

THE NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING STANDARDS COMMISSION
FINAL AGENCY DECISION MINUTES

DATE: March 17, 2022
TIME: 12:00 P.M.
LOCATION: Terrace Hotel – 689 N. Lakeshore Drive, Lake Junaluska NC, 28745
SUBMITTED BY: Sirena Jones, Interim Director

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, March 17, 2022.

Chair Cloninger requested a roll call of Commission members. Alex Radford recorded the following:

MEMBERS PRESENT

Sheriff Shelton White
Sheriff Jack Smith
Sheriff Landric Reid
Sheriff Mike Roberson
Sheriff Alan Norman
Sheriff Alan Cloninger
Sheriff Terry Johnson
Sheriff Doug Doughtie
Retired Sheriff David Smith
Mr. Marc Nichols

MEMBERS ABSENT

Mr. Jamie Markham
Ms. Tracy McPherson
Sheriff Ricky Oliver (Probable Cause)
Sheriff John Ingram (Probable Cause)
Sheriff Alan Jones (Probable Cause)
Sheriff David Mahoney (Probable Cause)
Sheriff Ed McMahan (Probable Cause)

STAFF

Sirena Jones - Interim Director - Sheriffs' Standards Division
Alex Radford - Sheriffs' Standards Division
Chris Brooks - NC Dept. of Justice
Bob Pickett - NC Dept. of Justice

Chair Cloninger announced that a quorum was present.

Commission Chair Cloninger noted that Mr. Chris Brooks, Assistant Attorney General, would serve as the Commission Legal Counsel. Mr. Brooks read the ethics statement to the Commission members and reminded everyone that both the Petitioner and the Respondent would be limited to 30 minutes of oral argument.

Chair Cloninger welcomed everyone to the meeting. Sheriff Cloninger then asked visitors to stand and introduce themselves.

VISITORS

Vernon Strickland	Robeson County Sheriff's Office
Belinda Strickland	Wife of Vernon Strickland
Bob Pickett	North Carolina Attorney General's Office
Sheriff Bobby Kimbrough	Forsyth County Sheriff's Office
Allison Tomberlin	Attorney for Forsyth County
Bessie Toliver-Evans	Forsyth County Sheriff's Office
Robert W. Whitaker	Forsyth County Sheriff's Office
Mike Sampson	Burke County Sheriff's Office
Jesse Brown	Burke County Sheriff's Office
Sheriff Steve Whisenant	Burke County Sheriff's Office
John Tilley III	Forsyth County Sheriff's Office
Timothy Rohr	Attorney for Caldwell County

OATHS

Chair Cloninger asked Alex Radford to administer the oath to Mr. Nichols who was re-appointed to his seat on the Commission. Mr. William Marcus Nichols was sworn in.

II. FINAL AGENCY DECISION

Bob Pickett

***Bessie Toliver-Evans**

Mr. Bob Pickett addressed the Sheriffs' Commission Members and stated that Ms. Toliver-Evan is an applicant for certification through the Forsyth County Sheriff's Office. Mr. Bob Pickett presented oral arguments regarding the case against Ms. Bessie Toliver-Evans. He presented there were two alleged rule violations. The alleged rule violations were an alleged knowingly material misrepresentation of any information required for certification and knowingly and designedly by any means of false pretense, deceptions, fraud, misrepresentation or cheating, whatsoever, obtained or attempted to obtain certification from the Commission or the North Carolina Criminal Justice Commission.

The Administrative Law Judge found her testimony credible and believed that the marijuana incident was reasonable enough to not include it; however her knowledge of not disclosing the criminal charges was constitutional of misrepresentation. Based on the foregoing Finding of Facts and Conclusions of Law, and upon specific consideration of the record as a whole, and the substantial evidence of the case, Petitioner's justice officer certification is denied for five years; however, such will be suspended and Petitioner will be placed on Probation for a period of Five years due to the extenuating circumstances brought out at the administrative hearing, on the condition that during that period of probation, Petitioner does not violate any law of this state or any other state; any federal laws; or any rules of the North Carolina Sheriff's Education and Training Standards Commission. Mr. Pickett concluded his summary.

Chair Cloninger asked the Commission if there were any questions. Negative response. The Petitioners attorney, Allison Tomberlin presented oral arguments regarding the case.

