

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

**DATE:** March 23, 2016  
**TIME:** 2:15 P.M.  
**SUBMITTED BY:** Julia A. Lohman, Director

**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 Wednesday, March 23, 2016 at 2:15 P.M. The Final Agency Decision meeting was held at the Johnston Community College Public Safety Building, 245 College Road, Smithfield, NC.

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

**MEMBERS PRESENT**

Sheriff Juan Vaughan  
Sheriff Brad Riley  
Sheriff Steve Bizzell  
Mr. Robert Wisecarver  
Mr. Marc Nichols  
Sheriff Eric Tilley  
Sheriff Alan Cloninger  
Sheriff John Ingram  
Sheriff Ricky Oliver  
Mr. Jamie Markham

**MEMBERS ABSENT**

Ms. Tracy McPherson  
Sheriff Alan Jones  
Sheriff Alan Norman

## **STAFF**

John Congleton - Legal Counsel - NC Department of Justice  
Matthew Boyatt - Legal Counsel - NC Department of Justice  
Julia A. Lohman - Director - Sheriffs' Standards Division  
Judy Marchetti - Administrative Assistant - Sheriffs' Standards Division

Sheriff Steve Bizzell welcomed everyone to Johnston County.

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.

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

## **VISITORS**

Bryon Keith Epps – Robeson County Sheriff's Office  
Cpt. Brenda Thomas – Robeson County Sheriff's Office  
Maj. Howard Branch – Robeson County Sheriff's Office  
Jose A. Perez – Alexander County Sheriff's Office  
William Ramsey – Madison County Sheriff's Office  
Lt. Allen Vanstory – Alexander County Sheriff's Office  
Litchard Hurley – Retired Sheriff Randolph County

**VISITORS (cont.)**

Maj. Tony King – Randolph County Sheriff’s Office  
Lee Turner – Wake County Attorney  
Steven O’Byrne – Wake County Sheriff’s Office  
Terry L. Green – Wake County Sheriff’s Office  
Donnie Harrison – Wake County Sheriff  
John D. Jones – Wake County Sheriff’s Office  
Dewel Jones – Wake County Sheriff’s Office

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

**II. FINAL AGENCY DECISIONS**

**\*Bryan Keith Epps**

**Matthew Boyatt**

This case was tried by Administrative Law Judge Lassiter. Mr. Boyatt filed exceptions to Judge Lassiter’s Proposal for Decision. There are two issues in this case that revolve around one set of circumstances. The first issue is if Mr. Epps willfully failed to discharge his duties and the second issue is whether he lacks the good moral character that is required as a sworn justice officer. Mr. Bryan Epps is present today.

Mr. Boyatt summarized the Proposal for Decision for Bryan Keith Epps as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision submitted by Legal Counsel [**Attachment #2**]. Mr. Boyatt summarized the facts of this case.

Mr. Epps is certified through the Sheriffs’ Standards Commission. Mr. Epps works as a Deputy in Robeson County and at the time was also working part-time for Maxton Police Department. On January 24, 2015 Mr. Epps was working at the Maxton Police Department in an official capacity. Mr. Epps was in the dispatch area working with Ms. Stephanie Lowery. Miss Lowery went to the liquor store in preparation for a beach trip. When she returned to the Maxton Police Department, both Ms. Lowery and Mr. Epps made mixed drinks with the Crown Royal Apple that she had purchased. The Petitioner, Mr. Epps, consumed alcohol while on duty and on the premises of the Maxton Police Department. Mr. Epps did not self-disclose his actions but was caught when the Chief of Police reviewed surveillance video. When Mr. Epps was confronted by the Chief of Police and he did admit to his actions of consuming alcohol while on duty.

Administrative Law Judge Lassiter found that Mr. Epps willfully failed to discharge his duties by consuming alcohol while on duty and being paid. Judge Lassiter did find that Mr. Epps does possess the good moral character required by a sworn justice officer. This is what formed the basis to the exceptions that Mr. Boyatt filed in this case. Mr. Boyatt referred the Commission Members to the conclusion of law #6 found in his exceptions [**Attachment #3**]. Mr. Boyatt's recommendation is to revoke Mr. Epps certification.

