

PINAL COUNTY MERIT COMMISSION
MARCH 6, 2015 AT 9:00 A.M.
HEARING ROOM
31 N. Pinal St, Administration Building A, Florence, Arizona

COMMISSIONERS PRESENT:

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

OTHERS PRESENT:

Donna Aversa, Counsel to the Merit Commission
Charla Skiles, Assistant to the Clerk of the Merit Commission
Brian Quesenberry, Pinal County Attorney
Kenneth Chavez, Appellant
Jeffrey Jacobson, Appellant's counsel

1. Call to Order.

The meeting was called to order at 9:00 a.m.

2. Roll Call and Confirmation of Quorum.

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

1. Business – Continuation of the appeal of termination of employment of Kenneth Chavez.

2. Exhibits Admitted:

- a. Appellant Exhibits- 8, 9, 11, 12, 13, 14, 18, 19, 20, 21
- b. Respondent Exhibits-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36 38, 39, 40, 41, 42, 43, 46, 47

3. Appellant's Witnesses:

- a. Tammy Mockbee testified under oath and was dismissed at 9:15 a.m.

- b. Jim Patmore testified telephonically under oath and was dismissed at 10:03 a.m.
- c. Recess. The Commission recessed for a break at 10:08 a.m. and reconvened at 10:26 a.m.
- d. Kenneth Chavez testified under oath.
- e. Recess. The Commission recessed for lunch at 11:54 a.m. and reconvened at 12:57 p.m.
- f. Kenneth Chavez resumed his testimony.

4. Executive Session for legal advice: At 2:24 p.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 Cancio seconded the motion. The Commission unanimously voted to go into executive session for legal advice.

Following Executive Session, the Commission reconvened at 2:32 p.m. Chairman Ramsdell reminded everyone of the confidentiality of executive sessions.

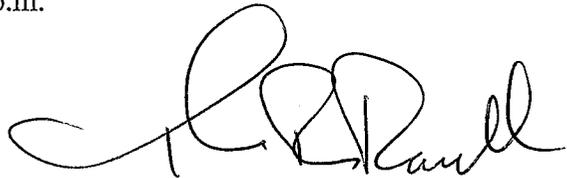
5. Appellant's Witnesses:

- a. Kenneth Chavez resumed his testimony.

The Merit Commission adjourned at 4:43 p.m.



Charla Skiles, Assistant to the
Clerk of the Merit Commission



Tom Ramsdell, Chairman

PINAL COUNTY MERIT COMMISSION
MARCH 4, 2015 AT 9:00 A.M.
HEARING ROOM
31 N. Pinal St, Administration Building A, Florence, Arizona

COMMISSIONERS PRESENT:

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

OTHERS PRESENT:

Donna Aversa, Counsel to the Merit Commission
Charla Skiles, Assistant to the Clerk of the Merit Commission
Brian Quesenberry, Deputy Pinal County Attorney, representing Respondent
Pinal County Animal Care and Control
Audra Michaels, Interim Director for Pinal County Animal Care and Control
Kenneth Chavez, Appellant
Jeffrey Jacobson, Appellant's counsel

1. Call to Order.

The meeting was called to order at 9:06 a.m.

2. Roll Call and Confirmation of Quorum.

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

3. Business – Consideration and possible action regarding the appeal of termination of employment of Kenneth Chavez

A. Introductions

- a. Respondent Pinal County Animal Care and Control is represented by Brian Quesenberry.
- b. Appellant Chavez is represented by Attorney Jeffrey Jacobson.
- c. The Chairman gave an overview of the procedure for the hearing.

B. Opening Statements

- a. Opening statement presented by Attorney Quesenberry on behalf of Respondent.

