

STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of)
)
 Kimberly Clark,) **APSC No. 2020-17**
)
 Respondent,)
)
 _____)

ORDER OF DISQUALIFICATION

The Alaska Police Standards Council of the State of Alaska, having duly convened on the 1st day of December, 2020, and having reviewed and discussed the Statement of Issues against the Respondent, which was served November 7, 2020, in accordance with AS 44.62.380, takes official notice that a Notice of Defense or a Request for Hearing has not been received from Respondent as required by AS 44.62.390. The Council also takes official notice that under AS 44.62.530, if the Respondent does not file a Notice of Defense, the Council may take action based upon other evidence and a Statement of Issues may be used without notice to the Respondent.

Accordingly, the Council has considered the Statement of Issues dated October 13, 2020.

Based on the Council's consideration of the facts recited in the referenced Statement of Issues,

IT IS HEREBY ORDERED

1. That the allegations made in the Statement of Issues against the Respondent dated October 13, 2020, are hereby adopted and the Statement of Issues is made, by reference, a part of this Order as though set forth fully herein.
2. That the Respondent is hereby disqualified for certification as an Alaska Correctional Officer; and
3. That this Order of Disqualification shall take effect in accordance with AS 44.62.520(a).

DATED this 1st day of December, 2020.



 Justin Doll (Dec 4, 2020 12:26 AKST)
 Justin Doll, Chairman
 Alaska Police Standards Council

State of Alaska
 Alaska Police Standards Council
 Box 111280
 Juneau, Alaska 99811-1200

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STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of,)
)
Kimberly J. Clark,) APSC No. 2020-17
)
Respondent)
_____)

STATEMENT OF ISSUES

Sarah Hieb, Administrative Investigator, on behalf of Robert Griffiths, Executive Director of the Alaska Police Standards Council (APSC), State of Alaska, is stating the issues which led to the determination by the Council that Respondent, Kimberly J. Clark, is disqualified for certification as a Correctional Officer under the legal authority of AS 18.65.240(a) and (c); the Council’s regulations in 13 AAC 85.210 and 13 AAC 85.260; and under the procedures governed by the Administrative Procedure Act in AS 44.62.330, *et. seq.* The Administrative Investigator states as follows:

1. On or about November 2009, Respondent visited her father while he was incarcerated in Alaska by the Department of Corrections (DOC) eleven (11) times.
2. On or about November 26, 2019, Respondent submitted the State of Alaska online NEOGOV application supplemental questions for Correctional Officer and marked “No” to question 24 which reads, “Do you now communicate with, or have you ever communicated with, a person in the custody of the Department of Corrections (including people at halfway houses and/or on furlough) on in the custody of a federal institution? If so, provide their name(s), date(s) of communication, relationship(s) to you, and the facility or halfway house where the person resides.”

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3. On or about April 30, 2020, Respondent was hired as a correctional officer by the Department of Corrections (DOC).

4. After hire, DOC learned through a check of their offender database system (ACOMS), that Respondent was communicating with two additional offenders while she was in the hiring process of DOC and did not inform background investigators, or her superior officers of the contacts after her hire, as per DOC policy. In addition to this, DOC learned through ACOMS that Respondent had visited her father while he was incarcerated eleven (11) times in November 2009.

5. On or about May 20, 2020 a pre-determination meeting was held at the Anchorage Correctional Complex. Respondent initially did not disclose that her father was incarcerated in 2009 by DOC. When directly questioned she stated that yes, he was in jail, but she didn't visit him. Then she said she thought she may have visited him once. When asked about the multiple visits, Respondent stated she didn't remember as it was a long time ago and she thought it was only once.

6. On or about June 17, 2020, a follow up meeting was held. During this meeting Respondent stated that she only visited her father while he was incarcerated at the Anchorage Correctional Complex (ACC) once or twice. When asked directly about the other visits she again stated that she only visited him once or twice while he was incarcerated and that she also visited him while he was the halfway house. She said she did not think of her father when she filled out the applications as she has had no contact with him for a number of years.

