, 1991

VETERANS' EMPLOYMENT AND TRAINING SERVICE  
1111 - Third Avenue, Suite 800  
Seattle, Washington 98101-3212  
(206) 442-4831 FTS 399-4831



Jonathan Pearson  
15728 28th Ave. W.  
Seattle, WA 98199

RE: Claimant: JONATHAN PEARSON  
File: 99-06255-(31)  
Employer: Department of  
Transportation, Marine  
Division, Washington  
State Ferries

Dear Mr. Pearson:

We regret to inform you that the Department of Justice has declined to accept for representation your Veterans' Reemployment Rights case. The Director of Labor for the Seattle Region has advised us that the decision was made on December 5, 1990. Should you wish to do so, you can seek disclosure of your file under the Privacy Act of 1975.

In addition, please be advised that the decision by the U.S. Department of Justice against representation does not preclude employment of private counsel at your own expense if you desire to pursue the matter.

The Department of Labor regrets being unable to bring this matter to a more satisfactory conclusion on your behalf.

Sincerely,

*Karen M. Marin*  
KAREN M. MARIN,  
Regional Agent



ordered. When any member of the organized militia of Washington is ordered upon active state service or inactive duty which takes the member from his or her employment the member may apply upon the termination of such duty to be restored to his or her position and employment, and if the tour of duty shall have continued for a period not longer than three months, any employer or the officer or manager of any firm or corporation having authority to reemploy such member and failing to do so shall be guilty of a gross misdemeanor, and on conviction thereof shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. [1989 c 19 § 49; 1943 c 130 § 48; Rem. Supp. 1943 § 8603-48. Prior: 1917 c 107 § 43; 1909 c 134 § 69; 1895 c 108 § 104, part.]

#### 38.40.060 ~~Military leaves for public employees.~~

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each calendar year. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay. [1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

Application--1991 c 25: "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

38.40.100 **Notice for duty.** Orders for duty may be oral or written. Officers and enlisted persons may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his or her last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such person by mail, directed to his or her last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or authorized enlisted person. The officer or enlisted person giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be prima facie evidence, on the trial of any person returned as a delinquent, of the facts therein stated. [1989 c 19 § 51; 1943 c 130 § 53; Rem. Supp. 1943 § 8603-53. Prior: 1909 c 134 § 65; 1895 c 108 § 102.]

38.40.110 **Employment or membership in organizations—Discrimination prohibited—Penalty—Cause of action.** No club, society, association, corporation, employer, or organization shall by any constitution, bylaws, resolution, vote or regulation, or otherwise, discriminate against or refuse to hire, employ, or reemploy a member of the organized militia of Washington because of his or her membership in said organized militia. Any person or persons, club, society, association, employer, corporation, or organization, violating or aiding, abetting, or assisting the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding one hundred dollars; in addition thereto shall forfeit the right to do business for a period of thirty days. Any person who has been discriminated against in violation of this section shall have a civil cause of action for damages. [1991 c 43 § 9; 1989 c 19 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1943 c 130 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1943 c 107 § 42; 1909 c 134 § 68.]

38.40.120 **Authorized military organizations.** Any organization or organized body other than the recognized militia organizations of this state, armed forces of the United States, or educational institutions where military science is a prescribed part of the course of instruction or by veterans organizations shall associate themselves together as a military company or organize or parade in public places with firearms: PROVIDED, That nothing herein shall be construed to prevent authorized parades by the organized forces of another state or armed forces of foreign countries. Any person participating in any such unauthorized organization shall be guilty of a misdemeanor. [1989 c 19 § 53; 1943 c 130 § 54; Rem. Supp. 1943 § 8603-54. Prior: 1943 c 130 § 294; 1903 c 135 § 1.]

38.40.130 **Corporations may be formed.** Officers, or the officers and enlisted persons of any battalion, company or similar unit of the organized militia of Washington, or the officers and enlisted persons of two or more companies or similar units of the organized militia of the state of Washington, located at the same street, may hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, managing, and disposing of such property, real and personal. Such military organizations may possess or acquire real property. Corporations shall not be required to pay any filing fee to the state.

The dissolution or disbandment of any such corporation shall not in itself terminate the existence of the corporation, but the existence of the corporation shall continue for the period limited in its articles of incorporation for the benefit of such corporation.

Upon the dissolution or disbandment of any such corporation which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess real or personal property, the title to such funds or property shall immediately vest in the state of Washington, and the state shall take possession thereof and dispose thereof to the best interest of the organized militia of Washington. [1989 c 19 § 54; 1943 c 130 § 49; Rem. Supp. 1943 c 130 § 49.]

