

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. )  
 )  
 \_\_\_\_\_ )

PROPOSED FINAL AGENCY  
DECISION

THIS MATTER was commenced by a request filed December 8, 2023, 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 (23 DOJ 05111) were filed December 11, 2023. The parties received proper Notice of Hearing, and the Administrative Hearing was held in Ayden, North Carolina on April 16, 2024, before the Honorable Karlene S. Turrentine Administrative Law Judge.

The Petitioner was *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 Turrentine filed her 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 November 21, 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 OF FACT

1. Prior to the start of the trial, the parties stipulated to the following facts:
  - a. Venue is proper and the NC Office of Administrative Hearings ("OAH") has subject matter and personal jurisdiction over the Parties.
  - b. The Parties have no objection to the Undersigned overseeing the matter.
  - c. Petitioner received notice of the agency's action against him via U.S.P.S. first class, certified mail, dated October 23, 2023 (Resp Exh. 7);
  - d. Petitioner exhausted his administrative remedies and timely requested an administrative hearing in this matter (Resp Exh. 8); and,
  - e. Respondent has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to revoke, suspend, or deny such certification under appropriate circumstances, with valid proof of a rule violation.
  
2. Petitioner was first awarded probationary certification with Respondent-North Carolina Sheriffs' Education and Training Standards Commission ("Respondent" or "the Commission"), on September 11, 2017, for a detention officer position with the Pitt County Sheriff's Office. Petitioner was granted general certification by Respondent for his position with the Pitt County Sheriff's Office on or about December 19, 2018. Petitioner had previously been certified by the North Carolina Criminal Justice Education and Training Standards Commission as a correctional officer from January 2013 to September 2017. Resp Exhs. 1-2.
  
3. Melissa Bowman, Investigator with the Sheriffs' Standards Division, testified in this hearing. Investigator Bowman has been employed by the Department of Justice and working in the Sheriffs' Standards Division for almost two years. Prior to joining the Department of Justice, Investigator Bowman was a wage and hour investigator for the Department of Labor for six years, and prior to that worked for the Gaston County Department of Social Services for five years. Tp. 11-12.
  
4. When a certified officer is charged or arrested with certain offenses, the officer is obligated to notify the Sheriffs' Standards Division within 5 business days of the charge or arrest. Tp. 14.
  
5. In the present case, the Pitt County Sheriffs' Office timely notified the Sheriffs' Standards Division (on Petitioner's behalf) that Petitioner had been charged

with assault on a female and a domestic violence protective order ("DVPO") had issued against him. Tp. 13.

6. As part of her investigation, Investigator Bowman obtained the Clerk's file from the Pitt County Clerk of Superior Court's office, and gathered information from the Winterville Police Department, Pitt County Sheriff's Office Internal Affairs, and from the alleged victim, Melissa Evans. Tp. 17.

7. Upon concluding her investigation, Investigator Bowman presented her findings to Respondent's Probable Cause Committee for it to determine whether probable cause existed to believe Petitioner's certification should be revoked on the basis of the charge and DVPO issued.

8. Petitioner's matter came to be heard before the Commission's Probable Cause Committee in 2023.

9. The Probable Cause Committee found probable cause to believe that Petitioner committed the Class B Misdemeanor of assault on a female in violation of N.C.G.S. § 14-33(c)(2) and in violation of 12 NCAC 10B .0204(d)(1) and, therefore, Petitioner's certification should be revoked.

10. Respondent sent written Notification of Probable Cause to Revoke Justice Officer Certification to Petitioner via certified mail dated October 23, 2023. Resp Exh. 7.

11. Melissa Evans is a registered nurse at ECU Health. Previously, Evans worked as a medical technician for two (2) years with East Carolina Medical Supply which contracted with the Pitt County Sheriff's Office. During that time, she was assigned to work in the Pitt County Detention Center. Tp. 28-30.