Mr. Bryan Keith Epps addressed the Sheriffs' Commission and stated that he deeply regrets that he is before the Commission on this matter. Mr. Epps stated that he owns up to his actions and is sorry for them, but he hopes that the Commission will consider a five (5) year probation of his certification rather than revocation.

Major Howard Branch addressed the Commission on the behalf of Mr. Epps. Major Branch met Mr. Epps in 2007 when he started with them. There have never been any issues with Mr. Epps during the years he has known him. Major Branch stated that Mr. Epps is a good family man and a good officer. Major Branch stated that he really does not want to lose him. Mr. Epps is a Field Training Officer and does well with their new trainees. Major Branch stated that he could go on all day about Mr. Epps's good qualities but did state that he knows Mr. Epps messed up. Major Branch hopes that Mr. Epps will be able to keep his certification.

Captain Brenda Thomas of Robeson County Detention Center addressed the Commission on the behalf of Mr. Epps. Captain Thomas understands that the Commission's decision will affect Mr. Epps' future in law enforcement. Captain Thomas stated that she has made mistakes and bad decisions in her life but she has learned from them. Captain Thomas stated she acknowledges the fact that Mr. Epps is guilty of his actions. Deputy Epps is a very good officer and shows respect for his peers and the community he serves. Except for this bad decision, Deputy Epps has had an outstanding history. For this reason, Captain Thomas is asking the Commission to place Mr. Epps on a five (5) year probation period and allow him to work with the Robeson County Sheriff's Office. Captain Thomas would hate to see Deputy Epps lose his certification knowing that he is a good officer.

Chairman Riley asked the Commission if there were any questions.

Mr. Boyatt wanted to point out an error in the Proposal for Decision submitted by Legal Counsel [**Attachment #2**]. Judge Lassiter's Proposal for Decision recommended a five (5) year probationary period. The Legal Department staff in migrating that information over to the Final Agency Decision mirrors the Judge's proposal. That is a mistake due to Mr. Boyatt's exceptions that were filed. The problem with the five (5) year probation is that if the Commission finds Mr. Epps lacks the good moral character required by a sworn justice officer, a probationary period cannot be issued. That option is not available under the rules. If the Commission finds that Mr. Epps does possess good moral character but failed to discharge his duties, then you could impose a lesser sanction such as a five (5) year period of probation. If the Commission finds that Mr. Epps does not possess good moral character then the only option is to revoke his certification.

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

A **MOTION** was made at 2:35 p.m. by Sheriff Steve Bizzell to enter into a closed session; seconded by Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made at 3:00 p.m. by Sheriff Eric Tilley to enter into open session; seconded by Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Eric Tilley in the matter of Bryan Keith Epps to adopt the Administrative Law Judge's Proposal for Decision with a five (5) year probationary period; seconded by Marc Nichols [**Attachment #4 for Roll Call Vote**] [**Attachment 5 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Phillip Joel Trivette**

**Matthew Boyatt**

Mr. Phillip Trivette is a Deputy Sheriff applicant with Halifax County. Mr. Trivette is not present today but was served with notice of the proceedings. The issue before the Commission in this case is rule .0204(d)(5) whether he stands convicted of four (4) or more class A or B misdemeanors. This case was tried by Administrative Law Judge Lassiter. Mr. Trivette stands convicted of three (3) worthless checks occurring in 1989 and one (1) worthless check occurring in 1999 which is the class B misdemeanor. The Administrative Law Judge ruled that this is a rules violation and subject to denial. Mr. Boyatt recommended that the Commission adopt Legal Counsel's Proposed Final Agency Decision [**Attachment #6**] which is identical to the Proposal for Decision submitted by the Administrative Law Judge [**Attachment #7**]. There were no exceptions filed to this case.

Mr. Boyatt believes Mr. Trivette is working on the issue and trying to get the judgments set aside. If Mr. Trivette does work through the process to have the worthless check judgments removed, he would be eligible to reapply. Under the rule Mr. Trivette would be denied indefinitely as long as the impediment is on his record.

