

MINUTES
OF
THE NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING STANDARDS COMMISSION

DATE: June 13, 2019

TIME: 12:00 P.M.

SUBMITTED BY: Diane Konopka, Director Sheriffs' Standards Division

I. CALL TO ORDER

Sheriff Alan Cloninger

The North Carolina Sheriffs' Education and Training Standards Commission's Final Agency Decision meeting was called to order by Sheriff Alan Cloninger on Thursday, June 13th at 12:00 P.M. The Final Agency Decision meeting was held at the Wake Technical Community College Public Safety Education Center, 321 Chapanoke Rd., Raleigh, NC.

Chairman Cloninger requested a roll call of Commission members. Judy Marchetti recorded the following:

MEMBERS PRESENT

Sheriff Doug Doughtie
Sheriff Ricky Oliver
Sheriff Steve Bizzell
Sheriff Jack Smith
Sheriff Alan Cloninger
Sheriff Dwayne Goodwin
Sheriff Alan Jones
Sheriff David Mahoney
Sheriff Alan Norman
Sheriff Terry Johnson
Sheriff Landric Reid
Mr. Marc Nichols
Mr. Jamie Markham

MEMBERS ABSENT

Ms. Tracy McPherson
Sheriff Ed McMahan
Sheriff John Ingram

STAFF

Tammera Hill - Legal Counsel - NC Department of Justice
Diane Konopka - Director - Sheriffs' Standards Division
Judy Marchetti - Admin. Assistant – Sheriffs’ Standards Division
John Congleton - NC Dept. of Justice

Chairman Cloninger welcomed everyone to the meeting and thanked visitors for taking time from their schedule to attend.

In the first order of business, Legal Counsel John Congleton read the Ethics Reminder which states:

All members have a duty to avoid conflicts of interest and appearances of conflict. Commission members have an affirmative duty to fully disclose any conflict of interest or potential conflict of interest between the member’s service on the Commission and his or her private interests. One of the most basic rules is that members cannot knowingly use their position on the Commission in a manner that will result in a financial benefit to the person, a member of the person’s family, or a business with which he or she is associated. [N.C.G.S. 138A-31]. Commission members are also prohibited from accepting gifts from persons doing or seeking to do business with the Commission, persons engaging in activities that are regulated or controlled by the Commission, or persons having a financial interest that may be substantially affected by the member’s official duties.

Legal Counsel John Congleton then asked whether any member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time.

Dare County Sheriff Doug Doughtie stated that he has limited knowledge of the Brian Wayne case. Mr. Wayne was pulled by a State Trooper in Dare County. Legal Counsel John Congleton responded that they will discuss what knowledge Sheriff Doughtie has once they enter the “closed session” for Mr. Brian Wayne’s case and determine if there will be a need for Sheriff Doughtie to recuse himself.

Legal Counsel John Congleton asked again whether any member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time. Negative Response.

Chairman Cloninger welcomed the visitors and asked that they stand up and introduce themselves.

VISITORS

Lee Alford	Wake County Sheriff's Office
Jonathan Price	Wake County Sheriff's Office
Monique D. Clark	Dept. of Justice
Angela J. Towns	Dept. of Justice
Cliff Adams	Franklin County Sheriff's Office
Troy Wheless	Franklin County Sheriff's Office
Kent Winstead	Franklin County Sheriff
Stanley Robbins	Franklin County Sheriff's Office
Shane Robbins	Stanley Robins wife
Brian Paxton	Attorney for Stanley Robbins
Tyler Stockton	Mitchell County Sheriffs' Office
Kayla Elliott	Jackson County Sheriffs' Office
John Buchanan	Jackson County Sheriffs' Office
Ray Evans	Pinehurst Police Department
Dawain Hargrove	Franklin County Sheriff's Office
Quashan Washington	Lenoir County Sheriff's Office
Cpt. Robert Daugherty	Lenoir County Sheriff's Office
Gilbert Currie	Pinehurst Police Department
Lee Turner	Attorney for Brian Kenneth Wayne
Curtis Brame	Vance County Sheriff
Brian Wayne	Vance County Sheriff's Office

II. ADMINISTRATION OF OATH OF OFFICE

Notary, Judy Marchetti, administered the oath of office to:

Speaker Of The House

Sheriff Alan Norman

III. FINAL AGENCY DECISION

***Daquante Jones**

Tammera Hill

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Daquante Jones is an applicant for justice officer certification with the Lenoir County Sheriffs' Office. He was previously certified with the Department of Adult Correction as a Corrections Officer. The issue before you to consider for Mr. Daquante Jones is whether or not Mr. Jones lacks the good moral character required of a justice officer. Ms. Hill summarized the Proposal for Decision for Mr. Daquante Jones as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #2**].

