

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

**DATE:** September 08, 2016

**TIME:** 2:20 P.M.

**SUBMITTED BY:** Diane Konopka, Deputy 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, September 08, 2016 at 2:20 P.M. The Final Agency Decision meeting was held at the Guilford County Sheriff's District 2 Office, 5440 Millstream Rd., McLeansville, NC 27301.

Chairman Riley introduced the September Commission Meeting host Sheriff B. J. Barnes. Sheriff Barnes welcomed all in attendance to Guilford County and invited guests to a barbecue dinner at the range. A "Dynamic Entry" demonstration will take place at the shoot house after dinner. Sheriff Barnes introduced staff members and offered their services.

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

**MEMBERS PRESENT**

Sheriff Ricky Oliver  
Sheriff Steve Bizzell  
Sheriff John Ingram  
Sheriff Alan Cloninger  
Sheriff Eric Tilley  
Sheriff Brad Riley  
Cpt Acuff (Sheriff Norman's Proxy)  
Sheriff Barnes

**MEMBERS ABSENT**

Ms. Tracy McPherson  
Mr. Marc Nichols  
Mr. Jamie Markham  
Sheriff Juan Vaughan

## **STAFF**

John Congleton - Legal Counsel - NC Department of Justice  
Matthew Boyatt - Legal Counsel - NC Department of Justice  
Diane Konopka - Deputy 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.

Sheriff Ricky Oliver acknowledged that he knows Steven Boone and his family but does not have a conflict with regard to Mr. Boone's case.

Legal Counsel John Congleton stated he has no conflict or knowledge of the Steven Boone case even though Mr. Boone worked for an agency that Mr. Congleton represented in the past. Mr. Congleton also stated that he is not a voting member of the Sheriffs' Commission.

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 from all Commission members.

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

## **VISITORS**

Matthew Boyatt – DOJ Legal Counsel  
Kevin Matthews – Harnett County Sheriff’s Office  
Robert J. Wilson – Harnett County Sheriff’s Office  
Donald Lucas – Harnett County Sheriff’s Office  
Tony Richardson – Wake County Sheriff’s Office  
Samuel P. Lapsley – Wake County Sheriff’s Office  
John Ervin – Jones County Sheriff’s Office  
John Sheetz – Dare County Sheriff’s Office  
Sgt. Leigh Ann George – Dare County Sheriff’s Office  
William Cotter – Attorney for Inah York  
Danny Heath – Jones County Sheriff  
Matthew J. Wineman – Jones County Sheriff’s Office  
Ricky Bowman – District Attorney (Surry & Stokes Counties)  
Mike McGinnis – Attorney for Donald Lucas  
Steve Boone – Surry County Sheriff’s Office  
Inah York – Durham County Sheriff’s Office  
Cynthia Kernegay – Durham County Sheriff’s Office  
Graham Atkinson – Surry County Sheriff  
Litchard Hurley – Retired Randolph County Sheriff  
Tony King – Randolph County Sheriff’s Office  
Richard Webster – Retired Chatham County Sheriff

Sheriff Riley again welcomed the visitors and called on Matthew Boyatt for Final Agency Decisions.

## **II. FINAL AGENCY DECISIONS**

**\*Donald Lee Lucas**

**Matthew Boyatt**

Mr. Donald Lee Lucas is a Deputy Sheriff applicant for certification with Harnett County. Mr. Lucas was also certified through the Criminal Justice Commission and working at the Wilson Police Department until his separation from that agency.

The issue before the Sheriffs’ Commission is whether his certification should be denied for willfully failing to discharge his duties. This involves an arrest in 2014 while Mr. Lucas was an officer with the Wilson Police Department. Mr. Boyatt summarized the Proposal for Decision for Donald Lee Lucas as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #2**].

Administrative Law Judge May found that Mr. Lucas committed the Class B Misdemeanor of Willful Failure to Discharge Duties. Based on that the Commission has the authority to deny Mr. Lucas his application for certification; however, the Commission has the authority to issue a lesser sanction. Judge May recommended a lesser sanction to include a period of probation in lieu of denial. Judge May did not specify the amount of time for probation.

Mr. Boyatt stated that he had witnesses from the Wilson Police Department under subpoena that came and testified at the hearing. The Internal Affairs investigation determined that there was no intent by Mr. Lucas to use that money for himself or for any improper purpose. The consensus was that he was a young and aggressive officer that made a mistake. The Wilson Police Department supports Mr. Lucas, as well as the Harnett County Sheriff's Office.

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

Attorney Mike McGinnis addressed the Sheriffs' Commission members on behalf of his client Mr. Donald Lee Lucas. Attorney McGinnis referred to Lt. Kevin Matthews and Lt. Robert Wilson of the Harnett County Sheriff's Office who are in attendance to support Mr. Lucas.

