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Police Standards Council

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ALASKA POLICE STANDARDS COUNCIL

IN RE: THE MATTER OF REVOCATION )  
OF POLICE OFFICER CERTIFICATE OF )  
JEFFREY A. WADMAN )  
\_\_\_\_\_ )

RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Introduction

This matter arises out of an accusation filed against Respondent Jeffrey A. Wadman by the Alaska Police Standards Council ("APSC"). The accusation requests that Respondent's police officer certificate be revoked pursuant to AS 18.65.240 and 13 AAC 85.010 and .110.

Following the filing of the accusation Respondent requested a hearing. Pursuant to a written Notice of Hearing, a hearing was held on February 25, 1993, at the offices of Eide & Miller, P.C. By appointment of the Honorable Walter J. Hickel, Governor of the State of Alaska, the undersigned hearing officer presided at the hearing. Respondent was present throughout the hearing along with his attorney, Jeffrey Friedman of the firm Friedman, Rubin & White. Also present was Jack Wray, Executive Director of

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the APSC. The APSC was represented at the hearing by Margot Knuth of the State Department of Law.

Both parties presented evidence in the form of witness testimony and exhibits and otherwise had full opportunity to participate in the hearing. All proceedings in this matter were held in compliance with the Administrative Procedures Act, AS 44.62.330, et. seq.

#### Preliminary Matters

At the hearing the APSC introduced the following exhibits, without objection from Respondent:

1. Accusation against Respondent.
2. Decision and Award in the matter of arbitration between State of Alaska and Public Safety Employees Association dated June 30, 1990.
3. Respondent's personnel file.
4. Memorandum from Colonel Robert E. Jent to Respondent dated August 19, 1988.

No objection having been made, each of the exhibits referenced above were admitted into evidence.

The APSC also sought to introduce two trooper notebooks (Exhibits 5A and 5B) into evidence. The notebooks were the subject of an evidentiary motion filed prior to the hearing by Respondent. The Motion sought to exclude the subject notebooks. Respondent's Motion was denied for the reasons set forth in the hearing officer's order dated February 1, 1993. Based on the order of February 1, 1993, the Trooper notebooks (Exhibits 5A and 5B) were admitted into evidence.

At the hearing the Respondent introduced the following exhibits, without objection from the APSC:

- A. Affidavit of William F. Dewey.
- B. Affidavit of Dee Taylor.
- C. Second Affidavit of Dee Taylor.
- D. Hansen v. State of Alaska, Alaska Court of Appeals Opinion No. 1279, January 22, 1993.

E. Order granting motion to suppress in the case of United States of America v. Elliott dated December 12, 1988.

F. Snyder v. Foote, 822 P.2d 1353 (Alaska 1991).

No objection having been made to the Respondent's exhibits referenced above, the exhibits were admitted into evidence.

During the hearing the parties stipulated that the evidence reflected in APSC's Exhibit 2, Arbitrator's decision and award, dated June 30, 1990, could be considered by the hearing officer as if the evidence had been presented live at the hearing in this matter. The only condition on that stipulation was that the State could not use the stipulation as the basis of a criminal complaint against Respondent.

#### Findings of Fact

Based on the stipulation referred to above, many of the following facts are taken from the arbitrator's decision and award, APSC's Exhibit 2. The following facts were not disputed by the Respondent.

In 1988, Respondent was a corporal in the Alaska

State Troopers. He was officer-in-charge of a small Trooper detachment in the Matanuska-Susitna Valley. As part of his duties Respondent also engaged in routine law enforcement duties, including road patrol.

On June 20, 1988, Respondent issued a citation to a Mr. Hall for speeding. Respondent then accepted cash from Mr. Hall in the amount of the bail set by the citation. Subsequently, Respondent's supervisor, First Sergeant Casanovas, received a call from Mr. Hall questioning whether a Trooper is authorized to take cash in such a situation.

On June 24, 1988, First Sergeant Casanovas interviewed Respondent about the Hall incident. During the interview First Sergeant Casanovas instructed Respondent to cease the practice of taking cash from individuals cited for traffic violations and to ensure that his subordinates were not following that practice.

On or about June 28, 1988, Respondent again took cash from a Mr. Arvid after issuing him a citation. There is no dispute that Respondent transmitted the cash received from both Hall and Arvid to the appropriate court.

Respondent reported the Arvid incident in his Trooper notebook, but later crossed out the entry relating to the incident.

