

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

DATE: December 08, 2016

TIME: 2:05 P.M.

SUBMITTED BY: Diane Konopka, Director Sheriffs' Standards Division

I. CALL TO ORDER

- Chairman Brad Riley

The North Carolina Sheriffs' Education and Training Standards Commission's Final Agency Decision meeting was called to order by Chairman Brad Riley on Thursday, December 08, 2016 at 2:05 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 Riley introduced the December Commission Meeting host Sheriff Donnie Harrison. Sheriff Donnie Harrison welcomed all in attendance to Wake County and invited guests to a barbecue dinner at Carolina Barbeque located in Garner.

Chairman Riley requested a roll call of Commission members. Administrative Assistant Judy Marchetti recorded the following:

MEMBERS PRESENT

Sheriff Dwayne Goodwin
Sheriff Steve Bizzell
Sheriff Ricky Oliver
Sheriff John Ingram
Sheriff Brad Riley
Sheriff Alan Jones
Sheriff Eric Tilley
Sheriff Alan Cloninger
Cpt Briscoe (Sheriff Norman's Proxy)
Mr. Zack Koonce
Mr. Marc Nichols

MEMBERS ABSENT

Ms. Tracy McPherson
Mr. Jamie Markham

STAFF

- John Congleton - Legal Counsel - NC Department of Justice
- Lauren Earnhardt - Legal Counsel - NC Department of Justice
- Diane Konopka - Director - Sheriffs' Standards Division
- Judy Marchetti - Administrative Assistant - Sheriffs' Standards Division

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.

***Administration of Oath of Office**

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

- Sheriff Dwayne Goodwin, Chowan County, District #1
- Mr. Zack A. Koonce, Governor's Appointee

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

VISITORS

Lauren Earnhardt – DOJ Legal Counsel
Shanon Gerger – DOJ Paralegal
Hal Askins – DOJ Legal Counsel
Steve Mayner – Chatham County Sheriff’s Office
Mike Roberson – Chatham County Sheriff
Terry Green – Wake County Sheriff’s Office
Kim Wrenn – Wake County Sheriff’s Office
John Jones – Wake County Sheriff’s Office
Jonathan Price – Wake County Sheriff’s Office

Sheriff Riley again welcomed the visitors and called on Lauren Earnhardt for Final Agency Decisions.

II. FINAL AGENCY DECISIONS

***Carson Dean Berry**

Lauren Earnhardt

Mr. Carson Dean Berry is a Deputy Sheriff applicant for certification through Burke County. Mr. Berry was notified that his case was being presented to the Sheriffs’ Commission but he is not present. The issue before the Sheriffs’ Commission is whether his certification should be denied for lack of good moral character. Ms. Earnhardt summarized the Proposal for Decision for Carson Dean Berry as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #2**]. Both the Administrative Law Judge and Legal Counsel recommend to deny Petitioner’s application for certification.

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

For the record, Chairman Riley asked if there was anyone present on the behalf of Mr. Carson Dean Berry. Negative response.

A **MOTION** was made at 2:20 p.m. by Sheriff John Ingram to enter into a closed session; seconded by Sheriff Eric Tilley.
MOTION CARRIED.

A **MOTION** was made at 2:25 p.m. by Sheriff Dwayne Goodwin to enter into open session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Dwayne Goodwin in the matter of Carson Dean Berry to adopt the Proposal for Decision as submitted by Legal Counsel to deny Petitioner's justice officer certification; seconded by Sheriff Eric Tilley. [**Attachment #3 for Roll Call Vote**] [**Attachment #4 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Christopher Scott Shepherd**

Lauren Earnhardt

Mr. Christopher Scott Shepherd is a Deputy Sheriff Applicant with Rutherford County. The issue before the Commission is whether he lacks the good moral character that is required of sworn justice officers and whether he committed the Class B misdemeanor offense of Willful Failure to Discharge Duties. Ms. Earnhardt summarized the Proposal for Decision for Christopher Scott Shepherd as submitted by the Administrative Law Judge [**Attachment #5**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #6**]. Both the Administrative Law Judge and Legal Counsel recommend to deny Petitioner's application for certification.

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

For the record, Chairman Riley asked if there was anyone present on the behalf of Mr. Christopher Scott Shepherd. Negative response.

A **MOTION** was made at 2:30 p.m. by Sheriff Eric Tilley to enter into a closed session; seconded by Sheriff John Ingram. **MOTION CARRIED.**

A **MOTION** was made at 2:35 p.m. by Mr. Marc Nichols to enter into open session; seconded by Sheriff John Ingram. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Christopher Scott Shepherd to adopt Legal Counsel's recommendation to deny Petitioner's justice officer certification; seconded by Sheriff Dwayne Goodwin. [**Attachment #7 for Roll Call Vote**] [**Attachment #8 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Barbara Ann Brown**

Lauren Earnhardt

Ms. Barbara Ann Brown is a Detention Officer with Vance County. The issue before the Commission is whether Petitioner failed to notify Respondent within five working days that she had been charged with the criminal charge of "Aid and Abet Larceny" on August 16, 2013. Ms. Earnhardt summarized the Proposal for Decision for Barbara Brown as submitted by the Administrative Law Judge [**Attachment #9**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #10**].

