

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

DATE: March 11, 2015
TIME: 2:00 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 11, 2015 at 2:00 P.M. The Final Agency Decision meeting was held at the Chatham County Justice Center, 40 E Chatham St., Pittsboro, NC.

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

MEMBERS PRESENT

Lt. Jessie Fennell (proxy for Sheriff Vaughan)
Sheriff Alan Jones
Sheriff Steve Bizzell
Mr. Robert Wisecarver
Mr. Mark Nichols
Sheriff John Ingram
Sheriff Brad Riley
Sheriff Eric Tilley
Sheriff Alan Cloninger
Mr. Jamie Markham
Sheriff B. J. Barnes
Sheriff James Knight
Sheriff Jerry Monette
Sheriff Ricky Oliver
Sheriff David Mahoney

MEMBERS ABSENT

Ms. Tracy McPherson
Sheriff Maynard Reid

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

***Administration of Oath**

Chief District Court Judge Joseph M. Buckner administered an oath to Sheriff William Ricky Oliver, Yadkin 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

Scott A. Zeman – Cabarrus County Sheriff's Office
William Cotter – Attorney, Durham, NC
Shawn Bromell – Durham County Sheriff's Office
Joe Mason – Greene County Sheriff's Office
Derek Howell – Mecklenburg County Sheriff's Office

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

II. FINAL AGENCY DECISIONS

***Jeffrey Scott Adams**

Matthew Boyatt

Mr. Boyatt summarized the Proposal for Decision for Mr. Jeffrey Scott Adams as submitted by both the Administrative Law Judge [**Attachment #1**] and Legal Counsel [**Attachment #2**].

Mr. Boyatt reported that the matter involving Mr. Adams is a positive drug screen. Mr. Boyatt's recommendation to the Commission is to follow Judge Lassiter's proposal for decision and issue certification. Mr. Boyatt did not file any exceptions.

Sheriff Riley asked the Commission members if there were any questions. Mr. Boyatt was asked if Mr. Adams knew there was a drug screen the next day. Mr. Boyatt's response was yes.

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

A **MOTION** was made at 2:16 P.M. by Sheriff Alan Cloninger to enter into a closed session; seconded by Sheriff Alan Jones.
MOTION CARRIED.

A **MOTION** was made at 2:20 P.M. by Sheriff Jerry Monette to enter into open session; seconded by Sheriff Eric Tilley.
MOTION CARRIED.

A **MOTION** was made by Sheriff Alan Jones in the matter of Jeffrey Scott Adams to accept the Administrative Law Judge's decision and issue the Petitioner's Justice Officer Certification; seconded by Sheriff Jerry Monette
[**Attachment #3 for Roll Call Vote**] [**Attachment #4 for Final Agency Decision**]. **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Shawn Quincy Bromell**

Matthew Boyatt

Mr. Boyatt summarized the Proposal for Decision for Shawn Quincy Bromell as submitted by both the Administrative Law Judge [**Attachment #5**] and Legal Counsel [**Attachment #6**]. Mr. Bromell's issues are misdemeanor larceny for taking Food Lion timesheets and falsification of information into the CYA System used to log time for off-duty work which is the basis for the Good Moral Character issue.

Mr. Boyatt's recommendation to the Commission is to follow Administrative Law Judge Elkins' Proposal for Decision and issue certification.

Sheriff Riley asked the Commission if there were any questions. Mr. Nichols asked if the investigator interviewed any of the Food Lion employees. Mr. Boyatt responded that the investigator only asked Food Lion for the video and did not do any further investigation. At the hearing, the IA Investigator was honest and stated that he did not speak with the Food Lion Manager to ask if Mr. Bromell had permission to take the timesheets; and, he did not interview any other employees.

Mr. William Cotter, attorney representing Mr. Bromell addressed the Commission. Mr. Cotter has been an attorney in Durham for 35 years. Mr. Cotter referred to Mr. Bromell as a fine Police Officer. His client was told by the Internal Affairs investigator that he could not speak with anyone regarding his case. He was not allowed to speak with Ms. Soper who was in charge of the Food Lion timesheets. Mr. Bromell was also not allowed to speak with Officer Jefferies. The Durham Police Department's Internal Affairs investigation had no proof of Larceny and they did not do their investigation properly. Mr. Bromell should not have been asked to resign or be fired. This has cost Mr. Bromell a small fortune. Mr. Bromell is now a Detention Officer but wants to be a Durham County Deputy Sheriff. Mr. Cotter believes that Mr. Bromell will be a fine Deputy Sheriff and that the Durham County Sheriff's Office would be happy to have him.

Chairman Riley asked Mr. Bromell if he had anything he would like to say. Mr. Bromell addressed the Commission and stated that he was looking forward to working with the Durham County Sheriff's Office.

