

**PINAL COUNTY MERIT COMMISSION HEARING
OCTOBER 30, 2014, 9:00 AM
HEARING ROOM
31 North Pinal Street, Administration Building A, Florence AZ**

PRESENT: Thomas Ramsdell, Chairman
Richard Brinkley, Commissioner
Frances Wickham, Commissioner
Gilbert Cancio, Commissioner
Ralph Varela, Commissioner

OTHERS: Donna Aversa, Counsel to the Merit Commission
Cynthia Grant, Assistant to the Clerk of the Merit Commission
Brian Quesenberry, Attorney for Respondent
Jose Cruz, Pinal County Sheriff's Office Representative
Gary Husk, Attorney for the Appellant
Annette Lopez, Appellant

1. Exhibits

Exhibits 1-38, 42, 44 & 46 were admitted into evidence.

2. Continued Respondent's Case in Chief Annette Lopez Appeal Hearing

- (i) Chairman Ramsdell advised those present that Mr. Burnside, Florence Police Department, would not be available as previously stated.
- (ii) Attorney Quesenberry called the Appellant Annette Lopez who is sworn in by Chairman Ramsdell. Appellant's attorney Gary Husk requests that the record reflect that Ms. Lopez is currently charged with a misdemeanor with Town of Florence and that she has been advised of her rights. Appellant so advised of her Fifth Amendment rights elected to waive her Fifth Amendment right to self-incrimination.

Executive Session for legal advice: At 9:22 a.m., Chairman Ramsdell motioned to go into Executive Session for legal advice with the attorney for the Commission pursuant to A.R.S. Sec. 38-431.03(A)(3). Commissioner Brinkley seconded the motion. The Commission unanimously voted to go into executive session for legal advice.

The Commission reconvened at 9:27 a.m. Chairman Ramsdell reminded everyone of the confidentiality of executive sessions.

Chairman Ramsdell advised that Respondent's Attorney will be permitted to ask leading questions.

The Commission went into recesses at 10:32 a.m.

The Commission reconvened at 10:41 a.m.

Attorney Quesenberry resumes direct examination. The witness was cross examined by Attorney Husk. Redirect of the witness by Attorney Quesenberry. The Commissioners questioned the witness with addition re-direct and re-cross examinations by Attorney Quesenberry and Attorney Husk.

The Commission recessed at 12:05 p.m.

The Commission reconvened at 12:16 p.m.

3. Appellant Presents Her Case in Chief

- (i) Attorney Husk called Sergeant Christopher Street who was sworn in by Chairman Ramsdell. The witness was crossed examined by Attorney Quesenberry. Attorney Husk conducts a redirect examination of the witness.
- (ii) Attorney Husk called Lieutenant Gilbert Hoyos who was sworn in by Chairman Ramsdell. The witness was crossed examined by Attorney Quesenberry. Commission asks questions of the witness who is released at 12:39 p.m.

The Commission dismissed for lunch at 12:40 p.m.

The Commission reconvened at 1:52 p.m.

4. Administrative Housekeeping Matters Addressed

Commission schedules upcoming appeal hearings. Alzira Lopes matter set for hearing on January 7 and 8, 2014.

5. Continuation of Annette Lopez Appeal Hearing

- (iii) Attorney Quesenberry called Detective Jose Cruz who was sworn in by Chairman Ramsdell. The witness was crossed examined by Attorney Husk. Attorney Quesenberry conducts a redirect examination of the witness. Commission members question the witness.

The Commission recessed at 3:20 p.m.

The Commission reconvened at 3:30 p.m.

6. Closing Arguments

Attorney Quesenberry provides closing argument.

Attorney Husk provides closing argument.

Attorney Quesenberry provides rebuttal closing argument.

Executive Session for legal advice: At 4:20 p.m., Commissioner Varela motioned to go into Executive Session for legal advice with the attorney for the Commission pursuant to A.R.S. Sec. 38-431.03(A)(3). Commissioner Wickham seconded the motion. The Commission unanimously voted to go into executive session for legal advice.

The Commission reconvened at 4:24 p.m. The Chairman reminded everyone of the confidentiality of executive sessions.

