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STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of the )  
Accusation Against )  
GREGORY T. DANJIN, )  
Respondent. )  

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No. APSC 77-01

DECISION

The attached proposed decision by the hearing officer is adopted by the Alaska Police Standards Council as its decision in the above-entitled matter. This decision is effective on May 15, 1980.

DATED this 30<sup>th</sup> day of April, 1980.

  
Chairman  
Alaska Police Standards Council

STATE OF ALASKA  
ALASKA POLICE STANDARDS COUNCIL

In the Matter of the )  
Accusation Against )  
GREGORY T. DANJIN, )  
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Respondent. )  
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No. APSC 77-01

PROPOSED DECISION

This matter came on for hearing before Dorothy Awes Haaland, hearing officer, on behalf of the Alaska Police Standards Council, hereinafter referred to as the council, on the Accusation filed by the Council. The hearing commenced on Monday, May 21, 1979 at 9:00 A.M. in the state courthouse, Anchorage, Alaska. It was continued until 8:30 A.M., Wednesday, May 23, 1979 in the courtroom, State Office Building, Kotzebue, Alaska, and was completed at a further hearing on Friday, July 20, 1979, in the conference room of the Pat Kling Court Reporting Service, 1016 West 6th Avenue, Anchorage, Alaska. The council was represented by Anne Carpeneti, Assistant Attorney General, and Gregory T. Danjin, hereinafter referred to as respondent, was represented by Alan Sherry, of the law firm of Merdes, Schaible and DeLisio, Inc. Later Rick Garnett was substituted as attorney for respondent.

The accusation moved to revoke the certificate of respondent as a police officer in the State of Alaska. Such revocation was requested on three grounds: (1) that respondent falsified his application for police officer certification in that he failed to state that on or about April 23, 1973, he had been asked to resign from employment as a police officer with the Detroit, Michigan, Police Department; (2) on the ground that he is not mentally suited for work as a police officer; and (3) respondent was terminated by the North Slope Borough, Department of Public Safety.

At the close of the hearing the hearing officer ruled, over objection of the respondent, that the council could submit

its second amended accusation for the purpose of conforming the pleading to the proof. The respondent was not injured because the facts alleged were all known to him, having been discussed at prehearing conferences several months before.

Respondent was issued his certificate as a police officer by the council on or about October 25, 1976. Respondent had filed two applications, the first was received by the council on February 7, 1975, and the second one on March 25, 1976. The first application was denied because it did not contain information showing that the respondent had met the requirement of a one year probationary period. The second was filed showing such requirement had been met. On neither of these applications was it shown that he had been discharged or asked to resign from the Detroit police department, although such question was specifically asked on the form (Question 22). Both applications showed that he had been discharged from the Kotzebue police force on December 30, 1974.

Respondent received his first police training with the Detroit police department, where he was a probationary employee for eleven months. He also had been employed part-time as a police officer at Ambler, and for police type work with Loomis Security.

Respondent applied for a position with the City of Barrow on July 11, 1975, and was hired. Respondent was a good police officer during the beginning of this employment with the Barrow police department. The first year he received at least one promotion, and was given "good" and "very good" evaluations. In June, 1976, he was suspended by Chief Moeller for three days for getting into an altercation with a driver of a motor vehicle stopped by him in connection with a violation. Later, after the suspension had been served, the document of suspension itself was voided, because, according to Moeller, of pressure from respondent, and also the fact that new rules of discipline were being established. Later in 1976 respondent was demoted for preparing a criminal complaint against a superior officer. Such complaint



was seen by Moeller before it was filed, and was destroyed by him. Gradually during this period a conflict arose between respondent and Moeller, and respondent aided in bringing a charge of embezzlement by Moeller before the grand jury. Moeller was indicted, but the indictment was later dismissed without trial. On January 29, 1977 Moeller ordered an investigation by Captain Christensen, one of respondent's superior officers, because of reports as to his way of dealing with the public by two officers, Funderok and Christensen. As a result of the investigation, it was reported that respondent had violated various provisions of the operations manual, and had an unreasonable amount of hate for Moeller, and should have a psychiatric evaluation. Moeller had also talked to a Sgt. Cassidy in Detroit, and learned that respondent had been forced to resign, and had had a psychiatric examination there. Respondent was told by Moeller he must have a psychiatric examination or he would be dismissed immediately.

The psychiatric reports came from the Langdon Clinic and respondent resigned. A staff meeting had been held the evening before and a decision made to terminate respondent. He is now employed by the city of Kotzebue, but his continued employment must be supported by the retention of his license granted by the council.