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

A **MOTION** was made at 2:33 P.M. by Sheriff Jerry Monette to enter into a closed session; seconded by Sheriff John Ingram.
MOTION CARRIED.

A **MOTION** was made at 2:35 P.M. by Sheriff David Mahoney to enter into open session; seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Eric Tilley in the matter of Shawn Quincy Bromell to accept the Administrative Law Judge's decision and issue the Petitioner's Justice Officer Certification; seconded by Mr. Mark Nichols. [**Attachment #7 for Roll Call Vote**] [**Attachment #8 for Final Agency Decision**]. **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Andrew Anderson**

Matthew Boyatt

Mr. Andrew Anderson is a Deputy Sheriff applicant in Pender County. Mr. Boyatt asked if Mr. Anderson was present or if there was anyone present on his behalf. Negative response. Both Mr. Andrew Anderson and his former legal representation were notified by certified mail of the Final Agency Decision Meeting. The issue is whether Mr. Anderson has been convicted of four or more class A & B misdemeanors. The second issue is whether he committed crimes for which he could receive a penalty of two years or more.

It is not disputed that he has been convicted of five (5) offenses in the state of Maryland. Mr. Boyatt summarized the Proposal for Decision for Andrew Anderson as submitted by both the Administrative Law Judge [**Attachment #9**] and Legal Counsel [**Attachment #10**]. It was noted that Petitioner did file exceptions and objections to the decision of Administrative Law Judge [**Attachment #11**].

Mr. Boyatt's recommendation to the Commission is to follow the Administrative Law Judge's proposal for decision and deny certification.

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

A **MOTION** was made at 2:43 P.M. by Sheriff Steve Bizzell to enter into a closed session; seconded by Mr. Mark Nichols. **MOTION CARRIED.**

A **MOTION** was made at 2:45 P.M. by Mr. Mark Nichols to enter into open session; seconded by Sheriff Steve Bizzell.
MOTION CARRIED.

A **MOTION** was made by Sheriff Steve Bizzell in the matter of Andrew Anderson to adopt the Administrative Law Judge's proposal to deny certification; seconded by Sheriff Eric Tilley.
[Attachment #12 for Roll Call Vote] [Attachment #13 for Final Agency Decision] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Lawrence Jason Roberts**

Matthew Boyatt

Mr. Roberts is an applicant for Deputy Sheriff in Cherokee County. Mr. Boyatt summarized the Proposal for Decision for Lawrence Jason Roberts as submitted by both the Administrative Law Judge [Attachment #14] and Legal Counsel [Attachment #15]. Mr. Boyatt's recommendation to the Commission is to follow the Administrative Law Judge's proposal for decision and issue certification.

Sheriff Riley asked if there was anyone present on Mr. Roberts' behalf. Negative response.

Sheriff Riley asked if there were any questions or comments. Negative response.

A **MOTION** was made at 2:54 P.M. by Sheriff Eric Tilley to enter into a closed session; seconded by Mr. Mark Nichols.
MOTION CARRIED.

A **MOTION** was made at 2:56 P.M. by Sheriff Eric Tilley to enter into open session; seconded by Sheriff Steve Bizzell.
MOTION CARRIED.

A **MOTION** was made by Sheriff Alan Cloninger in the matter of Lawrence Jason Roberts to adopt the Administrative Law Judge's recommendation to issue certification; seconded by Sheriff Eric Tilley. [**Attachment #16 for Roll Call Vote**] [**Attachment #17 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Joe Louis Mason**

Matthew Boyatt

Mr. Boyatt summarized the Proposal for Decision for Joe Louis Mason as submitted by both the Administrative Law Judge [**Attachment #18**] and Legal Counsel [**Attachment #19**]. The issue is whether or not Mr. Mason has a combination of four or more Class A or B misdemeanor convictions. Representatives from the Greene County Sheriff's Office were at the hearing in support of Mr. Mason and they believe he would make a good Detention Officer. Exceptions were filed by Mr. Hart [**Attachment #20**]. Mr. Boyatt asked the Commission to adopt the exceptions and follow the Administrative Law Judge's Proposal for Decision and issue certification.

Mr. Mason addressed the Commission. He has an attorney that is working towards having the worthless checks expunged. Mr. Mason's attorney was not able to be present at the Commission Meeting.

Sheriff Riley asked if there were any questions or comments. Negative response.

