

**NEW MEXICO
CORRECTIONS DEPARTMENT
DISCIPLINARY DECISION**

Major Report: B 16 ELEVATEDMinor Report: B 33 Dismissed: ☒

QB202
Cmz
4/10/14

Aldaz, Eric NMCD #76942

Log #: NE-14-03-74

DOI: March 18, 2014

DOH: March 31, 2014

The Hearing Officer finds Inmate Aldaz, Eric NMCD #76942 was guilty of a major level category B 16, and guilty of a minor level category B 33 based on the following:

1. The written misconduct report issued by Lt. Willard which states, "On March 18, 2014 at approximately 0800 hours and at NENMDF, it was discovered that Inmate Aldaz had a Facebook page. Inmate Aldaz has been told on previous occasions to contact his family to have them shut the page down. Inmate Aldaz has been advised that failure to remove page will result in the issuance of a misconduct report. Inmate Aldaz stated that he had no way of contacting his family, and was allowed a phone call to call his family to shut it down. While listening to a phone call placed by Inmate Aldaz said inmate is heard bragging to his sister about being on the news for having a Facebook page. Inmate Aldaz is also heard asking her if she had the password for his page, and telling her to post new pictures of him or an old picture of him".
2. Recorded corroborate the misconduct report
3. Securus call detail report corroborates misconduct report.

RECOMMENDED SANCTIONS:**B 16**

Confinement to disciplinary segregation for a period of ninety (90) days

B 33

Reprimand and warning

The Hearing Officer's final decision was based on a thorough review of all evidence and documents submitted in this case.

At. C. Harbour
Lieutenant C. Harbour
Hearing Officer

I have received the recommended decision of the Hearing Officer and I:

Approve ☒ Disapprove ☐ Modify ☐

AW / DW NENMDF

Date

4-9-14

Comments _____

I have been advised of the Disciplinary decision, provided with a copy of the proceedings and informed of my right to appeal the decision. The appeal must be filed with the Disciplinary Officer (15) fifteen calendar days from the date given to the inmate.

Inmate's Signature

NMCD #

Date copy given to the inmate (within five work days from D.W. decision)

76942
4/14/14

DISCIPLINARY SUMMARY OF EVIDENCE AND PROCEEDINGSInmate: Aldaz, EricNMCD#: 76942Log: NE-14-03-74Date: March 31, 2014

Charge(s): B – 16 – Disobeying a lawful order - ELEVATED
 B – 33 – Failure to follow published rules and/or regulations

You have the right to remain silent, but your silence may be considered as evidence of guilt as long as it is not the only evidence of guilt. (Have inmate sign signature sheet, Form CD-090101.6)

I (Do) (Do Not) wish to be assisted by a staff member or other inmate. Morales, Jesus NMCD #64717
 I (Do) (Do Not) request an interpreter. Waived
 I (Do) (Do Not) wish to call witness(es). Facebook page- Denied – Disciplinary department does not have access.

Was there a continuance or extension?

☒ Yes☐ No

Was the inmate present?

☒ Yes☐ No

If the inmate refuses to appear, provide signatures of two staff members who witnessed refusal.

(Have staff sign signature sheet, Form CD-090101.6)

Summary of Evidence and Proceedings

On March 31, 2014 a Major Level Hearing was conducted in the case which charges Inmate Aldaz, Eric NMCD #76942 with category B 16 at a major level and category B 33 at a minor level. Present at the hearing were the Hearing Officer, Inmate Aldaz, and his representative. The inmate acknowledged his right to remain silent. Inmate Aldaz declined an interpreter. The inmate acknowledged receipt of all documentation in the case and did request the reading of the body of the report and the previous misconduct read onto the record. Inmate Aldaz was advised of the charges and denied the report. Inmate Aldaz did wish to make a statement through his representative that “in no way did Inmate Aldaz try to give wrong information. There is no state policy is in place that a third party cannot put this page up. There is a GEO policy however Inmate Aldaz is a state prisoner”.

MOTIONS:

- 1) Motion to dismiss due to the misconduct report no state policy on having a Facebook – Denied – As stated in Inmate Aldaz’s statement through his representative there is a GEO policy. Inmate Aldaz is a state prisoner, but is housed at a GEO facility. Therefore Inmate Aldaz has to follow the rules and regulations of a GEO inmate as well as State rules and regulations.