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

A **MOTION** was made at 3:06 P.M. by Sheriff Eric Tilley to enter into a closed session; seconded by Sheriff Juan Vaughan. **MOTION CARRIED.**

A **MOTION** was made at 3:10 P.M. by Sheriff Alan Cloninger to enter into open session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Phillip Joel Trivette to adopt the Administrative Law Judge's Proposal for Decision to deny certification; seconded by Sheriff Ricky Oliver. [**Attachment #8 for Roll Call Vote**] [**Attachment #9 for Final Agency Decision**]. **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*William Kirk Ramsey**

**Matthew Boyatt**

Mr. William Ramsey is a certified Deputy Sheriff with Madison County Sheriff's Office. Mr. Ramsey is present today. The issue in this case involves the rule violation of not reporting a criminal charge within five (5) days. The charge itself is not the issue and was dismissed. It was the failure to report within five (5) days. Mr. Ramsey was charged with Carrying a Concealed Weapon after Consuming Alcohol. Mr. Boyatt summarized the case.

Mr. Ramsey did report the criminal charge to his chain of command within five (5) days and they indicated to him that they would notify the Sheriffs' Standards Division staff of the charge but they forgot to do that. It was still Mr. Ramsey's responsibility to notify Sheriffs' Standards staff of the criminal charge.

Administrative Law Judge Julian Mann, III found that Mr. Ramsey did violate the rule because it is his responsibility to report it. Due to the mitigating circumstances that Mr. Ramsey relied on his employer to report the charge and the fact that he also believed his employer did report it; the Administrative Law Judge's Proposal for Decision [**Attachment #10**] recommended a written and/or verbal warning to the Petitioner, Mr. Ramsey.

Mr. Boyatt did not file exceptions to the Administrative Law Judge's Proposal for Decision. Legal Counsel's Proposed Final Agency Decision [**Attachment #11**] issued the same recommendation as the Administrative Law Judge's proposal.

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

Mr. William Ramsey addressed the Commission and apologized for the events leading up to this case and thanked the Commission for their time. Mr. Ramsey stated that although he did report the criminal charge to his employer, he realizes that it was his responsibility to make sure it was done right. Mr. Ramsey hopes that he will be able to keep his certification and stated that this situation will never happen again.

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

A **MOTION** was made at 3:12 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Eric Tilley.  
**MOTION CARRIED.**

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

A **MOTION** was made by Sheriff Steve Bizzell in the matter of William Kirk Ramsey to adopt the Administrative Law Judge's Proposal for Decision to maintain his certification with a verbal warning in lieu of suspension or revocation; seconded by Sheriff Ricky Oliver. [**Attachment #12 for Roll Call Vote**] [**Attachment #13 for Final Agency Decision**]. **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Steven Joseph O’Byrne**

**Matthew Boyatt**

Mr. Steven O’Byrne is a Deputy Sheriff applicant for certification in Wake County. Mr. O’Byrne is represented by Attorney E. Lee Turner, Jr. This is a one issue case to determine whether or not Mr. O’Byrne committed felony larceny by an employee in violation of N.C.G.S 14-74. The Administrative Law Judge found that Mr. O’Byrne committed felony larceny by an employee in violation of the statute. The Administrative Law Judge’s Proposal for Decision [**Attachment #14**] recommends denial of Petitioner’s application for Justice Officer Certification. Mr. Boyatt’s Proposed Final Agency Decision [**Attachment #15**] recommends that the Commission maintain the Administrative Law Judge’s finding and deny Mr. O’Byrne’s certification. Mr. Boyatt summarized the case.

Mr. O’Byrne was employed by The Book Exchange while attending college. In January of 2010 he had an arrangement with his former roommate, Mr. Akins, whereby Petitioner would steal a book from his employer and would then give the book to Mr. Akins. Mr. Akins would then sell the book back to the Book Exchange for cash.

Mr. Boyatt filed Exceptions [**Attachment #16**] to Attorney Lee Turner’s Proposal for Decision [**Attachment #17**] and referred the Commission to the Exceptions. The Petitioner also filed Exceptions [**Attachment #18**] to the Proposal for Decision. Mr. Boyatt’s recommendation is to accept the Administrative Law Judge’s findings that Mr. O’Byrne did commit Felony Larceny by Employee in violation of N.C.G.S 14-74, and incorporate the Exceptions. Due to this violation, Mr. Boyatt recommends that the Commission deny Mr. O’Byrne’s certification.