Ms. Hill stated that both the Administrative Law Judge and DOJ Legal Counsel agree that Petitioner does not lack good moral character and to grant certification. Ms. Hill informed the Sheriffs' Commission Members that Mr. Jones has resigned from Lenoir County Sheriff's Office and has moved to Arizona to focus on his military career.

Chairman Cloninger asked the Commission if there were any questions. Negative response.

A **MOTION** was made by Mr. Marc Nichols to enter into a closed session; seconded by Sheriff Dwayne Goodwin. **MOTION CARRIED.**

A **MOTION** was made by Mr. Marc Nichols to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin in the matter of Mr. Daquante Jones, to adopt Legal Counsel's Proposed Final Agency Decision and Grant Petitioner's justice officer certification; seconded by Mr. Marc Nichols. [**Attachment #3 for Roll Call Vote**] [**Attachment #4 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Stanley Colt Robbins**

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Stanley Colt Robbins is an applicant for justice officer certification with the Franklin County Sheriff's Office. The issue before the Sheriffs' Commission is whether Mr. Robbins certification should be denied. Petitioner has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission.

Ms. Hill summarized the Proposal for Decision for Mr. Stanley Colt Robbins as submitted by the Administrative Law Judge [**Attachment #5**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #6**].

The recommendation of the Administrative Law Judge is that the Sheriffs' Commission find the rule violation but find extenuating circumstances which would reinstate his certification to May 20, 2019. The recommendation of Legal Counsel is to find the rule violation and find no extenuating circumstances and deny his certification for the length of time that CJ Standards certification would be denied which would be May 20, 2021. This denial would be for a period of five (5) years from the date of offense.

Attorney Brian Paxton spoke and asked the Sheriffs' Commission to follow the Administrative Law Judge's proposed Final Agency Decision. Attorney Paxton does disagree with the proposal brought forth by DOJ Legal Counsel. Attorney Paxton stated that Mr. Robbins has rehabilitated himself and receives the highest praise from his Sheriff and peers. Mr. Robbins did seek medical treatment and has done more than most people in his efforts. Mr. Robbins has taken BLET twice and wants to continue with his law enforcement career. Attorney Paxton stated that Sheriff Winstead has gone above and beyond for Mr. Paxton by showing his faith and trust in him. Sheriff Winstead provided him with a staff position while taking the BLET course again; and placed Mr. Paxton as a School Resource Officer.

Sheriff Kent Winstead addressed the Sheriffs' Commission Members to speak on behalf of Mr. Robbins. Mr. Robbins did come to the Franklin County Sheriffs' Office when he was experiencing difficulty. The Franklin County Sheriffs' Office did have the information from the Office of the Administrative Courts to suspend his certification. Sheriff Kent Winstead stated that Mr. Robbins has been a great asset to the Franklin County Sheriffs' Office. Mr. Robbins has worked as an SRO in an elementary school, middle school, and high school. Sheriff Winstead stated that Mr. Robbins has done an outstanding job in all three of those schools. The Sheriffs' Office has received nothing but praise for Mr. Robbins from parents and the administration.

Sheriff Winstead asked the Sheriffs' Commission to grant Mr. Robbins his certification and stated that they have put a lot of time into him with both SRO training and BLET. Sheriff

Winstead stated that he would not have done that if he didn't believe that Mr. Robbins would be a great officer and asset to Franklin County. Sheriff Winstead asked the Sheriffs' Commission Members to go with the Administrative Law Judges proposed final agency decision.

Chairman Cloninger asked the Commission if there were any questions.

Sheriff Jack Smith asked Sheriff Winstead if he would terminate Mr. Robbins if he had another serious problem. Sheriff Winstead responded that Mr. Robbins has not been a problem and will not be a problem. Sheriff Winstead hopes that his other deputies do as well as Mr. Robbins has done. Sheriff Winstead stated that if there was a need, he would terminate Mr. Robbins.