Attorney McGinnis stated that he does not materially dispute the summary of evidence given by Mr. Boyatt. Attorney McGinnis believes that the case distills down to a case of an honest mistake made by a rookie law enforcement officer. Mr. Donald Lucas has an excellent background of an up and coming law enforcement officer in North Carolina. His career in Wilson was cut short by his own decision to resign and move on as a result of the embarrassment that he caused himself and potentially the department. Mr. Lucas is a graduate of Campbell University where he earned a degree in Criminal Justice.

Judge May has made some findings that are extremely pertinent in this case for your consideration. Both Lt. Matthews and Lt. Wilson were witnesses at the Administrative Hearing. Testimony from Lt. Matthews at the hearing points out that Mr. Lucas is a professional and well respected law enforcement officer. Attorney McGinnis referenced Judge May's Proposal for Decision's finding of facts [**Attachment #1**]. Attorney McGinnis presented the Sheriffs' Commission Members with a letter from Harnett County Sheriff Wayne Coats in support of Mr. Lucas [**Attachment #3**]. After Judge May heard all the evidence he found that Mr. Lucas did not act corruptly, willfully, or maliciously. Judge May found that Mr. Lucas made an honest but neglectful mistake. Mr. Lucas did not willfully destroy any evidence. Attorney McGinnis sincerely hopes that the Commission will consider Judge May's recommendation of a probationary period.

Mr. Donald Lucas addressed the Commission Members and apologized for taking their time in this matter for the mistake that he made on the day in question. Mr. Lucas assured the Commission Members that he has learned a lot from this incident and that it will never happen again.

Lt. Kevin Matthews addressed the Commission Members and stated that he did the background research on Deputy Lucas. Lt. Matthews also stated that during Deputy Lucas's employment, he has been an exemplary Deputy; he is well received in the communities that he serves, is respected and well-liked by his co-workers and the Administrative Staff. Lt. Matthews sees leadership potential in Deputy Lucas and stated that he is a Field Training Officer working with a trainee at this time. Deputy Lucas turns out a very good product. Lt. Matthews referenced the letter of support for Deputy Lucas from Harnett County Sheriff Wayne Coats. Lt. Matthews stated that Deputy Lucas is a good officer and they appreciate the value of what he brings to the Sheriff's Office. Deputy Lucas is considered an asset.

Lt. Robert Wilson with the Harnett County Sheriff's Office Patrol Unit spoke in support of Deputy Lucas. Lt. Wilson stated that Deputy Lucas has been assigned to his unit and that his service has been impeccable. Deputy Lucas is well respected in the Community and in the Department. Lt. Wilson stated that Deputy Lucas does everything by the book and he believes that Mr. Lucas has learned from his mistake. Lt. Wilson has plans to send Deputy Lucas to Instructor School in January if the Commission decides to allow his continued employment.

Chairman Riley asked the Commission if there were any questions.

Sheriff Cloninger asked Mr. Boyatt if the violation of Willful Failure to Discharge Duties is a Class B Misdemeanor. Mr. Boyatt responded that this charge is listed in the Sheriffs' Standards Class B Misdemeanor Manual.

Legal Counsel John Congleton discussed the fact that Judge May did not address a portion of the violation "Willful Failure to Discharge Duties" (GS-14-230) concerning harm to the public. Legal Counsel Matthew Boyatt did address this point in his Proposed Final Agency Decision. Mr. Boyatt does not disagree with Judge May's proposal.

Sheriff Cloninger asked Deputy Lucas if he intentionally misplaced the evidence. Deputy Lucas responded that he did not. Sheriff Cloninger asked Deputy Lucas if he was successful in receiving information from the person arrested that help to solve other cases. Deputy Lucas responded that he did. Sheriff Cloninger asked Deputy Lucas if he threw the evidence money away so that he didn't have to charge the detainee. Deputy Lucas answered no. Sheriff Cloninger asked Deputy Lucas if he just made a stupid mistake. Deputy Lucas answered yes. Sheriff Cloninger confirmed with Deputy Lucas that he had been an officer for approximately six (6) months when the incident occurred.

Chairman Riley asked the Commission if there were any questions. 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 3:05 p.m. by Sheriff Ricky Oliver to enter into open session; seconded by Sheriff Steve Bizzell.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Donald Lee Lucas to issue certification on the grounds that he did not commit the Class B Misdemeanor offense since there was not enough evidence of harm to the public or of willful intent; seconded by Sheriff Steve Bizzell. [**Attachment #4 for Roll Call Vote**] [**Attachment #5 for Final Agency Decision**]  
**MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Steven Davis Boone**

**Matthew Boyatt**

Mr. Steven Davis Boone is a former ALE Agent retired. Mr. Boone is a Surry County Deputy Sheriff/Detention Officer Applicant and is present with attorney Mr. J. Michael McGuinness. Sheriff Cloninger has recused himself since he was a member on the Probable Cause Committee. Mr. Boone has been working as a Surry County School Resource Officer for multiple years.