On July 11, 1988, Respondent was informed that the Troopers were pursuing a criminal investigation into the Hall incident and on the larger question of taking cash from individuals cited for traffic violations. At that time the Troopers were not aware of the Arvid incident.

On July 12, 1988, Respondent copied a large portion of his Trooper notebook into a clean notebook. During the copying of the notebook Respondent completely omitted any reference to the Arvid incident. Shortly thereafter, Sergeant McGhee, the officer in charge of the criminal investigation, asked Respondent for a copy of his Trooper notebook. Respondent refused to comply with the request. Eventually, Sergeant McGhee arranged to have a subpoena served on Respondent ordering him to turn over his notebooks. In response to the subpoena Respondent turned over the copied version of his notebook - the version which deleted the reference to the Arvid incident.

A short time later a clerk employed at Respondent's post discovered the original notebook and turned it over to a supervisor. When the Troopers

discovered the inconsistency between the original and the copied notebooks Respondent was discharged. (APSC Exhibit 4). Respondent's union grieved the discharge on behalf of Respondent, but the discharge was upheld by an arbitrator in a decision dated June 30, 1990. (APSC Exhibit 2). Respondent did not challenge the validity of his discharge at the hearing in this matter.

On January 17, 1991, the APSC filed accusations against Respondent seeking a revocation of Respondent's police officer certificate. (APSC Exhibit 1). As stated above, Respondent requested and was granted a hearing in this matter and a hearing was duly held.

#### Applicable Law

1. The APSC was created by the legislature to establish minimum standards for employment of police officers and to deny or revoke a certificate for individuals who do not meet those standards. AS 18.65.130, et. seq.

2. AS 18.65.240 provides that the APSC may revoke the certificate of a police officer if the individual does not possess the qualifications the APSC has established for the employment of police officers.

3. AS 18.65.220 authorizes the APSC to adopt regulations which establish the qualifications for police officers. The APSC has done so at 13 AAC 85.005, et. seq.

4. 13 AAC 85.110 provides that a certificate may be revoked if an individual has been discharged for cause from employment as a police officer or does not meet the standards for employment as a police officer set forth in 13 AAC 85.010(a) or (b).

5. 13 AAC 85.010(a) provides as follows:

(a) A participating police department may not hire a person as a police officer unless the person meets the following qualifications:

(1) is a citizen of the United States or a resident alien who has demonstrated an intent to become a citizen of the United States;

(2) is 19 years of age or older;

(3) is of good moral character;

(4) has a high school diploma, or its equivalent, or has passed a General Educational Development (GED) test;

(5) is, at the time of hire, certified by a licensed physician on a medical record form supplied by the council to

(A) be physically sound and free from physical



defects which would adversely affect performance as a police officer;

(B) have normal color discrimination, normal binocular coordination, normal peripheral vision, and corrected visual acuity of 20/30 or better in each eye;

(C) have normal hearing or have no hearing defect which would adversely affect performance as a police officer;

(6) is free from any mental or emotional disorder which may adversely affect performance as a police officer.

6. The APSC has the burden to show that revocation of a certificate is warranted by the preponderance of the evidence.

7. Respondent has not challenged the authority granted to the APSC by either AS 18.65.240 or 13 AAC 85.110 on constitutional or other grounds. As a result, those issues are not addressed here.

#### Findings of Fact on Specific Issues

1. Did Respondent intentionally attempt to cover up the Arvid incident during the investigation into his activities?

The following facts are not in dispute:

1. Respondent knew that his Trooper notebook contained information relevant to the investigation into Respondent's activities relating to the taking of cash from individuals cited for traffic violations.

2. With that knowledge, Respondent copied his original Trooper notebook onto a clean notebook, but excluded any reference to the Arvid incident.

3. When originally asked for his Trooper notebook, Respondent refused to turn it over to the investigating officer.

4. When served with a subpoena, Respondent turned over the altered notebook. He did not produce a copy of the original notebook in response to the subpoena.

5. At no time did Respondent notify the Troopers of the existence of the original notebook or offer to turn it over to the Troopers. The original notebook was only disclosed after it was discovered by a clerk in Respondent's office.

I find that there can be no question that Respondent intentionally withheld relevant information during the Trooper investigation into his activities. The copied volume of the notebook is substantially identical to the original with the glaring exception of the reference to the Arvid incident. There can be no rational explanation for Respondent's decision to copy the original notebook other than he was attempting to deceive his superiors and the Trooper investigator.