**Ex. 3 b****RCW 38.40.060****Military leave for public employees.**

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding twenty-one days during each year beginning October 1st and ending the following September 30th in order that the person may report for required military duty, training, or drills including those in the national guard under Title 10 U.S.C., Title 32 U.S.C., or state active status. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay. The officer or employee shall be charged military leave only for days that he or she is scheduled to work for the state or the county, city, or other political subdivision.

[2010 c 91 § 1; 2008 c 71 § 5; 2001 c 71 § 1; 1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

**Notes:**

**Effective date -- 2001 c 71:** "This act takes effect October 1, 2001." [2001 c 71 § 2.]

**Application -- 1991 c 25:** "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

Military family leave act: Chapter 49.77 RCW.

# EX 4

1 A. I heart [sic] him say that, yes.

2 Q. Okay. Has that been your experience with the Washington State Ferries  
3 over the 40 years you've been with them?

4 A. No. To the contrary, we have worked with several employees that have  
5 been having military service, that have had to go into active duty,  
6 especially, since 9/11.

7 Q. But now, is being in the military service, that's not a function of being in  
8 the union, correct?

9 A. Correct.

10 Q. They are two separate things?

11 A. Yes.

12 Tr. at 121-22. As previously stated, Pearson alleged that the employer's actions were  
13 motivated by his military status. The Commission has jurisdiction over discrimination  
14 allegations only as they pertain to union activities. The Commission has no jurisdiction over  
15 claims involving age discrimination or similar forms of discrimination, such as race or gender-  
16 based claims. Pearson must pursue remedies through human rights agencies and/or the courts.  
17 *Wash. State Ferries*, Decision 11220 (MRNE, 2011); *State - Revenue*, Decision 10521 (PSRA,  
18 2009).

19 Finally, Pearson's unfair labor practices complaint alleged that the employer interfered  
20 with Pearson's rights by unjustly terminating him based on inaccurate statements and  
21 erroneous accusations. Ex. 18. Such allegations do not state a cause of action for an  
22 independent interference violation under RCW 47.64.130(1)(a), and can only be processed  
23 under the refusal to bargain provisions of RCW 47.64.130(1)(e). Under RCW 47.64.130(1)(e),  
24 it is an unfair labor practice for the employer or its representatives to refuse to bargain  
25 collectively with the exclusive bargaining representative<sup>4</sup> of its employees. Generally  
26 speaking, individual employees do not have standing to enforce the bargaining obligations of

<sup>4</sup> Under RCW 47.64.011(1), "collective bargaining representative" means the person designated by the employee organization to be the exclusive representative during collective bargaining negotiations.

EX 5

DUANE BERENTSON  
Secretary



STATE OF WASHINGTON

DEPARTMENT OF TRANSPORTATION

Marine Division, Washington State Ferries, Colman Dock (Pier 52) • Seattle, Washington 98104 • (206) 464-7800

October 2, 1989

Mr. Robert E. Martin  
U. S. Department of Labor  
P. O. Box 165  
Olympia, WA 98507

Re: Jonathan Pearson  
VRR Case # 99-00255-31

Dear Mr. Martin:

This is in response to your letter of September 20, 1989.

We have considered Mr. Pearson's August 9, 1989 letter to Mr. Tiberio, which explains that June 23, May 19 and 20, and Dec. 3, 1988, and Jan 7 and 8, 1989 were guard duty dates. Chief Warrant Officer McCoy's letter serves to confirm the May 19 and 20, Dec. 3, and January 7 and 8 dates. An additional six days are therefore credited as excused Reserve duty. The problem is, however, that Mr. Pearson's time away from his assigned duties is still excessive. If the same pattern continued through the summer it would have been difficult for our dispatch department to find qualified employees to replace him on the San Juan Islands routes. Obtaining relief employees is not as much of a problem on our other routes, but car loading on the Island routes is much more difficult because of the inter-island stops, and requires experienced personnel.

Mr. Pearson is entitled to engage in Reserve activities, and we routinely relieve him and other employees for that purpose. Nor do we cite him for vacation periods. But his absences for other reasons have occurred at an excessive

Mr. Robert Martin  
Re: Jonathan Pearson  
VRR Case # 99-00255-31  
October 2, 1989

Page 2 of 2

rate. To be more specific, during the eight-month period prior to the 1989 summer schedule we find the following absence record (excluding Reserve duty and vacations):

November, 88	3 days
December, 88	1 day
January, 89	5 days
February, 89	6 days
March, 89	3 days
April, 89	2 days
May, 89	0
June, 89	<u>2 days</u>

total 22 days

The foregoing recap does not include the three days in June, 1988 which Mr. Pearson feels were unfairly charged to him, (as to which we do not agree).

Please let me know if any further information is needed with respect to this matter.