Chairman Riley asked the Commission if there were any questions.

Sheriff Cloninger asked if Mr. O’Byrne was charged in criminal court with felony larceny by employee. Mr. Boyatt stated that Mr. O’Byrne was not charged in criminal court.

Sheriff Cloninger asked if Mr. O’Byrne worked the register or if he was in charge of exchanging books or buying books back. Mr. Boyatt stated that he didn’t work the register but he did have the element of a trust relationship by the employer because he was in charge of the book inventory coming in and out of the Book Exchange warehouse.

Mr. Boyatt stated that if the Commission finds that Mr. O’Byrne did commit Felony Larceny by employee, the Commission has to deny his certification according to the rule.

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



Mr. O'Byrne's legal counsel addressed the Commission. Attorney Lee Turner began with some background information about himself. Mr. Turner served the Raleigh Police Department for ten (10) years before he went back to law school. Mr. Turner was also with the Attorney General's office for a few years. While Mr. Turner was with the Raleigh Police Department, he was a Field Training Officer for ten (10) years. Mr. Turner stated that he knows a good officer when he sees one. When Mr. O'Byrne presented his letter from Sheriffs' Training and Standards to him he was very surprised.

Attorney Turner had worked with Mr. O'Byrne in the Wake County Courtroom and stated that Mr. O'Byrne did a very good job there and he has no question about Mr. O'Byrne's professionalism or integrity. Mr. Turner referred the Commission to the people that came to Final Agency Decision in Mr. O'Byrne's behalf.

Attorney Turner stated that Mr. Boyatt wants to simplify the issue. Attorney Turner is not looking for a change to the rules. From high school forward, Mr. O'Byrne's path was working towards law enforcement. Mr. O'Byrne did make a mistake at the bookstore that day. Mr. O'Byrne admitted that mistake to his boss the next morning. Mr. O'Byrne filled out his application paperwork with the Sheriff's department properly indicating that he was terminated from this job which is what brought all this about. Mr. O'Byrne was never charged. At the Administrative Hearing and at the Commission Meeting today, Attorney Turner is proposing that Mr. O'Byrne's conduct was not Felony Larceny by Employee but simple Misdemeanor Larceny. The key element being the trust that was placed on him by his employer (ref. Plaintiff Exceptions to Proposal for Decision Attachment #18). Attorney Turner has presented his own findings of fact to show that this was misdemeanor behavior and not felonious.

Attorney Turner stated that the Sheriffs' Commission rules state that the Commission may do whatever they chose for misdemeanor behavior. The elements of Misdemeanor Larceny do not contain that trust element of a Felony Larceny by Employee. What the Commission has to do is look at Mr. O'Byrne's job duties. Mr. O'Byrne was a stock boy. He took books out of boxes and put them on the shelves, he restocked the shelves when needed, and directed people to where books were. Mr. O'Byrne did not have a key to the store, he did not have access to the register, and he never dealt with customers with regard to the value of a book they wanted to return. Mr. O'Byrne opened boxes when they came in to stock the shelves but he was never given any supervisory duties and was never responsible for any of the property in the building other than restocking shelves and moving books around.

Attorney Turner provided the scenario of a shotgun being given to a Deputy Sheriff and the Deputy Sheriff then taking that shotgun to a pawn shop. This is a totally different circumstance since the shotgun was entrusted to the Deputy Sheriff and that was his responsibility. Attorney Turner stated that he hoped with the Commission hearing the facts of this case and the case law provided; they will not be proceeding with a felony at this time.

If the Commission finds that the conduct in 2010 of taking that book out of the store was a misdemeanor, then you are completely within your rules to place Mr. Byrne on probation or do anything you want to do since the door is wide open. If you find that it was felonious conduct, that the element of trust existed, then you don't have any other option but to deny certification. Attorney Turner proposed that Legal Counsel's Findings of Fact are wrong and that is why he took exception to them. Attorney Turner stated that this is Misdemeanor Larceny, plain and simple and once again referred to the case law examples.

