

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of)
)
 Michael Malave,) **APSC No. 2019-20**
)
 Respondent,)
 _____)

ORDER OF REVOCATION

The Alaska Police Standards Council of the State of Alaska, having duly convened on the 7th day of May, 2020, and having reviewed and discussed the Accusation against the Respondent, which was served March 11, 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 an Accusation may be used without notice to the Respondent.


Accordingly, the Council has considered the Accusation dated February 27, 2020.

Based on the Council’s consideration of the facts recited in the referenced Accusation,

IT IS HEREBY ORDERED

1. That the allegations made in the Accusation against the Respondent dated February 27, 2020, are hereby adopted and the Accusation is made, by reference, a part of this Order as though set forth fully herein.
2. That the Respondent’s State of Alaska Correction Officer certification is hereby revoked; and
3. That this Order of Revocation shall take effect in accordance with AS 44.62.520(a).

DATED this 7th day of May, 2020.



Justin Doll, Chairman
Alaska Police Standards Council

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
28
30
31
32

STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of:)
)
 Michael Malave,) No. APSC 2019-20
)
Respondent)
_____)

ACCUSATION

Sarah Hieb, Administrative Investigator of the Alaska Police Standards Council (APSC), State of Alaska, on behalf of the Executive Director for APSC, is seeking to revoke the correctional officer certificate of Respondent Michael Malave under the legal authority of AS 18.65.220, AS 18.65.245(2), the Council’s regulations in 13 AAC 85.270, and under the procedures governed by the Administrative Procedure Act in AS 44.62.330, *et. seq.* The Executive Director alleges as follows:

1. On or about August 24, 2017, the Respondent was hired by the Alaska Department of Corrections (DOC) as a correctional officer.
2. On or about December 6, 2018, the Respondent was certified by APSC as a correctional officer in the State of Alaska.
3. On or about April 24, 2019, DOC initiated an internal investigation after receiving a report from a supervisor at Lemon Creek Correctional Center outlining alleged misconduct involving Respondent.
4. On or about April 29, 2019, Respondent was placed on Administrative Leave and ordered to remain readily available to report to work.
5. On or about May 8, 2019, during the employee investigative interview, Respondent admitted to the following misconduct:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
28
30
31
32

a. On March 25 and 26, 2019, he looked through the dorm window into the dorm to count the inmates, rather than entering the dorm, as per DOC policy. He did not have a reason for not following policy.

b. Respondent acknowledged that Gate 11 is supposed to be closed when the Lemon Creek Correctional Center housing unit door is open. He admitted to instances of unsecured doors between Gate 11 and the housing unit that should have been secured during counts on March 26 and 27, 2019.

c. On March 26, 2019 at 1901 hours and again at 2237 hours, Respondent conducted tier checks on the Maximum-Security Unit without a second officer, which is against DOC policy. Also at 2237 hours, he left the tier door open and unsupervised for over seven minutes. Respondent said he used to work as a correctional officer in Arizona and they would become complacent with their security checks. Even though Respondent acknowledged it is against DOC policy to leave inmates unrestrained, he said he felt safe and secure enough to allow that to happen. He felt he had built enough rapport with the maximum-security inmates that he did not feel threatened. Respondent's conduct demonstrates a fundamental lack of understanding that department policies are designed to keep officers, offenders, and the entire institution safe. Respondent's conduct adversely affects his ability to perform job duties safely.

d. On March 25, 2019 Respondent had a trainee with him in the Maximum-Security Unit and failed to secure inmates and doors as required by DOC policy. Respondent also exposed two new correctional officers he was training to the above misconduct and also put their safety at undue risk by his

1 actions. His actions are detrimental to the discipline and integrity of DOC and
2 demonstrate he does not respect the right of his co-workers and inmates to be
3 safe.
4