Sincerely,

*Elton L. Eilert by R. Winiowski*

Elton L. Eilert  
Employee Relations Director

ELE:rw

EC1126

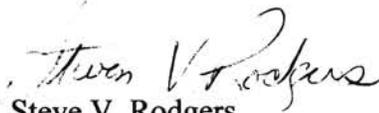
64 states, "When an employee is absent from work for three (3) consecutive days and who is not on  
 65 an approved leave may be disciplined up to and including termination. Absences due to illnesses,  
 66 injury or due to emergency situations as specified in 20.20.03 must be considered in determining  
 67 "just cause." Your absence from work and unauthorized leave since December 4, 2008 may  
 68 constitute job abandonment.

On April 30, 2009 you responded in writing to the pre-disciplinary letter (Attachment 11). Your response did not present any explanation for you being absent without approved leave or mitigating circumstances for your failure to bring in a statement from your physician regarding your status as required under the CBA.

In determining the appropriate level of discipline, I considered the information available to me, including the allegations against you, your response, and your employment history with WSF. I reviewed your complete work history including your personnel file. As a professional Master with over twenty (20) years of experience you are aware of WSF's Code of Conduct and the MM&P CBA which give you strict guidelines regarding leaves of absences. Our records show that you have been provided with a copy of the WSF Code of Conduct. You have had ample time to supply HR or Operations with an adequate statement from your physician verifying that you were indeed unable to work because of medical reasons for the time period of May 1, 2001 through November 26, 2001 and December 2001 through March 2002 (and beyond).

Based on my review of the information provided to me in its entirety, I have made the decision to terminate your employment with WSF effective today, May 19, 2009. Be advised that this decision is subject to the grievance procedure set forth in Section 22.01 of the CBA.

Sincerely,

  
 Steve V. Rodgers  
 Director of Operations  
 Washington State Ferries

  
 David Moseley  
 Assistant Secretary  
 Washington State Ferries

cc: Tim Saffle, MM&P Branch Agent  
 WSDOT Ferries Division Labor Relations Office  
 Attorney General's Office, Labor & Personnel Division  
 Gary Kaminski, WSF HR Line Rep.  
 Personnel File

Attachments:

- 1 – October 22, 2001 letter from Lea Schmidt
- 2 – March 2002 form received by Human Resources (HR)
- 3 – January 2003 letter from Captain Tim Saffle
- 4 – October 2003 letter from Mr. Pearson to Captain Tim Saffle



7a & 7b

This form is to be used for Shared Leave and/or Family and Medical Leave

1. Employee's Name <b>PEARSON, JONATHAN</b>	2. Patient's Name (if different from employee)
--	--

3. The attached sheet describes what is meant by a "serious health condition" for shared leave or family and medical leave. Does the patient's condition qualify under any of the categories described?  Yes  No

If Yes, please check the applicable category.

1. Hospital Care       3. Pregnancy       5. Perm./Long-Term Conditions Requiring Superv.

2. Absence Plus Treatment       4. Chronic Cond. Req. Treatments       6. Multiple Treatments (Non-chronic conditions)

4. Describe the **medical facts** which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories.

5a. State the approximate **date** the condition commenced and the probable **duration** of the condition (and also the probable duration of the patient's **incapacity**, if different).

*Initial Evaluation with me 3/12/2001*  
*Chronic fatigue/depression? 10 years*

5b. Will it be necessary for the employee to work only **intermittently** or to work on a **less than full schedule** as a result of the condition (including treatment described in item 6. below)?  Yes  No If Yes, give the probable duration.

5c. If the condition is a **chronic condition** (Condition 4.) or **pregnancy** (Condition 3.), state whether the patient is presently incapacitated<sup>1</sup> and the likely duration and frequency of **episodes of incapacity**.<sup>2</sup>

6a. If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments.

*due for sleep testing ~ 3/27/2001 and then following up.*

If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent or part-time basis**, also provide an estimate for the following:

Probable No. of Treatments:	Actual or Est. Date of Treatment (if known):
Intervals Between Such Treatments:	Period Required for Recovery (if any):

6b. If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

1 Here and elsewhere on this form, the information sought relates only to the condition for which the employee is requesting shared leave or taking family and medical leave.

2 "Incapacity" for purposes of this form is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

9 & 10

6c. If a **regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

*see above*

7a. If medical leave is required for the employee's **absence from work** because of the **employee's own condition** (including absences due to pregnancy or a chronic condition), is the employee **unable to perform work** of any kind?  Yes  No

7b. If able to perform some work, is the employee **unable to perform any one or more of the essential functions of the employee's job** (the employee or the employer should supply you with the information about the essential job functions)?

Yes  No If Yes, please list the essential functions the employee is **unable** to perform.

*Can perform previous job without rotating shift work with either consistent day or swing shift without*

7c. If neither 7a. or 7b. applies, is it necessary for the employee to be **absent from work for treatment**?  Yes  No  
If Yes, please list the dates and duration.