Attorney Turner wants the Commission to consider everything he has presented and consider the Commission's rules as they apply to misdemeanors; and allow Mr. O'Byrne to keep the job he has, loves, and does very well by finding that he committed a Misdemeanor Larceny as proposed in his Proposal for Decision (Attachment #17) and punish him as you feel appropriate.

Chairman Riley asked the Commission if there were any questions.

Sheriff Cloninger asked what testimony was heard at the Administrative Hearing from the college. Attorney Turner stated that there were no witnesses there from the college. Sheriff Cloninger asked if there was any testimony as to the level of trust placed on him by his employer. Attorney Turner stated that there was no testimony.

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

Wake County Sheriff Donnie Harrison addressed the Commission on the behalf of Mr. O'Byrne. Sheriff Harrison stated that he would not be addressing the Commission if this was not a good man. Sheriff Harrison has known Mr. O'Byrne since day one during his interview. Sheriff Harrison acknowledges that Mr. O'Byrne did make a mistake. Sheriff Harrison stated that he is here in support of Mr. O'Byrne, knows he is a fine man, and hopes that there is something that can be done to help Mr. O'Byrne keep his job.

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

Mr. O'Byrne addressed the Commission and acknowledged that he did make a mistake that day and stated that he has been honest about that from the beginning. Mr. O'Byrne stated that he has worked every day since that day to right that wrong path. After the incident, Mr. O'Byrne moved home to Apex and commuted from home to ECU two (2) days a week and finished his degree. Mr. O'Byrne was hired by Wake County Sheriff's Office and graduated first in his class. Mr. O'Byrne is married and had a child last year. Mr. O'Byrne asked the Commission to do whatever can be done for him.

Chairman Riley asked the Commission if there were any questions.

Mr. Boyatt wanted to address the Commission to clarify three (3) points. First, on the issue of evidence of trust, there was evidence of trust in this case based on Mr. O'Byrne's own testimony and admissions. Second, Mr. Boyatt stated that because he believes the offense is outside of the five (5) year period, it cannot be classified as a misdemeanor offense with a lesser sanction because it happened so long ago. Third, Mr. Boyatt believes the Beecher Gray case law was erroneous in the Criminal Justice case used. If the Commission was to use that example, they would have to use the decision coming from the full Criminal Justice Commission. There is the significant likelihood that the Criminal Justice Commission did not adopt that conclusion of law from Administrative Law Judge Beecher Gray. Mr. Boyatt stated that his memory is that the Criminal Justice Commission did not adopt Beecher Gray's conclusion of law in that case.

A **MOTION** was made at 4:00 P.M. by Sheriff Juan Vaughan to enter into a closed session; seconded by Sheriff John Ingram.  
**MOTION CARRIED.**

A **MOTION** was made at 4:35 P.M. by Sheriff Alan Cloninger to enter into open session; seconded by Sheriff Juan Vaughan.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Steven O'Byrne to adopt the Petitioner's findings of fact and conclusion of law and that this matter be dismissed due to the fact that it was more than five (5) years prior to the date of appointment; seconded by Sheriff John Ingram. [**Attachment #19 for Roll Call Vote**] [**Attachment #20 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Jose Antonio Perez, III**

**Matthew Boyatt**

Mr. Jose Antonio Perez is a Deputy Sheriff/Detention Officer applicant in Alexander County. This matter was heard by Administrative Law Judge Brooks. The issue is whether there was a commission of a felony in the state of Illinois. There were multiple felonies when Mr. Perez was 16 years of age. The Administrative Law Judge's Proposal for Decision [**Attachment #21**] found that there was insufficient evidence to meet all the elements of those offences and proposed that Mr. Perez be certified.

Mr. Boyatt stated that he filed exceptions but not to the ultimate conclusion of the Administrative Law Judge. Mr. Boyatt summarized the case. Mr. Boyatt recommended that the Commission adopt Legal Counsel's Proposed Final Agency Decision [**Attachment #22**] which is the same as the Administrative Law Judge's recommendation to allow Mr. Perez certification, but also incorporates Mr. Boyatt's exceptions [**Attachment #23**] that state there was insufficient evidence and that the Commission does have the authority to look at offenses committed as a juvenile.