The issues in this case are whether or not Mr. Boone committed misdemeanor Larceny by “stealing time” and whether or not, based on acts of insubordination, Mr. Boone possesses the good moral character required of a sworn justice officer. Both issues involved his employment as an ALE Agent.

Mr. Boyatt summarized the Proposal for Decision for Steven Davis Boone as submitted by the Administrative Law Judge [**Attachment #6**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #7**]. The Administrative Law Judge’s recommendation was to find that there has been no rule violation concerning the allegations of Larceny but because of his failure to obey orders to refrain from working at home; Judge May recommended the Petitioner’s certification be suspended, and that the Commission consider suspending this suspension under supervision of a period of probation. Mr. Boyatt explained to the Commission Members that

they need to determine if Mr. Boone's failure to obey the order of not working from home constitutes a Lack of Good Moral Character.

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

Attorney McGuinness addressed the Sheriffs' Commission Members and referred them to Exhibit #12 [**Attachment #8**] which is a Forensic Psychiatric Evaluation by Dr. Moira Artigues. Mr. Boone's medical condition speaks directly to the allegation of insubordination for not following an order to not work from home. Mr. Mike McGuinness summarized his Summary of Argument for Petitioner Boone [**Attachment #9**]. Mr. Boone needs quiet space in order to get his paperwork done because of his Attention Deficit Disorder (ADD). Mr. Boone had a space available to him in his wife's law office building. The ALE Agency denied Mr. Boone permission to utilize that space. Mr. Boone was struggling to deal with his medical condition and doing the best he could to get his work done and survive. Mr. Boone's agency would not work with him in the slightest way to facilitate help to get an office where he could get his work done. Mr. Boone was being set up for failure by his agency.

Mr. McGuinness stated that because Mr. Boone suffers from a serious medical condition that is defined as disabling under the Americans with Disabilities Act, the Commission should not find Mr. Boone culpable of the alleged insubordination offense.

Mr. Steven Boone addressed the Sheriffs' Commission Members and stated that he is humbled that both the Surry County Sheriff Graham Atkinson and District Attorney Ricky Bowman have come to speak on his behalf. Mr. Boone stated that he had no intention to be insubordinate. Mr. Boone had worked for 15 years out of his home as an ALE Agent. At that time all the ALE Agents worked out of their homes because the Agency could not afford offices. The ALE Agents were told verbally that they could no longer work out of their homes. Nothing was ever provided in writing and there was no policy stating that the ALE Agents could not work from home. This type of documentation was requested by the Agents but the the ALE Agency could not produce it.

Mr. Boone stated that he received permission from the Surry County Sheriff to work in a small space in the Detective Division. On December 18, 2007 Mr. Boone was working in this office with the Detectives and it was like a beehive and very distracting. This wasn't working out and he began to get behind in his work. Mr. Boone decided to work an hour from home before his shift and this did help him to catch up with his work. Mr. Boone stated that he did what he had to do to keep up with his work and he wasn't trying to steal anything or be insubordinate.

Mr. Boone stated that he does respect the ALE Agency. Mr. Boone knows of 19 times that his movements were followed to see what he was doing during the day. Out of those 19 times, they found him working at home for an hour. Mr. Boone respectfully asked the Sheriffs' Commission Members to allow him to continue as a School Resource Officer. Mr. Boone stated that he really enjoys being an SRO and feels like he makes a difference with the kids.

Sheriff Graham Atkinson of Surry County addressed the Sheriffs' Commission. Sheriff Atkinson has known Mr. Boone a long time and called on him numerous times when he was an ALE Agent for help. Sheriff Atkinson stated that Mr. Boone always answered his phone, even in the middle of the night. He called Mr. Boone one time while he was on vacation and Mr. Boone still helped him out. Mr. Boone never failed to show up and he never cheated anybody out of any work in all the time that he has known him. Mr. Boone has been in law enforcement for 37 years.

When things went bad for Mr. Boone at the ALE Agency and he went to work for the Surry County Detention Center, he was tasked with organizing paperwork that had been a mess for a long time. Mr. Boone organized the paperwork better than anyone had ever done before. Sheriff Atkinson stated that they had put Mr. Boone in a small and secluded office on the backside of the jail where he could work without distractions. Mr. Boone created a program with the District Attorney's office to make things much more efficient in getting people to court.

Mr. Boone came to the Sheriff with an idea of getting together with the Surry County Schools to give them a chance to fingerprint their children if they choose to. Mr. Boone took that project on himself and beginning this January every child from 1<sup>st</sup> – 12<sup>th</sup> grade will have the chance to have their fingerprints and DNA collected for their parents if it is ever need.