Sheriff Norman asked how much service he has done. Sheriff Winstead responded, 10 years. Sheriff Winstead stated that Mr. Robbins has been with his Sheriff's Office for two (2) years going through this process.

Major Cliff Adams of the Franklin County Sheriff's Office Patrol Division spoke on Mr. Robbins behalf. Major Adams stated that he agrees with everything Sheriff Winstead said. Major Adams stated the he testified on Mr. Robbins behalf at the Administrative Hearing. Major Adams stated that he has seen Mr. Robbins in stressful patrol situations and that he has handled it well.

Mrs. Robbins addressed the Sheriffs' Commission Members and stated that her husband has changed completely. Mrs. Robbins stated that her husband did not have problems until his best friend committed suicide and he had a downward spiral from there. Since Sheriff Winstead hired him, her husband has done everything expected of an honorable man and is a wonderful father. Mrs. Robbins stated that her husband has tried very hard to redeem himself and show people that he is trying his very best to do what is expected. Her husband wants to set a good example of what a law enforcement officer should be. Mrs. Robbins stated that her husband comes home from work excited that a teacher told him that he is the best thing that has happened at the school. Mrs. Robbins stated that her husband looks forward to going to work and loves his job. Mrs. Robbins stated that they have been together 15 years and he has always loved his law enforcement career. Mrs. Robbins asked the Sheriffs' Commission Members to go with the Administrative Law Judges proposed final agency decision.

Sheriff Cloninger asked Mrs. Robbins if there has been any more violence. Mrs. Robbins answered "no". Mrs. Robbins also stated that there had never been a violent incident prior to that one.

Mr. Stanley Robbins addressed the Sheriffs' Commission Members and thanked them for the opportunity to speak today and plead his case. Mr. Robbins stated that he always enjoyed being on the road and doing patrol. He never thought that he would want to be an SRO but has really learned a lot and enjoys being a good influence in trying to reach kids at an early age to keep them on the right track. Mr. Robbins stated that he hopes the Commission Members will allow him to continue with that.

Chairman Cloninger asked the Commission if there were any questions. Negative response.

Attorney Paxton addressed the Sheriffs' Commission Members and once again stated that Sheriff Winstead and the Franklin County Sheriff's Office has put their trust and support in Mr. Robbins. Mr. Paxton stated that he believes Sheriff Winstead to be a no nonsense man. Attorney Paxton stated that the incident happened in 2014 and believes that the five (5) year suspension has already been served. Mr. Paxton stated that Mr. Robbins has rehabilitated himself and put more effort into this process than most people would have done. Attorney Paxton asked the Sheriffs' Commission Members to have a finding that is in line with the Administrative Law Judge's proposed decision.

Legal Counsel Tamera Hill reiterated to the Sheriffs' Commission Members to accept Legal Counsel's proposed final agency decision and mirror with what the Criminal Justice Commission has done.

Chairman Cloninger asked the Commission if there were any questions. Negative response.

Sheriff Jack Smith recused himself from the Motion vote.

A **MOTION** was made by Mr. Marc Nichols to enter into a closed session; seconded by Sheriff Alan Norman. **MOTION CARRIED.**

A **MOTION** was made by Mr. Marc Nichols to enter into open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin in the matter of Mr. Stanley Colt Robbins to adopt the Administrative Law Judge's Proposed Final Agency Decision and Reinstate Petitioner's certification or, in the alternative, grant Petitioner's reinstatement on May 20, 2019, subject to conditions imposed by the Commission; seconded by Marc Nichols. Sheriff Jack Smith recused himself. **[Attachment #7 for Roll Call Vote]**
[Attachment #8 for Final Agency Decision] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Brian Kenneth Wayne**

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Brian Kenneth Wayne is an applicant for justice officer certification with the Vance County Sheriff's Office.

There are two (2) issues for the Sheriffs' Commission to consider. The first is that Petitioner lacks the good moral character required of a justice officer. The second is that Petitioner committed the felony offense of "Perjury" in violation of NC GS 14-209. Ms. Hill summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #9**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #10**].

With regard to the first issue, Petitioner lacks the good moral character required of a justice officer, Legal Counsel Tammera Hill asked that the Commission Members adopt Legal Counsel's proposed Final Agency Decision and Deny Petitioner's justice officer certification indefinitely.