7. On or about June 18, 2020, Respondent was non-retained by DOC as they found her dishonest in her hiring process and the pre-determination meetings. DOC

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recommended Respondent be disqualified for certification as a correctional officer on the Personnel Action Form submitted to APSC.

8. On or about June 23, 2020, the Executive Director found that Respondent was disqualified for Alaska Correctional Officer Certification and notified her via email with an attached packet that contained the letter of determination; a draft consent agreement, a Notice of Appeal consistent with 13 AAC 85.260 (c); and, copies of the APSC Statutes and Administrative Procedures Act.

9. On or about July 6, 2020, APSC received Respondent’s notice of appeal of the Executive Director’s decision to the full Council.

10. On or about August 26, 2020, the Executive Director presented Respondent’s case and documentation to the Council for their consideration of her eligibility for hire and certification. The Respondent appeared telephonically before the Council and presented her argument that the Executive Director’s finding should be overturned. Council members had the opportunity to question Respondent and review the investigative record used by the Executive Director. After evaluating the documentation, discussion and deliberation, the Council voted to uphold the Executive Director’s decision that the Respondent was ineligible for certification.

11. AS 18.65.240 (c) provides that the APSC may deny or revoke the certificate of a correctional officer who does not meet the standards adopted under (a) (2) of this section.

12. 13 AAC 85.260 (a) (1) provides that the council will, in its discretion, deny a basic certificate upon a finding that the applicant for a certificate falsified or omitted

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information required to be provided on the application for certification or on supporting documents.

13. 13 AAC 85.260 (a) (2) provides that the council will, in its discretion, deny a basic certificate upon a finding that the applicant has been discharged, or resigned under threat of discharge, from employment as a corrections officer in this state or any other state or territory for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the correctional agency where the officer worked.

14. 13 AAC 85.100 (b) (5) provides that the council shall deny a basic certificate upon a finding that the applicant for the certificate has been discharged, or resigned under threat of discharge, from employment as a correctional officer in this state or any other state or territory for cause for conduct that would cause a reasonable person to have substantial doubt about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States or that is detrimental to the integrity of the correctional agency where the officer worked.

15. 13 AAC 85.260 (c) provides that the Executive Director may act on an application for certification, consistent with standards and qualifications adopted by the council and consistent with AS 18.65.130 - 18.65.290. The Executive Director may deny an application, if the applicant does not satisfy those requirements. An applicant aggrieved by the decision of the executive director may petition for review of that decision by the council. The council's review of that decision is controlled by the Administrative Procedure Act.

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ISSUE I

Paragraphs 1-15 are incorporated by reference. Based upon the facts described above, the Alaska Police Standards Council finds that Respondent omitted information required to be provided on the application for certification or on supporting documents, which is grounds for discretionary denial of certification under 13 AAC 85.260 (a) (1).

ISSUE II

Paragraphs 1-15 are incorporated by reference. Based upon the facts described above, the Alaska Police Standards Council finds that Respondent was discharged from employment as a corrections officer in this state for conduct that is detrimental to the reputation, integrity, or discipline of the Department of Corrections, which is grounds for discretionary denial of certification under 13 AAC 85.260 (a) (2).

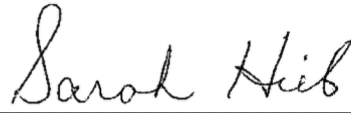
ISSUE III

Paragraphs 1-15 are incorporated by reference. Based upon the facts described above, the Alaska Police Standards Council finds that Respondent has been discharged from employment as a correctional officer in this state for cause for conduct that would cause a reasonable person to have substantial doubt about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States or that is detrimental to the integrity of the Department of Corrections, which is grounds for mandatory denial of certification under 13 AAC 85.260 (b) (5).

*State of Alaska
Alaska Police Standards Council
Box 111200
Juneau, Alaska 99811-1200*

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DATED this 13th day of October 2020, at Juneau, Alaska.



Sarah Hieb, Administrative Investigator
Alaska Police Standards Council