Recently, Mr. Boone came to Sheriff Atkinson about children that can't afford a musical instrument and proposed starting up a Foundation and asked for the Sheriff's blessing. This Foundation collects and repairs used instruments so any child that wants to be in the band and can't afford an instrument will have the opportunity. This Foundation has received a lot of publicity and is a success. Sheriff Atkinson stated that this is not a man that is going to steal time or doesn't care about what he is doing. Mr. Boone is not a person that lacks good moral character.

Sheriff Atkinson stated that before he left to come to Mr. Boone's Final Agency Hearing today he spoke with the Superintendent of Schools and told him of the hearing and the issue regarding the question of Mr. Boone's alleged lack of good moral character. Sheriff Atkinson said the Superintendent laughed out loud and said that Steve Boone is one of the finest people he's met in his life.

Sheriff Atkinson addressed the Sheriffs' Commission Members on how important it is to have good people working for you and that the public doesn't see a difference between a Sheriff's Deputy and the Sheriff. Sheriff Atkinson is proud to have Mr. Boone represent him at Central Middle School every day. Mr. Boone is assigned to the school that the Sheriff's niece goes to and he has complete trust in Mr. Boone.

District Attorney Ricky Bowman addressed the Sheriffs' Commission Members. This meeting is important to him because he is speaking to law enforcement on behalf of law enforcement. District Attorney Bowman has known Steve Boone approximately 25 years.



Everything that the Sheriff has said about Mr. Boone is so true. Mr. Boone is always ready to help out and has never questioned his judgement if an answer was no. The Steve Boone he knows always does things right. Judge May asked Ricky Bowman at the hearing about trust. Mr. Bowman responded that his family is most dear to him and if something happened to him today, he would trust Steve Boone with his wife and children. Mr. Bowman asked how we can deny Mr. Boone the right to serve us. Mr. Bowman stated that we need more people like Mr. Boone serving the public.

Chairman Riley asked the Commission if there were any questions.

Sheriff Eric Tilley asked how far it was to Surry County from Hickory, NC. Mr. Boone responded that the trip took at least 1 1/2 hours. The shift began once they were in their car. A memo was issued instructing the ALE Agents to make as many stops as possible during a day's trip due to budget concerns.

Attorney McGuinness referenced the Jeff Royall vs. N.C. Sheriffs' Education and Training Standards Commission case with regard to what defines good moral character and the lack of good moral character.

A **MOTION** was made at 4:00 p.m. by Sheriff Eric Tilley to enter into a closed session; seconded by Sheriff Ricky Oliver.  
**MOTION CARRIED.**

A **MOTION** was made at 4:25 p.m. by Sheriff Steve Bizzell to enter into open session; seconded by Sheriff John Ingram.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Eric Tilley in the matter of Steven Davis Boone to issue certification on the grounds that the totality of the evidence in the record establishes Petitioner possesses the good moral character required of a sworn justice officer. The record does not establish that Petitioner committed misdemeanor Larceny; seconded by Sheriff Steve Bizzell.  
**[Attachment #10 for Roll Call Vote] [Attachment #11 for Final Agency Decision] MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Inah Latonna York**

**Matthew Boyatt**

Ms. Inah York is a Detention Officer with Durham County and has served for 19 years. Ms. York is represented by Attorney William Cotter and they are both present. The issue before the Sheriffs' Commission is whether Ms. York has committed or been convicted of a combination of four (4) or more offenses such that her certification should be revoked. Mr. Boyatt summarized the Proposal for Decision for Inah York as submitted by the Administrative Law Judge [Attachment #12], and the Proposal for Decision submitted by Legal Counsel [Attachment #13].

Administrative Law Judge Emily Blas recommended a lessor sanction of probation in lieu of revocation due to Ms. York's length of service, sterling performance and reputation as a detention officer; as well as other extenuating circumstances brought forward by the testimony at the hearing. Mr. Boyatt does not dispute that Ms. York is a good detention officer and has been valuable to the Durham County Sheriff's Office. Mr. Boyatt informed the Sheriffs' Commission that it is within their discretion to issue a lessor sanction if that is what they choose.

Attorney Bill Cotter addressed the Commission Members and introduced Ms. York and Captain Cynthia Kornegay. Ms. York has been a Durham County Detention Officer for 19 years as well as a single mother. Ms. York worked a second job as a night shift clerk in a Convenience Store. During that time she made a mistake and sold alcohol to an underage person. Ms. York was not convicted of that offense. Ms. York did receive a Worthless Check conviction but explained that was a mistake of not realizing there wasn't enough money in her account to cover the check.