With regard to the second issue, Petitioner committed the felony offense of "Perjury", Legal Counsel Tammera Hill asked that the Commission Members adopt Legal Counsel's proposed Final Agency Decision that Petitioner did commit the felony offense of Perjury by lying under oath.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Attorney Lee Turner addressed the Sheriffs' Commission Members and stated that Ms. Hill did lay out the facts fairly well in this matter. Mr. Turner stated that as far as the facts go this is a case where the DWI offender became somewhat belligerent with the officer (Petitioner). She first signed the form requesting a witness and then decided she didn't want to call anybody. Mr. Turner stated that Mr. Wayne asked her to fill out the form again and she refused. Mr. Turner stated that Petitioner asked her if she minded if he signed it for her. Mr. Wayne then did sign the form. Attorney Turner stated that the District Attorney decided not to utilize any of the information with regard to the breathalyzer because the 30 minute wait period had not been utilized.

When Mr. Wayne was cross-examined this matter was immaterial to the case presented by the Prosecutor. Attorney Turner stated that from what he understands, the cross-examination of Mr. Wayne was intense. In order for a statement to amount to perjury, there are certain elements that have to be met. The elements are that the defendant testified at the proceeding, that the defendant was under oath, that the testimony he gave was false, and that the testimony was material. This last element is important because it means he intended to mislead in regard to a significant fact. Attorney Turner stated that this young officer got flustered and didn't realize what he had done. Attorney Turner stated that his cover-up became worse than the crime. If Mr. Wayne had just admitted to the mistake that he made, we would not be here today. Once Patrol got involved and there was an investigation, Mr. Wayne did admit to his 1st Sergeant that he did indeed lie under oath and had initially lied to them.

One of the things that was not brought up in the facts is that during the course of this entire proceeding the 1st Sergeant, Lieutenant, and District Attorney testified that throughout Mr. Wayne's career, there was never any reason to doubt his testimony except for this one afternoon in court. Mr. Wayne had been an excellent officer on Patrol and performed his job as he should. He never did anything that would question his character except for that one afternoon in district court.

Attorney Turner again stated that Mr. Wayne's testimony does not meet the elements of perjury because that testimony was immaterial. Attorney Turner stated that the second issue, lack of good moral character, always seems to be the fallback in these cases. The rules state that a person has to be of good moral character. Attorney Turner takes that to mean present tense. Mr. Turner does not believe one afternoon in district court, and the situation that arose out of it from a young officer, should derail an entire career. If you look at the case law of North Carolina, good moral character is never really spelled out as to what that should mean. The state relies on the case of Henry Willis.

Attorney Turner stated that he believes Mr. Wayne should be allowed to be certified and stated again that the crime of perjury elements have not been met. Mr. Turner stated that this young man before the Sheriffs' Commission today is a good officer of good moral character, and has lived a life that has indicated that. The case law shows that a onetime offense should not derail an entire career. Attorney Turner asked that the Commission Members honor his proposed decision with the exceptions to the Administrative Law Judge's decision.

Sheriff Cloninger asked Mr. Wayne how old he was when this incident occurred. Mr. Wayne responded that he was 25.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Sheriff Curtis Brame of Vance County spoke on Mr. Wayne's behalf and stated that he joined the Vance County Sheriff's Office August 23, 2016. Former Sheriff Peter White saw fit to hire Mr. Wayne knowing what had transpired. Since he has been with the Sheriffs' Office, this young man has served some 264 criminal papers, Mr. Wayne has responded to 3,800 calls for service in Vance County. Mr. Wayne has served 168 misdemeanor warrants and 29 felony warrants in Vance County. This young man has done a great job for the citizens of Vance County and the Sheriff's Office. Sheriff Brame has Mr. Wayne's performance evaluation from Mr. Wayne's Sergeant Robeson stating that Deputy Wayne has become very knowledgeable on the skills needed to perform on the job. The evaluation stated that Deputy Wayne is self-motivated and answers calls on his own, backs up and assist deputies with initiative. Deputy Wayne is always early to work and never calls in. Deputy Wayne has become a certified field training officer and has become a member of the emergency response team.