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

Mr. Jose Antonio Perez addressed the Commission and asked that they not deny his certification. Mr. Perez stated that the offense actually happened when he was 14 years old and not 16. He was out with a group of friends that broke into a convenience store and stole a bunch of lighters and stuff. Mr. Perez stated that these weren't people he normally hung around with but he was asked to go with them and didn't want to seem like he was "uncool". When you're 14 you want to be seen as cool by your friends in school. Mr. Perez stated that is not who he is and he has never done anything like that since then. Mr. Perez asked the Commission to not deny his certification because of that one time occurrence.

Lt. Allen Vanstory of the Alexander County Sheriff's Office spoke on the behalf of Mr. Perez. Lt. Vanstory addressed the Commission and thanked them for their time. He stated that Sheriff Bowman of Alexander County had planned to be there but he was unable to attend due to a medical procedure and sends his apologies for not being able to attend. Lt. Vanstory was one of the officers that interviewed Mr. Perez after he submitted his application. Lt. Vanstory stated that Mr. Perez was very upfront about the charge from the beginning.

Since Mr. Perez was hired, he began in the detention center, was promoted to corporal, and is now working as a sergeant. Mr. Perez is a very hard working and conscientious individual. Lt. Vanstory has high expectations for Mr. Perez in his law enforcement career. Sheriff Bowman likes to promote from within and Mr. Perez is on a very good track if this matter can be resolved. Lt. Vanstory thanked the Commission for their time.

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

A **MOTION** was made at 4:45 P.M. by Mr. Wisecarver to enter into a closed session; seconded by Sheriff Steve Bizzell.  
**MOTION CARRIED.**

A **MOTION** was made at 4:47 P.M. by Sheriff Ricky Oliver to enter into open session; seconded by Sheriff Juan Vaughan.  
**MOTION CARRIED.**

A **MOTION** was made by Sheriff Eric Tilley in the matter of Jose Antonio Perez, III to adopt the Final Agency Decision as proposed by Legal Counsel; seconded by Mr. Marc Nichols. **[Attachment #24 for Roll Call Vote] [Attachment #25 for Final Agency Decision] MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Joseph Larry Wyatt**

**Matthew Boyatt**

Mr. Joseph Larry Wyatt is a Detention Officer in Mecklenburg County. This case was heard in front of Judge Brooks in Charlotte. Mr. Wyatt was represented by counsel at the hearing. Mr. Wyatt and his counsel received proper notice of this meeting but are not present. The issue before the Commission is whether Mr. Wyatt engaged in unlawful conduct while he was off-duty. Mr. Boyatt summarized the case.

Mr. Boyatt stated that the Administrative Law Judge's Proposal for Decision **[Attachment #26]** recommended revocation of Mr. Wyatt's certification. Mr. Boyatt's Proposed Final Agency Decision **[Attachment # 27]** recommends that the Commission follow 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 4:50 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made at 4:52 P.M. by Mr. Marc Nichols to enter into open session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Steve Bizzell in the matter of Joseph Larry Wyatt to adopt the Administrative Law Judge's Proposal for Decision to revoke the Petitioner's certification; seconded by Sheriff Ricky Oliver. [**Attachment #28 for Roll Call Vote**] [**Attachment #29 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Nathaniel Shayne Hobbs**

**Matthew Boyatt**

Mr. Nathaniel Shayne Hobbs is a Deputy Sheriff/Detention Officer applicant in Sampson County. This case was tried in front of Judge Ward. Mr. Hobbs was represented by counsel at the hearing. Mr. Hobbs and his counsel received proper notice of this meeting but are not present. The issue before the Commission is material misrepresentation which carries with it a possible denial of five (5) years. The misrepresentation relates to failure to disclose criminal charges and failure to disclose drug use. Mr. Boyatt summarized the case for the Commission Members.

Mr. Hobbs misrepresented facts and failed to disclose criminal information on both his Personal History Statement and in person during his investigation interview. There were multiple misrepresentations that the Judge found willful and intentional. The Administrative Law Judge's Proposal for Decision [**Attachment #30**] recommended denial of the Petitioner's application for certification for a period of five (5) years. Mr. Boyatt's Proposal for Decision [**Attachment #31**] also recommended denial of Petitioner's Justice Officer Certification for a period of five (5) years.