CONSIDERATIONS:

- 1) The inmate did request the Hearing Officer to take into consideration that inmate did try to have the page taken down when given a phone call by Lt. Willard.

The inmate was advised that the final decision of the Hearing Officer is subject to review by the Deputy Warden and further that he has the right to appeal the decision within fifteen (15) calendar days from receipt of the decision.

The inmate did not request an oral summary in this case.

New Mexico Corrections Department
Disciplinary Officer's Findings and Recommendations

Inmate's Name: Aldaz, Eric NMCD #: 76942

Log #: NE-14-03-74

Recommendation and Justification:Major Level Hearing: B (16) ElevatedMinor Level Hearing: B-33

The Disciplinary Officer recommends this report be heard at a Major level hearing.

1. The Written misconduct report issued by Lt. Willard which states, "On March 18, 2014 at approximately 8:00 am it was discovered Inmate Aldaz #76942 had a Facebook page. Aldaz has been advised on previous occasions to contact his family to have them shut the Facebook page down. Aldaz's Facebook page shows him incarcerated at a jail, taking pictures while in visitation. Aldaz stated he had no way of contacting his family and was allowed to call his family to have it shut down. While listening to a phone call placed by Aldaz, Aldaz is heard bragging to his family members (Hanna Aldaz) about being on the news for having a Facebook page. Aldaz is also heard asking a Hanna Aldaz if they have the password for his Facebook account, and telling them to post a new picture of him or an old picture of him and to put on there about people keep on hating on him. Additionally Aldaz is heard telling Hanna Aldaz to send him money under his grandmother's name. On March 17, 2014 I ordered Aldaz to have the Facebook page removed.
2. The hearing officer recommends that this report be heard at a major level hearing based on the repetitive behavior of Inmate Aldaz, and his unwillingness to comply with the rules. Inmate Aldaz has two priors of the charge B (5) on the following dates:
 - a) March 06, 2014
 - b) March 11, 2014

mg
3/19/14

3. Securas call detail Report and recorded phone call

Investigation Complete Date: 03/19/2014

Time: 1447

Sgt. Gonzalez
 Sgt. Gonzalez
 Disciplinary Officer

I received a copy of all Disciplinary material on:

Date: 3-19-14Time: 1555

You are hereby notified that you have the right and are to appear before the Hearing/Disciplinary Officer on:

Date: 03/21/2013Time: After 8:00Location: Disciplinary Office

I request the following Inmate or Staff member to assist me:

1st Choice _____2nd Choice _____3rd Choice _____

Be prepared with your representative to present witnesses, documents or any other relevant evidence.
 (Representatives and witnesses will not be paged.)

ف I hereby waive the right to appear.

ف I hereby waive the notification of hearing.

76942

NMCD #

Eric Aldaz
 Inmate's Signature

Witness of Waiver

Witness of Waiver

**NEW MEXICO CORRECTIONS DEPARTMENT
DISCIPLINARY OFFICER'S INVESTIGATION REPORT**

INMATE'S NAME: Aldaz, Eric **NMCD#:** 76942 **UNIT:** 2-B-201
DATE WRITTEN: March 18, 2014 **TIME WRITTEN:** 9:00
DATE OF INCIDENT: March18, 2014 **TIME OF INCIDENT:** 0800
CHARGE(S): B 16 Disobeying a lawful order
 B-33 Failure to follow published rules or regulations

Date Investigation Began: 03-19-2014 **Time:** 1500 **Log #** NE-14-03-74

Copy issued to Inmate	YES	Use of Force	YES
Time Limits Reviewed	YES	Accuracy of Charges Reviewed	YES
Has Over Charging Occurred	NO	Dates/Signatures	YES
PHD	NO	Advised right to remain silent	YES

INVESTIGATION REPORT:

The Disciplinary Officer conducted a thorough review of all documents and any evidence as per policy.

Inmate Aldaz, Eric NMCD #76942 received a copy of the Misconduct Report.

Inmate was advised of his right to remain silent

Inmate understood his right to remain silent.

Inmate did not wish to make a statement.

Inmate did not wish to name a witness..

Inmate has two (2) priors on B (16) Charge 3/06/2014, 3/11/2014.

Inmate did not name a representative at this time.

The Disciplinary Officer recommends this report be addressed at a major level hearing.