An appointment had been made for respondent at the Langdon Clinic, where he was seen by Dr. Langdon, a psychiatrist, and by Dr. Jon Burke, a clinical psychologist. Dr. Langdon's diagnostic impression was [REDACTED], and he advised against employment in police work, and suggested that his employment in such field be discontinued with advice to seek other work. Dr. Burke administered five psychological tests, and after interviewing respondent and analyzing the test results, Dr. Burke concluded that respondent was most likely suffering from [REDACTED]

Also offered in evidence by the state was the psychiatric report of Dr. Kenneth G. Schooff, who examined respondent

while he was employed by the Detroit police department. This report was admitted as hearsay, and can be considered only to supplement the other reports. To this extent it is noted that Dr. Schooff gave as his impression that respondent was [REDACTED], and recommended that he should not be accepted at that time for police work.

On the other hand, respondent consulted Dr. Mitchell H. Wetherhorn, a clinical psychologist, who found after testing "a diagnosis of psychiatric disability at this time very much in wanting and would recommend that Mr. Danjin continue his employment as a police officer."

There were numerous other witnesses offered both on behalf of the council and the respondent. There was much conflict in the testimony, and there is no way to reconcile it. Among those who testified favorably on behalf of respondent were Mayor Royal Harris who testified that respondent had done much to improve the police force in Kotzebue, making it more professional; Chief of Kotzebue Police Buehler, who testified that respondent was second in command, was patient, restrained and reliable, and further indicated he thought the city should be allowed to hire its own police without interference from the state; Carlos Salazar and Phillip Henry, other police officers, who testified that respondent was competent, strict but not rigid; Eliza Hensley, acting magistrate and court clerk, who testified that respondent had matured considerably and was a good officer; John Palmer, former reserve police officer in Kotzebue, Jeffrey Smith, councilman, and Mary Lynn Shafer, employee of the police department, all of whom testified that he was a good officer, patient and reasonable; Joseph Clark, a male nurse, who liked the way he treated patients at the hospital, patient and reasonable even with mentally disturbed patients; George Edwards, District Attorney at Nome, who was favorably impressed with the reports he had seen respondent prepare and his professional manner, although he indicated his knowledge was limited; and, lastly, Gene Shafer, the probation officer for Kotzebue who spoke favorably of the way



respondent dealt with people, and said he was the best officer in the area as to demeanor in court appearances. Several of these witnesses also testified that respondent was distant with people and very much in control of himself, and that respondent could not get along with Chief of Police Moeller, who was, however, also at fault in this regard.

One witness who testified against respondent was James E. Christensen, who has been referred to above, Captain of the North Slope Borough in charge of the Barrow Division, who testified that respondent was, on occasion, out of control with violators, very rigid, seeing things as either black or white, and regarded the public as the enemy. He further testified that the dissension between Moeller and respondent had the department divided into two camps, and respondent used the term "Moellerites" to describe those not in sympathy with him. Others who testified that respondent was rigid, uncompromising and unpredictable were Walter L. Patterson, State Trooper, and Arlene McCafferty who was the city jail dispatcher.

Chief Moeller who had originally hired respondent to work in Barrow testified by deposition. He testified that respondent was a good officer the first year, and was promoted. After about a year he was suspended for three days because of an altercation with a traffic violator in which he became unnecessarily rough. He was then demoted because of an altercation with a superior officer, after which respondent drew up a criminal complaint, which Moeller found and destroyed to prevent filing. After the demotion, he found respondent impossible to get along with. Respondent's demotion was announced by the posting of the notice of demotion and reasons therefor on the bulletin board at the police station while respondent was out of town, a method not in accord with the rules of procedure. (Motions were pending at the close of the hearing as to the admissibility of Moeller's deposition. It has been admitted subject to the limitations on the use of hearsay evidence contained therein.)

Respondent also testified in his own behalf. He testified that he had been a police officer for seven years. He testified as to his work in Detroit, and testified there were many things there he disliked, including prejudice against the blacks and the arrogance of some of the police officers. He testified that he voluntarily quit the job in Detroit, but indicated there was pressure for him to resign.

Further he testified that he joined the police force at Barrow on July 26, 1975, and left 2 years later. He was hired by Mr. Moeller, and they got along fine the first year, but he then lost respect for Moeller because he (respondent) felt his demotion unjust; he also mentioned the method of demotion, posting the notice on the bulletin board when he was out of town. Also he lost respect for Moeller because of his investigation and indictment by the grand jury, losing respect to the extent that he could not work for him.

Respondent filed a claim with the labor department in the fall of 1976 for wages he believed due him while he was attending school, a claim with the labor department decided in his favor in February, 1977. He resigned his job in Barrow two years after he was hired. He also gave testimony to justify his actions that led to his suspension.