*job requiring operating mining equipment/machinery*

8a. If leave is required to **care for a family member** of the employee with a serious health condition, **does the patient require assistance** for basic medical or personal needs or safety, or for transportation?  Yes  No

If Yes, please describe type of assistance.

8b. If No, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery?  Yes  No

8c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need.

*G. J. Andrea MD*

Signature of Health Care Provider <i>[Signature]</i>	Date <i>3-12-01</i>	Address <i>Swedish Sleep Medicine Institute 5300 Tallman Ave NE Seattle WA 98107</i>
Type of Practice <i>Sleep Medicine</i>	Phone <i>206-781-6359</i>	

**To be completed by the employee needing family leave to care for a family member.**

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule.

Signature of Employee (Required)	Date
----------------------------------	------

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	OSC HR Approval	Stipulation	Date
---	-----------------	-------------	------

Ex 8



Washington State Department of Transportation

# Request for Extended Leave

Name <b>JONATHAN PEARSON</b>		Social Security Number <b>557-40-5513</b>	Organization Code	
Address <b>3315 NW WEST EDWARDS</b>		City <b>SEATTLE</b>	State <b>WA</b>	Zip Code <b>98117</b>
Job Title <b>MATE</b>		Phone Number Where You Can Be Reached During Leave		

Type of Leave Requested

Comp Time       Sick Leave       Leave Without Pay

Vacation Leave       Shared Leave

Leave Beginning Date MAY 2001      Anticipated Ending Date FEB ~~NOVEMBER~~ 2002

If more than one type of leave is checked above, please explain EMPLOYER WOULD NOT PAY SICK LEAVE UNIFORM MEDICA WOULD NOT PAY 3.00%/- STEP INCR DOLL

**For Payroll Use Only** As of \_\_\_\_\_ this employee has \_\_\_\_\_ hours of Comp Time, \_\_\_\_\_ hours of Vacation Leave, \_\_\_\_\_ hours of Sick Leave, \_\_\_\_\_ hours of Shared Leave.

**Reason for Extended Leave Request**

Medical (Give Details. Attach Doctor's note) \_\_\_\_\_  
Jonathan Pearson was seen in this office for a sleep related disorder/see attached notes from Dr G Deandrea -

Personal (Give Details) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
There are ~~not~~ no doctor's notes attached.

Other (Give Details) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
Has he returned to work?  
Not RTW - (yet)

**Insurance Coverage**

12 Week Family / Medical Lea  
 8 Hours of Vacation / Sick Lea  
 Self-Pay / COBRA (Contact you  
 Other (Give Details) \_\_\_\_\_

\_\_\_\_\_ s Office for details)

Jonathan Pearson      11/17/01      J. C. Saffo      3/8/02  
 Employee's Signature      Date      Supervisor/Manager's Signature      Date



Washington State  
Department of Transportation

Douglas E. Macdonald  
Director

**CERTIFIED**  
**RETURN RECEIPT REQUESTED**  
7000 0520 0012 2914 5570

January 10, 2003

Jonathan Pearson, Sr.  
3315 NW 80<sup>th</sup> St.  
Seattle, WA 98117

Re: **Pre-disciplinary conference**

Dear Mr. Pearson:

It has come to my attention you have been off work since March 2000. You previously submitted a Request for Extended Leave Form dated November 20, 2000, for medical leave from November 20, 2000 through May 2001. You also submitted a Request for Extended Leave Form dated March 1, 2001 to cover the period from May 2001 through February 2002.

You have been on unapproved leave from May 2001 to present. On October 23, 2001, Lea Schmidt, Human Resources Manager, sent you a letter notifying you your leave was unapproved and gave you options to consider. One of those options was "Return to duty in your current position, if possible. This option would require a medical fit-for-duty. Call Human Resources at (206) 515-3428 for the essential job functions form. In addition, you will need to submit a verifying statement from your physician that you were unable to work due to your own medical reasons from May 2001 to present."

On December 14, 2001 you submitted a fit for duty form from your physician. However, you never submitted the "verifying statement from your physician that you were unable to work due to your own medical reasons from May 2001 to present."

Your absence from work and unauthorized leave for the last 1 1/2 years may constitute job abandonment. It is also a violation of Washington State Ferries Code of Conduct, Rule #10, Dependability, and Rule #16, Work Regulations, "Failure to follow applicable ferry system or Coast Guard regulations." You violated the WSF Human Resources Handbook concerning Leave of Absence Without Pay, by your "failure to return from a leave of absence without pay on a specified date will be cause for Termination." Additionally, you did not obtain an approved leave, in writing, in advance from WSF and your leave extended well beyond that which is allowed in accordance with the MM&P