

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

DATE: December 13, 2018

TIME: 2:00 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, December 13th at 2:00 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 Dwayne Goodwin
Sheriff Ricky Oliver
Sheriff Steve Bizzell
Sheriff Jack Smith
Sheriff Alan Cloninger
Sheriff Ed McMahan
Sheriff Ingram
Sheriff Jones
Sheriff Mahoney
Major Briscoe
Mr. Marc Nichols

MEMBERS ABSENT

Ms. Tracy McPherson
Mr. Jamie Markham

STAFF

Marie Evitt - Legal Counsel - NC Department of Justice
Diane Konopka - Director - Sheriffs' Standards Division
Judy Marchetti - Admin. Assistant – Sheriffs’ Standards Division
Chris Brooks - 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 Chris Brooks 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 Chris Brooks 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. Negative response from all Commission members.

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

VISITORS

Robert Peaden III	Pitt County Sheriff's Office
Lt. Nancy M. Poston	Pitt County Sheriff's Office
Jeffrey Guyton	Bladen County Sheriff's Office
Cpt. David Shaw	Bladen County Sheriff's Office
Brandon Gore	Columbus County Sheriff's Office
Martin Scott	Attorney for Brandon Gore
Jamie Hodges	Ashe County Sheriff's Office
LaSonya Pemberton	Stanly County Sheriff's Office
Cpt. Christopher McDaniel	Stanly County Sheriff's Office
Chasidy Napier	Stanly County Sheriff's Office
Stephen Bunn	Retired Sheriff, Bladen County S.O.
Michael McGuinness	Attorney for Jeffrey Guyton
Shena Evans	Sheriffs' Standards Division
Christopher Scott	Sheriffs' Standards Division
Chris Batten	Sheriffs' Standards Division

***Administration of Oath of Office**

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

Commission District #8

Sheriff Landric Reid

II. FINAL AGENCY DECISION

***Brandon Reginald Gore**

Marie Evitt

The issue to consider for Mr. Brandon Reginald Gore is whether his Justice Officer certification should be denied for the commission of a Class B misdemeanor, Assault on a Female. Ms. Evitt summarized the Proposal for Decision for Mr. Brandon Gore as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #2**].

The Administrative Law Judge's recommendation in this case was that no commission of an offense occurred and to grant certification. Legal Counsel Marie Evitt's recommendation is the same with a few tweaks to the order. Ms. Evitt asked the Commission Members to adopt Legal Counsel's proposed Final Agency Decision recommendation.

Attorney Scott addressed the Sheriffs' Commission Members and stated that they agree with Legal Counsel Marie Evitt's proposal.

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

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

A **MOTION** was made by Sheriff Dwayne Goodwin to enter into open session; seconded by Sheriff Ed McMahon. **MOTION CARRIED.**

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

II. FINAL AGENCY DECISION

Marie Evitt

***Jeffrey Laine Guyton**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that the sole issue before the Sheriffs' Commission is whether or not Mr. Guyton lacks the good moral character required of a justice officer.

Ms. Evitt stated that Petitioner is an applicant for justice officer certification with the Bladen County Sheriff's Office. He was previously certified with the Chadbourn Police Department, Clarkton Police Department, and most recently with the Elizabethtown Police Department. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge **[Attachment #5]**, and the Proposal for Decision as submitted by Legal Counsel **[Attachment #6]**.

The Administrative Law Judge's recommendation was to grant Petitioner his certification with certain conditions. Ms. Evitt stated that she does not believe the incidents happened long enough ago for Mr. Guyton's good moral character to be restored and does not believe the Sheriffs' Commission Members should follow the Administrative Law Judge's recommendation in this case.

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

Attorney McGuinness addressed the Sheriffs' Commission Members and referenced the Administrative Law Judge's recommendation that Mr. Guyton undergo some additional training. Mr. McGuinness stated that Mr. Guyton has completed training at his own expense and earned a certificate. Mr. McGuinness submitted additional documents that were not a part of the Administrative Hearing.

