

FELONY PLEA TRIGGERS PENSION FORFEITURE – EVEN IF LATER REDUCED TO A MISDEMEANOR

*Bishop v. San Diego County Employees
Retirement Association*
(4th District, Div. 1, Case No. D085406)

A California Court recently addressed an important issue involving public employees and pension forfeiture following a felony conviction.

In *Bishop v. San Diego County Employees Retirement Association*, the Plaintiff worked for San Diego County for over seven years. Prosecutors charged him with violating California’s conflict-of-interest law, which prohibits public employees from having a financial interest in contracts made in their official capacity. The offense was a “wobbler,” meaning it could be charged as either a felony or a misdemeanor. The Plaintiff ultimately pleaded guilty to the felony version of the offense.

Following the plea, the San Diego County Employees Retirement Association (SDCERA) determined the conviction was a **job-related felony**, triggering pension forfeiture under California law.

At sentencing, however, the trial court exercised its discretion to reduce the offense to a misdemeanor. The Plaintiff then asked SDCERA to restore his pension benefits, arguing that he was no longer convicted of a felony. SDCERA refused, and the Plaintiff appealed.

The appellate court addressed a narrow but significant question: **Does pension forfeiture apply when a felony conviction is later reduced to a misdemeanor at sentencing?**

The court held, yes. For purposes of pension forfeiture, a public employee is considered “convicted” of a felony when the employee pleads guilty or is found guilty, even if the offense is later reduced to a misdemeanor. As a result, because the Plaintiff **pleaded guilty to a felony arising out of his official duties**, the pension forfeiture applied and remained in effect despite the later reduction.

KEY TAKEAWAY: Public employees risk permanent pension forfeiture if they plead guilty to a job-related felony, even if the court later reduces the offense to a misdemeanor at sentencing.

Stay Safe and Healthy!