- b. Opening Statement presented by Attorney Jacobson on behalf of Appellant.
- C. Witnesses placed under oath and excluded from the proceedings**
 - a. The following witnesses were placed under oath beginning of the proceedings with the remaining witnesses placed under oath prior to providing testimony:
 - i. Audra Michaels, Interim Director of PCACC
 - ii. Kenneth Chavez, Appellant
 - iii. Sophie Jourdan, former PCACC Animal Control Officer I
 - iv. Faye Valenzuela, former PCACC Administrative Clerk

D. Exhibits Admitted:

- a. Appellant Exhibits- 18 & 19
- b. Respondent Exhibits – 13, 14, 15, 16, 18, 19, 20, 25, 27, 28, 29, 30, 31, 35, 36, 38, 42, 43

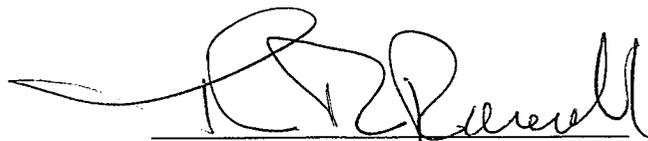
E. Respondent's Witnesses:

- a. **Fay Valenzuela** testified under oath
- b. **Recess.** The Commission recessed for a break at 10:16 a.m. and reconvened at 10:23 a.m.
- c. **Fay Valenzuela** completed her testimony and was dismissed at 10:37 a.m.
- d. **Sophie Jourdan** testified under oath and was dismissed at 11:42 a.m.
- e. **Jessica Leifson** testified under oath and was dismissed at 12:08 p.m.
- f. **Recess.** The Commission recessed for lunch at 12:08 p.m. and reconvened at 1:02 p.m.
- g. **Lindsey Graham** testified under oath and was dismissed at 2:35 p.m.
- h. **Randi Murphy** testified under oath and was dismissed at 3:42 p.m.
- i. **Recess.** The Commission went into recess at 3:48 p.m. and reconvened at 3:54 p.m.
- j. **Brittany Ramirez** testified under oath and was questioned by Respondent at 3:53 p.m. dismissed at 4:45 p.m.
- k. **Recess.** The Commission recessed for the day.

The Merit Commission adjourned at 4:46 p.m.



Charla Skiles, Assistant to the
Clerk of the Merit Commission



Tom Ramsdell, Chairman

PINAL COUNTY MERIT COMMISSION
MARCH 5, 2015 AT 9:00 A.M.
HEARING ROOM
31 N. Pinal St, Administration Building A, Florence, Arizona

COMMISSIONERS PRESENT:

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

OTHERS PRESENT:

Donna Aversa, Counsel to the Merit Commission
Charla Skiles, Assistant to the Clerk of the Merit Commission
Brian Quesenberry, Pinal County Attorney
Kenneth Chavez, Appellant
Jeffrey Jacobson, Appellant's counsel

1. Call to Order.

The meeting was called to order at 9 a.m.

2. Roll Call and Confirmation of Quorum.

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

3. Business – Continuation of the appeal of termination of employment of Kenneth Chavez.

4. Exhibits Admitted:

- a. Appellant Exhibits- 13, 18, 19, 20
- b. Respondent Exhibits- 4, 5, 6, 7, 8, 9, 10, 11, 17, 27, 33, 35, 38, 39, 40, 41, 42, 46, 47

5. Respondent's Witnesses:

- a. **Tori Olson** testified under oath.

- b. **Recess.** The Commission recessed for lunch at 11:33 a.m. and reconvened at 1:21 p.m.
- c. **Tori Olsen** completed her testimony and was dismissed at 1:44 p.m.
- d. **Audra Michael** testified under oath.
- e. **Recess.** The Commission recessed for a break at 2:48 p.m. and reconvened at 3:37 pm.
- f. **Audra Michael** completed her testimony and was dismissed at 4:20 p.m.
- g. **Respondent rested its case.**

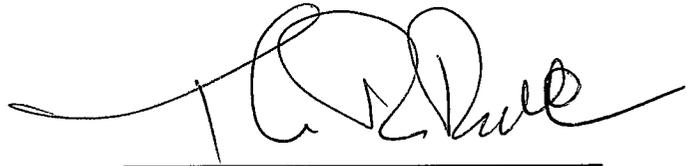
6. Appellant's Witnesses:

- a. Ron Jimenez testified under oath and was dismissed at 4:39 p.m.