Mr. McGuinness stated that he was present as both an attorney and a friend for Mr. Guyton. Attorney McGuinness stated that Mr. Guyton has had a long and distinguished career spanning 20 years. At the Administrative Hearing, there was a lot of testimony from the largest amount of character witnesses that he has ever submitted. Mr. McGuinness brought character witnesses from different perspectives. Mr. McGuinness stated that Mr. Guyton has worked day in and day out for his community both in and out of uniform. Mr. Guyton had a consistent pattern during his career not just as a good deputy but Mr. McGuinness believes as an excellent deputy.

Mr. McGuinness understands that the Sheriffs' Commission has to deal with the lapse in judgment that occurred. Mr. McGuinness stated that he respects the way Mr. Guyton handled the situation by not running away from it, but acknowledging and admitting it. The Administrative Law Judge noted that Mr. Guyton did not apologize to Ms. Strickland. Mr. McGuinness stated that it was under his advice to Mr. Guyton that he not make contact to apologize since the case was pending Final Agency Decision.

Mr. McGuinness stated that he does agree with Ms. Evitt's characterization of the case before you. Mr. McGuinness asked the Commission Members, "does Mr. Guyton currently lack good moral character?" The incident goes back to August of 2016 and Mr. McGuinness thinks the totality of the circumstance should be looked at and what has he done since to rebuild his character, career, and life. Mr. Guyton should be respected for volunteering to resign. Mr. Guyton went to Sheriff Jim McVicker of Bladen to apply for a position. Chief Deputy Jeffrey Guyton did the investigative background and they made the decision to hire Mr. Guyton. Mr. Guyton has been under the watch of very good individuals at the Bladen County Sheriff's Office. They made the judgment call and put their confidence in him. Mr. Guyton had a lapse of judgment and is very remorseful of his actions.

Mr. McGuinness stated that the Administrative Law Judge believes that Mr. Guyton has been rehabilitated and his good moral character restored. The Administrative Law Judge recommended that Mr. Guyton take a course. Mr. Guyton took his advice and took the course. If Sheriff McVicker wants Mr. Guyton to have any more training he will complete that training.

Mr. Guyton has 20 years invested in what has been his life's calling. Mr. McGuinness believes that Bladen County has been fortunate to have him in the community.

There is nothing in the record to suggest that Mr. Guyton has not rebuilt that career and rehabilitated himself. If Mr. Guyton had stepped out of line in any way, he would not be wearing the Bladen County uniform today.

Mr. McGuinness urged the Commission Members that Mr. Guyton's one transgression is not enough by the standard that the Commission has set that it takes severe and clear misconduct. Usually it is not one or two incidents that cause a character change. There is no question that we have some unbecoming conduct here. Mr. Guyton himself had drawn that conclusion before an attorney was on the scene. Mr. Guyton has acknowledged that and worked his heart out to try and make up for his actions.

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

Mr. Guyton addressed the Sheriffs' Commission Members and apologized that he is before them. He is appreciative that Sheriff McVicker put his confidence in him and gave him a job. Mr. Guyton stated that he is trying to rebuild his career. Mr. Guyton hopes that the Sheriffs' Commission will allow him to continue his career in law enforcement.

Sheriff Goodwin asked Mr. Guyton how many years of law enforcement he had worked prior to the incident. Mr. Guyton responded approximately 18 years.

Sheriff Goodwin asked how many sexual harassment cases he had worked in his career. Mr. Guyton responded, hundreds.

Sheriff Smith asked how old the victim was and where does she live. Mr. Guyton responded, 30's and lives in Dublin.

Sheriff Smith asked what happened with the case. Mr. Guyton responded that the victim decided not to proceed.

Sheriff Smith asked if he had any children. Mr. Guyton responded, yes.

Sheriff Smith asked how many hours was the class that Mr. Guyton took. Mr. Guyton responded that it was an eight (8) hour Sexual Harassment Class at Bladen Community College.