The Commission begins initial discussion of the charges.

Executive Session for legal advice: At 5:00 p.m., Commissioner Cancio motioned to go into Executive Session for legal advice with the attorney for the Commission pursuant to A.R.S. Sec. 38-431.03(A)(3). Commissioner Wickham seconded the motion. The Commission unanimously voted to go into executive session for legal advice.

The Commission reconvened at 5:14 p.m. The Chairman reminded everyone of the confidentiality of executive sessions.

7. Discussion and vote on determination of charges

Charge 1: Pinal County Sheriff's Office Policy 340.3(g), 340.3.2(a) and 340.3.5(aa); Pinal County Sheriff's Office-Adult Detention Center Policy 1.8.3.1; Pinal County Merit System Rules 12.1(C)(3) and 12.1(C)(9)

Motion made by Chairman Ramsdell that the County failed to meet its burden on Charge One. Commissioner Varela seconded the motion. The Commission conducted a roll call vote. Commissioners Ramsdell, Brinkley, Varela and Wickham vote in favor of the motion. Commissioner Cancio opposes the vote. With a 4:1 vote, the charge is not upheld.

Charge 2: Pinal County Sheriff's Office Policy 340.3(k), 340.3.5(o) and (z); Pinal County Sheriff's Office-Adult Detention Center Policy 1.8.3.1; Pinal County Merit System Rules 12.1(C)(5)

Executive Session for legal advice: At 5:00 p.m., Commissioner Cancio motioned to go into Executive Session for legal advice with the attorney for the Commission pursuant to A.R.S. Sec. 38-431.03(A)(3). Commissioner Wickham seconded the motion. The Commission voted unanimously to go into executive session.

The Commission reconvened at 5:13 p.m. The Chairman reminded everyone of the confidentiality of executive sessions.

Motion made by Chairman Brinkley that the County failed to meet its burden on Charge 2. Commissioner Wickham seconded the motion. The Commission conducted a roll call vote. Commissioners Ramsdell, Brinkley, Varela and Wickham vote in favor of the motion. Commissioner Cancio opposes the vote. With a 4:1 vote, the charge is not upheld.

Charge 3: Pinal County Sheriff's Office Policy 340.3(c), 340.3.5(aa); Pinal County Sheriff's Office-Adult Detention Center Policy 1.8.3.1; Pinal County Merit System Rules 12.1(C)(25)

Motion made by Chairman Varela that the County failed to meet its burden on Charge 3. Commissioner Brinkley seconded the motion. The Commission conducted a roll call vote. The Commissioners unanimously voted 5:0 that the charge is not upheld.

Charge 4: Pinal County Sheriff's Office-Adult Detention Center Policy 1.8.3.1; Pinal County Merit System Rules 12.1(C)(19)

Motion made by Chairman Brinkley that the County failed to meet its burden on Charge 4. Commissioner Wickham seconded the motion. The Commission conducted a roll call vote. Commissioners Ramsdell, Brinkley, Varela and Wickham vote in favor of the motion. Commissioner Cancio opposes the vote. With a 4:1 vote, the charge is not upheld.

Executive Session for legal advice: At 5:40 p.m., Commissioner Cancio motioned to go into Executive Session for legal advice with the attorney for the Commission pursuant to A.R.S. Sec. 38-431.03(A)(3). Commissioner Wickham seconded the motion.

8. Decision

Motion made by Commissioner Brinkley to grant the Appellant's appeal, revoke the termination and grant back pay. Commissioner Wickham seconded the motion. The Commission conducted a roll call vote. Commissioners Ramsdell, Brinkley, Varela and Wickham vote in favor of the motion. Commissioner Cancio abstained. With a 4:1 vote, the appeal is granted.

Attorney Quesenberry moved to reserve the right to request a Hearing to determine amount of back pay.

Chairman Ramsdell directed Donna Aversa to prepare the Findings of Fact and Conclusion of Law.

The Commission adjourned at 5:55 p.m.

Cynthia Grant
Assistant to the Clerk of the Merit Commission

Thomas Ramsdell
Chairman