The Merit Commission adjourned at 4:40 p.m.



Charla Skiles, Assistant to the
Clerk of the Merit Commission



Tom Ramsdell, Chairman

PINAL COUNTY MERIT COMMISSION
MARCH 9, 2015 AT 8:00 A.M.
HEARING ROOM
31 N. Pinal St, Administration Building A, Florence, Arizona

COMMISSIONERS PRESENT:

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

OTHERS PRESENT:

Donna Aversa, Counsel to the Merit Commission
Charla Skiles, Assistant to the Clerk of the Merit Commission
Brian Quesenberry, Pinal County Attorney
Kenneth Chavez, Appellant
Jeffrey Jacobson, Appellant's counsel

1. Call to Order.

The meeting was called to order at 9:00 a.m.

2. Roll Call and Confirmation of Quorum.

Chairman Tom Ramsdell
Commissioner Richard Brinkley
Commissioner Gilbert Cancio
Commissioner Frances Wickham

3. Business - Continuation of the appeal of termination of employment of Kenneth Chavez.

4. Appellant's Witnesses:

- a. Kenneth Chavez completed his testimony and was dismissed at 9:03 a.m.
- b. Appellant rested his case.

5. Closing Arguments.

- a. Respondent provided its Closing Argument.
- b. Appellant provided his Closing Argument.

6. **Executive Session for legal advice:** At 10:04 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.

Following Executive Session, the Commission reconvened at 10:34 a.m. Chairman Ramsdell reminded everyone of the confidentiality of executive sessions.

7. **Deliberation and Vote on Charges:**

INCIDENT 1:

Charge 1 – Pinal County Animal Care and Control Management Regulation 2010-002

1) Ensure that all subordinates are properly trained in all applicable Policy and Procedures and conduct your duties and responsibilities effectively and efficiently, in accordance with established procedures.

Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 2 – Pinal County Animal Care and Control Management Regulation 2010-002

2) Ensure that your subordinates exercise due care in the course of their work in a manner conducive to protect the health and safety of the staff, the public, and the animals under our care.

Pinal County Uniform Merit System Rule 12.1C(25) – Any other improper conduct or performance of such severity as to constitute cause for disciplinary action, to-wit: The employee mistreated an animal.

Charge 3 – Pinal County Uniform Merit System Rule 12.1C(2) – The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

On **Charges 1 through 3:** Upon motion by Commissioner Cancio, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden and upholds the Charges.**

INCIDENT 2:

Charges 4, 5 and 6 – Pinal County Uniform Merit System Rule 12.1C(4) – *one charge per dog.*

The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

On **Charges 4 through 6:** Upon motion by Commissioner Ramsdell, seconded by Commissioner Cancio, the Commission unanimously finds that **Respondent did meet its burden and upholds the Charges.**

INCIDENT 3:

Charge 7 – Pinal County Uniform Merit System Rule 12.1C(1) - The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 8 – Pinal County Uniform Merit System Rule 12.1.C(2) - The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 9 – Pinal County Uniform Merit System Rule 12.1C(4) - The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

Charge 10 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 7 through 10:** Upon a motion by Commissioner Cancio, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did NOT meet its burden on these Charges.**

INCIDENT 4:

Charge 11 – Pinal County Animal Care and Control Policy 1.06 – *Use of Collapsible Baton*

A. The bite stick shall be used in accordance with the following use of force continuum based on the aggression level of the dog; interest and the common good. (See attached Animal Care and Control Policy 1.06.)

Charge 12 – Pinal County Uniform Merit System Rule 12.1C(1) - The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 13 – Pinal County Uniform Merit System Rule 12.1.C(2) - The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 14 – Pinal County Uniform Merit System Rule 12.1C(4) - The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

Charge 15 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 11 through 15**: Upon motion by Commissioner Brinkley, seconded by Commissioner Wickham, by a vote of 3:1 with Commissioner Cancio voting against the motion, the Commission finds that **Respondent did NOT meet its burden on these Charges.**

INCIDENT 5:

Charge 16 – Pinal County Policy and Procedure 1.05 – *Ethics in County Service*

All public servants shall carry out the public's business in a manner that benefits the public interest and the common good. They shall protect the County's assets and its reputation through professional and personal conduct that is above reproach. This means treating co-workers and all members of the public with respect, courtesy, fairness, honesty, and integrity.

