

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

DATE: September 17, 2020

TIME: 2:00 P.M.

SUBMITTED BY: Diane Konopka, Director Sheriffs' Standards Division

I. CALL TO ORDER

Sheriff Alan Cloninger

The North Carolina Sheriffs' Education and Training Standards Commission's Final Agency Decision meeting was called to order by Sheriff Alan Cloninger on Thursday, September 17th at 2:00 P.M. The Final Agency Decision meeting was held at the Wake Technical Community College Public Safety Education Center, 321 Chapanoke Rd., Raleigh, NC.

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

MEMBERS PRESENT

Sheriff Shelton White
Sheriff Jack Smith
Sheriff Landric Reid
Sheriff Mike Roberson
Sheriff Ricky Oliver
Sheriff Alan Norman
Sheriff John Ingram
Sheriff Alan Cloninger
Sheriff Alan Jones
Sheriff Ed McMahan
Sheriff Doug Doughtie
Retired Sheriff David Smith
Mr. Marc Nichols
Mr. Jamie Markham

MEMBERS ABSENT

Ms. Tracy McPherson
Sheriff Terry Johnson
Sheriff David Mahoney

STAFF

Diane Konopka - Director - Sheriffs' Standards Division
Judy Marchetti - Admin. Assistant – Sheriffs’ Standards Division
John Congleton - NC Dept. of Justice
Ameshia Cooper - NC Dept. of Justice
Adren Harris - NC Dept. of Justice
Ryan Haigh - NC Dept. of Justice

Chairman Cloninger welcomed everyone to the meeting and thanked visitors for taking time from their schedule to attend. Sheriff Cloninger welcomed Sheriff Shelton White of Perquimans County and Sheriff Mike Roberson of Chatham County as the two new members of the Sheriffs’ Commission.

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. Commission Member Mr. Marc Nichols stated that he will need to recuse himself from the Final Agency Decision case of Maurice A. DeValle.

Legal Counsel John Congleton asked if any other member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time. Negative response.

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

VISITORS

Lee Alford	Wake County Sheriff's Office
Annette Roberson	Chatham County Sheriff's Office
Jennifer Knox	Attorney
Crystal Smith-Sherman	Durham County Sheriff's Office
Maurice DeValle	Columbus County Sheriff's Office
Jody Greene	Columbus County Sheriff
Bobby Faulk	Columbus County Sheriff's Office
Jeremiah Johnson	Columbus County Sheriff's Office

II. ADMINISTRATION OF OATH OF OFFICE

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

Commission District #1	Sheriff Shelton White, Jr.
Commission District #4	Sheriff Mike Roberson
Commission District #7	Sheriff John W. Ingram, V.

III. FINAL AGENCY DECISION

***Crystal Smith-Sherman (AKA Crystal Sherman-Smith)**

Adren Harris

Legal Counsel Adren Harris addressed the Sheriffs' Commission Members and stated that Ms. Crystal Smith-Sherman has been employed by the Durham County Sheriff's Office as a 911 Telecommunications Officer since May of 2014 and has been certified as a Telecommunicator since June 27, 2015.

There are three (3) issues for the Sheriffs' Commission Members to consider for Ms. Crystal Smith-Sherman. The first is the commission of a felony after the fact. The second is whether or not Ms. Crystal Smith-Sherman lacks good moral character. The third issue is that Petitioner failed to notify the Sheriffs' Standards Division within five (5) business days of her charges.

Mr. Harris summarized the Proposal for Decision for Ms. Crystal Smith-Sherman as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #2**].

Mr. Harris stated that Legal Counsel's recommendation is to revoke Petitioner's justice officer certification indefinitely for lack of good moral character. Both Legal Counsel and the Administrative Law Judge found that there is insufficient evidence to support Petitioner's commission of a felony or failure to report.

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

Attorney Knox addressed the Sheriffs' Commission Members and thanked them for the opportunity to present their case. Attorney Knox stated that the Petitioner is a single mother of two children. One is a high school graduate and the other is a high school senior.

Attorney Knox stated that by all accounts, Ms. Smith-Sherman has been an exemplary employee at the Durham County Sheriffs' Office. The Petitioner is a leader at the 911 center and helps to train new employees. The Petitioner's supervisors and coworkers think very highly of her.

Attorney Knox stated the Administrative Law Judge did not find that there was sufficient evidence to support Petitioner's commission of a felony. The Petitioner was never interviewed at the police station and only had two short interviews via telephone.