When Deputy Wayne joined the Vance County Sheriffs' Office, Sheriff Brame stated that he was working under Sheriff White and that Sheriff White had informed him of Mr. Wayne's issue and what had transpired with the State Highway Patrol. Mr. Wayne worked hard and earned the respect of his peers, the Lieutenant, Captain, and Sergeant. Mr. Wayne has done a great job and there has been no evidence whatsoever that his work ethic would compromise him from testifying in Vance County. Sheriff Brame stated that when he came on as Vance County Sheriff, he would not have sworn Mr. Wayne back in if he believed Mr. Wayne would be a problem. Sheriff Brame believes Mr. Wayne to be an asset to the community and to the agency. Sheriff Brame stated that is why he came here today to speak on Mr. Wayne's behalf.

Mr. Wayne addressed the Sheriffs' Commission Members and stated that he admits that he made a mistake and it boils down to his fault. Mr. Wayne stated that he takes 100% responsibility for what he did and it has cost him a lot. Mr. Wayne stated that he has learned a life lesson. Mr. Wayne asked the Sheriffs' Commission Members to allow him to continue doing what he loves to do. Mr. Wayne stated that he is a certified Field Training Officer and that he is also on the SWAT team. Mr. Wayne stated that he loves what he does and can guarantee that he will never be in front of the Sheriffs' Commission again.

Sheriff Cloninger asked Mr. Wayne who he lied to. Mr. Wayne responded that he lied to Internal Affairs.

Sheriff Cloninger asked Mr. Wayne if he ever lied in court or to a supervisor before. Mr. Wayne responded "no sir".

Mr. Marc Nichols stated to Mr. Wayne that when he lied to the State Police Internal Affairs, he lied to his superior officers. Mr. Nichols stated that the first thing the State Police Internal Affairs asked him to do before the questioning began was to tell the truth. When he did not tell the truth, he tarnished the badge of law enforcement.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Legal Counsel addressed the lack of good moral character issue. Ms. Hill stated that it was not just a one afternoon day in court mistake. He also lied to the Internal Affairs investigator and it was only rectified with the IA investigator because, as the petitioner said, they already knew. This Commission has to determine if the one afternoon in District Court coupled with the continuing willingness to be untruthful to his superior officers is a lack of good moral character.

Ms. Hill noted as to whether or not his perjury in court is material; the District Attorney knew they were not going to use the toxicology results. Since the toxicology results were not being used, the court would have to go on the officer's testimony. Ms. Hill stated that this makes it absolutely material. Legal Counsel's recommendation is to find that Petitioner did commit the offense and to deny his certification indefinitely.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to enter into open session; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Brian Kenneth Wayne and deny Petitioner's justice officer certification indefinitely based upon a lack of good moral character required of a justice officer; seconded by Mr. Marc Nichols. **[Attachment #11 for Roll Call Vote] [Attachment #12 for Final Agency Decision] MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Gilbert Currie**

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Currie is an applicant for justice officer certification as a telecommunicator with the Pinehurst Police Department. The issue for Mr. Currie is whether or not he made a material misrepresentation on his Personal History Statement, Form F-3. Ms. Hill summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #13**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #14**].

The Administrative Law Judge's proposal was that there would be no finding of material misrepresentation and to grant certification. Legal Counsel's proposal also finds no material misrepresentation and to grant certification. Legal Counsel's proposal does contain some technical changes and added language into the proposal regarding the probable cause committee's findings. However, the recommendation of both the Administrative Law Judge and Legal Counsel is that you do not find material misrepresentation and grant certification.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Mr. Gilbert Currie addressed the Sheriffs' Commission Members and stated that when he filled out his Personal History Statement in 1993 he did not recall the incident of using cocaine or acid. Mr. Currie stated that he was at his brother's house watching a race with friends and reminiscing about old times when the story of his using drugs was brought to his attention. Once this information was brought to Mr. Currie's attention he did begin to remember bits and pieces of that night. Mr. Currie remembered that they stopped by his mother's house after the drag race and he was so embarrassed about how his eyes looked that he was ashamed and would not go inside to see her.