12. Sometime between 2020 and 2021, Evans met Petitioner while they were both working in the Pitt County Detention Center. Tp. 30. At that time, Petitioner was a Correctional Officer. Id. at 30-31.

13. The two became friends and theirs was "not a monogamous relationship." Tp. 31. Later, Petitioner "ended up moving in with" Evans. Tp. 32. Still, Evans described the relationship as "[m]ore of a friendship []" as opposed to a romantic relationship. Id.

14. When he moved in, Evans told Petitioner he could "live there free of cost []" and when he moved in, there was no discussion of how long the living arrangement would last. Tp. 33.

15. Evans testified that Petitioner slept in her room with her "every day" (Tp.

34) but Petitioner testified that he slept on an "air mattress out in the living room<sup>1</sup>." Tp. 108.

16. The two "became sexually active" but never socialized outside of work. Tp. 35.

17. Evans believes Petitioner moved in sometime in March 2021 and, "[f]or the most part, [their relationship] was fairly a healthy or good relationship...[b]ut...we did have some bumps in the road [...w]hen [Evans] found out [Petitioner] was involved with another female." Tp. 36.

18. Evans went through Petitioner's phone while he was sleeping and found text messages on Petitioner's phone which related that he and another of their co-workers were having a sexual relationship. Tp. 36, 54-55. Evans confronted Petitioner about what she had found and...[m]aybe an hour and a half, two hours after seeing the text messages []" she "swore out the warrant []" against Petitioner. Tp. 37.

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.~~<sup>2</sup> See Tp. 57-60.

20. On every occasion that Evans has explained the events, she recounted the assault by Petitioner. In all four (4) instancesversions, 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.<sup>3</sup> Petitioner returned to the house. He and Evans began arguing again.

21. Consistently, In the first three (3) versions, Evans conveyed Petitioner

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<sup>1</sup> Ms. Evans testified that her home had 6 bedrooms, 2 of which remained empty while Petitioner lived with her. Tp. 34. Contrarily, as Petitioner accounted for where everyone slept, he testified that Evans' home had 4 bedrooms, one of which was being remodeled. Tp. 108, 110.

<sup>2</sup> Petitioner's Exh B was Ms. Evan's type-written, signed and dated, statement which she submitted to the District Court in order to get the restraining order. Although Petitioner did not offer the exhibit into evidence, he did question Ms. Evans on cross-examination during trial regarding statements she made therein. See Tp. 57-61.

<sup>3</sup> At trial, Petitioner inserted the following details between Petitioner's leaving the house and returning: While he was gone, Evans called the other woman and confirmed the two were, in fact, having an affair. At some point during that conversation, Evans believed Petitioner showed up to see the woman while she was on the phone with Evans.

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.

22. At trial, Evans stated Petitioner "grabbed me by the shoulders and shoved me into the wall and kind of pinned me there and was just screaming in my face." Tp. 43. He was screaming "[l]oud enough that the altercation woke my children up." Tp. 44. Evans went on to state Petitioner "used his body weight to pin me to the wall and used his knees to pin my thigh area to the wall." *Id.* After Petitioner left the second time, Evans said she "called the other female..." again. Tp. 46. Later that day, after speaking with friends at the detention center, Evans went the police department "for some guidance..." and then to the Magistrate's Office to take out the warrant. Tp. 47-49. Evans was unclear as to exactly when she went to obtain a DVPO but soon thereafter, she did so. Tp. 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 <sup>4</sup> "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.*

24. Officer Wilson testified that, in fact, his report reflects what Evans told him. Tp. 88-89. He further stated he "advised her of her options" including that of "going to the Magistrate's Office and taking out the charges." Tp. 90. He explained to Evans "the eviction process [ because Evans'] main concern was [Petitioner's] leaving [the house] [, a]nd his wish to leave on his own time." *Id.* Later that day, Officer Wilson served Petitioner with the warrant and arrested him. Tp. 91.