Attorney Knox addressed the issue of whether or not Ms. Smith-Sherman lacks good moral character. Attorney Knox stated that the Administrative Law Judge found that the Petitioner does lack good moral character. Attorney Knox stated that she isn't going to argue with that. Attorney Knox stated that the question is whether Ms. Smith-Sherman has rehabilitated herself and has good moral character today. The Durham County Sheriffs' Office has allowed the Petitioner to continue working and the newly elected Sheriff allowed the Petitioner to remain in her position. The Durham County Sheriff's Office wrote a good reference letter stated that she is a good worker and trustworthy. The Durham County Sheriff's Office hopes that Ms. Smith-Sherman will be able to retain her justice officer certification. Attorney Knox asked the Sheriffs' Commission Members to look at Ms. Smith-Sherman's life as a whole and not just this one incident.

Attorney Knox addressed the issue of the Petitioner not notifying the Sheriffs' Standards Division within five (5) days. Ms. Smith-Sherman was told by the Durham Sheriffs' Office that they would notify the Sheriffs' Standards Division for her. Unfortunately, they did not make the notification. When the issue came to the Sheriffs' attention, he wrote a letter to the Sheriffs' Standards Division stating that they were immediately notified and failed to communicate with Sheriffs' Standards. The Sheriff personally apologized for not making the notification in a timely manner.

Attorney Knox stated that Ms. Smith-Sherman wanted to be a telecommunicator so she could help people. She wants to continue to help people and continue to be certified as a telecommunicator. Attorney Knox again stated that she hopes the Sheriffs' Commission Members will look at the Petitioner's life as a whole and not just this one (1) incident. Attorney Knox stated that if the Sheriffs' Commission Members do find rules violations; that they would suspend any suspension being given and place her on probation for whatever term and conditions they decide.

Chairman Cloninger asked the Commission if there were any questions.

Sheriff Ed McMahan asked Attorney Knox if the boyfriend, Fraser, pled guilty to a lesser charge.

Attorney Knox stated the Mr. Fraser pled guilty to a misdemeanor.

Sheriff Jack Smith asked if she is still dating Mr. Fraser and if Mr. Fraser is a convicted felon. Ms. Smith-Sherman stated that she is still dating Mr. Fraser and that he is a convicted felon.

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

A **MOTION** was made by Mr. Marc Nichols to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Norman to enter into open session; seconded by Sheriff Mike Roberson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahan in the matter of Ms. Crystal Smith-Sherman to adopt Legal Counsel's Proposed Final Agency Decision and Revoke Petitioner's justice officer certification indefinitely for lack of good moral character. There is insufficient evidence to support Petitioner's commission of a felony or failure to report; seconded by Sheriff Doug Doughtie. **[Attachment #3 for Roll Call Vote] [Attachment #4 for Final Agency Decision] MOTION CARRIED.**

III. FINAL AGENCY DECISION

Ryan F. Haigh

***Maurice A. DeValle**

Sheriff Cloninger asked the Sheriffs' Commission Members if anyone had a conflict with the Maurice A. DeValle case.

Mr. Marc Nichols recused himself and left the conference room.

Sheriff Jack Smith recused himself and left the conference room.

Legal Counsel Ryan Haigh addressed the Sheriffs' Commission Members and stated that Mr. Maurice A. DeValle is an applicant for deputy sheriff certification through the Columbus County Sheriff's Office where he began employment on or about August 2017.

There are two (2) issues before the Sheriffs' Commission to consider. The first is commission of the Class B misdemeanor offense of "Willfully Failing to Discharge Duties" while employed as a law enforcement officer with the N.C. State Highway Patrol. The second issue is whether or not he possesses the good moral character required of all justice officers employed in North Carolina. Mr. Haigh summarized the Proposal for Decision for Mr. Maurice A. DeValle as submitted by the Administrative Law Judge [**Attachment #5**], and the Proposal for Decision as submitted by Legal Counsel. [**Attachment #6**].

The Administrative Law Judge found that there are rules violations; but also found extenuating circumstances and asked that the Sheriffs' Commission use their discretion to reduce the sanction. Attorney Haigh stated that the Administrative Law Judge failed to articulate what those extenuating circumstances were and accordingly, Legal Counsel does not support Judge Lassiter's recommended proposal.

Attorney Haigh addressed the Sheriffs' Commission Members with regard to the issue as to whether or not Mr. DeValle possesses the good moral character required of all justice officers due to his untruthfulness and the circumstances surrounding his actions while holding his justice officer certification and based on the totality of his actions. Judge Lassiter found that the Petitioner made numerous false claims that went far beyond an isolated incident. Judge Lassiter found that Mr. DeValle's profound lack of candor and truthfulness while testifying under oath at the Administrative Hearing for his contested case demonstrated that truthfulness is still a challenge for the Petitioner.

Attorney Haigh stated that Legal Counsel's proposed final agency decision is that Mr. DeValle does not possess the good moral character required of all justice officers and to deny certification indefinitely.

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

Attorney Knox addressed the Sheriffs' Commission Members and introduced Sheriff Green of Columbus County Sheriff's Office. Ms. Knox also introduced Mr. Jeremiah Johnson, a principle with Columbus County Schools.