Ms. Tomberlin appreciated Mr. Pickett's summary and does not dispute any of it because it is all in the record. She stated the reason we take exception to the decision is that we do not believe it is fair that Ms. Toliver-Evans has to be on probation for five years. She does not believe that what is even omitted into the records that Mr. Pickett describes constitutes a violation. She also believes she has time served because this has been going on for a couple of years already. There are people in the audience now who support Ms. Toliver-Evans from the Forsyth County Sheriff's Office and will continue to support her decision on becoming a sworn deputy.

Chair Cloninger asked if Sheriff Kimbrough would say a few words regarding this matter.

Sheriff Bobby Kimbrough thanked the commission for allowing him to speak on this matter. He trusts everyone in his department for what that have found regarding Ms. Toliver-Evans case and commends her work ethics. He stated what impressed him the most is how honest she was towards the investigators and that there was no way the department would have known any of the information unless she had told them the truth about everything. Sheriff Kimbrough asked the commission to do what was fair for Ms. Toliver-Evans certification and believed they would do the right thing.

Ms. Tomberlin was recognized and addressed the commission. She related that her charges were expunged.

A **MOTION** was made by Sheriff Marc Nichols to enter a closed session; seconded by Sheriff Alan Norman. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Shelton White to enter open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Mike Roberson in the matter of Ms. Bessie Toliver-Evans; did not make any intentional material misrepresentation as to the use of marijuana or any other violation and that Ms. Evans certification be granted; seconded by Sheriff Jack Smith **MOTION CARRIED. [Attachment #1]**

III. FINAL AGENCY DECISION

Bob Pickett

***Brian Keith Oxendine**

Chair Cloninger stated that Mr. Oxendine was not present and his attorney called legal and said that they would not be present in today's meeting. Chairman Cloninger asked Mr. Pickett to present the evidence.

Mr. Bob Pickett addressed the Sheriffs' Commission Members and stated that Mr. Brian Keith Oxendine is an applicant for Justice Officer Certification with the Robeson County Sheriff's Office. He presented the allegations that he committed; a combination of five class A or B misdemeanors. Those were, Purchasing Fortified Wine Underage, Possession of Malt Beverage while being under the age of 21, Loitering, violation of a local ordinance stopping/standing in a parking lot and a DWI-Level 5. These convictions were on his record at the time when his case went to the probable cause committee and probable cause was found. Subsequent to that, four of the convictions: Purchasing Fortified Wine Underage, Possess Malt Bev Being <21, Loitering and Stopping/Standing in Parking Lot were set aside by MAR. He also had a prior conviction for having a weapon on Campus in 1988.

The Petitioner filed Motions for Appropriate Relief in Robeson County Court and Four of his Five Class A misdemeanors were voluntarily dismissed by the District Attorney on October 28, 2021. As of today's date, the petitioner has two convictions: the DWI-Level 5 and Weapons on Campus. The Respondent acknowledges and stipulates that there is no evidence at present that Petitioner committed four or more Class A or B misdemeanors. The Administrative Law Judges proposal for decision was that the petitioner shall retain his justice officer certification.

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

A **MOTION** was made by Sheriff Terry Johnson to enter a closed session; seconded by Sheriff Mike Roberson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid to enter open session; seconded by Sheriff Mike Roberson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson in the matter of Brian Keith Oxendine; that we grant his certification based on the findings; seconded by Sheriff Alan Norman **MOTION CARRIED. [Attachment #2]**

IV. FINAL AGENCY DECISION

Bob Pickett

***Jesse Brown**

Mr. Bob Pickett addressed the Sheriffs' Commission Members and stated that Mr. Jesse Brown is an applicant with the Burke County Sheriff's Office. The basis of the denial is that he was an applicant for prison guard and applied through certification with the Criminal Justice Commission. During that process he went down for his medical screening to an Urgent Care in Hickory North Carolina. He was under the age of 21 at that time and went to complete a drug test and they also gave him a mouth alcohol swab. It was reported back to the Department of Corrections that he had refused to take the drug test, however Mr. Brown testified that he was never offered a drug test and thought that the mouth swab was the drug test. When he received the report of refusal of drug test, the Department of Corrections would not talk to him in regards to the test.

When he applied for certification with the Burke County Sheriff's Office, the prior mark of refusal to take a drug test triggered a violation with the Sheriff's Commission, however at the hearing Mr. Brown testified and provided a statement very truthful and straightforward with the Judge. The Judge found it credible.

Mr. Pickett stated he tried to follow up with the medical providers and could not get ahold of anyone who could help in the matter.

