

STATE OF ALASKA
ALASKA POLICE STANDARDS COUNCIL

In the Matter of)
)
 Yamil F Gines-Rivera) APSC No. 2019-30
)
 Respondent,)
 _____)

ACCEPTANCE OF VOLUNTARY SURRENDER IN LIEU OF REVOCATION

Pursuant to AS 18.65.220(6), AS 18.65.242(a), and 13 AAC 85.270 the Alaska Police Standards Council of the State of Alaska (APSC) may revoke a correctional officer certification if the officer does not satisfy the minimum standards set by the council for certification or has resigned under threat of discharge 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.

The council will revoke a correctional officer's certification if they have resigned under threat of discharge for conduct that would cause a reasonable person to have substantial doubt about the 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.

On or about September 4, 2019, correctional officer Yamil F Gines-Rivera, Respondent, resigned his correctional officer position with the Alaska Department of Corrections while under threat of discharge for egregious misconduct including the falsification of official documents and providing contraband to an inmate. He was previously disciplined and suspended in April of 2019 for provoking a physical altercation with an inmate, not following proper lock-down procedures, abandoning his post, and failing to disclose a pre-existing physical condition that affected his ability to perform his duties.

On September 5, 2019 the Executive Director wrote Respondent and informed him of the investigation and pending action by the Council. The letter informed Respondent of his rights to appeal a decision of the council and suggested he may wish to consider voluntary relinquishment of his correctional officer certification. The Respondent did not respond to this letter.

On December 3, 2019, the APSC met and found probable cause to pursue the revocation of Respondent's correctional officer certification. He was notified of this fact in a certified letter sent December 10, 2019, asking if he wished to voluntarily surrender his certification in lieu of public administrative action. This letter included notification of Respondent's rights to due process and to contest the Council's actions. The notice was delivered to him on December 16, 2019. In response, Respondent mailed his original correctional officer certificate to APSC,

1 ALASKA POLICE STANDARDS COUNCIL
2 ACCEPTANCE OF SURRENDER
3 YAMIL F GINES-RIVERA

4 without the requested executed Consent Agreement acknowledging and waiving his due process
5 rights under the Administrative Procedure Act, AS 44.62.010 *et seq.*

6 After receiving the Respondent's certificate in the mail on January 10, 2020, APSC again wrote
7 Respondent and request he confirm his intent to surrender his certification by signing the
8 included Consent Agreement. He did not respond to the Request.

9 On February 11, 2020, APSC again attempted to notify Respondent by certified US mail, return
10 receipt requested, that, lacking any action taken to exercise his due process rights, the Council
11 would take notice that it was Respondent's intent to voluntarily surrender his certification in lieu
12 of revocation.

13 The United States Postal Service attempted delivery of the notice and left notification to
14 Respondent of the certified letter requiring signature. The Respondent has failed to accept
15 delivery and sign for the certified notice.

16 WHEREAS, the Alaska Police Standards Council has found that there is probable cause to revoke
17 the Respondent's certification as a correctional officer in Alaska; and,

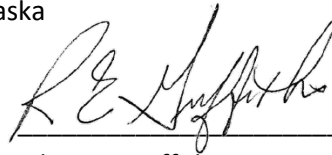
18 WHEREAS, the Respondent was notified of this finding and of his rights to appeal the decision
19 of the Council pursuant to the Alaska Administrative Procedures Act, AS 44.62.010 *et seq.*; and,

20 WHEREAS the Respondent surrendered his certificate by US Mail after receiving notice and
21 failed to take any action toward exercising due process rights;

22 NOW, THEREFORE, this formal Acceptance of Surrender in Lieu of Revocation is entered into the
23 Respondent's record, subject to the provisions for 13 AAC 85.270.


24 Dated this 5th day of March 2020, at Juneau, Alaska

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Robert E. Griffiths, Executive Director
Alaska Police Standards Council

Adopted by the Alaska Police Standards Council, this 5th day of March 2020, at Anchorage, Alaska



Justin Doll, Council Chair
Alaska Police Standards Council






2019-30 Gines Rivera Surrender & Order NR

Final Audit Report

2020-03-10

Created:	2020-03-09
By:	Gia Currier (gcurrier@muni.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAermPZUOD-0pLlkjDHEgeOpvQfkCjWDnD

"2019-30 Gines Rivera Surrender & Order NR" History

-  Document created by Gia Currier (gcurrier@muni.org)
2020-03-09 - 10:08:41 PM GMT- IP address: 209.193.41.50
-  Document emailed to Justin Doll (jdoll@muni.org) for signature
2020-03-09 - 10:09:30 PM GMT
-  Email viewed by Justin Doll (jdoll@muni.org)
2020-03-10 - 0:44:48 AM GMT- IP address: 24.237.70.71
-  Document e-signed by Justin Doll (jdoll@muni.org)
Signature Date: 2020-03-10 - 0:45:32 AM GMT - Time Source: server- IP address: 24.237.70.71
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2020-03-10 - 0:45:32 AM GMT