25. On cross-examination, Officer Wilson confirmed his earlier testimony that "[b]ased off [his] conversation [ with Evans], ...her main goal [was to get Petitioner] to leave [ the house]." Tp. 92.

26. Officer Wilson was in the courtroom to hear Evans' testimony, and, regarding her testimony, he stated: "I'm not here saying it was different, but there were more details given to other agencies than was given to me at that time." Tp. 94. He believed Evans gave investigators more information than she gave him but, in his experience, "when [an incident] happens, [the person's] emotions are high, and their story may be one way. But as they calm down—say the next day—they can see the whole picture, or they may remember the full incident better, because they're not as emotionally vested in what happened." Tp. 94-95.

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<sup>4</sup> On cross-examination, Evans stated she did not think she told Officer Wilson she was not injured—or she didn't recall telling him that. Tp. 59.

27. Pursuant to the Incident Report, the incident occurred around 1:45 a.m. and Evans reported it to Officer Wilson 12-14 hours later, between 3:00 p.m. – 3:30 p.m. Tp. 95-96.

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.~~

~~31-30.~~ Based on Officer Wilson's testimony and experience, some 'victims' do not see bruising for a few days after the incident and, Evans should have been more clear-headed five days after the incident. Yet, Evans' DVPO statement was *completely* different from any other statement she made—with substantially more violence added and a timeline that does not come close to her other tellings of the story.

~~32-31.~~ On direct examination, Evans claimed to have noticed bruising on her thighs forty- eight (48) hours after the incident and took pictures of the bruises eight (8) days later. Tp. 51. She had no bruises on her shoulders, arms, neck or anywhere else on her body. Tp. 53, 85. She also averred she and Petitioner had no further contact after the warrant was served and he was arrested later that same day. Tp. 53, 61.

~~33-32.~~ Only after being asked, on cross-examination, about her written statement submitted for the DVPO did Evans assert that Petitioner "picked [her] up... clear[ing] the floor" and threw her against the wall. Tp. 58. Evans could not reconcile being picked up and thrown against the wall with being grabbed by the shoulders and shoved against the wall and she admitted she never told anyone Petitioner picked her

up and threw her against the wall (Tp. 58), *except that she did write that in her statement to the District Court.*

34-33. Respondent produced photographs of Evans' thighs which Evans claimed to have taken ten (10) days after the incident—on or about September 13, 2024. Tp. 51-52, 62-63. The photographs were taken with a cellular phone and show the date stamp of October 27, 2021—some fifty-four (54) days after the incident. Tp. 62; see also, Resp. Exh. 5. Evans testified that she took the pictures but did not provide them to anyone but Investigator Bowman.

35-34. To explain the date stamp difference, Evans testified that the pictures “were not” taken on October 27, 2021. ...When I received the phone call from Ms. Bowman, I had to go back and retrieve the message—text messages—or, the pictures...because I had already deleted them. ...If you go under ‘recently deleted’ you can retrieve them back. ....I just probably screen-shotted [the pictures] on that date. ‘Cause that—I’m not sure if that was the exact date I spoke with her.” Tp. 63. When asked directly whether she took the pictures on October 27 or September 13, Evans responded, “Prior to October 27.” Tp. 64.

36-35. Next on cross-examination, Petitioner directed Evans' attention to text messages that had gone between the two on the night of the incident—date stamped September 3, 2021, at 2:15 a.m. Pet Exh. A, p.1. Evans acknowledged that the phone number identifying the sender was hers and that the conversation had occurred as shown in Petitioner's Exhibit A. Tp. 67-70.