Chair Cloninger asked the counsel for Mr. Brown to speak.

Timothy J. Rohr, Attorney with Caldwell County pointed out that the Sheriff with Burke County and Mr. Brown's Father was present. The Administrative Law Judges proposal for decision based on the foregoing Findings of Fact and Conclusions of Law, it is proposed that Petitioner's justice officer certification be granted. But should the Commission determine that the Petitioner's justice officer certification should be denied, the sanction should be suspended permanently, and no action should be taken against Petitioner's License.

Sheriff Steve Whisenant with Burke County spoke very highly of Mr. Brown and stated that he has been working with the agency since January 2020. He stated that there was some miscommunication and that Mr. Brown never intended to refuse a drug test. Sheriff Whisenant worked with his department and had Mr. Brown take an additional drug test which he did not hesitate to do. He also stated that Mr. Brown has spent a lot of time trying to keep his job and has worked very well as a detention officer for Burke County. Sheriff Whisenant asked the commission to allow him to continue to work as a detention officer and grant his certification.

Chair Cloninger asked the Commission if there were any questions. Sheriff Alan Norman asked Sheriff Whisenant how many of his Detention Officers were not DOCC certified. Sheriff Whisenant responded with about 10-12 Detention officers who were not DOCC certified.

A **MOTION** was made by Sheriff Shelton White to enter a closed session; seconded by Retired Sheriff David Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Mike Roberson to enter open session; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid in the matter of Jesse Brown that the commission follows counsels recommendation that his Justice Officer Certification be granted; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**
[Attachment #3]

V. FINAL AGENCY DECISION

Bob Pickett

***Michael Dale Laws**

Mr. Bob Pickett addressed the members of the Sheriffs' Commission stating that Michael Dale Laws holds justice officer certification with the Avery County Sheriff's Office. There are two alleged violations; the first is that he committed a Class B misdemeanor after the date of appointment and the Second he committed a combination of four class A or B misdemeanors. The alleged misdemeanor for Borrowing a Big Game Harvest Report Card from Another, N.C.G.S. 113-275(g) Class B Misdemeanor, Failure to Validate Big Game Harvest Report Card, N.C.G.S. 113-270.3(c) Class A misdemeanor, Failure to Report or Tag Big Game, N.C.G.S. 113-270.3(c) Class A misdemeanor and Taking a Bear with the Use & Aid of Bait, N.C.G.S. 113-291.1(b) (2) Class A misdemeanor.

Mr. Pickett stated the reason for Mr. Laws absent was because his lawyer told him it would not be necessary to come to this meeting. He was extremely truthful during the hearing and there may not have been proof of a violation. The Administrative Law Judges proposal for decision based on the foregoing Findings of Fact and Conclusions of Law, it is proposed that Petitioner's justice officer certification be suspended for five years; however, due to the extenuating circumstances brought out at the administrative hearing, the active suspension should be suspended permanently, and no action should be taken against Petitioner's certification.

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

A **MOTION** was made by Sheriff Terry Johnson to enter a closed session; seconded by Retired Sheriff David Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Shelton White to enter open session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Alan Norman in the matter of Michael Dale Laws that we adopt counsel's recommendation for proposed administrative hearing; seconded by Mr. Marc Nichols. **MOTION CARRIED. [Attachment #4]**

VI. FINAL AGENCY DECISION

Bob Pickett

***Vernon Drake Strickland**

Mr. Bob Pickett addressed the Sheriffs' Commission Members and stated that Mr. Vernon Drake Strickland is an applicant for justice officer certification with the Robeson County Sheriff's Office. The allegations are that he has a combination of four or more Class A or B misdemeanors: Hunting without a license N.C.G.S. 113-270.2, Possession of Drug Paraphernalia N.C.G.S. 90-113.22, Possession of Marijuana ½ Oz to 1 ½ Oz 90-95(d)(4), Possession of Marijuana ½ Oz 90-95(d)(4) and Disorderly Conduct 14-288.4. Mr. Strickland has not disputed or tried to cover up his criminal past and has been honest about it. He has just recently applied with the Sheriff's Office however he has served seven years previously as a certified officer through the Criminal Justice Commission as a Police Officer within the City of Robeson County. He explained that the hunting charge happened when he was in high school during the only hunting trip of his life and that he did not know a hunting license was required.