Mr. Currie stated that when he applied to the Justice Academy for Telecommunications class, he did include that information because he now remembered it and didn't have any reason not to believe that it didn't happen even though he doesn't recall it that well.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Captain Ray Evans with the Pinehurst Police Department addressed the Sheriffs' Commission Members and stated that he can't say enough good about Mr. Currie. Captain Evans stated that he supervises telecommunications, internal affairs, and basically everything except Patrol for their department. Captain Evans stated that he counts on Mr. Currie and that he is a good guy, works hard, and is always there. If someone calls out sick, he can depend on Mr. Currie to help cover. Captain Evans stated that he wishes there were 20 more like him.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Jack Smith to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to enter into open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Gilbert Currie and grant certification; seconded by Sheriff Jack Smith. [**Attachment #15 for Roll Call Vote**] [**Attachment #16 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Tracy Dula**

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Tracy Dula was not present but had been notified by service. Legal Counsel Tammera Hill summarized the Tracy Dula case.

Ms. Hill stated that Mr. Dula was employed by the North Carolina Wildlife Resources Commission through the North Carolina Criminal Justice Education and Training Standards Commission. There are three (3) issues involved for Mr. Dula's proposed denial.

The first is that Mr. Dula lacks the good moral character required of a justice officer; the second is that Mr. Dula committed the Class B misdemeanor of "Conversion by Bailee" in violation of NC GS 14-168.1; and third, the Mr. Dula committed the Class B misdemeanor of "Willfully Failing to Discharge Duties" in violation of NC GS 14-230. Ms. Hill summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #17**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #18**].

The recommendation of both the Administrative Law Judge and Legal Counsel is that you find Mr. Dula does lack the good moral character required of a justice officer; and find that Mr. Dula did commit the two (2) Class B misdemeanors offenses. Legal Counsel stated to deny certification indefinitely for the lack of good moral character and to Deny for a period of not less than five (5) years for the commission of the Class B offenses.

Legal Counsel stated that there is a burden of proof difference between their proposed final agency decision and the Administrative Law Judge's proposal. The Legal Counsel burden of proof rests on the Petitioner and not upon the Respondent.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Mr. Marc Nichols to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Mr. Marc Nichols to enter into open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Tracy Dula and Deny Petitioner's certification indefinitely because he lacks the good moral character required of a justice officer; and Deny Petitioner's certification for a period of not less than five (5) years for the commission of the Class B offenses; seconded by Sheriff Alan Norman. **[Attachment #19 for Roll Call Vote] [Attachment #20 for Final Agency Decision] MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Dawain Hargrove**

Mr. Dawain Hargrove is currently an applicant for detention officer certification through the Franklin County Sheriff's Office and has been since November 20, 2017. Mr. Hargrove was previously certified through the Vance County Sheriff's Office and Wake County Sheriff's Office. The issue before the Sheriffs' Commission is whether or not he failed to maintain minimum standards, specifically failure to notify the Sheriffs' Commission of a Class B misdemeanor within five (5) days.

Legal Counsel Tammera Hill summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #21**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #22**]. Both Legal Counsel and the Administrative Law Judge recommend to find that Petitioner did violate the notification rule but to deny with extenuating circumstances and suspend the denial for 18 months during which time he shall not violate any law (other than infractions) of this State or any other state, any federal laws, or any rules of this Commission or the North Carolina Criminal Justice Education and Training Standards Commission. The Administrative Law Judge's proposal did not contain the extenuating circumstances which is required for the suspension. Legal Counsel's proposed final agency decision does contain the extenuating circumstances.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Mr. Dawain Hargrove addressed the Sheriffs' Commission Members and stated that he rented a television in 2013 and missed a couple payments. He received a call from a deputy where he worked and told him to go talk to Schewel Furniture. Mr. Hargrove stated that he did go and speak with them at Schewel and paid the amount due. Mr. Hargrove stated that he thought since he was caught up with his payments everything was fine. No one at Schewel Furniture business mentioned criminal charges.

Mr. Hargrove stated that he does not recall being served with criminal process, speaking with a district attorney, or going to court over this charge. Mr. Hargrove stated that when he applied with Granville County Sheriff's Office and the agency ran his criminal background, they made him aware of the charge of "Secreting Lien Property". Mr. Hargrove stated that once he became aware, he immediately added the information to his F-3 Personal History Statement for Granville County.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Dwayne Goodwin to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to enter into open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Dawain Hargrove and Deny Petitioner's application for certification, but to suspend the denial for a period of eighteen months and Petitioner is Granted justice officer certification on the condition that Petitioner not violate any law (other than infractions) of this State or any other state, any federal laws, or any rules of this Commission or the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Mr. Marc Nichols [**Attachment #23 for Roll Call Vote**] [**Attachment #24 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Tammera Hill

***Franklin Hiller**

Legal Counsel Tammera Hill stated that Mr. Franklin Hiller's notification was returned unclaimed and there has been no service on him at this time.