2:15 AM

**EVANS:** I'm about to call the police on you for putting your hands on me

**PETITIONER:** But I haven't

**EVANS:** Answer your phone

4:20 AM

**EVANS:** U ok

4:32 AM

**EVANS:** Hello... Just tell me you ok

4:59 AM

**PETITIONER:** I'm ok

5:00 AM

**EVANS:** Please answer...Ok...

5:01 AM

**EVANS:** I have your gun so I'm going to end my life

5:02 AM

**PETITIONER:** Wtf no

5:06 AM

**EVANS:** Trap...Yeah [see also, Tp. 68]

5:07 AM

**PETITIONER:** For what...Because I'm not answering the phone[?]

5:08 AM

**EVANS:** Because of this...I need you here and you left me after the hurt you caused...But you are where you want to be so what can I do[?]

5:12 AM

**EVANS:** Bye

5:13 AM

**PETITIONER:** Don't do that

5:14 AM

**EVANS:** [Posted a picture of herself with a gun to her head and stated] You don't care so bye

6:11 AM

**EVANS:** Bye

6:12 AM

**EVANS:** I'm gone, can't take this. I love you just remember that

6:17 AM

**PETITIONER:** Smh no

6:20 AM

**EVANS:** You keep leaving me so I'm done...Tell all the kids I love them

6:32 AM

**PETITIONER:** Wow how about you tell them

Tp. 67-70, Pet Exh. A, p.1-3.

~~37.36.~~ Evans testified that she knew exactly what she was doing when she sent Petitioner the picture of her with his gun to her head, and she "was hurt [ so she] was trying to hurt [him]. Tp. 70. She "w[as] putting a gun to [her] head to get him to come back to the house...for his children [. ...She] had no intention of hurting [her]self. ...[she] was trying to get his attention." Tp. 72.



38-37. Petitioner texted Evans at 9:11AM that same morning, telling her he was “not going to be able to watch the kids tonight”. Pet. Exh A, p. 4. Between 10:25AM and 10:53 AM, Evans responded

“I can’t do this Torrance. You wanted this so I’m going to remove myself from this situation. I saw the way you acted last night over her and I’m just sick. ...I’m sorry I can’t do it. ...I can tell your heart is with her and I can’t be a part of that. ...So, you love her? Did you ever love me? ...This is the sh—I’m talking about. I see the real person you are...you used me...you’re a liar, cheater, a low life and a waste of my damn time. And the fact that you have hurt my kids is fu—ed up beyond measure. I thought I would never say this but...fu—you...karma is a bit—and she will get you in the end.”

Pet Exh. A, p. 4-5.

39-38. According to the Winterville PD's Incident Report, Evans reported the assault to Officer Wilson at 3:00 PM on September 3, 2021. Resp Exh 6, p. 1.

40-39. That same night, at 10:34 PM on September 3, 2021, *after* reporting Petitioner assaulted her (Tp. 75), Evans started texting Petitioner again:

10:34 PM

**EVANS:** Why?

**PETITIONER:** Why what[?]

**EVANS:** [Why are y]ou sleeping in the living room[?]

10:35 PM

**PETITIONER:** You know why

**EVANS:** No tell Me

10:36 PM

**PETITIONER:** I don’t want anymore confusion. Your [sic] hurt enough.

**EVANS:** That doesn’t help...But ok

10:37 PM

**PETITIONER:** I’m not saying it does help, but your [sic] just unpredictable right now

**EVANS:** Please  
stop

10:38 PM

**PETITIONER:** Ok

**EVANS:** Don't sleep in the living room

**PETITIONER:** Y

**EVANS:** Is that what you want[?]

10:39 PM

**PETITIONER:** Yess[sic]

**EVANS:** Why

10:40 PM

**PETITIONER:** Because I don't want confusion...

**EVANS:** I can't anymore...Live like this

10:41 PM

**PETITIONER:** I know and that's why I'm out in the 22nd that would be my 30days [sic]

10:42 PM

**EVANS:** So, if I want you to sleep in the bed with me you won't[?]

**PETITIONER:** No, you know that

**EVANS:** Stop hurting me

10:43 PM

**PETITIONER:** I'm not I'm just answering the questions you're [sic] asking me. I'm being honest

**EVANS:** You're hurting me by sleeping in the living room

10:44 PM

**PETITIONER:** Because I'm not creating any confusion Melissa Pet Exh A, p. 4-

6, Tp. 73-74, 77-78.