Ms. York worked at an ABC Store in Durham. She did ask for and looked at an I.D. but got it wrong and sold to an underage person. Ms. York stated that she did not have her glasses on and made a mistake. The manager at that ABC Store submitted a statement that was admitted into evidence at the Administrative Hearing. He stated that Ms. York had worked with him for the past three (3) years and had a strong work ethic, dependability and honesty. He further stated that she took her job seriously and always conducted herself in a professional manner.

Four representatives from the Durham County Sheriff's Office appeared at the Administrative Hearing on the behalf of Ms. York. All the representatives have worked in Detention with Ms. York as a person in her chain of command. Attorney Cotter asked the Commission Members to please consider the Administrative Law Judge's recommendation of a lessor sanction of probation rather than revocation so that she can continue to do her fine job.

Captain Kornegay addressed the Sheriffs' Commission and stated that she has been with the Durham County Sheriff's Office for about 26 years. Captain Kornegay stated that she is at that stage of her career where she is looking to pass the keys on to someone. Captain Kornegay believes that Detention Officer York is one of those people that she looks to in moving into the future with Detention Services.

Captain Kornegay acknowledged that Detention Officer York did make a mistake but believes that is due to being human. Detention Officer York is one of the people that she looks to in bringing the young Detention Officers along. Captain Kornegay stated that the Detention Center would really like for Ms. York to continue her service with them.

Ms. Inah York addressed the Sheriffs' Commission Members and stated that she has been with the Durham County Sheriff's Office for 19 years. Ms. York stated that she loves her job and has a passion for her work. Ms York is very sorry that she has appeared before the Sheriffs' Commission for any circumstance. She is very sorry for bringing any embarrassment to her Sheriff's Office. Ms. York wants to be able to keep her certification and continue the work that she has been doing and feels like she still has a lot to offer the Sheriff's Department. Ms. York thanked the Sheriffs' Commission Members for listening.

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

A **MOTION** was made at 4:35 P.M. by Sheriff Eric Tilley to enter into a closed session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made at 4:40 P.M. by Sheriff Eric Tilley to enter into open session; seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**

A **MOTION** was made by Sheriff John Ingram in the matter of Inah Latonna York to adopt the Proposed Final Agency Decision as submitted by Legal Counsel for a lesser sanction and substitute a period of six (6) months probation in lieu of revocation of Petitioner's Justice Officer Certification; seconded by Sheriff Steve Bizzell. **[Attachment #14 for Roll Call Vote] [Attachment #15 for Final Agency Decision]. MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*John Leslie Ervin, Jr.**

**Matthew Boyatt**

Mr. John Ervin, Jr. is a Deputy Sheriff applicant for certification with Jones County. Mr. Ervin was formerly a police officer with Jacksonville Police Department. Mr. Ervin was separated from that agency for gross misconduct. There are two (2) issues with this case. The first issue is whether or not Mr. Ervin lacks the good moral character required of a sworn justice officer. The second issue is whether or not he made a material misrepresentation on information submitted to the Criminal Justice Commission and the Sheriffs' Standards Commission.

Mr. Boyatt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #16**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #17**]. The Administrative Law Judge ultimately found that Mr. Ervin, Jr. does lack good moral character and recommended denial of Petitioner's application for certification. Mr. Boyatt recommended that the Sheriffs' Commission follow the Administrative Law Judge's recommendation to deny Petitioner's application for certification.

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

Mr. John Leslie Ervin, Jr. addressed the Sheriffs' Commission Members and stated that he was 16 years old when the alleged assault occurred. Mr. Ervin stated that he was the victim of the assault. In his 38 years, he has never been issued an arrest warrant or anything of that nature and that is why it was not listed on his Personal History Statements for Criminal Justice or Sheriffs' Standards. Mr. Ervin stated that there is no record of a warrant in Duplin County other than a criminal record file number.

With regard to his conduct, when he went before the Administrative Law Judge he told her that he did mess up. He was at a point in his life where he was consuming alcohol to make him feel better. Mr. Ervin stated that he is not the same person that he was then and that he is now married and an active member of his church. He is an active member of his community and tries to help out at the Sheriff's Office, Church, or members of the community in need of help.

Sheriff Danny Ray Heath addressed the Sheriffs' Commission Members and stated that for the last three (3) years he has seen absolutely zero of the type of behavior described here today. Sheriff Heath stated that Mr. Ervin is probably one of the most important employees he has. There is nothing that Mr. Ervin doesn't do that has been requested of him.

Sheriff Heath stated that he can size a person up quickly and believes that he would have seen something negative in these last three (3) years. Sheriff Heath stated that he is a working Sheriff out there seven (7) days a week with his people and he has never seen anything that would indicate the behavior from the past.

Jones County is a very rural county with a population of 10,500. Sheriff Heath said that he could have filled the room with people who would have come to support Mr. Ervin. People of the County were calling the Sheriff's Office concerned about the outcome of this process. Mr. Ervin is very involved with the people of the community.