Pinal County Policy and Procedure 3.40 – *Workplace Violence*

County policy prohibits intimidating threats or acts which adversely affect morale or employee/departmental performance or which results in physical, emotional, and or property damage.

Pinal County Policy and Procedure 3.40 – *Workplace Violence*

County policy prohibits behavior that is physically or verbally threatening, either overtly or implicitly, as well as behavior that is coercive, intimidating, violent or harassing.

Pinal County Uniform Merit System Rule 12.1C(3) - The employee has been abusive in attitude, language, behavior, or conduct toward a fellow employee, a

supervisor, or the public; or their action has resulted in physical harm, injury, or fear of it to such persons.

Charge 17 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 16 and 17**: Upon motion by Commissioner Brinkley, seconded by Commissioner Cancio, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on these Charges.**

INCIDENT 6:

Charge 18 – Pinal County Policy and Procedure 1.05 – *Ethics in County Service*

All public servants shall carry out the public's business in a manner that benefits the public interest and the common good. They shall protect the County's assets and its reputation through professional and personal conduct that is above reproach. This means treating co-workers and all members of the public with respect, courtesy, fairness, honesty, and integrity.

Pinal County Policy and Procedure 3.40 – *Workplace Violence*

County policy prohibits intimidating threats or acts which adversely affect morale or employee/departmental performance or which results in physical, emotional, and or property damage.

Pinal County Policy and Procedure 3.40 – *Workplace Violence*

County policy prohibits behavior that is physically or verbally threatening, either overtly or implicitly, as well as behavior that is coercive, intimidating, violent or harassing.

Pinal County Uniform Merit System Rule 12.1C(3) - The employee has been abusive in attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public; or their action has resulted in physical harm, injury, or fear of it to such persons.

Charge 19 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 18 and 19**: Upon Motion by Commissioner Ramsdell, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on these Charges.**

INCIDENT 7:

Charge 20 – Pinal County Policy 3.30 – *Code of Conduct*

Each employee should use the public resources, property and funds under the employee's control and responsibility for the public purpose intended by law not for private purpose

Charge 21 – Pinal County Policy and Procedure 1.05 – *Ethics in County Service*

All public servants shall carry out the public's business in a manner that benefits the public interest and the common good.

Charge 22 – Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 23 – Pinal County Uniform Merit System Rule 12.1C(8) - The employee, through negligence or willful misconduct, has caused damage to public property or waste of public supplies.

Charge 24 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 20 through 24:** Upon motion by Commissioner Brinkley, seconded by Commissioner Wickham, by a vote of 4:0, the Commission unanimously finds that **Respondent did NOT meet its burden on these Charges.**

INCIDENT 8:

Charge 25 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charge 25:** Upon a motion by Commissioner Brinkley, seconded by Commissioner Wickham, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on this Charge.**

INCIDENT 9:

Charge 26 – Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 27 – Pinal County Uniform Merit System Rule 12.1C(2) - The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 28 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

Charge 29 – Pinal County Uniform Merit System Rule 12.1C(25) – Any other improper conduct or performance of such severity as to constitute cause for disciplinary action, to-wit: The employee violated the stated Mission of the Animal Care and Control Office.

On **Charges 26 through 29:** Upon motion by Commissioner Cancio, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on these Charges.**

INCIDENT 10:

Charge 30 – Animal Control and Care Policy 1.10

If the supervisor locates a rescue hold for an animal, the animal must be immediately deleted from the list and the rescue information/hold notes placed into the animal record. The supervisor will send an email to the adoption/rescue coordinator staff with the animal and rescue hold information the same business day.

Charge 31 – Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 32 – Pinal County Uniform Merit System Rule 12.1C(2) - The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 33 – Pinal County Uniform Merit System Rule 12.1C(4) - The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

Charge 34 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 30 through 34**: Upon motion by Commissioner Ramsdell, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on these Charges**.

