

**ARIZONA STATE PERSONNEL BOARD**  
**MEETING MINUTES**  
**DECEMBER 15, 2016**

The Arizona State Personnel Board meeting was called to order by Joe Beers at 2:01 p.m. The meeting was held at 1400 West Washington Street, Suite 280, Phoenix, Arizona. Board members in attendance were Kevin Donnellan, Chad Kirkpatrick and Mark Ziska. Staff members present were Jeff Bernick as Counsel for the Board, Laurie Barcelona, Executive Director and Robin Van Staeyen, Administrative Assistant II.

The board called for comments from the public. There being no public comments, Chad Kirkpatrick moved to adopt the minutes from the November 16, 2016 meeting. Kevin Donnellan seconded the motion which carried unanimously.

Next, the board considered the dismissal appeal of *JC Queen vs. Department of Corrections*.

Based on the fact that each side presented their case in the last meeting, Chair Joe Beers stated that the meeting would basically be driven by questions from the board and thanked the parties for the timeline that was provided to the board members after the last meeting. Mr. Green stated that there is one correction that was made with reference to a response by one of the witnesses which should read February 26, 2016 and not March 1, 2016.

In questioning Ms. Baillie, Attorney at Law representing JC Queen, Joe Beers inquired as to whether Officer Queen was involved in two weapon exchanges and whether both were proper exchanges. Ms. Baillie stated that Officer Queen was involved in two weapon exchanges, but only one was proper.

Mark Ziska asked which exchange was done properly. Ms. Baillie stated that a proper exchange was made between Officer Queen and Officer Nielson. The exchange between Officer Queen and Lt. Trujillo was an improper exchange.

Mark Ziska stated that one of the exhibits indicates that Officer Nielson claimed that the exchange took place in a restroom and asked whether that was a proper location. Ms. Baillie answered that that was an allegation made by Officer Nielson, but it was Officer Queen who disclosed that the weapon exchange between himself and Lt. Trujillo as the restroom.

In questioning Mr. Green, Assistant Attorney General representing the Department of Corrections, Joe Beers inquired as to whether either weapon exchanges by Officer Queen were proper. Mr. Green stated that neither exchange was proper and explained that Officer Nielson lied in his first response when he stated that the weapon exchange with Officer Queen was proper and testified at the hearing that he initially lied and admitted to having an improper weapon exchange with Officer Queen. Mr. Kirkpatrick

inquired as to what proof there was that Officer Nielson initially lied about the weapon exchange. Mr. Green stated it was Officer Nielson's own statement.

Mark Ziska asked for an explanation of the department's chart of discipline with regards to Officer Queen's case. Mr. Green stated that there was a class three for an improper weapon exchange, a class seven for untruthfulness during a non-investigative interview, a class seven for false statements during the administrative investigation, as well as another class seven for intentional untruthfulness and lastly a class seven for having contact with another investigator during the course of the investigation. Mr. Green added that based on the multiple class seven violations the only option was dismissal.

Kevin Donnellan inquired as to whether this was the first class three offense Officer Queen has received. Mr. Green answered that it was for this particular case, but Officer Queen has a long list of prior discipline.

Mark Ziska inquired as to whether Officer Queen's prior discipline was considered in the decision to dismiss. Mr. Green answered in the affirmative, but was not necessary because the offenses in this case were sufficient enough for dismissal.

Ms. Baillie stated that Officer Queen only asked Officer Nielson how the investigation interview went, but Officer Nielson told Queen that he couldn't talk about it and walked away. Furthermore, regarding the claim of untruthfulness by Officer Queen, it comes down to a "he said, he said" and Queen was truthful about the improper exchange with Lt. Trujillo even though he knew it would result in discipline and Queen's truthfulness should be considered. Mr. Green stated that Lt. Trujillo had already reported the improper exchange so Officer Queen had no choice but to tell the truth regarding the weapon exchange between them.

There being no further discussion, Mark Ziska proposed the following motion:

"Finding that the Department of Corrections has proven by a preponderance of the evidence that the material facts on which the dismissal was based and that the dismissal was not arbitrary and capricious, I move we adopt the Hearing Officer's Findings of Fact and Conclusions of Law as our own. I further find that just cause existed for discipline to be imposed and then move that the appellant's appeal be denied and the agency's action of dismissal be upheld."