Sheriff Heath stated that he can't speak to the things that happened prior to Mr. Ervin coming to work for him in Jones County; but he can say that since he has worked for him his behavior has been exemplary and his work outstanding.

Major Matthew Wineman addressed the Sheriffs' Commission Members to touch on a few points Sheriff Heath made. When Deputy Ervin began with Jones County, he started out as a part-time employee who filled in at the Sheriff's Office on numerous occasions. It didn't matter if it was in the Jail or out on the road, if there was something we needed Mr. Ervin went above and beyond the call to accommodate. Once Mr. Ervin became full time, there has not been an instance of him not being there when he was needed. Mr. Ervin is well respected and well liked in the Sheriff's Office, the jail, and in the community. Major Wineman stated that he personally thinks a lot of Mr. Ervin.

Chairman Riley asked the Commission if there were any questions.

Sheriff Cloninger asked Mr. Ervin when the last time was that he had a drink. Mr. Ervin's response was "more than a year." Mr. Ervin stated that he knows if he would start drinking where that would lead to; so he keeps himself busy with his family and his Church.

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

A **MOTION** was made at 4:55 P.M. by Sheriff Eric Tilley to enter into a closed session; seconded by Sheriff Ricky Oliver.  
**MOTION CARRIED.**

A **MOTION** was made at 5:18 P.M. by Sheriff John Ingram to enter into open session; seconded by Sheriff Eric Tilley.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of John Leslie Ervin, Jr. that although the Petitioner did not possess the good moral character required of a sworn justice officer at the time of the incident in 2013, he has rehabilitated himself through time and growth. Denial for a period of 5 years based on Petitioner's material misrepresentation will be stayed and Petitioner shall be issued certification and placed on a 5 year probationary period and to not violate any laws or rules of the Commission; seconded by Sheriff John Ingram. [**Attachment #18 for Roll Call Vote**] [**Attachment #19 for Final Agency Decision**] **MOTION CARRIED.**

## II. FINAL AGENCY DECISIONS

### **\*Samuel Porter Lapsley**

### **Matthew Boyatt**

Mr. Samuel Lapsley is a former Wake County Sheriff's Deputy. The Wake County Sheriff's Office would like to have him back if these proceedings allow for that. This is a one (1) issue case of failing to report a Concealed Weapon Charge within five (5) days as required by the rules. The DWI charge was reported within the five days but the Concealed Weapon Charge was not. The Concealed Weapon Charge was entered at a later date through a Magistrate. Mr. Lapsley had already resigned from the Wake County Sheriff's Office and was not aware at that time of a Concealed Weapon Charge.

Mr. Boyatt summarized the Proposal for Decision for Samuel Porter Lapsley as submitted by the Administrative Law Judge [**Attachment #20**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #21**]. The Administrative Law Judge recommended a lesser sanction of issuing Petitioner a two year probationary certification based on the mitigating circumstances presented at the hearing.

Mr. Samuel Lapsley addressed the Sheriffs' Commission Members with a desire to add some clarity to the incident. The incident occurred during an 18 month period after his 20 year marriage had ended and he had made some terrible decisions. Mr. Lapsley stated that he has been in law enforcement for 22 years and unfortunately the Commission Members don't have a file of the good things that he has done. He regrets the terrible decisions he made that brought him before the Sheriffs' Commission.

The night of the DWI incident he was leaving a domestic dispute in Johnston County. He realizes that he made a bad decision to drive rather than call for a cab. When he left his home he packed his things in a laundry basket which included his weapon. Once he was stopped and he realized that he would be arrested he asked the officer to drop his dog off and told the officer about the 9mm pistol in the laundry basket. The officer took the weapon for safe keeping and told Mr. Lapsley that he could pick it up whenever he liked. The officer tried to get probable cause for the weapon the night of the incident but the original Magistrate would not issue it.

The officer went back 15 days later to a different Magistrate and who issued the criminal summons. Mr. Lapsley stated that he lives in Garner city limits and was never served a summons. On November 17<sup>th</sup> when he went to the Garner Police Department to retrieve his weapon, he was served with the “Carrying a Concealed Weapon warrant and was informed that his weapon was now evidence and not in “safe keeping”.

Mr. Lapsley stated that it was now six (6) weeks after the incident and his resignation. He admits he was not thinking as a law enforcement officer and was working with his attorney at the time on the criminal charges. The “Carrying a Concealed Weapon” charge was dismissed.

Mr. Lapsley stated that he has gone every step of the way through this process to save his certification. He has been hired as a Detention Officer with the Wake County Sheriff’s Office as of August 16, 2016, and hopes that the Sheriffs’ Commission will adopt the Administrative Law Judge’s Proposed Final Agency Decision. Mr. Lapsley thanked the Sheriffs’ Commission for their time.

Chairman Riley asked the Commission if there were any questions.