The Administrative Law Judges proposal for decision is that the Commission exercise its authority to allow Petitioner's certification as a justice officer due to the extenuating circumstances brought out at the Administrative Hearing.

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

Mr. Strickland was present and address the Commission. He was thankful for the opportunity to speak to the commission today in regards to this matter. He stated again how when he was younger he just got mixed up with a wild crowd and that since then he has not had any other problems with the law.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Sheriff Shelton White. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Doug Doughtie to enter into open session; seconded by Sheriff Shelton White. **MOTION CARRIED**

A **MOTION** was made by Sheriff Landric Ried in the matter of Vernon Drake Strickland justice officer certification be granted and no sanction be imposed; seconded by Retired Sheriff David Smith. **MOTION CARRIED. [Attachment #5]**

VII. FINAL AGENCY DECISION

Bob Pickett

***Rita Jane Walker**

Mr. Bob Pickett addressed the Sheriffs' Commission Members and stated that Ms. Rita Jane Walker was not present. Ms. Walker is an applicant for Telecommunicator certification with the Pender County Sheriff's Office. The allege violation is that she committee four or more Class A or B misdemeanors in violation of N.C.G.S 14-107(d) (1). There is no dispute that between March 13, 1995 and June 15, 1995, Petitioner and her then-husband were writing checks from the same account, without making a proper accounting, which resulted in six simple worthless check charges filed against Petitioner.

Ms. Walker has not been criminally charged with anything since the worthless checks which happened over 25 years ago. The Administrative Law Judges proposal for decision based on the foregoing Findings of Fact and Conclusions of Law, the Undersigned recommends that Respondent grant Petitioner's application for telecommunicator certification.

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

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

A **MOTION** was made by Sheriff Shelton White to enter into open session; seconded by Sheriff Terry Johnson. **MOTION CARRIED**

A **MOTION** was made by Terry Johnson in the matter of Ms. Rita Jane Walker that we grant her certification and adopt our counsels proposed Final Agency Decision; seconded by Sheriff Mike Roberson. **MOTION CARRIED. [Attachment #6]**

VIII. FINAL AGENCY DECISION

Bob Pickett

*Heather Chatel Blair

Legal Counsel Bob Pickett addressed the Sheriffs' Commission Members and stated that Ms. Heather Chatel Blair was not present. Chair Cloninger stated that the commission had heard this case before at the last two commission meetings and question why this matter was presented again. Mr. Pickett explained the history of this case. She was requested to be at the September 2021 commission meeting and she did not show up, so the commission decided to push it to the December meeting for her to explain her case. She once again did not show up to the December 2021 meeting; so the commission decided to vote that she committed the class B misdemeanor offense of "Accessing Government Computers" in violation of N.C.G.S. 14-454(b) and voted to suspend her Justice Officer Certification for a period of 5 years.

The Attorney who handled the case recommended some exceptions that would have led to a finding of her committing to the offense; essentially agreeing with the Administrative Law Judges original decision. Mr. Pickett stated that we had an outcome that does not support the findings of facts of the conclusions of the law; so there were no changes that she committed the offense. Mr. Pickett stated that it would be good for the commission to review the findings and make any changes to the conclusions of the law to the actual decision.

A **MOTION** was made by Sheriff Mike Roberson to reopen the matter of Heather Chatel Blair; seconded by Mr. Marc Nichols. **MOTION CARRIED.**

Chair Cloninger addressed the commission and stated that they could reconsider Ms. Blair's punishment or reopen the case to correct the deficiency in the order. Mr. Pickett gave the commission a new proposed Final Agency Decision to change the findings of facts in conclusions of law to reflect the agency's final decision.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Mr. Marc Nichols to enter into open session; seconded by Sheriff Mike Roberson. **MOTION CARRIED**

A **MOTION** was made by Terry Johnson in the matter of Ms. Heather Chantel Blair to adopt our counsels proposed final agency decision in which her certification is denied for 5 years; seconded by Sheriff Shelton White. **MOTION CARRIED.**
[Attachment #7]

VIII. LEGAL COUNSEL'S REPORT

Mr. Bob Pickett 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. Mr. Pickett reviewed the various stages of litigation for the administrative cases as follows:
[See Attachment #8]

- 21 cases including 7 FADs heard today
- 5 new cases since December
- 4 PJR cases

IX. ADJOURNMENT

A **MOTION** was to adjourn the March 2022 Sheriffs' Final Agency Decision meeting; Seconded. **MOTION CARRIED.**