Chairman Cloninger stated that Mr. Franklin Hiller's case will be continued until the September Sheriffs' Commission Meeting.

III. FINAL AGENCY DECISION

Tammera Hill

***Tyler Stockton**

Legal Counsel Tammera Hill addressed the Sheriffs' Commission Members and stated that Mr. Tyler Stockton is present. Ms. Hill stated that Mr. Stockton is currently an applicant for justice officer certification with Mitchell County Sheriff's Office. The issue for Mr. Stockton is whether or not he failed to maintain minimum standards, specifically failure to notify the Sheriffs' Commission of a Class B misdemeanor within five (5) days.

Legal Counsel Tammera Hill summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #25**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #26**]. Mr. Stockton was a certified justice officer at the time he was charged.

Both the Administrative Law Judge and Legal Counsel recommend that you Deny Mr. Tyler Stockton for a period of less than the five (5) years sanction. If the Sheriffs' Commission does choose to have a lesser sanction, extenuating circumstances will need to be put in place.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response.

Mr. Tyler Stockton addressed the Sheriffs' Commission Members and stated that it was said he did not offer any extenuating circumstances at the hearing. Mr. Stockton stated that he was not asked to speak during the hearing and he would have been out of turn. Mr. Stockton stated that he was not going to speak out of turn in the courtroom in front of the Judge. Mr. Stockton stated that he was the last case of the day. Mr. Stockton stated that his certification is very important to him. Mr. Stockton said that as far as the charge of Assault on a Female goes, it was dismissed and expunged from his record. Mr. Stockton asked the Sheriffs' Commission Members for a lesser punishment than the five (5) years.

Mr. Stockton summarized the day of the alleged assault. The domestic issue began when he discovered money was missing. Mr. Stockton contacted the Sheriffs' Office to start an investigation. Once Mr. Stockton did that, his girlfriend admitted to taking the money. At that point Mr. Stockton stated that he and his girlfriend had a verbal argument. Mr. Stockton left the house and believes his girlfriend must have thought he was going to turn her in so she called and reported an assault. Mr. Stockton stated that the charges were dismissed as frivolous and expunged from his record.

The extenuating circumstances that Mr. Stockton is asking for is that he was ignorant to the fact that he had to report this due to being an inactive reserve deputy and "out of the loop." Mr. Stockton stated that the Sheriff was aware of what happened and that he turned himself in and was fully cooperative. Mr. Stockton stated that he did not knowingly or willingly fail to notify the Sheriffs' Commission of his charge. Mr. Stockton thank the Sheriffs' Commission Members for their time and said that his law enforcement certification is very important to him.

Chairman Cloninger asked the Commission if there were any questions or comments. Negative response

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Norman to enter into open session; seconded by Sheriff Doug Doughtie. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin that Mr. Tyler Stockton did not knowingly and willingly fail to notify Respondent of his misdemeanor charge of Assault on a Female. Therefore, Petitioner's certification as a justice officer is Granted; seconded by Mr. Marc Nichols [**Attachment #27 for Roll Call Vote**] [**Attachment #28 for Final Agency Decision**] **MOTION CARRIED.**

IV. LEGAL COUNSEL'S REPORT

Ms. Tammera Hill summarized the Legal Counsel's Report. This report is available for review and includes administrative case files that are currently in the Office of Administrative Hearings. Ms. Hill reviewed the various stages of litigation for the administrative cases as follows: [See Attachment #29].

- Five (5) cases involving Class B misdemeanors after the deputy/detention officer has been certified.
- Five (5) cases involving felony commissions.
- Five (5) cases involving four (4) or more Class A and B misdemeanors.
- One (1) case involving material misrepresentations.
- Ten (10) cases involving a lack of good moral character.
- Zero (0) cases involving a certified officer who has been charged and did not report that charge within the five day reporting period.
- One (1) denial or suspensions by CJ Commission.

* Note: Some of the case files involve more than one issue.

VI. ADJOURNMENT

A **MOTION** was made by Mr. Marc Nichols to adjourn the June 13, 2019, Sheriffs' Final Agency Decision meeting; Seconded by Sheriff Jack Smith. **MOTION CARRIED.**