The Vance County Sheriff's Office speaks highly of Ms. Brown and is very supportive of her. The Administrative Law Judge's recommendation is to issue Petitioner a verbal warning based on the mitigating circumstances. Legal Counsel supports the Administrative Law Judge's recommendation.

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

For the record, Chairman Riley asked if there was anyone present on the behalf of Barbara Ann Brown. Negative response.

A **MOTION** was made at 2:40 P.M. by Mr. Zack Koonce to enter into a closed session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made at 2:48 P.M. by Sheriff John Ingram to enter into open session; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Barbara Ann Brown to adopt the Proposed Final Agency Decision as submitted by Legal Counsel that Respondent issue a justice officer certification and issue a written warning to Petitioner; seconded by Sheriff Steve Bizzell. [**Attachment #11 for Roll Call Vote**] [**Attachment #12 for Final Agency Decision**]. **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Michael Eugene Rich**

Lauren Earnhardt

Mr. Michael Eugene Rich is a Deputy Sheriff/Detention Officer applicant for certification through Haywood County. The issue is whether or not he is convicted of four (4) or more Class A and Class B misdemeanors. Ms. Earnhardt summarized the Proposal for Decision for Michael Eugene Rich as submitted by the Administrative Law Judge [**Attachment #13**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #14**].

Mr. Rich does contest the 1992 charge of Hit and Run resulting in Property Damage. The Administrative Law Judge found that there was a preponderance of evidence presented to show that Petitioner has a combination of four (4) or more convictions or commissions of Class A and Class B misdemeanors; therefore his application should be denied. There were no mitigating circumstances found during the hearing.

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

For the record, Chairman Riley asked if there was anyone present on the behalf of Michael Eugene Rich. Negative response.

A **MOTION** was made at 2:52 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**

A **MOTION** was made at 2:55 P.M. by Sheriff Eric Tilley to enter into open session; seconded by Sheriff John Ingram. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Michael Eugene Rich to adopt the Proposed Final Agency Decision as submitted by Legal Counsel to deny Petitioner's justice officer certification; seconded by Sheriff Ricky Oliver. **[Attachment #15 for Roll Call Vote] [Attachment #16 for Final Agency Decision] MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Dana Lee Ellis**

Lauren Earnhardt

Mr. Dana Lee Ellis is a Detention Officer applicant for certification through Bertie Martin Regional Jail. The issue is whether or not he is convicted of four (4) or more Class A and Class B misdemeanors. Mr. Ellis was represented by Ernest L. Conner, Jr., Esq. at the Administrative Hearing. The Petitioner does not dispute that he has been convicted of a combination of four (4) or more misdemeanor offences. Ms. Earnhardt summarized the Proposal for Decision for Dana Lee Ellis as submitted by the Administrative Law Judge **[Attachment #17]**, and the Proposal for Decision submitted by Legal Counsel **[Attachment #18]**. Both the Administrative Law Judge and Legal Counsel recommend issuing Petitioner's certification.

Chairman Riley asked the Commission if there were any questions.

Sheriff Bizzell wanted to confirm the number of Driving While Impaired convictions and referenced page 2 of the Proposed Final Agency Decision item #5. Ms. Earnhardt pulled Mr. Ellis's file to verify. Ms. Earnhardt confirmed that Mr. Ellis had three (3) Driving While Impaired convictions and one misdemeanor Assault.

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

For the record, Chairman Riley asked if there was anyone present on the behalf of Dana Lee Ellis. Negative response.

A **MOTION** was made at 3:00 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**

A **MOTION** was made at 3:20 P.M. by Sheriff Eric Tilley to enter into open session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Dana Lee Ellis to adopt the Proposal for Decision as submitted by Legal Counsel to issue Petitioner's justice officer certification; seconded by Sheriff John Ingram. [**Attachment #19 for Roll Call Vote**] [**Attachment #20 for Final Agency Decision**] **MOTION CARRIED.**

III. CONSENT AGREEMENTS

The Probable Cause Committee recommended Consent Agreements for the cases listed below:

Jazzmine Bayford – Detention Officer Applicant – Wayne County
(Class B Misdemeanor within Five Years)

Craig Russell Myers – Deputy Sheriff Applicant – Duplin County
(Falsification to CJ Standards)

David Zepeda – Detention Officer Applicant – Wake County
(Falsification to CJ Standards)

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. Legal Counsel recommended the Sheriffs' Commission accept the Consent Agreements offered.

A **MOTION** was made by Sheriff Alan Cloninger to accept all the Consent Agreements provided by Legal Counsel Lauren Earnhardt; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

IV. LEGAL COUNSEL'S REPORT

Ms. Lauren Earnhardt summarized the Legal Counsel's Report. This report is available for review and includes 25 administrative case files that were in the Office of Administrative Hearings. Ms. Earnhardt went over the various stages of litigation for the 25 administrative cases as follows: **[See Attachment #21]**.

- Seven (7) cases involving Class B misdemeanors after the deputy/detention officer has been certified.
- One (1) case involving felony commissions.
- Seven (7) cases involving four (4) or more Class A and B misdemeanors.
- Six (6) cases involving material misrepresentations.
- Nine (9) 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.

* Note: Some of the 25 case files involve more than one issue.

V. ADJOURNMENT

A **MOTION** was made by Sheriff Eric Tilley at 3:30 p.m. to adjourn the December 07, 2016, Sheriffs' Final Agency Decision meeting; Seconded by Sheriff John Ingram. **MOTION CARRIED.**