

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

DATE: June 14, 2018

TIME: 2:15 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 14th at 2:15 P.M. The Final Agency Decision meeting was held at the WNC Agricultural Center, 761 Boylston Hwy., Fletcher, NC.

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

MEMBERS PRESENT

Sheriff Dwayne Goodwin
Sheriff Ricky Oliver
Sheriff Jack Smith
Sheriff Alan Cloninger
Sheriff Ed McMahan
Sheriff Alan Norman
Mr. Marc Nichols
Mr. Jamie Markham

MEMBERS ABSENT

Sheriff Steve Bizzell
Sheriff Brad Riley
Mr. Zack Koonce
Ms. Tracy McPherson

STAFF

Marie Evitt - 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

Vice Chairman Cloninger welcomed everyone to the meeting and thanked visitors for taking time from their schedule to attend. Vice Chairman Cloninger also thanked Sheriff Mahoney for hosting the Sheriffs’ June Commission Meeting.

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.

Negative response from all Commission members.

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

VISITORS

Edward Robin Hudson, Jr.
Cpt. Richard Campbell

Richmond County Sheriff’s Office
Richmond County Sheriff’s Office

II. FINAL AGENCY DECISION

***Edward Robin Hudson, Jr.**

Marie Evitt

Mr. Edward Robin Hudson, Jr. is a Deputy applicant with the Richmond County Sheriff's Office. The issue before the Sheriffs' Commission for this case is whether or not the Petitioner failed to notify the Sheriffs' Commission of his 2001 misdemeanor offense of Litter Gameland/Access Area within the five (5) day notification requirement.

Ms. Evitt summarized the Proposal for Decision for Mr. Edward Hudson 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 concluded that based on the foregoing Findings of Fact and Conclusions of Law, Petitioner's certification as a justice officer be granted. Ms. Evitt stated that Legal Counsel does recommend the Administrative Law Judge's Proposal and only made some technical corrections to the conclusions of law. Due to that fact, it is Legal Counsel's recommendation that the Sheriffs' Commission sign Legal Counsel's Proposed Final Agency Decision. It is essentially the same as the Administrative Law Judge's conclusion which recommends issuing the Petitioner certification, but it also includes language stating that the Sheriffs' Commission found that the violation did occur.

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

Captain Richard Campbell spoke on the behalf of Mr. Edward Hudson. Captain Campbell addressed the Sheriffs' Commission Members and stated that they do not want to lose Mr. Hudson.

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 Alan Norman to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Norman in the matter of Mr. Edward Robin Hudson, Jr., that Petitioner's certification as a justice officer be granted; 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

***Anthony Maurice Battle**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Anthony Maurice Battle was a Detention Officer applicant with the Johnston County Sheriff's Office. Mr. Battle previously worked for the Wayne County Sheriff's Office for approximately two (2) years. Mr. Battle was notified via certified letter of this meeting. He communicated with Legal Counsel that he would not be present.

Ms. Evitt stated that the issue before the Sheriffs' Commission is whether or not Mr. Battle committed the felony offense of Child Molestation, in violation of California Penal Code 288.5(a). 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 did not find Mr. Anthony Battle's testimony credible. Legal Counsel did not make any exceptions to the Administrative Law Judge's Proposed Final Agency Decision. Legal Counsel advised the Sheriffs' Commission Members to sign the Administrative Law Judge's Proposed Final Agency Decision to permanently revoke Petitioner's Justice Officer Certification.

Vice Chairman Cloninger asked the Commission if there were any other questions. 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 Ed McMahon to enter into open session; seconded by Sheriff Alan Norman. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ricky Oliver in the matter of Mr. Anthony Maurice Battle to adopt the Administrative Law Judge's Proposed Final Agency Decision to permanently revoke Petitioner's Justice Officer Certification as a result of his commission of the felony offense of "Child Molestation" in violation of California Penal Code 288.5(a); seconded by Sheriff Jack Smith. [**Attachment #7 for Roll Call Vote**] [**Attachment #8 for Final Agency Decision**] **MOTION CARRIED.**

III. CONSENT AGREEMENTS

Director Konopka summarized the Consent Agreements offered by the Probable Cause Committee at their March meeting. Division staff has received agreements signed by the following officers:

Chelsea Lynn Kight – Telecommunicator Applicant – Dare County
TyKelli Jequa Perry – Deputy Applicant – Bertie County
James Lee Wheeler – Deputy/Detention Officer Applicant – Alexander County
Lemuel Lee Willis – Deputy – Pender County

Vice 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 Ricky Oliver to accept all the Consent Agreements 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 #9].

- Nine (9) cases involving Class B misdemeanors after the deputy/detention officer has been certified.
- Three (3) cases involving felony commissions.
- Nine (9) cases involving four (4) or more Class A and B misdemeanors.
- Eight (8) cases involving material misrepresentations.
- Eight (8) cases involving a lack of good moral character.
- Four (4) cases involving a certified officer who has been charged and did not report that charge within the five day reporting period.
- One (1) denial by CJ Commission.
- Two (2) cases drug screen positive results

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

VI. ADJOURNMENT

A **MOTION** was made by Sheriff Ed McMahon to adjourn the June 20, 2018, Sheriffs' Final Agency Decision meeting; Seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**