Sheriff Cloninger asked if the class had changed him. Mr. Guyton responded, yes.

Retired Sheriff Bunn spoke on Mr. Guyton's behalf and stated that he has known him approximately 20 years. Mr. Guyton never worked for Sheriff Bunn but Mr. Guyton did work in a county of 30,000 people so everyone knows each other. Retired Sheriff Bunn stated that he spoke with Sheriff McVicker prior to coming to Final Agency Decision to have his approval. Sheriff McVicker told Mr. Bunn that he does want Mr. Guyton to work for him.

Mr. Guyton is a road deputy and is doing good work. Sheriff McVicker has confidence that his previous behavior will not happen again. Mr. Bunn stated that Mr. Guyton has punished himself over this incident for the past two years. Retired Sheriff Bunn asked the Sheriffs' Commission Members to allow Mr. Guyton to finish his career.

Sheriff Cloninger asked retired Sheriff Bunn if he would hire him now knowing about this incident. Sheriff Bunn responded yes.

Sheriff Cloninger asked Sheriff Bunn why Mr. Guyton has good moral character now. Sheriff Bunn responded that Mr. Guyton now recognizes what he did and accepted responsibility for it. Mr. Guyton never tried to hide from it. Since he has gone to work for Bladen County, he has done his job in a proper manner and learned to keep his mouth shut.

Captain David Shaw from Bladen County Sheriff's Office spoke on behalf of Mr. Guyton and stated that Sheriff McVicker does believe Mr. Guyton to be a valuable member of the Sheriff's Department. Captain Shaw stated that in our job it is hard but you have to believe that people can change. Captain Shaw stated that Mr. Guyton is a good man.

Attorney McGuinness addressed the Sheriffs' Commission to make a final point as to why they believe that Mr. Guyton has good moral character today. Mr. McGuinness believes it to be the totality of the person that they have known up close and personal for 20 years. Mr. McGuinness stated that they saw the lapse in judgment, the transgression. Mr. McGuinness believes the true test was how Mr. Guyton dealt with the situation. Mr. Guyton didn't run to a liquor bottle, he didn't lose it, he hunkered down and professionally dealt with it. Mr. Guyton wanted to apologize to this woman. Mr. McGuinness stated that Mr. Guyton has made good progress and continues to make good progress as seen by the good ratings Sheriff McVicker and his staff have given him. Mr. McGuinness stated that Mr. Guyton has had his boots on the ground and done everything possible to recover from this.

Mr. McGuinness asked the Sheriffs' Commission Members to give Sheriff McVicker an opportunity to keep a good deputy. There is no indication that Mr. Guyton is not rehabilitated.

Chairman Cloninger asked Mr. McGuinness what Mr. Guyton does when he is not wearing the uniform. Mr. McGuinness responded that Mr. Guyton has been a good father and an all-around community servant. This information was provided as evidence at the Administrative Hearing. Mr. Guyton has served Bladen County and Elizabethtown beyond the call of duty.

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

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

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

A **MOTION** was made by Sheriff Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Jeffrey Laine Guyton to deny Petitioner's Justice Officer Certification indefinitely; seconded by Mr. Marc Nichols. **[Attachment #7 for Roll Call Vote] [Attachment #8 for Final Agency Decision] MOTION CARRIED.**

II. FINAL AGENCY DECISION

Marie Evitt

***Jamie S. Hodges**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Hodges is an applicant for Detention Officer Certification in Ashe County. The issue for the Sheriffs' Commission to consider is whether his certification should be denied based on the commission of four (4) or more Class A or B misdemeanors. In this case there were five (5) worthless checks issued from 2001 in Watauga County. The first three (3) worthless checks are considered Class A misdemeanors. After the third worthless check, they become a Class B, so there are three (3) Class A misdemeanors and two (2) Class B misdemeanors.

