

STATE OF NORTH CAROLINA
COUNTY OF PITT

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
23 DOJ 05111

CHRISTOPHER TORRANCE,)
)
)
Petitioner,)
)
v.)
)
NORTH CAROLINA SHERIFFS')
EDUCATION AND TRAINING)
STANDARDS COMMISSION,)
)
Respondent.)

EXCEPTIONS

The following **Exceptions** to the **Proposal for Decision** prepared by the Honorable Karlene S. Turrentine, Administrative Law Judge, and filed in the Office of Administrative Hearings on April 16, 2024, are hereby submitted to the North Carolina Sheriffs' Education and Training Standards Commission for consideration in its Final Agency Decision.

1. Counsel has made minor typographical and grammatical changes as necessary to make the proposal appropriate for Final Agency Decision.
2. Finding of Fact paragraphs 19-21, 23 have been amended to properly describe the victim's testimony as follows:

19. ~~Evans' has explained stories on exactly what happened leading up to her going to the Magistrate's office for a warrant at different times vary substantially. There is:~~ a) the story she told at trial; b) the story she told to Winterville Police Officer D. Wilson (see Resp. Exh 6); c) the story she told to the Magistrate to obtain a warrant for Petitioner's arrest, and; d) the story what she wrote to the Pitt County District Court judge in order to get the DVPO.² See Tp. 57-60.

20. On every occasion that Evans has explained the events, she recounted the assault by Petitioner. In all four (4) instances versions, Evans conveyed that, on or about the night of September 3, 2021, between 1:00am and 3:00am, she discovered text messages on Petitioner's cell phone. The text messages, between Petitioner and one of their female coworkers, clearly alerted Evans to the fact that Petitioner was having a sexual affair with the other woman while he was living in Evans' home. Evans woke Petitioner up, confronted him about the affair, the two argued and Petitioner left the house.³

Petitioner returned to the house. He and Evans began arguing again.

21. ~~Consistently, in the first three (3) versions,~~ Evans conveyed Petitioner pushed her against the wall. Some 10-12 hours later, Evans went to the Winterville Police Department, talked with Officer Wilson who advised her of her options and Evans, thereafter, went to the Magistrate's office to take out a warrant for Petitioner's arrest. Tp. 36, 38-40, 42-45, 49-50.

23. ~~Evans' 2nd story was the one she told the Winterville police.~~ According to Officer Wilson's Incident Report, Evans "reported that [Petitioner] grabbed her and forcibly pushed her against the wall.... hard enough that her daughter upstairs was able to hear the noise." Resp. Exh 6, p.2. Evans further told Officer Wilson that she was not injured and had no visible marks ¶ "but was afraid to stay at the residence as long as [Petitioner] was still there. At this time [,] Evans stated that she just wanted [Petitioner] to leave the residence but [Petitioner had told her] he would not leave till the 22nd [of the month and] Evans...wants him to leave immediately." *Id.*

3. Administrative Law Judge included two paragraphs #21. The second paragraph 21 has been renumbered 22, and the remaining paragraphs renumbered accordingly.
4. Finding of Fact paragraphs 28-30, 40 have been amended as follows:

28. ~~Evans' 3rd story:~~ The record does not clearly reflect what Evans told the magistrate to get the warrant (Tp. 49); however, the warrant drafted by the magistrate reflects she told him Petitioner "grabb[ed] her by the shoulders and shov[ed her] against the wall." Resp Exh. 3, p. 1. This was sufficient to have Petitioner arrested. Evans admitted that she never had to go to court for the criminal charge against Petitioner. Tp. 49-50.

29. ~~Evans' 4th story: Five (5) days later, on~~ On September 8, 2021, to obtain the DVPO, Evans stated in her type-written statement to the Pitt County District Court that:

"During the course of our argument [sic] the defendant punched a cardboard box that led to him picking me up and slamming me into our bedroom wall. ...I wanted to call the police immediately, but he began to verbally threaten me.... I was so scared and didn't know what to do. Throughout the course of the day, I replayed what had happened earlier that morning and consulted with some friends of mine as to what I should do. ...[L]ater that evening, when we were both homes, the arguing continued that eventually led to him lunging at me as if he wanted to hit me. ...I instantly had a flashback of him slamming me into the wall. .I then removed myself from the home and went straight to the magistrate's office to press charges."

30. ~~There is no mention of any bruising or injury in Evans' statement to the~~

District Court.

~~40. After Evans tried luring Petitioner home by threatening to commit suicide and after Petitioner came back to the house but refused to sleep with her, only then did Evans decide to go to the Magistrate to get a warrant and have Petitioner arrested. Tp. 77, 79-80. The Warrant for Arrest is dated September 4, 2021, and alleges the offense occurred on "09/03/2021 through 09/04/2021." Resp Exh 3, p. 1. Nevertheless, Evans insisted that she did not take the warrant out "to get back at" Petitioner but because Petitioner "put his hands on [her]." Tp. 82. The warrant was served on Petitioner on September 4, 2021, at 1:45 p.m. Resp Exh. 3, p. 2.~~

5. Counsel has deleted Finding of Fact paragraph 41 and renumbered the remaining paragraphs accordingly.

~~41. Evans' testimony at trial is in direct conflict with her September 8, 2021, written statement to the District Court where she said, "Throughout the course of the day, I replayed [the incident that] happened earlier that morning.... [L]ater that evening, when we were both homes, the arguing continued that eventually led to him lunging at me as if he wanted to hit me. At that moment, I instantly had a flashback of him slamming me into the wall. ...I then removed myself from the home and went straight to the magistrate's office to press charges.~~

6. Counsel has deleted Finding of Fact paragraphs 52-53, and the remaining paragraphs have been renumbered accordingly:

~~52. There is no evidence of record revealing when Investigator Bowman started her investigation of this matter but, she testified that her "administrative assistant, Timothy Radford, ... requested the criminal file after the charge was resolved. And then after the case was assigned to me, I obtained the civil file for the domestic violence protective order." Tp. 17 (emphasis added). Part of the documents gathered at the start of the investigation included the Conditional Discharge paperwork from the Pitt County District Court. Tp. 17-19; see also, Resp Exh. 3, p. 4-6.~~

~~53. The resolution of the charge or Disposition of Conditional Discharge is dated November 8, 2022, and stamped received by Sheriff's Standards on January 13, 2023. Investigator Bowman only spoke to Evans about the case after she had both the criminal and civil files in her possession. Thus, the allegations and photographs of Evans' alleged injuries did not surface for some sixteen (16) months after the incident.~~

7. Counsel has added new Finding of Fact paragraph 55 to reflect the opinion of Chief Capehart.

55. After listening to the testimony at the hearing, Chief Capehart opined that Petitioner committed an assault on a female. Capehart said this when referring to the assault, "it appears that he committed that." Capehart said that even if his agency is allowed to retain Petitioner, it should be "with restrictions of course." Tp.180, 182.

8. New Conclusion of Law paragraphs 10, 14-17, have been added as follows to accurately reflect the elements of assault on a female and to modify the conclusions based on the substantial evidence presented:

10. N.C.G.S. § 14-33(c) provides:

Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

(2) Assaults a female, he being a male person at least 18 years of age;

14. The preponderance of the evidence produced during this contested case hearing demonstrates that Petitioner committed the Class B Misdemeanor offense of assault on a female in violation of N.C.G.S. § 14-33(c)(2).

15. Petitioner's denial of the commission of the offense is not credible in light of the other evidence presented in the case. Petitioner was untruthful to Ms. Evans when he agreed not to see other people while he lived with her. It also appears, that Petitioner was untruthful with Hunter and withheld the extent of his relationship with Ms. Evans from her.

16. Ms. Evans appeared to be credible. While there were slight variances with the description of the assault, Ms. Evans was consistent with explaining what occurred in her statement to Officer Wilson, in her request for the DVPO and during her testimony. It is not surprising that Ms. Evans texted Petitioner after the assault as this was a traumatic experience for her. Ms. Evans believed that she and Petitioner were in a relationship and was upset about the assault, and that their relationship might be over. As recognized by Chief Capehart, domestic violence victims often stay in a relationship with their abuser. Ms. Evans lack of injuries at the time she spoke to Officer Wilson is not of concern either. Officer Wilson testified that in his experience in law enforcement, victim's injuries often appear a day or more after an assault occurs.

17. The findings of the Respondent's Probable Cause Committee were not arbitrary or capricious.

9. Proposal for Decision should be revised to reflect the final decision of the Commission as follows:

**PROPOSAL FOR
DECISION ORDER**

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Undersigned recommends that Respondent **REVERSE** its decision to deny Petitioner's Justice Officer Certification is **REVOKED** for a period of five years.

This the 9th day of October 2024.

JOSHUA H. STEIN
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **EXCEPTIONS** have been duly served upon **Petitioner** by mailing a copy to the address below:

**Christopher Torrance
110 Wyndham Circle, Apt L
Greenville, North Carolina 27858**

This the 9th day of October 2024.

JOSHUA H. STEIN
Attorney General

Attorney General

/s/ J. Joy Strickland

J. Joy Strickland
Assistant Attorney General
ATTORNEY FOR THE COMMISSION