Kevin Donnellan seconded the motion which carried unanimously.

Next, the board considered the dismissal appeal of **Patricia Sanchez-Valdez vs. Department of Corrections.**

Before getting started with the questioning in the Sanchez-Valdez matter, Mark Ziska asked if there are only Glock's used at the department. Mr. Green stated that he was not sure.

Keven Donnellan inquired as to whether there are separate procedures written for different weapons, which could have caused confusion during the weapon exchanges. Mr. Green stated that the procedures were available at the site.

In questioning Ms. Baillie, Attorney at Law representing Patricia Sanchez-Valdez, Joe Beers inquired as to whether Officer Sanchez-Valdez was involved in two weapon exchanges and whether both were proper exchanges. Ms. Baillie explained that the exchange between Sanchez-Valdez and Lewis was done appropriately. However, in an exchange between Lewis and France, France reported the exchange was appropriate, but Lewis claimed it was inappropriate. France was not disciplined because it was perceived he was telling the truth and Lewis was not. However, the department believed Lewis's statement over that of Sanchez-Valdez with regards to their weapon exchange.

Joe Beers then directed the same question to Mr. Green, Assistant Attorney General representing the Department of Corrections, and Mr. Green stated that the exchange between Sanchez-Valdez and Lewis was conducted improperly as Officer Lewis testified in the investigation and at the hearing. Furthermore, the exchange between France and Lewis was improper.

Kevin Donnellan asked for an explanation of the department's chart of discipline with regards to the Sanchez-Valdez case. Mr. Green stated that Sanchez-Valdez received a class three for neglect of duty, class seven for being dishonest during the an informal interview, class seven for being dishonest during the administrative interview, class seven for intentional dishonesty and a class seven for communicating with other officers during the investigation. Mr. Donnellan then asked whether there was previous discipline. Mr. Green answered in the affirmative.

Ms. Baillie stated that Lewis accused Sanchez-Valdez of calling him and urging him to lie, but this accusation does not meet the timeline based on the fact that Lewis received the inquiry on February 23, 2016 and submitted his response on the same day and Sanchez-Valdez received the inquiry on February 25, 2016 and submitted her response on February 28, 2016. Furthermore, the accusation by Lewis came on March 10, 2016 after meetings with the Assistant Deputy Warden and Deputy Warden, but there is no documentation or recordings of what happened in those meetings.

Mr. Green clarified that the administrative inquiry was initiated on February 23, 2016 and Queen was served with the inquiry first on February 24, 2016, Lewis and Sanchez-Valdez were served on February 25, 2016 and Nielson was served on February 26, 2016; therefore there was sufficient time for Sanchez-Valdez to make a phone call to Lewis. Continuing, Mr. Green explained that Lewis and Nielson did change their story after the Warden told them he would review the surveillance video and from that time forward they were truthful and cooperated with the investigation and testified truthfully at the hearing.

Mark Ziska asked whether the Warden threatened Sanchez-Valdez that he would review the surveillance video. Mr. Green answered in the negative because after getting different information from Lewis and Nielson the Warden decided to elevate the incidents to an administration investigation.

There being no further discussion, Chad Kirkpatrick proposed the following motion:

"Finding that the Department of Corrections has proven by a preponderance of the evidence that the material facts on which the dismissal was based and that the dismissal was not arbitrary and capricious, I move we adopt the Hearing Officer's Findings of Fact and Conclusions of Law as our own. I further find that just cause existed for discipline to be imposed and then move that the appellant's appeal be denied and the agency's action of dismissal be upheld."

Kevin Donnellan seconded the motion which carried unanimously.

There being no further business before the board, Kevin Donnellan proposed the meeting be adjourned. Mark Ziska seconded the motion which carried unanimously. The meeting adjourned at 2:31 p.m.

*(Quotations of board members in these minutes have been reviewed by staff for grammatical content, and certain grammatical changes may have been made by staff administratively. No changes to content have been made by staff administratively or otherwise.)*

Respectfully submitted:

Robin Van Staeyen  
Robin Van Staeyen, Administrative Assistant II  
Arizona State Personnel Board

February 6, 2017  
Date Prepared