Attorney Knox stated that they are here today to speak on the behalf of Mr. DeValle. Mr. DeValle was fired from the State Highway Patrol because he violated their policies. Mr. DeValle was never charged with a misdemeanor. The investigation that was done into Mr. DeValle's actions consisted of the internal investigation by the state police being photocopied. Interviews were not conducted with regard to Mr. DeValle's character. Attorney Knox stated that she believes if a person's certification is being reviewed for revocation that a little more investigation needs to be done.

Attorney Knox stated that Mr. DeValle has been employed in law enforcement for the majority of his adult life. Once Mr. DeValle was fired from the State Highway Patrol, he contacted Sheriff Greene of Columbus County in order to seek employment. Sheriff Greene was previously employed with the State Highway Patrol. Sheriff Greene informed Mr. DeValle that the only position available was a School Resource Officer position.

Mr. DeValle accepted the School Resource Officer position and made the best of it. Mr. DeValle bonded with the school children and helped out when shoes or a lunch was needed. Principle Johnson saw that the children trusted Mr. DeValle and the relationships being formed. Mr. DeValle had the opportunity in Columbus County to make a difference.

Attorney Knox stated that she does not agree with Administrative Law Judge Lassiter's findings that Mr. DeValle committed a misdemeanor. Attorney Knox stated that Mr. DeValle violated State Highway Patrol's policies. Attorney Knox stated that there was no evidence that there was the misdemeanor offense of Willfully Failing to Discharge Duties.

Attorney Knox stated that she believes Mr. DeValle deserves a second chance. Attorney Knox stated Mr. DeValle has rehabilitated any character defects he may have had and that he has a spotless reputation.

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

Sheriff Green spoke on the behalf of Mr. DeValle. Sheriff Green asked the question as to why WRAL was watching Mr. DeValle's house when there are 2000 troopers in North Carolina. Sheriff Green stated that he is a retired State Trooper. Sheriff Green stated that Mr. DeValle has done a great job as a School Resource Officer and that the parents loved him. Sheriff Greene stated that Mr. DeValle now serves warrants for the Columbus County Sheriff's Office and that he does an excellent job.

Mr. Jeremiah Johnson is a high school principle for Columbus County and spoke on the behalf of Mr. DeValle. Mr. Johnson stated that the School Resource Officer originally assigned to his school did not take the position. Mr. Johnson stated that Mr. DeValle was the best School Resource officer that he has worked with. Mr. DeValle worked within the community to improve trust in law enforcement. Mr. Johnson stated that Mr. DeValle worked tirelessly during hurricane Florence to assist wherever needed. Mr. Johnson believes that it is difficult to find a strong School Resource Officer for that role and he was fortunate to have found one.

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

A **MOTION** was made by Sheriff Alan Norman to enter into a closed session; seconded by Sheriff Mike Roberson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon in the matter of Maurice A. DeValle to adopt the Legal Counsel's Proposed Final Agency Decision and deny justice officer certification indefinitely pursuant to Petitioner's lack of good moral character. Additionally, Petitioner's justice officer certification shall be denied for five (5) years, and that sanction is suspended for five (5) years for the commission of the Class B offense of failure to discharge duties, with the conditions that Petitioner not violate any law (other than infractions) of this state, any federal laws, or any rules of this Commission or the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Doug Doughtie. [**Attachment #7 for Roll Call Vote**] [**Attachment #8 for Final Agency Decision**] **MOTION CARRIED.**

IV. CONSENT AGREEMENTS

A **MOTION** was made by Sheriff Ed McMahon to approve the September 2020 Consent Agreements presented by the Probable Cause Committee Members [Attachment #9]; seconded by Sheriff Mike Roberson. **MOTION CARRIED.**

IV. LEGAL COUNSEL'S REPORT

Ms. Ameshia Cooper summarized Legal Counsel's Report. This report is available for review and includes administrative case files that are currently in the Office of Administrative Hearings. Ms. Cooper reviewed the various stages of litigation for the administrative cases as follows: [See Attachment #9].

- ! Five (5) cases involving Class B misdemeanors after the deputy/detention officer has been certified.
- ! Three (3) cases involving felony commissions.
- ! Six (6) cases involving four (4) or more Class A and B misdemeanors.
- ! Two (2) cases involving material misrepresentations.
- ! Five (5) cases involving a lack of good moral character.
- ! Four (4) cases involving a certified officer who has been charged and did not report that charge within the five day reporting period.
- ! Zero (0) denial or suspensions by CJ Commission.

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

Sheriff Cloninger announced the appointment of Sheriff Ed McMahon to the Probable Cause Committee to replace Probable Cause Committee Member Sheriff Steve Bizzell.

VI. ADJOURNMENT

A **MOTION** was made by Sheriff Mike Roberson to adjourn the September 2020, Sheriffs' Final Agency Decision meeting; Seconded by Mr. Marc Nichols. **MOTION CARRIED.**