Ms. Evitt 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]**. The Administrative Law Judge's recommendation was that the evidence does not support a finding that the Petitioner was convicted of a combination of four (4) or more crimes or unlawful acts, and to grant Petitioner his Justice Officer Certification. Legal Counsel's recommendation is in agreement with the Administrative Law Judge, but Legal Counsel stated that she cleaned up the order and asked the Sheriffs' Commission Members to adopt Legal Counsel's Proposed Final Agency Decision.

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

Mr. Hodges addressed the Sheriffs' Commission Members and stated that the incident with the worthless checks happened 15 to 18 years ago. He does not remember if it was him or his wife who wrote the checks since they had a shared account at the time. Regardless of whose fault it was, he realizes that he was responsible for it and made sure that everything was paid for and taken care of in a timely manner.

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 Mr. Marc Nichols. **MOTION CARRIED.**

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

A **MOTION** was made by Sheriff Dwayne Goodwin to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Jamie S. Hodges and grant Petitioner's Justice Officer Certification; seconded by Mr. Marc Nichols. [**Attachment #11 for Roll Call Vote**] [**Attachment #12 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISION

Marie Evitt

***Ronald Herman Peaden, III**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Hodges is an applicant for Detention Officer Certification in Ashe County. The issue for the Sheriffs' Commission to consider is whether his certification should be denied based on the commission of four (4) or more Class A or B misdemeanors. Mr. Peaden was previously convicted of six (6) offenses. Ms. Evitt 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 recommendation in this case was that certification should be denied based on the commission of four (4) or more Class A or B misdemeanors; but that denial should be stayed for six (6) months and certification granted on a probationary basis on the condition that Petitioner does not violate any law of the United States, of North Carolina (other than minor traffic infractions), or of any Rule of the North Carolina Sheriffs' Education and Training Standards Commission. Legal Counsel is in agreement with the Administrative Law Judge's recommendation and has the same conclusion but has added some language with regard to how long ago the offenses occurred and Mr. Peaden has kept his life on track since then.

Mr. Peaden addressed the Sheriffs' Commission Members and stated that he made mistakes a long time ago and didn't handle them correctly. Mr. Peaden stated that he has tried to mend that throughout his career and life path forward. Mr. Peaden stated that he appreciates the Sheriffs' Commission's time and Ms. Evitt's time and that he respects whatever consideration they see fit.

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

Mr. Nichols asked Mr. Peaden how many years it has been since he has had a drink. Mr. Peaden responded that it has been more than 15 years since he last had a drink.

Lt. Nancy Poston of Pitt County Sheriff's Office spoke on behalf of Mr. Peaden. Lt. Poston stated that she has personally supervised Mr. Peaden for the seven (7) months of his career at Pitt County Sheriff's Office. Lt. Poston thanked the Sheriffs' Commission Members for the opportunity to be present at the Final Agency Decision hearing since this was her first experience. Lt. Poston stated that Mr. Peaden is a valued member to the Pitt County Sheriffs' Office, the Pitt County community, and her team personally. Lt. Poston stated that they believe Mr. Peaden has learned from his mistakes and they would appreciate it if the Sheriffs' Commission allowed Mr. Peaden to be certified and continue his service with the Pitt County Sheriffs' Office and the community.

A **MOTION** was made by Sheriff Dwayne Goodwin to enter into a closed session; seconded by Sheriff Ed McMahon. **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 Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Robert Herman Peaden, III and grant Petitioner's Justice Officer Certification; seconded by Sheriff Jack Smith. **[Attachment #15 for Roll Call Vote] [Attachment #16 for Final Agency Decision] MOTION CARRIED.**

II. FINAL AGENCY DECISION

Marie Evitt

***LaSonya Kijafa Pemberton**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that she incorrectly identified Ms. Pemberton on the Proposed Final Agency Decision as a Correctional Officer rather than Detention Officer. Ms. Evitt asked the Commission Members to work the amendment for correction into their motion for Final Agency Decision. Ms. Pemberton is a Detention Officer applicant with Stanly County. The issue for the Sheriffs' Commission to consider is whether her certification should be denied based on a material misrepresentation of information required for certification. Ms. Evitt 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 Administrative Law Judge recommends granting Ms. Pemberton's certification with no conditions. Legal Counsel agrees with the Administrative Law Judge's recommendation and has added language to include pertinent facts left out of the Administrative Law Judge's proposal, including a denial of certification, suspended with a probationary period. Ms. Evitt recommends that the Sheriffs' Commission Members adopt Legal Counsel's Proposed Final Agency Decision.

Ms. Pemberton addressed the Sheriffs' Commission Members and stated that she hopes the Commission Members give her a chance to continue her job. Ms. Pemberton stated that she made a mistake and is hoping for another chance to be a Detention Officer with Stanly County.

Cpt. Christopher McDaniel addressed the Sheriffs' Commission Members on behalf of Ms. Pemberton. Cpt. McDaniel stated that he is now on his 9th day on the job as the Detention Administrator for Stanly County. Cpt. McDaniel stated that he does not have personal knowledge of Ms. Pemberton's employment but believes that since his Chief Deputy testified on Ms. Pemberton's behalf at the hearing and stated that she had been impressed with Ms. Pemberton and has heard no negative comments about her personally or her work.

Cpt. McDaniel stated that he believes Ms. Pemberton is sincere and that she negligently failed to properly answer question 44 on her application for certification. Ms. Pemberton had the mistaken belief that she was not required to disclose the Prayer for Judgment resulting from the offense committed when she was a teenager. Cpt. McDaniel stated that they are hopeful for a favorable decision from the Sheriffs' Commission.

A **MOTION** was made by Mr. Marc Nichols to enter into a closed session; seconded by Sheriff Ed McMahon. **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 to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Ms. LaSonya Pembeton and deny certification, but suspend that denial and place Petitioner on probation for a period of one (1) year on the conditions that Petitioner shall not violate any federal laws, any laws of the State of North Carolina, any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Landric Reid. [**Attachment #19 for Roll Call Vote**] [**Attachment #20 for Final Agency Decision**] **MOTION CARRIED.**

III. CONSENT AGREEMENTS

Diane Konopka

Director Konopka summarized the Consent Agreement offered by the Probable Cause Committee at their October meeting. Division staff has received an agreement signed by the following officer:

Michael Ryan Ritch – Deputy/Detention Officer/Telecommunicator – Brunswick County

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

Legal Counsel informed the Commission Members that they do not have to accept the Consent Agreements, but if they do accept them, the Consent Agreements become a permanent part of their file.

A **MOTION** was made by Sheriff Ed McMahon to accept the Consent Agreement reviewed by Director Diane Konopka; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

IV. LEGAL COUNSEL'S REPORT

Ms. Marie Evitt 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. Evitt reviewed the various stages of litigation for the administrative cases as follows: [See Attachment #21].

- Four (4) cases involving Class B misdemeanors after the deputy/detention officer has been certified.
- Two (2) cases involving felony commissions.
- One (1) case involving four (4) or more Class A and B misdemeanors.
- Three (3) cases involving material misrepresentations.
- Two (2) cases involving a lack of good moral character.
- Three (3) cases involving a certified officer who has been charged and did not report that charge within the five day reporting period.
- Two (2) denials or suspensions by CJ Commission.

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

V. PLANNING SESSION

Diane Konopka

Sheriffs' Standards Division Staff, Chris Scott, Shena Evans, and Chris Batten joined the Sheriffs' Standards Commission Members for the Planning Session discussion. The session began with discussion of the certification process. Director Konopka referred the group to the Planning Session Outline [Attachment #22].

VI. ADJOURNMENT

A **MOTION** was made by Sheriff Ed McMahon to adjourn the December 13, 2018, Sheriffs' Final Agency Decision meeting; Seconded by Sheriff Dwayne Goodwin. **MOTION CARRIED.**