Respondent argues that both notebooks taken by themselves were incomplete. The original covering the period through July 13, 1988 and the copy going through July 15, 1988. Respondent implies that his only wrongdoing was failing to disclose the existence of both notebooks. However, that argument merely begs the question. Based on the evidence, I find no credible explanation for Respondent's failure to disclose the existence of the original notebook other than he was engaged in a scheme of deception in order to prevent the disclosure of harmful evidence - evidence he fully understood was important to an ongoing investigation and which had been specifically requested by the Trooper responsible for the investigation into Respondent's activities.

It is a sad point that it is unlikely that any serious disciplinary action would have been taken against Respondent based on the Arvid incident alone. Had Respondent simply turned over his original notebook when he was asked to do so the APSC would likely not be involved in this matter. However, Respondent's relatively elaborate attempt to cover up that incident has turned this into an extremely serious matter.

2. Was Respondent discharged from his employment as a Trooper, with cause?

There is no dispute that Respondent was discharged, for cause, by his supervisor, Colonel Robert E. Jent, on August 19, 1988. That discharge was upheld in an arbitration initiated by Respondent's representative, the Public Safety Employee's Association. Respondent has not challenged the validity of the discharge in this proceeding. I find that Respondent was discharged for cause.

3. Is the revocation of Respondent's police certificate justified pursuant to the relevant statutes and regulations?

It is the APSC's position that Respondent's conduct shows that he "lacks good moral character" and

therefore does not meet the minimum standards for a certified police officer. It is also APSC's position that, because of his conduct, Respondent will not be able to function as an effective police officer in the future. It is Respondent's position that his conduct relating to the cover up of the Arvid incident demonstrated poor judgment on that occasion, but that generally he is of good moral character and otherwise qualified to continue working as a police officer.

I find that Respondent's conduct goes far beyond poor judgment. He engaged in a conscious and deliberate effort to withhold relevant evidence from his superiors during the course of an official investigation. This was not a spur of the moment lapse in judgment. Respondent's attempt to cover up the damaging evidence covered a period of at least several days.

In our society, police officers are held to a higher standard of conduct than are ordinary lay people. An officer's failure to abide by high ethical and moral standards can seriously undermine the public trust and community support which is essential to public safety. The wrongful conduct of a single officer can have a broad negative impact on the officer's department and on the community he or she serves. The APSC presented testimony

that Respondent's conduct would seriously affect his ability to perform as a an effective officer in the future. James Hanley testified that because of Respondent's conduct he would have difficulty maintaining the confidence of fellow officers and criminal prosecutors. Without the support of prosecuting attorneys, Respondent's effectiveness as a police officer would be significantly diminished. Mr. Hanley is an experienced prosecutor who has dealt with police officers for many years. I find Mr. Hanley's testimony compelling.

I find that Respondent does not meet the minimum qualifications for employment as a police officer. I also find that Respondent was discharged, for cause, from his employment as a police officer. Standing alone that fact would support the revocation of Respondent's police certificate. However, it also further demonstrates that Respondent does not meet the minimum requirements for employment as a police officer.

Respondent presented evidence that he has the reputation of an honest and trustworthy member of our community. However, it is Respondent's official conduct as a police officer which must be the focus of this inquiry. Although we are dealing with only a single series of events they are of such a serious nature that Respondent can no

longer effectively perform as a police officer regardless of his otherwise commendable reputation.

4. Is Respondent's official Trooper notebook a state record?

Respondent argues that he should not be disciplined for the alteration of his Trooper notebook because the notebook is not an official state record. I find that the question of the legal status of Respondent's notebook is irrelevant to this inquiry. For the reasons stated in the order dated February 1, 1993 relating to the admissibility of the notebook I find that the Respondent's original notebook and the altered notebook are relevant and admissible evidence. The fact that the original notebook may not have been an official state record does not alter the fact that Respondent consciously and deliberately attempted to cover up the evidence relating to the Arvid incident.

5. Is revocation of Respondent's police certificate arbitrary or capricious?

Respondent argues that it would be arbitrary and capricious to revoke his police certificate because other police officers who have committed similar acts of

wrongdoing have not had their certificates revoked. Respondent introduced evidence that an Anchorage Superior Court Judge ruled that police officer William Shore lied under oath while giving testimony for the purpose of obtaining a search warrant. However, Deputy Chief Udland of the Anchorage Police Department testified that a departmental investigation cleared Officer Shore of any wrongdoing. Based on the investigation no action was taken against Officer Shore. I find Deputy Chief Udland's testimony to be credible and believable.