213201

NEW MEXICO CORRECTIONS DEPARTMENT INMATE MISCONDUCT REPORT

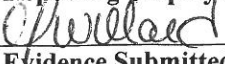

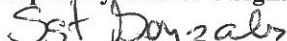
Form CD-090101.1

		Date Written March 18, 2014	
		Log # NE 14-03-74	Time Written 9:00 AM
Name Aldaz, Eric	NMCD 76942	Facility NENMDF	Unit H-2-B-201-T
Date of incident March 18, 2014	Time of incident 8:00 AM	Location of incident NENMDF	

CHARGE(S): B - 16 - Disobeying a lawful order, B - 33 - Failure to follow published rules or regulations

REPORTING EMPLOYEE'S STATEMENT:

On March 18, 2014, at approximately 8:00 a.m. it was discovered Inmate Eric Aldaz NMCD #76942 had a Facebook page. Aldaz has been advised on previous occasions to contact his family to have them shut the Facebook page down. Aldaz's Facebook page shows him incarcerated at a jail, taking pictures while in visitation. Aldaz has been advised his failure to remove the Facebook page or to contact his family to remove the Facebook page would result in the issuance of a misconduct report. Aldaz stated he had no way of contacting his family and was allowed to call his family to have it shut down. Aldaz had yet to have his family shut down the Facebook page. While listening to a phone call placed by Aldaz, Aldaz is heard bragging to his family members (Hanna Aldaz) about being on the news for having a Facebook page. Aldaz is also heard asking a Hanna Aldaz if they have the password for his Facebook account, and telling them to post a new picture of him or an old picture of him and to put on there about people keeping on hating on him. Additionally Aldaz is heard telling Hanna Aldaz to send him money under his grandmother's name. On March 17, 2014 I ordered Aldaz to have the Facebook page removed. Therefore based on this information Aldaz is being issued a misconduct report for B - 16 - Disobeying a lawful order.

Pre-Hearing Detention?	() Yes (X) No
Use of Force?	() Yes (X) No
Are Witness Statements Attached?	() Yes (X) No
Name of Staff Witnesses:	
Reporting Employee Signature: 	Print Name: D. Willard
Title: STIU coordinator	
Evidence Submitted to: (Chain of Custody) Phone call to DHO	
Supervisor Signature: 	Printed Name: P. Ortiz
Supervisory Review: Date: 3/18/14 Time: 11:15	
Received by Disciplinary: Date: 3-19-14 Time: 0818	Disciplinary Officer's Signature: 

Received by

MAR 19 2014

Disciplinary

PRELIMINARY INVESTIGATION REPORT

This report is to be completed by a supervisor of the rank of sergeant or above, on each Misconduct Report that is to be reviewed by the grading official. The purpose of this report is to obtain any other pertinent information about the incident prior to grading the Misconduct Report. If the Misconduct Report was written by a supervisor, then this report is to be completed by another supervisor.

Inmate: Alday Eric NMCD # 76942

1. **ELEMENTS OF CHARGE.** Does the offense description support the elements of each charge (the things that had to be done in order to commit an offense, e.g., "Failure to program": has two elements: 1) not programming, and 2) no valid excuse.)?

Charge Code B16: Yes ☒ No ☐ Charge Code _____: Yes ☐ No ☐
Charge Code B33: Yes ☒ No ☐ Charge Code _____: Yes ☐ No ☐

2. **ADDITIONAL INFORMATION.** Has the charging employee included supporting information or evidence to supplement the standardized pleading such as: (write "Yes", "No" or "NA" [not applicable] by each item.)

yes a. contains dates, times, and signatures.
NA b. listing other witnesses to the incident.
no c. documentary evidence, e.g., photographs of contraband, etc.
yes d. additional information about the offense.
yes e. inmate advised of his right to remain silent.

3. **ACCUSING EMPLOYEE** states that Inmate was ordered to remove Facebook

4. **WITNESS STATEMENTS** (employee or inmate; complete if applicable).

none

5. **DOCUMENTATION** complete if applicable. Documents reviewed (lay-ins, appointments, medical records, etc.) indicated that:

6. **ACCUSED INMATE'S STATEMENT** accused inmate's version, explanation, justification, or rationale for allegedly committing the offense is as follows: I have no access and you better check what you heard cuz I am filing a lawsuit

7. **INFORMAL RESOLUTION** was not appropriate or not possible on the offense(s) the inmate has been charged because:

not at this time

[Signature] Name of Investigating Supervisor (print) P. Corp Sgt Rank 3/18/14 Date investigation completed:

[Signature] Approving Supervisor's Signature 4 Rank 3-18-14 Date

North East New Mexico Deten Fac, NM

Call Detail Report

Search Criteria:

Country Code: 76942
Account Number: 76942
First Name:

Dialed Number: 4057579108
PIN:
Last Name:

Destination Zone: ALL
Prepaid Acct#:

Phone Group:
Phone:

Termination Category:

Call Type: ALL
Text2Connect: ALL
Private Filter On: 3-Way Filter On:
Watched Filter On: 3-Way Filter On:
International Filter On:

Blocked Reason:
Call Status: COMPLETE

Wireless:
RCF:

Date Criteria: Date/Time Range
Start Date/Time: 03/13/2014 00:00:00
End Date/Time: 03/13/2014 23:59:59

Site	Port Loc	City	Wireless	Dialed#	Dest Zone	Start Time	End Time	Duration (s)	Acct#	PIN	Prepaid Id	First Name	Last Name	Call Type	Call Status	Term Cal	BL Reason	Priv	Ward	Int'l	3Way	VB	Amount	Taxes & Fees	Prom o Call	Test Call	Language	DMF Detec	DMF Digits	Text2 Connect	RCF
North East New Mexico Deten Fac, NM	Unit 2 B 5	1	Y	4057579108	Interstate	03/13/2014 16:17:39	03/13/2014 16:18:11	0	76942			ERIC	AIDAZ	Instant Pay-Account Activator	complete	Caller Hang up											English	N			
North East New Mexico Deten Fac, NM	Unit 2 B 5	1	Y	4057579108	Interstate	03/13/2014 16:19:51	03/13/2014 16:34:51	900	76942			ERIC	AIDAZ	Debit	complete	Call duration limit exceeded							0.65	0.14			English	N			
North East New Mexico Deten Fac, NM	Unit 2 B 4	1	Y	4057579108	Interstate	03/13/2014 20:01:04	03/13/2014 20:15:44	880	76942			ERIC	AIDAZ	Debit	complete	Caller Hang up							0.65	0.14			English	N			

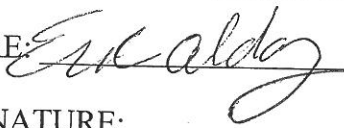
INMATE: Aldaz Eric #76942
LOG #: NE-14-03-74
LOCATION: NENMDF

INSTITUTIONAL CONTINUANCE

The Hearing Officer granted a continuance on March 24, 2014 on behalf of the institution based on the following:

Lt. Harbor is not available at this time.

The new hearing date is scheduled for March 31, 2014 at or after 8:00 AM, this being the next available date. The defendant WAS notified of the new hearing date indicated above at the time the continuance was granted.

HEARING OFFICER: Lt. Harbor DATE: 03-24-2014
DEFENDANTS SIGNATURE:  DATE: 3/24/14
REPRESENTATIVE'S SIGNATURE: _____ DATE: _____

**NEW MEXICO
CORRECTIONS DEPARTMENT
SUPPLEMENTAL SIGNATURE FORM**

Statement of Understanding

Inmate's signature below indicates that he/she has been advised of his/her rights during the course of the Disciplinary Hearing and fully understands everything that has been explained during the course of the hearing to include that the Hearing Officer's final decision is subject to review by a Deputy Warden, That a Deputy Warden may approve, reduce or modify the decision and /or order a new hearing.

Inmate's Signature: _____

NMCD #: _____

Refusal to Appear

Two staff signatures below indicate that the inmate was called to report to his/her Disciplinary Hearing by the Hearing Officer and he/she refused to appear.

Staff Witness _____ / _____
(Printed name) (Signature)

Staff Witness _____ / _____
(Printed Name) (Signature)

Tape Record of Hearing

Inmate Name: Aldaz, Eric NMCD#: 76942
Case Log #: NE-14-03-74 Charges: B 16 ELEVATED, B 33

Tape Log #: <u>14-03-74</u>	Side: <u>5/5</u>	Start: <u>0000</u>	End: <u>1045</u>
Tape Log #: <u>N/A</u>	Side: <u>N/A</u>	Start: <u>N/A</u>	End: <u>N/A</u>
Tape Log #: <u>N/A</u>	Side: <u>N/A</u>	Start: <u>N/A</u>	End: <u>N/A</u>

St. Charnoun
Hearing Officer's Signature:

3/31/14
Date: