

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
24 DOJ 00710

JESLYNN RYAN HILL,)
)
 Petitioner,)
)
 v.)
)
 NORTH CAROLINA SHERIFFS')
 EDUCATION AND TRAINING)
 STANDARDS COMMISSION,)
)
 Respondent.)
)
 _____)

**PROPOSED FINAL AGENCY
DECISION**

THIS MATTER was commenced by a request filed December 12, 2022, with the Director of the Office of Administrative Hearings for the assignment of an Administrative Law Judge. Notice of Contested Case Assignment and Order for Prehearing Statements (24 DOJ 00710) were filed December 13, 2022. The parties received proper Notice of Hearing and the Administrative Hearing was held in Morganton, North Carolina on July 18, 2023, before the Honorable Jonathan S. Dills, Administrative Law Judge.

The Petitioner appeared *pro se*. The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter the Commission or Respondent) was represented by Assistant Attorney General J. Joy Strickland.

On July 25, 2024, Judge Dills filed his Proposal for Decision. On August 2, 2024, counsel to the Commission sent by certified mail a copy of the Proposal for Decision to the Petitioner with a letter explaining Petitioner's rights: (1) to file exceptions or proposed findings of fact; (2) to file written argument; and (3) the right to present oral argument to the Commission.

This matter came before Commission for entry of its **Final Agency Decision** at its regularly scheduled meeting on September 19, 2024.

Having considered all competent evidence and argument and having reviewed the relevant provisions of Chapter 17E of the North Carolina General Statutes and Title 12, Chapter 10B of the North Carolina Administrative Code, the Commission, based upon clear, cogent and convincing evidence, does hereby make the following:

FINDINGS ¹

Procedural History

1. Respondent appeared in its delegated role of oversight and maintenance of minimum standards for justice officer certification. G.S. 17E-4(a)(6) & 7(c) and 12 NCAC 10B.

¹ The Tribunal need only find facts material to resolution. *Flanders v. Gabriel*, 110 N.C. App. 438, 440, 429 S.E.2d 611, 612, *aff'd*, 335 N.C. 234, 436 S.E.2d 588 (1993).

2. Petitioner is an applicant for Detention Officer certification with the Rutherford County Sheriff's Office. Her Report of Appointment was executed on 03 March 2023. (R Ex 1).

3. Petitioner was previously certified with the Shelby Police Department. (R Ex 3). It is the circumstances surrounding her separation which form the basis of this contested case.

4. On 01 November 2022, the Chief of Shelby PD completed an Affidavit of Separation (Form F-5B); it indicated potential misconduct. (R Ex 4).

5. In the current application (Form F-3), Petitioner noted pending charges. (R Ex 2).

6. Melissa Bowman was assigned to investigate for Respondent. Based on her findings, certification was denied. Petitioner appealed here.

Relevant Background

7. Petitioner testified that while backing another Shelby officer, she had a gun placed to her head. The other officer fled to safety.

8. Following this traumatic event, she leaned on her then supervisor, Donald Bivens. Their relationship became personal and eventually romantic.

9. Petitioner moved in with Bivens; she assisted with remodeling, home purchases, and shared expenses. Largely encouraged by Bivens, Petitioner believed they were committed.

10. Petitioner suggested transparency about their relationship, but Bivens discouraged it.

The Incident

11. On 30 October of 2022, Petitioner was attending a party hosted by a coworker. Bivens was expected to be at the party but never showed.

12. While at the party and after consuming alcohol, Petitioner was told that Bivens was at home with another woman. Petitioner had someone drive and drop her off.

13. Petitioner saw two vehicles at the home; one belonged to Bivens and the other, to the woman inside.

14. Petitioner, upset and tipsy, broke a house window and vandalized both cars. Bivens hid inside, called for deputies, and yelled admonishments. Petitioner awaited law enforcement, and with them, was polite, cooperative, and admitted her wrongdoings.

15. On 22 August 2023, Petitioner pled to one count of injury to personal property. She was placed on unsupervised probation, fined, and assigned community service. The remaining charges of injury to personal property and injury to real property were dismissed. (R Ex 5).

Post-Incident

16. Petitioner successfully completed her sentence.

17. Reportedly, both property victims apologized for the part they played. Neither sought restitution nor otherwise interfered in the state's approach/plea agreement.

18. Bivens did attempt to continue romantically with Petitioner, but she rebuffed him. Petitioner continues to maintain her distance.

19. Petitioner is flourishing in her new position. She was promoted to Sergeant.

20. Sheriff Ellenburg testified for Petitioner. Without reservation, he indicated a high level of performance and described her as irreplaceable.

21. The High Sheriff recounted Petitioner saving an inmate's life; routinely going above and beyond; and being a stickler for policy, code, and good moral standing.

22. Patrick Staggs testified for Petitioner. With 39 years in law enforcement, he retired from the Highway Patrol. Staggs undertook a background investigation. His only concerns were the matters *sub judice* and a DUI that occurred when Petitioner was 16 years old.

23. Investigator Staggs found that Petitioner has overcome significant adversity. He relayed that Petitioner's father was an addict. In his custody, she became pregnant (again at 16) by a much older cohort of the father. Staggs opined that Petitioner much deserves a second chance. He had zero concern that the mistakes here highlighted would be repeated.

24. Petitioner's direct supervisor, Lieutenant Laura Grasser, also testified on her behalf. She has zero issues with Petitioner's work and spoke glowingly of her abilities, performance, and character. She committed to accountability and close supervision.

Mitigation

25. The Administrative Law Judge found the following extenuating circumstances existed : (1) Petitioner had an unhealthy relationship with the male *victim* who shared some culpability; (2) has good leadership support; (3) was forthright, honest, and accepted responsibility; (4) fully complied with her sentence; (5) was remorseful; (6) voluntarily sought counseling; (7) has abstained from alcohol; and (8) has overcome significant adversity.

CONCLUSIONS²

1. Respondent is authorized to certify law enforcement officers and to revoke, suspend, or deny certification in proper circumstances. G.S. 17E; 10 NCAC 10B.

² To the extent Findings contain Conclusions or vice versa, they should be appropriately considered regardless of labeling. *Charlotte v. Heath*, 226 N.C. 750, 755, 440 S.E.2d 600, 604 (1946).

2. The party with the burden of proof in a contested case must establish the facts required by N.C.G.S. § 150B-23(a) by a preponderance of the evidence. N.C.G.S. § 150B-29(a). The administrative law judge shall decide the case based upon the preponderance of the evidence. N.C.G.S. § 150B-34(a). Petitioner has the burden of proof in the case at bar. *Overcash v. N.C. Dep't. of Env't & Natural Resources*, 172 N.C. App 697, 635 S.E. 2d 442 (2006).

3. The uncontroverted evidence here supports that Petitioner pled to one count of injury to personal property and committed an additional count of injury to personal property. Such are misdemeanors. G.S. 14-160.

4. Petitioner is subject to revocation, suspension, or denial. 12 NCAC 10B .0204(d)(1); *cf.*, 12 NCAC 10B .0103(10)(b)(i), 12 NCAC 10B .0205(2)(a), *and* (Ex 10).

5. The Administrative Law Judge recommended that the Commission exercise its discretion. 12 NCAC 10B .0205(2); *cf.* 12 NCAC 10B .0204(c) (“may” presents choice).

~~7.~~

ORDER

WHEREFORE, Petitioner’s justice officer certification is **GRANTED**, conditioned upon a two-year period of probation during which it is highly recommended that she remain alcohol free and the Rutherford County Sheriff’s Office or any other employing entity closely monitor her progress and performance.

IT IS SO ORDERED.

This the 19th day of September, 2024.

Chairman
NC Sheriffs’ Education Training and
Standards Commission

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **PROPOSED FINAL AGENCY DECISION** has been duly served upon **Petitioner** by mailing a copy to the address below:

**Jeslynn Ryan Hill
3667 Polkville Road
Shelby, North Carolina 28150**

This the 23rd day of August, 2024.

**JOSHUA H. STEIN
Attorney General**

/s/ J. Joy Strickland
**J. Joy Strickland
Assistant Attorney General
ATTORNEY FOR THE COMMISSION**