A **MOTION** was made at 3:00 P.M. by Mr. Mark Nichols to enter into a closed session; seconded by Mr. Robert Wisecarver. **MOTION CARRIED.**

A **MOTION** was made at 3:26 P.M. by Mr. Mark Nichols to enter into open session; seconded by Sheriff Steve Bizzell. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Steve Bizzell in the matter of Joe Louis Mason to adopt the Administrative Law Judge's proposal to recommend certification subject to a probation period of 24 months; seconded by Mr. Mark Nichols [**Attachment #21 for Roll Call Vote**][**Attachment #22 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Derek Andre Howell**

Matthew Boyatt

Mr. Boyatt summarized the Proposal for Decision for Derek Andre Howell as submitted by both the Administrative Law Judge [**Attachment #23**] and Legal Counsel [**Attachment #24**]. Mr. Boyatt also distributed three handouts:

- 1) Video pictures that were part of the recort [**Attachment #25**]
- 2) Interlocutory Order entered by the Administrative Law Judge [**Attachment #26**]
- 3) Court of Appeals case [**Attachment #27**]

Mr. Howell was fired for misconduct while on duty with secondary employment. Mr. Howell was in uniform and carrying a weapon when he left his post and had sex with an acquaintance in his personal vehicle. This act was captured on video and is in violation of the Commission's rules regarding a lack of good moral character and failure to meet minimum standards. All rules of conduct apply while working secondary employment. Mr. Boyatt asked the Commission to adopt the exceptions [**Attachment #28**], refuse to adopt the Administrative Law Judge's Proposal for Decision, and deny Mr. Howell's certification.

Sheriff Riley asked if there were any questions or comments. Mr. Mark Nichols asked Mr. Boyatt about the evidence of the fact that Mr. Howell abandoned his security post. Mr. Boyatt responded the evidence was overwhelming that Mr. Howell did abandon his post.

Mr. Derek Howell addressed the Commission. Mr. Howell stated that he did not set it up to not have a partner there. The partner worked for Charlotte-Mecklenburg Police Department. They had worked the prior night together, had no issues, and watched movies on his DVD player. The second night he didn't show. Mr. Howell said again that he did not set it up. The first time he met this guy was the night before. Mr. Howell addressed the Class A violation he received while working at Mecklenburg Sheriff's Department. He stated that he's not an ugly person and doesn't have to pick up a woman over on the phone. He claimed the woman was distraught and needing help, he thought he was doing the right thing. The Agency thought he was trying to pick this lady up by asking her the question that he asked when she called him.

Mr. Howell addressed Mr. Boyatt speaking about his wife being at home while she was pregnant. Mr. Howell stated that she wasn't at home, she was at work and that she is an RN. Mr. Howell addressed Mr. Boyatt speaking about his integrity and his ethics, but no-one knows what he was going through at the time. When he and his first wife were married, she had a child that he thought was his until the child was 7.5 years old. While trying to have a child with his second wife, he found out he couldn't produce children. So, they went through the process of him taking medicine and that's how they had their son.

Mr. Howell stated that he isn't going to say that what he did was the right thing because it wasn't. Mr. Boyatt said he wasn't remorseful but he hated every day after because of the fact of how what he did made him, his family, and the agency look. Mr. Howell stated that he isn't going to talk about what other officers have done because there are plenty of officers that have done what he did but they didn't get caught. Mr. Howell stated that this happened for a reason. Getting caught doing what he did set some stuff up in his life. He's going back to school for his Marketing Degree and has three or four classes to go before completion. If this had not happened, being out of school for ten years and being in law enforcement, he probably would not have gone back; but this set him in the right direction. His professor is setting him up with stuff and he has an interview with ATF. Mr. Howell stated that he isn't going to "not tell" them why he was dismissed from the Sheriff's Office. Through this whole process Mr. Howell stated he has not lied and has no reason to. As soon as he was taken to IA, he told the truth from day one. He did not know Jennifer's last name, he had no interest in knowing her last name.

Mr. Howell stated that he wasn't a bad officer and worked through the ranks, completed BLET while working full time and received his certification. Mr. Howell believes that because he didn't fit the mold, he was overlooked for stuff and that made him disgruntled. He knew people put in front of him were people that he trained and they didn't know half the stuff he knew. Mr. Howell again stated that he made a bad decision. The Administrative Law Judge's decision was his decision. Mr. Howell stated that he didn't meet up with the Administrative Law Judge before or after and ask if anything could be done for him. The Company Police personnel that he is working with now do not know about this business because he doesn't feel it is their business and he asked them to write letters for him based on who they know now. The Deputy Chief could have let him go a long time ago because of what he did but he knew he wasn't a bad person.

Mr. Howell stated that when he went through his first hearing in December he was changing clothes in the bathroom and could see over the stall when two Commission members came in and were talking about him as if they knew him all his life when they had just met him for the first time during his session. That put a sour taste in his mouth; "get to know me before you judge me". Mr. Howell stated that he's not a bad person; he just made a bad decision and was going through a lot of stuff that led up to that point. He was a good officer and worked at the Sheriff's Office eight years. Not a lot of people can go through BLET and work full time but he did because he had determination. He stated that he still has some good law enforcement years left in him and feels the Administrative Law Judge sees it too. If he didn't want his certification he wouldn't have drove all the way from Charlotte when Ms. Marchetti told him that he didn't have to be here. He appreciates the opportunity to speak.

Sheriff Riley asked if there were any questions or comments. Mr. Nichols asked Mr. Howell if he abandoned his post. Mr. Howell stated that he wouldn't necessarily say that he abandoned his post because the Charlotte Convention Center had its own hired security and they made perimeter checks inside and outside but they couldn't make an arrest. He was being paid to watch the exhibits in the hall and there wasn't anything going on at that time of night. He did state that he was responsible for the security of the Hall. Mr. Nichols confirmed with Mr. Howell that he left his post at the Hall and exited through a door that had been propped open which led to the outside. Mr. Howell stated that he was not the person that propped the door open. Mr. Howell again stated that he wouldn't say he abandoned his post and proceeded to explain that he is entitled to a break. Mr. Howell was asked who explained what their duties and procedures would be. Mr. Howell stated that Major Green was the supervisor and he didn't really explain in detail what you had to do.

A **MOTION** was made at 4:38 P.M. by Sheriff Steve Bizzell to enter into a closed session; seconded by Mr. Mark Nichols.
MOTION CARRIED.

A **MOTION** was made at 4:48 P.M. by Mr. Mark 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 Derek Andre Howell to adopt the proposed Final Agency Decision with exceptions as proposed by Legal Counsel to deny certification; seconded by Mr. Mark Nichols. [**Attachment #29 for Roll Call Vote**][**Attachment #30 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Willie U. Johnson**

Matthew Boyatt

Mr. Boyatt summarized the Proposal for Decision for Willie U. Johnson as submitted by both the Administrative Law Judge [**Attachment #31**] and Legal Counsel [**Attachment #32**]. Proposed revocation of certification for Assault on a Female that occurred while he was certified 9/16/13. The second issue is whether he lacks the good moral character based on the assault. Mr. Johnson was represented by Counsel at the hearing in front of Judge Brooks. Both Mr. Johnson and his attorney were notified of the Commission Meeting. Mr. Willie Johnson has retired.

Sheriff Riley asked if there were any questions or comments. Negative response.

A **MOTION** was made at 4:55 P.M. by Mr. Mark Nichols to enter into a closed session; seconded by Sheriff John Ingram. **MOTION CARRIED.**

A **MOTION** was made at 4:58 P.M. by Mr. Mark Nichols to enter into open session; seconded by Sheriff Eric Tilley. **MOTION CARRIED.**

A **MOTION** was made by Sheriff John Ingram to accept the Administrative Law Judge's proposed Final Agency Decision in the matter of Willie U. Johnson to Revoke certification for 5 years due to commission of a Class B misdemeanor and indefinitely due to the lack of Good Moral Character; seconded by Mr. Mark Nichols. [**Attachment #33 for Roll Call Vote**] [**Attachment #34 for Final Agency Decision**] **MOTION CARRIED.**

II. FINAL AGENCY DECISIONS

***Gregory Paul Kelly**

Matthew Boyatt

Mr. Boyatt was not able to get service for either Mr. Gregory Kelly or his attorney. Mr. Kelly did not show up at the March 2015 Sheriffs' Commission Meeting. Matthew Boyatt will try to track them down and has tabled the Final Agency Decision until June 2015.

III. LEGAL COUNSEL'S REPORT

*Mitchell Todd Richard - Detention Officer Applicant – Lincoln County

In 1997 his certification was revoked based on lack of good moral character. Mr. Boyatt summarized his case and the Probable Cause Committee's findings that no probable cause to believe Mr. Mitchell Todd Richard lack good moral character [See **Attachment #35**].

A **MOTION** was made at 5:10 P.M. by Eric Tilley to adopt the Probable Cause Committee's recommendation to certify Mr. Richard; seconded by Mr. Mark Nichols. **MOTION CARRIED.**

A **MOTION** was made at 5:15 P.M. by Eric Tilley to adopt a new process: Revocations and Denials with an indefinite term due to a lack of good moral character will be issued a Summary Denial letter and provided a 30 day window to request a hearing; seconded by Sheriff John Ingram. **MOTION CARRIED.**

VI. ADJOURNMENT

A **MOTION** was made by Sheriff Steve Bizzell at 5:20 P.M. to adjourn the March 11, 2015 Sheriffs' Final Agency Decision meeting; Seconded by Mr. Mark Nichols. **MOTION CARRIED.**