

1 In the Matter of the Emergency Medical)
2 Technician- Paramedic License Held by:)

) EMSA Case No. 14-0170
) **OAH No.: 2015100783**

3 **JUAN CARLOS CALVO,**)
4 License No. P21286)

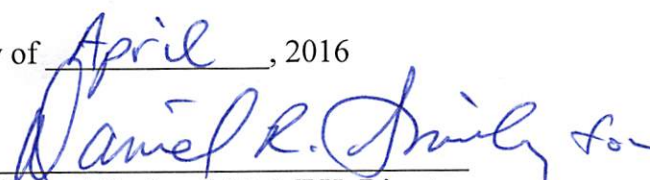
) **DECISION AND ORDER**

5 _____)
6 Respondent)

7 The Proposed Decision of the Administrative Law Judge dated April 5, 2016, is adopted
8 by the Emergency Medical Services Authority as its decision in this matter.

9 This Decision and Order shall become effective in 20 days from the date of signature.

10 IT IS SO ORDERED, this 6 day of April, 2016

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13 Howard Backer, MD, MPH, Director
14 Emergency Medical Services Authority
15 State of California
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BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Emergency Medical
Technician-Paramedic License Held by:

JUAN CARLOS CALVO,

License No. P21286

Respondent.

EMS Authority No.: 14-0170

OAH No. 2015100783

PROPOSED DECISION

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on March 21, 2016.

Senior Staff Counsel Stephan J. Egan represented complainant Sean Trask, Chief, EMS Personnel Division, Emergency Medical Services Authority, State of California.

No appearance was made by or on behalf of respondent Juan Carlos Calvo.

The record closed and the matter was submitted for decision on March 21, 2016.

FACTUAL FINDINGS

1. Respondent Juan Carlos Calvo was properly served with the Accusation and Notice of Hearing on the Accusation, pursuant to Government Code sections 11505 and 11509. On March 3, 2016, respondent's request for a continuance of the hearing was denied. Inasmuch as no appearance was made by or on behalf of respondent, this hearing proceeded by default pursuant to Government Code section 11520.

2. Respondent holds Emergency Medical Technician-Paramedic (EMT-P) license number P21286. The license was first issued on July 8, 2004, and lapsed on July 31, 2012. Respondent may renew his license unless it is revoked or suspended.

3. Complainant Sean Trask, acting in his official capacity as Chief, EMS Personnel Division, Emergency Medical Services Authority (EMSA), State of California, filed the accusation against respondent.

4. On March 10, 2015, in the Superior Court of California, County of San Mateo, respondent was convicted on his plea of no contest of violating Penal Code section 243, subdivision (E)(1) (battery on girlfriend/cohabitant), a misdemeanor and a crime substantially related to the qualifications, functions or duties of an EMT-P. Respondent was placed on formal probation for 18 months, followed by informal probation for an additional 18 months. His probation conditions included service of 20 days in jail (with credit served for 13 days and a recommendation to the Sheriff's Alternative Sentencing Program), participation in domestic violence counseling, and payment of various fines and fees.

5. According to the police report, the facts and circumstances surrounding respondent's conviction are that on May 28, 2014, respondent choked his girlfriend to the point where she lost consciousness. Police who responded to the crime scene observed redness and slight blood spotting on the right side of the victim's neck; dried blood on the corner of the victim's lip; and bruising on the inside of her lip. When interviewed by the police about the incident respondent maintained that there was no physical contact between himself and the victim "except maybe when their shoulders touched each other as they passed in the hallway of the apartment."

LEGAL CONCLUSIONS

Causes for discipline

1. Under Health and Safety Code section 1798.200, subdivisions (b) and (c)(6), the EMSA may suspend or revoke any EMT-P license if the licensee has been convicted of a crime substantially related to the qualifications, functions and duties of prehospital personnel. Pursuant to California Code of Regulations, title 22, section 100175, a crime or act is "substantially related" if it evidences a present or potential unfitness of a paramedic to perform the functions authorized by his license in a manner consistent with public safety. In the instant case, respondent's conviction for domestic battery is substantially related to the duties and functions of a paramedic insofar as it evidences respondent's potential unfitness to perform his duties in a manner consistent with public safety. Accordingly, cause exists to suspend or revoke respondent's EMT-P license by reason of the matters set forth in Finding 4.

2. Under Health and Safety Code section 1798.200, subdivisions (b) and (c)(5), the EMSA may suspend or revoke any EMT-P license if the licensee commits any "fraudulent, dishonest or corrupt act" that is substantially related to the qualifications, functions and duties of prehospital personnel. Respondent's acts of violence upon his girlfriend and his dishonesty to the police regarding his conduct, as described in Findings 4 and 5, are substantially related to the duties and functions of a paramedic insofar as it evidences respondent's potential unfitness to perform his duties in a manner consistent with public safety. Accordingly, cause exists to suspend or revoke respondent's EMT-P license by reason of the matters set forth in Finding 5.

Disciplinary determination

3. The EMSA has adopted disciplinary guidelines that must be considered in fixing the level of discipline to be imposed. Under the guidelines, the maximum recommended discipline for conviction of a substantially related crime or act is license revocation and the minimum recommended action is a stayed revocation with one year of probation. The factors used to determine the appropriate discipline include: the nature and severity of the offense, including mitigating or aggravating factors; the actual or potential harm to the public, including harm to any patient; the existence of a prior disciplinary record; rehabilitation evidence; performance on probation; and mitigating or aggravating evidence. In determining whether or not license revocation is appropriate in any case, the overriding concern is whether a paramedic can be trusted to perform his duties in a manner consistent with public safety.

4. In the instant case respondent violently attacked his girlfriend, and he lied to the police regarding his criminal conduct. Respondent's conduct reflects extremely poor judgment, a lack of self-control, and dishonesty, and raises serious concerns as to whether he can be trusted to discharge his duties as a paramedic in a manner consistent with public safety. Respondent failed to appear at hearing. No rehabilitation or mitigation evidence was presented. Under these circumstances license revocation is the appropriate discipline.

ORDER

Emergency Medical Technician-Paramedic license number P21286 issued to respondent Juan Carlos Calvo is revoked.

DATED: April 5, 2016

DocuSigned by:
Diane Schneider

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DIANE SCHNEIDER
Administrative Law Judge
Office of Administrative Hearings