INCIDENT 11:

Charge 35 – Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 36 – Pinal County Uniform Merit System Rule 12.1C(2) - The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 37 – Pinal County Uniform Merit System Rule 12.1C(4) - The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

Charge 38 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 35 through 38**: Upon a motion by Commissioner Ramsdell, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did NOT meet its burden on these Charges**.

INCIDENT 12:

Charges 39, 40, 41, 42 – Animal Care and Control Policy 1.10 – *one charge per dog.*

The officer must verify the list matches the animal they are going to euthanize. There must be a kennel card affixed to the kennel, there shall be no animals that are not on the euthanasia list sharing the inside kennel, the animal kennel card photo must match the animal in the kennel, the animal ID band number (affixed to the animal's neck) must match the number on the kennel card and the euthanasia list. All of these items shall match and be present, or the animal is to be removed from the euthanasia list.

Charges 43, 44, 45, 46 – Animal Care and Control Policy 1.10 – *one charge per dog.*

If a micro-chip is located (that was noted prior or cleared prior) the supervisor shall be notified immediately. A notice shall be placed on the animal's kennel, or the animal is to be monitored with necessary sedation recovery steps followed.

All information will be placed into the notes section of the animal record regarding the information received.

Charges 47, 48, 49, 50 – Pinal County Uniform Merit System Rule 12.1C(1) – one charge per dog.

The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charges 51, 52, 53, 54 –Pinal County Uniform Merit System Rule 12.1C(2) – one charge per dog.

The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charges 55, 56, 57, 58 – Pinal County Uniform Merit System Rule 12.1C(4) – one charge per dog.

The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

Charges 59, 60, 61, 62 – Pinal County Uniform Merit System Rule 12.1C(9) – one charge per dog.

The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On **Charges 39 through 62:** Upon motion by Commissioner Cancio, seconded by Commissioner Brinkley, by a vote of 4:0, the Commission unanimously finds that **Respondent did meet its burden on these Charges.**

INCIDENT 13:

Charge 63 – Pinal County Uniform Merit System Rule 12.1C(1) – The employee does not demonstrate sufficient competency or efficiency to perform assigned duties and responsibilities.

Charge 64 – Pinal County Uniform Merit System Rule 12.1C(2) – The employee is unsafe to himself/herself, other employees, the public, or County property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.

Charge 65 – Pinal County Uniform Merit System Rule 12.1C(4) - The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.

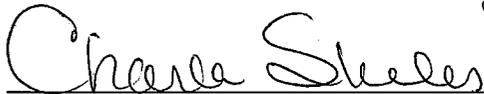
Charge 66 – Pinal County Uniform Merit System Rule 12.1C(9) - The employee has engaged in conduct, on or off duty that is of such a nature that it would tend to bring discredit to the County.

On Charges 63 through 66: Upon motion by Commissioner Brinkley, seconded by Commissioner Cancio, by a vote of 3:1 with Commission Ramsdell voting against the motion, the Commission finds that **Respondent did NOT meet its burden on these Charges.**

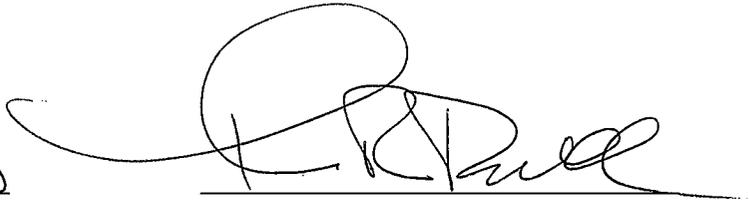
8. Determination.

Upon motion by Commissioner Brinkley, seconded by Commissioner Ramsdell, the Commission, by a vote of 4:0 unanimously orders that **Chavez' Appeal is denied and the discipline is upheld.**

9. The meeting adjourned.



Charla Skiles, Assistant to the
Clerk of the Merit Commission



Tom Ramsdell, Chairman