Respondent also introduced evidence that an officer with the Soldotna Police Department gave false testimony during a grand jury proceeding. However, Mr. Hanley testified that the officer involved got mixed up when he ran together the statements of two witnesses. Mr. Hanley testified that the officer did not intentionally lie under oath. Again, I find Mr. Hanley's testimony credible and believable.

Respondent also introduced evidence that an Officer Campamor has lied under oath and otherwise compromised his credibility as a police officer. Deputy Chief Udland testified that, because of credibility problems, Officer Campamor can no longer effectively perform as a police officer. Deputy Chief Udland testified that



Officer Campamor has been placed on leave and that it is likely decertification proceedings will be initiated against Officer Campamor in the near future.

Finally, Respondent introduced evidence that a police officer in Wasilla had been arrested for shoplifting and three officers in Tok had been caught after stealing a promotional exam. Of those officers only one had his police certificate revoked. The problem with this evidence is that Respondent did not provide any details regarding the alleged wrongdoing. Based on the very sketchy information provided by Respondent I am unable to find that the misconduct of the referenced officers was similar to the misconduct of Respondent or that the APSC has treated Respondent differently than it treated the referenced officers.

Jack Wray, the administrator of the APSC, testified that the APSC applies the same standard regarding revocation proceedings to all officers. Mr. Wray testified that Respondent has been held to the same standard that all officers are held to. I find Mr. Wray's testimony to be credible and believable.

#### Conclusions of Law

1. The APSC has met its burden of proof

regarding the legal standards for the revocation of Respondent's police certificate.

2. Respondent's police certificate should be revoked pursuant to AS 18.65.240 and 13 AAC 85.110. Respondent does not meet the minimum qualifications for employment as a police officer and he has been discharged, for cause, from his employment as a police officer.


3. The APSC has not acted in an arbitrary or capricious manner.

Order

Respondent's police certificate shall be revoked effective immediately.

DATED at Anchorage, Alaska, this 2 day of April, 1993.

By:

  
John M. Miller  
Hearing Officer

Certificate of Service

I hereby certify that on the 2<sup>nd</sup> day of April, 1993, a true and correct copy of the foregoing document was mailed to the following counsel of record.

Margot O. Knuth, Esq.  
Assistant Attorney General  
Legal Services Section  
Department of Law  
P.O. Box 110300  
Juneau, Alaska 99811-0300

STATE OF ALASKA  
ALASKA POLICE STANDARDS COUNCIL

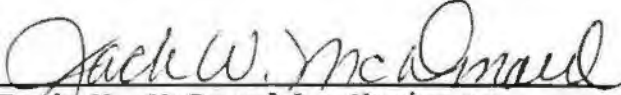
In the Matter of )  
                          ) )  
JEFFREY A. WADMAN )                   NO. APSC 88-4  
                          ) )  
Respondent.            ) )  
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FINAL ORDER

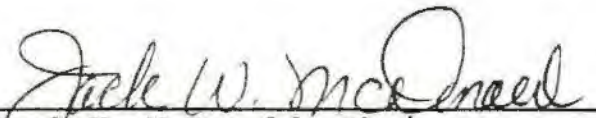
The Alaska Police Standards Council for the State of Alaska having examined and considered the Recommended Findings of Fact and Conclusions of Law by John M. Miller, Hearing Officer, at its meeting on the 24th day of May, 1993; having considered the record in this proceeding and being fully advised in this matter, hereby makes its FINAL ORDER as follows:

The Recommended Finding of Fact and Conclusions of Law is hereby adopted.

Dated this 24th day of May, 1993, at Kenai, Alaska.

  
\_\_\_\_\_  
Jack W. McDonald, Chairman  
Alaska Police Standards Council

I hereby certify that 10 members out of \_\_\_\_\_ members were present at the time this Final Order was considered and that 10 members voted Yes and 0 voted No.

  
\_\_\_\_\_  
Jack W. McDonald, Chairman  
Alaska Police Standards Council

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Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
1993.

\_\_\_\_\_  
Notary Public in State of Alaska

\_\_\_\_\_  
Commission Expires

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By: *Henry L. Rupp*

147.0214 Findings