

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 D. Barnett) No. APSC 2012-02
)
Respondent.)
_____)

ACCUSATION

Kelly Alzaharna, Executive Director of the Police Standards Council (APSC), Department of Public Safety of the State of Alaska, is seeking to revoke the police certificate of Respondent Michael D. Barnett under the legal authority of AS 18.65.240(a) and (c), the Council's regulations in 13 AAC 85.110, and under the procedures governed by the Administrative Procedure Act in AS 44.62.330, *et. seq.* The Administrator alleges as follows:

1. On or about December 20, 2005, the Respondent was hired by the Dillingham Police Department as a police officer.
2. On or about August 7, 2007, the Respondent was certified by APSC as a police officer in the State of Alaska.
3. On or about January 28, 2011, the Respondent, as part of Dillingham PD Incident #09000142, was directed to call the Crime Lab to locate missing evidence. After appearing to make a phone call from the dispatch office he reported to co-workers, ADA Susan Mitchell, and testified in an evidentiary hearing for the case, that he had sent the items to the Crime Lab and a lab employee confirmed they had the missing evidence items.

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

4. On or about January 28, 2011, the missing evidence items were located in the Dillingham PD evidence room. They had not been sent to the Crime Lab.

5. Later that day, after the missing evidence items were found in the Dillingham PD Evidence room, the Respondent said that the ADA Susan Mitchell told him not to send the evidence to the Crime Lab, so he didn't. ADA Mitchell disputes the Respondent's claim.

6. A check with the DOA State Security Office showed there were no phone calls received at the Crime Lab on January 28, 2011, from the Respondent's personal cell phone or from Dillingham PD.

7. On or about April 6, 2011, the Respondent offered to provide a copy of his cell phone records, verifying his inquiry to the Crime Lab on January 28, 2011.

8. On or about April 30, 2011, Sgt. Travis Schiaffo, ordered the Respondent to submit his mobile phone records to AST Sgt. Andrew Merrill regarding his investigation in to the initially missing evidence.

9. On or about April 30, 2011, the Respondent responded to his supervisor, Sgt. Travis Schiaffo, via email, saying that his cell phone records were his personal business and he (Sgt. Schiaffo) should not interfere, as the matter didn't concern him.

10. On or about June 23, 2011, the Respondent resigned his employment with the Dillingham PD while he was still under investigation for wrongdoing relating to the conduct described in Paragraphs 3-9.

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

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

12. 13 AAC 85.110(a)(3) provides that “the council will, in its discretion revoke a basic, intermediate, or advanced certificate upon a finding that the holder of the certificate...does not meet the standards in 13 AAC 85.010(a) or (b).”

COUNT I

Paragraphs 1-10 are incorporated by reference. Based upon the facts described above, the Respondent does not meet the minimum standards for a certified police officer established under 13 AAC 85.010(a)(3). The Respondent lacks good moral character and is dishonest, which is grounds for discretionary revocation under 13 AAC 85.110(a)(3).

COUNT II

Paragraphs 1-10 are incorporated by reference. Based upon the facts described above, the Respondent resigned under threat of discharge, from employment as a police officer in Alaska for cause for conduct that would cause a reasonable person to have substantial doubt about his honesty, which is grounds for mandatory revocation under 13 AAC 85.110(b)(3).

DATED this 20th day of February, 2013, at Juneau, Alaska.

Kelly C. Alzaharna
Kelly Alzaharna, Executive Director
Alaska Police Standards Council

**BEFORE THE ALASKA OFFICE OF ADMINSTRATIVE HEARINGS
ON REFERRAL FROM THE ALASKA POLICE STANDARDS
COUNCIL**

In the matter of:)
Michael D. Barnett,)
)
)
)

OAH # 13-0314-POC
APSC # 2012-02

AMENDED ACCUSATION

Comes now the Executive Director of the Alaska Police Standards Council, by and through Assistant Attorney General John J. Novak, and hereby files this amended accusation.

The Executive Director incorporates into this amended accusation by reference the factual allegations set forth in the previously filed accusation, dated February 12, 2013.

The Executive Director files this amended accusation to set forth a new paragraph no. 11 to provide as follows:

11. On or about February 8, 2011, Respondent, while off duty and intoxicated, called the Dillingham Police Department and spoke with Dispatcher Rodney Etheridge. Respondent spoke with the Dispatcher Etheridge about his desire to have females sleep with him. Respondent then called Dillingham Police Department Police Officer Cheryl Bird and asked her to come to his residence to drink alcoholic beverages with him and his desire to have someone give him a back rub. During the call with Officer Bird, respondent sought to use his position to induce Officer Bird to come to his residence to drink alcoholic beverages with him. Respondent's conversations with Dispatcher Etheridge and Officer Bird were recorded.

The Executive Director further renumbers former paragraphs 11 and 12 to become paragraphs 12 and 13.

The Executive Director finally amends Counts I and II to provide as follows:

Amended Count I

Respondent's police certificate must be mandatorily revoked pursuant to 13 AAC 85.110(b)(3) since he resigned under threat of discharge from employment as a police officer for conduct that would cause a reasonable person to have substantial doubt about his honesty, fairness, and respect of the rights of others and the law; or for conduct detrimental to the integrity of the police department where he worked.

Amended Count II

Respondent's police certificate must be discretionarily revoked pursuant to 13 AAC 85.110(a)(2) and/or (a)(3) since he resigned under threat of discharge from employment as a police officer for cause for a reason that adversely affects his ability and fitness to perform job duties or he is detrimental to the reputation, integrity, or discipline of the police department where he worked; or is not of good moral and trustworthy character.

DATED this ^{23rd} 21st day of May, 2013 at Anchorage, Alaska.

MICHAEL GERAGHTY
ATTORNEY GENERAL

By: _____

John J. Novak
Assistant Attorney General
Alaska Bar No. 8511184



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Public Safety

ALASKA POLICE STANDARDS COUNCIL

PO Box 111200
Juneau, Alaska 99811-1200
Main: 907.465.4378
Fax: 907.465.3263

February 26, 2014

Mr. Michael D. Barnett
P.O. Box 1262
Dillingham, AK
99576

Dear Mr. Barnett:

On February 20, 2013, the Alaska Police Standards Council filed an accusation against you regarding actions that were cause for revocation of your Alaska police officer certification. On March 7, 2013, APSC received your Notice of Defense and forwarded your case to the Office of Administrative Hearings. A hearing was set and convened on June 11, 2013.

Approximately forty-five minutes in to testimony during the second day of the hearing, June 12, 2013, you requested to terminate the hearing and voluntarily surrender your certificate. The Office of Administrative Hearings granted your request and you said you would forward a signed consent agreement within the following week. During contact with you on July 20, August 1, and October 3, 2013, you indicated each time that you were immediately sending the signed agreement. It was never sent.

On December 3, 2013, the Alaska Police Standards Council reviewed your case and voted to revoke your Alaska Police Officer certification.

Respectfully,

A handwritten signature in cursive script that reads "Kelly C. Alzaharna".

Kelly Alzaharna
Executive Director

Cc: Michael Barnett file