5 e. Respondent admitted to using the closed-circuit television
6 system (CCTV) to perform inmate counts, instead of doing the counts by
7 entering the unit and counting the inmates in person. He would further log
8 these “counts” as being done in person. Both of these actions violated DOC
9 policy and were detrimental to the discipline and integrity of DOC.
10

11 6. On or about May 31, 2019, Respondent’s roommate, also a DOC
12 corrections officer, brought Respondent’s badge and uniforms to DOC and said
13 Respondent told him he was quitting and left the state. On the same day, DOC
14 contacted Respondent who confirmed he was in Arizona. While he acknowledged he
15 broke the stipulations of administrative leave, Respondent said he would not return to
16 Alaska unless DOC guaranteed he would not be terminated.
17

18 7. On or about June 26, 2019 at 1426 hours, via email, Respondent
19 resigned his position at DOC. On the separation F-4 submitted to APSC, DOC
20 indicated Respondent resigned while under investigation and DOC had sustained
21 misconduct by Respondent as noted above. DOC recommended that he be decertified.
22

23 8. AS 18.65.245(2) provides that the APSC may revoke the certificate of
24 a correctional officer who fails to meet the standards adopted under AS 18.65.242(a).
25

26 9. 13 AAC 85.270(a)(2) provides that the council may revoke a basic
27 certificate upon a finding that the holder of the certificate has resigned under threat of
28 discharge, from employment as a correctional officer for inefficiency, incompetence,
29 or some other reason that adversely affects the ability and fitness of the officer to
30
31
32

1 perform job duties or is detrimental to the reputation, integrity, or discipline of the
2 correctional agency where the officer worked.

3
4 10. 13 AAC 85.270(b)(3) provides that the council will revoke a basic
5 certificate upon a finding that the holder of the certificate resigned under threat of
6 discharge from employment as a correctional officer for conduct that would cause a
7 reasonable person to have substantial doubt about an individual's honesty, fairness,
8 respect for the rights of others, and for the laws of this state and the United States or
9 that is detrimental to the integrity of the correctional agency where the officer worked.
10

11
12
13 **COUNT I**

14
15 Paragraphs 1-10 are incorporated by reference. Based upon the facts described
16 above, Respondent resigned under threat of discharge from his position as a
17 correctional officer with the State of Alaska Department of Corrections, for conduct
18 that adversely affects the ability and fitness of the officer to perform job duties, which
19 is grounds for discretionary revocation under 13 AAC 85.270(a)(2).
20
21

22 **COUNT II**

23
24 Paragraphs 1-10 are incorporated by reference. Based upon the facts described
25 above, Respondent resigned under threat of discharge from his position as a
26 correctional officer with the State of Alaska Department of Corrections, for conduct
27 that is detrimental to the reputation, integrity, or discipline of the correctional agency
28 where the officer worked, which is grounds for discretionary revocation under 13 AAC
29 85.270(a)(2).
30
31
32

COUNT III

Paragraphs 1-10 are incorporated by reference. Based upon the facts described
above, the Respondent resigned under threat of discharge as a correctional officer with

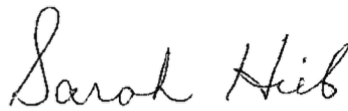
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
28
30
31
32

the State of Alaska Department of Corrections for conduct that would cause a person to have substantial doubt about an individual’s honesty, fairness, respect for the rights of others, and for the laws of this state and the United States; which is grounds for mandatory revocation under 13 AAC 85.270(b)(3).

COUNT IV

Paragraphs 1-10 are incorporated by reference. Based upon the facts described above, the Respondent resigned under threat of discharge as a correctional officer with the State of Alaska Department of Corrections for conduct for that is detrimental to the integrity of the correctional agency where the officer worked, which is grounds for mandatory revocation under 13 AAC 85.270(b)(3).

DATED this 27th day of February 2020, at Juneau, Alaska.



Sarah Hieb, Administrative Investigator
Alaska Police Standards Council