Sheriff Bizzell stated that once he saw Mr. Lapsley he recognized him and his name but does not feel that he has any conflict of interest.

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

A **MOTION** was made at 5:30 P.M. by Sheriff Ricky Oliver to enter into a closed session; seconded by Sheriff Eric Tilley.  
**MOTION CARRIED.**

A **MOTION** was made at 5:32 P.M. by Sheriff Steve Bizzell to enter into open session; seconded by Sheriff Ricky Oliver.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff John Ingram in the matter of Samuel Porter Lapsley to adopt the Proposal for Decision as submitted by Legal Counsel to issue Petitioner’s justice officer certification with a two (2) year probationary period; seconded by Sheriff Eric Tilley. [**Attachment #22 for Roll Call Vote**] [**Attachment #23 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*John Christian Sheetz**

**Matthew Boyatt**

Mr. Boyatt addressed the Sheriffs' Commission members and stated that Mr. John Christian Sheetz is a Detention Officer Applicant with Dare County. The issue is whether or not he has been convicted of four (4) or more Class A and/or Class B misdemeanor offenses. Mr. Sheetz does not dispute that he has been convicted of a combination of four (4) or more misdemeanor offenses.

Mr. Boyatt summarized the Proposal for Decision for John Christian Sheetz as submitted by the Administrative Law Judge [**Attachment #24**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #25**]. The Administrative Law Judge recommended Petitioner be issued a justice officer certification with a one (1) year probationary period, during which time Petitioner shall not violate any federal or state law and shall remain in compliance with the rules established by the Sheriffs' Commission.

Mr. John Sheetz addressed the Sheriffs' Commission Members and stated that he has been with the Dare County Sheriff's Office for two (2) years. Mr. Sheetz admitted that he made bad choices as a youngster but that he has definitely learned and grown from those experiences. Mr. Sheetz stated that he is very active with the youth in his community and has been a Pee Wee through varsity football coach for approximately 10 years. Mr. Sheetz also works with a group called "Project Purple." This group goes into the schools and tries to help teens make the right choices instead of bad choices like he did. Mr. Sheetz stated that he really enjoys being a detention officer and feels that if he can help one person make right decisions once they get out of there, that he's done his job.

Sgt. Leigh Ann George addressed the Sheriffs' Commission Members on behalf of Mr. Sheetz. Sgt. George stated that she is Mr. Sheetz's supervisor and that it has been a pleasure to be his supervisor. Mr. Sheetz had some family issues when he was in his late teens and early 20's and he made some bad decisions. He is now 41 years old has handled life and matured very well. Mr. Sheetz is respected by everyone. Sgt George stated that she is present today representing Sheriff Doughtie, their Lieutenants and Captains. Sgt George stated that her entire shift would be there but they are at work. Eighteen staff members and the Sheriff wrote letters in support of Mr. Sheetz [**Attachment #26**]. Sgt. George stated that they all would like to keep Mr. Sheetz with their agency and thanked the Commission Members for their time.

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



A **MOTION** was made at 5:37 p.m. by Sheriff Steve Bizzell to enter into a closed session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made at 5:39 p.m. by Sheriff John Ingram to enter into open session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Steve Bizzell in the matter John Christian Sheetz to adopt the Proposal for Decision as submitted by Legal Counsel to issue Petitioner's justice officer certification with a one (1) year probationary period; seconded by Sheriff Ricky Oliver. [**Attachment #27 Roll Call Vote**] [**Attachment #28 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Tony Bernard Richardson**

**Matthew Boyatt**

Mr. Tony Bernard Richardson is a Detention Officer with Wake County Sheriff's Office and has been with them since 2007. The issue in this case is that Mr. Richardson received a DWI conviction in 2015 that he does not dispute. The 2015 DWI conviction brings his total convictions to four (4) misdemeanors characterized as "Class A" or "Class B" offenses.

Mr. Boyatt summarized the Proposal for Decision for Tony Bernard Richardson as submitted by the Administrative Law Judge [**Attachment #29**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #30**]. The Administrative Law Judge recommended a lesser sanction other than revocation. Mr. Richardson is present and has been honest about the problems he had been having with alcohol.

Mr. Richardson addressed the Sheriffs' Commission Members and stated that he has gone through the drug and alcohol assessment in Smithfield, NC. Mr. Richardson has completed 30 years with the military and has done a tour in Iraq. He is separated from his wife due to his drinking problem. Mr. Richardson enjoys his job with the Detention Center and hopes to be able to keep his certification.