He was hired by the Kotzebue police department in 1977 as acting chief. He testified that the department was in very bad shape when he started, but that he had established operating procedures and made other improvements. He still works on the street with younger patrolmen.

One bit of testimony by respondent should be referred to. He testified that one of his objections to his job in Detroit was the way in which some of the other employees discussed intimate relationships with their wives, saying that he would not do this. When he was contradicted by another witness who testified that she objected to him because he did precisely this, he again took the stand, and on cross-examination admitted that he did on occasion do just this. This is mentioned only



because the hearing officer noted it as a direct contradiction of his own earlier testimony.

The state is seeking to revoke the certificate issued by the council, but respondent claims the state has no power to revoke, since such power is not specifically given by statute. The state in its brief cited authorities to the effect that the power to issue the permits includes the power to revoke for cause. The respondent's brief takes issue with this position indicating it has in recent years been overruled, but without citing authority to support its position. After reviewing the question, the hearing officer is of the opinion that the state's position is the correct one, and the state has the power to revoke for cause. 51 Am. Jur. 2d 58, page 61; 64 ALR 3d 509, 514.

The three grounds on which the state seeks to revoke the permit are (1) fraud in that respondent falsified his application by failing to state he had been asked to resign from the Detroit police force; (2) respondent does not meet the minimum mental health requirements set forth by statute and regulations; and (3) he was terminated by the North Slope Borough.

The ground of falsification of application is sufficient ground for revocation if proven, going to the question of good moral character as required by AS 18.65.240 and 6 AAC 70.010. No one testified in person from the Detroit Police Department. However, the state gave notice of its intention to use the affidavit of William Cassidy, an officer of the Detroit Police Department. Respondent objected to the use of such affidavit, but such objection was not timely, and it did not request the right to cross-examine. It is the ruling of the hearing officer that such affidavit may properly be admitted into evidence. This affidavit is adequate to support the claim that respondent was asked to resign from the Detroit Police Department. Respondent testified that he retired voluntarily, but indicated on cross-examination that he was pressured to resign. It is the hearing officer's finding that the state proved its claim in



Count I that respondent was asked to resign from the Detroit Police Department, and that he failed to give such information in either of his applications (Exhibits 6 & 7).

The second count alleges that respondent did not meet the minimum requirement of mental fitness as required by AS 18.65.240(a)(2), 6 AAC 70.010(a)(7)(A) and 6 AAC 70.040(a)(1)(C). AS 18.65.240(a)(2) provides that no person may be appointed as a police officer under that section unless he possesses the qualifications set by the council "including but not limited to . . . physical and mental standards . . ." The regulations cited provide that the applicant must be certified by a physician to be physically sound but does not mention mental fitness. The state argues that the regulations include lack of mental fitness in the phrase "physically sound" and "free from physical defects." The respondent argues that since the regulations omit any reference to mental fitness, the council intended this qualification to be left to the hiring police force. The hearing officer does not agree entirely with either of these positions. Since the legislature made mental fitness a requirement among the qualifications to be determined by the council, the council has this responsibility, which it cannot abridge by regulation, 73 CJS Public Administrative Bodies Sec. 94. The council has the power to adopt regulations but is not obligated to do so. AS 18.65.220(1). Since the statute refers to both physical and mental standards, and the regulations speak only of physical standards, it appears that the regulation does not require mental fitness, but the council is still bound by the requirements of the statute, AS 18.65.240(a)(2).

The finding of the hearing officer is that the council had sufficient proof to justify its finding that respondent does not meet the requirement of mental fitness. Although there was a conflict in the testimony offered by the state and the respondent, the state's two expert witnesses, Dr. Langdon and Dr. Burke, plus the hearsay statement of the psychiatrist in Michigan all point to similar problems in respondent's psychological makeup. The

evidence of other witnesses, including respondent himself is consistent with the findings of the specialists as to his behavior. For example, according to the testimony of witnesses for both parties, and of the respondent himself, he is distant with other people, rigid and judgmental, finds it difficult to work peacefully with other people, and is critical of others for doing the same things that he himself may do.

As to the third count, it is the finding of the hearing officer that the proof was not sufficient to support this count. The respondent, Chief Moeller, and Captain Christensen all testified that respondent resigned. There was testimony that a decision had been made to terminate him, but he submitted his resignation before the decision was put into effect.

Since the state has offered sufficient proof under counts one and two to sustain those counts of the accusation, either one of which may be sufficient to warrant revocation, the hearing officer makes the following

PROPOSED DECISION

The permit to work as a police officer issued by the Alaska Police Standards Council should be, and hereby is revoked.

DATED at Anchorage, Alaska this 23 day of February, 1980.

*Dorothy Ames Hoaland*  
Hearing Officer