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

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

A **MOTION** was made at 4:58 P.M. by Sheriff John Ingram to enter into open session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ricky Oliver in the matter of Nathaniel Shayne Hobbs to adopt the Administrative Law Judge's Proposal for Decision to deny the Petitioner's application for certification for a period of five (5) years; seconded by Sheriff Eric Tilley. [**Attachment #32 for Roll Call Vote**] [**Attachment #33 for Final Agency Decision**] **MOTION CARRIED.**

## **II. FINAL AGENCY DECISIONS**

**\*Walter Thaltion Graham**

**Matthew Boyatt**

Mr. Walter Thaltion Graham is a Detention Officer in Durham County. Mr. Graham is represented by legal counsel William Cotter. Mr. Graham and Attorney Cotter received proper notice of this meeting but are not present. The issue is whether he committed a Class B misdemeanor "Hit and Run" after certification and whether he lacks the good moral character required of a justice officer based on the facts surrounding Petitioner's "Hit & Run" conviction. Mr. Boyatt summarized the case.

The Administrative Law Judge's Proposal for Decision [**Attachment #34**] recommended to revoke Petitioner's justice officer certification. Mr. Boyatt's Proposed Final Agency Decision [**Attachment #35**] recommended that the Commission adopt the Administrative Law Judge's Proposal for Decision based on the lack of good moral character and committing the Class B misdemeanor after certification.

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

A **MOTION** was made at 5:04 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Juan Vaughan. **MOTION CARRIED.**

A **MOTION** was made at 5:05 P.M. by Sheriff Eric Tilley to enter into open session; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Walter Thorton Graham to adopt the Administrative Law Judge's Proposal For Decision to revoke the Petitioner's certification indefinitely; seconded by Sheriff Marc Nichols. **[Attachment #36 for Roll Call Vote] [Attachment #37 for Final Agency Decision]. MOTION CARRIED.**

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

Mr. Matthew Boyatt's report was distributed to all Commission Members along with a chart which included 41 administrative case files that were in the Office of Administrative Hearings. He reported that 26 cases have been litigated. Mr. Boyatt went over the various stages of litigation for the 41 administrative cases as follows: [See **Attachment #38**].

- Six (6) cases involve Class B misdemeanors after the deputy/detention officer has been certified.
- Six (6) cases felony commissions.
- Ten (10) cases involving four (4) or more Class A or B misdemeanors.
- Eight (8) cases material misrepresentations.
- Eight (8) 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.

### **IV. CONSENT AGREEMENTS**

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

Kimberly Barkhurst-Deputy Sheriff Applicant-Carteret County  
*(Failure to Make Timely Notification of a Simple Assault Charge)*

Ronald Fletcher Wright-Deputy Sheriff/Detention Officer Applicant-Buncombe County  
*(Failure to Make Timely Notification of a Felony Assault Charge)*

George Earl Lassiter, Jr.-Detention Officer-Franklin County  
*(Falsification regarding Illegal Drug Usage)*

James Russell Matthew Harris-Detention Officer Applicant-Nash County and Detention Officer with Edgecombe County  
*(Failure to Make Timely Notification of a Simple Assault Charge)*

Samantha Lynn Humphries-Deputy Sheriff/Detention Officer Applicant-Cleveland County  
*(Commission of Class B Misdemeanor of Drug Paraphernalia)*



Jonathan William McKinney-Detention Officer Applicant-Wayne County.

*(Failure to Make Timely Notification of a Class A Misdemeanor of Communicating Threats)*

Mr. Boyatt informed the Commission Members that they do not have to accept the Consent Agreements, but if they do accept them, the Consent Agreement becomes 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 Steve Bizzell. **MOTION CARRIED.**

#### **V. ADJOURNMENT**

A **MOTION** was made by Sheriff Alan Cloninger at 5:10 p.m. to adjourn the March 23, 2016 Sheriffs' Final Agency Decision meeting; Seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**