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

A **MOTION** was made at 5:40 p.m. by Sheriff Steve Bizzell to enter into a closed session; seconded by Sheriff John Ingram.  
**MOTION CARRIED.**

A **MOTION** was made at 5:45 p.m. by Sheriff Eric Tilley to enter into open session; seconded by Sheriff John Ingram.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Steve Bizzell in the matter Tony Bernard Richardson to adopt the Proposal for Decision as submitted by Legal Counsel that Petitioner be given a 12 month period of probation in lieu of revocation of his General Detention Officer Certification; seconded by Sheriff John Ingram.  
[Attachment #31 Roll Call Vote] [Attachment #32 for Final Agency Decision] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

### **\*George Tracy Brogden**

### **Matthew Boyatt**

Mr. George Tracy Brogden was terminated as a Deputy Sheriff from Sampson County Sheriff's Office for harassing telephone calls and other associated behavior. The issues of this case are whether he engaged in harassing phone calls with his ex-wife in February 2015, if Mr. Brogden has the good moral character required of a sworn justice officer, and his failure to notify the Sheriffs' Standards Division within the required five (5) working days that he was a defendant in a Domestic Violence Report.

Mr. Boyatt summarized the Proposal for Decision for Mr. Brogden as submitted by the Administrative Law Judge [Attachment #33], and the Proposal for Decision submitted by Legal Counsel [Attachment #34].

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

A **MOTION** was made at 5:50 P.M. by Sheriff Steve Bizzell to enter into a closed session; seconded by Sheriff Eric Tilley.  
**MOTION CARRIED.**

A **MOTION** was made at 5:52 P.M. by Sheriff John Ingram to enter into open session; seconded by Sheriff Eric Tilley.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Ricky Oliver in the matter of George Tracy Brogden to adopt the Proposal for Decision as submitted by Legal Counsel to revoke the Petitioner's justice officer certification indefinitely; seconded by Sheriff Eric Tilley.  
**[Attachment #35 for Roll Call Vote] [Attachment 36 for Final Agency Decision] MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Donald Wayne Shaw**

**Matthew Boyatt**

Mr. Donald Wayne Shaw is a Detention Officer applicant with Moore County Sheriff's Office. The issue is whether or not he has been convicted of four (4) or more Class A or Class B misdemeanors at the time he applied for certification. After Mr. Shaw went through Probable Cause, he has since obtained a Motion For Appropriate Relief and dismissals of three (3) of those Worthless Check cases.

Mr. Boyatt summarized the Proposal for Decision for Mr. Shaw as submitted by the Administrative Law Judge [**Attachment #37**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #38**]. The Administrative Law Judge's recommendation is to issue Mr. Shaw's justice officer's certification based on the lack of those convictions. The Administrative Law Judge also found that the Sheriffs' Standards Division shall not be barred from investigating the possible commission of those offences. Mr. Boyatt agrees with the Administrative Law Judge's Proposal for Decision.

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

A **MOTION** was made at 5:55 P.M. by Sheriff John Ingram to enter into a closed session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made at 6:00 P.M. by Sheriff John Ingram to enter into open session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Eric Tilley in the matter of Donald Wayne Shaw to adopt the Proposal for Decision as submitted by Legal Counsel to issue Petitioner's justice officer certification; seconded by Sheriff Eric Tilley. [**Attachment #39 for Roll Call Vote**] [**Attachment #40 for Final Agency Decision**] **MOTION CARRIED.**

### **III. CONSENT AGREEMENTS**

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

Kurtis Gerard Griffin – Detention Officer – Durham County  
*(Failure to Make Timely Notification)*

Willie Tommy Leake – Deputy Sheriff – Robeson County  
*(Falsification regarding DWI Charges)*

Lawrence Jason Roberts – Deputy Separated – Cherokee County  
*(Failure to Make Timely Notification)*

Corey Campbell – Detention Officer Applicant – Wake County  
*(Falsification to CJ Standards)*

Mr. Boyatt 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. Mr. Boyatt 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 Matthew Boyatt; seconded by Sheriff John Ingram. **MOTION CARRIED.**

#### **IV. LEGAL COUNSEL'S REPORT**

Mr. Matthew Boyatt summarized the Legal Counsel's Report. This report is available for review and includes 26 administrative case files that were in the Office of Administrative Hearings. Mr. Boyatt went over the various stages of litigation for the 26 administrative cases as follows: [**See Attachment #41**].

- Six (6) cases involve Class B misdemeanors after the deputy/detention officer has been certified.
- Two (2) cases felony commissions.
- Nine (9) cases involving four (4) or more Class A or B misdemeanors.
- Two (2) cases material misrepresentations.
- Four (4) cases involve a lack of good moral character.
- Three (3) cases involve a certified officer who has been charged and did not report that charge within the five day reporting period.

#### **V. ADJOURNMENT**

A **MOTION** was made by Sheriff Alan Cloninger at 6:00 p.m. to adjourn the September 08, 2016 Sheriffs' Final Agency Decision meeting; Seconded by Sheriff John Ingram. **MOTION CARRIED.**