~~41.40. 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.

~~42. 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.”~~

~~43.\_\_\_\_\_~~

44.41. \_\_\_\_\_ Petitioner denied being in a relationship with Evans. He said he moved in with Ms. Evans because he was going through a divorce and needed a place to live. Tp. 114. Petitioner admitted he was unfaithful to Evans but stated “[w]e wasn’t in a relationship. We dabbled and dabbled here and there”—having sex—but “it wasn’t every day.” Tp. 107. He did not sleep in her bed every night, but he did live in her house. *Id.* at 107, 139.

45.42. \_\_\_\_\_ Petitioner admitted that prior to the incident at hand, Evans told him “[I]f you’re going to stay here, ...we can’t talk to [date] nobody else [,]” to which he agreed. Tp. 116, 119. So, when Evans reminded him of that after finding the text messages on his phone, Petitioner told her, “I see you’re uncomfortable...I’ll move out [on] the 22nd. ...I will go...make a down payment and get an apartment.” Tp. 116.

46.43. \_\_\_\_\_ Petitioner recalled Ms. Evans calling Hunter and telling her that they were in a relationship. He said he got on the phone and denied the relationship to Hunter. He left the house and went to the detention center to see Hunter but couldn’t talk to her since she was busy. He then sat in a parking lot for a while. He later went back to the house after Ms. Evans texted him several times asking him if he was okay. He said that Ms. Evans was in her bedroom asleep when he returned but she came into the living room and asked him to stop seeing Hunter. He said he would not stop seeing Hunter. Tp. 115, 118-120.

47.44. \_\_\_\_\_ At every stage, Petitioner denied assaulting Evans, including at 2:15 AM on September 3, 2021, when Evans texted him and first alluded to his having put his hands on her, Petitioner denied it to her. Tp. 67, Pet Exh. A, p.1. At trial he denied assaulting Ms. Evans and said he entered the deferred prosecution agreement because that was the fastest way to get his gun back and get the case dismissed. He said he took an online anger management assessment but did not have to do any treatment. He said he agreed to the Domestic Violence Consent Order of Protection because he did not want to have contact with Ms. Evans either. Tp. 132-136.

48.45. \_\_\_\_\_ Later in his testimony, Petitioner said he was in Ms. Evans’ bedroom three times on the night in question. First, he was asleep when Ms. Evans

woke him and confronted him about the texts. Second, when he returned to the house after seeing a text of Ms. Evans with his gun. He said he went into her bedroom and got his gun and went outside and put it in his truck. Lastly, he said they were outside on the front steps of the house and Ms. Evans said she wasn't feeling well, and he helped her into her bed. Tp. 155.

~~49-46.~~ \_\_\_\_\_ When asked whether he had been truthful with Hunter about his relationship with Ms. Evans, he said he was truthful. He told Hunter he had a male and female roommate. He described Ms. Evans as the female roommate and her teenage son as the male roommate. He did not tell Hunter he had been having sexual relations with Ms. Evans. Contrary to the agreement that he had with Ms. Evans that he would not see anyone else, he had been dating Hunter. Tp. 148, 152-155, 161-163.

~~50-47.~~ \_\_\_\_\_ On November 2, 2021, Petitioner voluntarily entered into a DVPO Consent Order with Evans. Resp Exh. 4. The only findings the District Court made was that the Court had jurisdiction over the parties and subject matter and the Respondent/Defendant [the present Petitioner] had been provided with reasonable notice and opportunity to be heard. *Id.* at 1. There are no findings as to Petitioner's having harmed, threatened or assaulted Evans. Nevertheless, with Petitioner's agreement, the District Court ordered Petitioner to stay away from Evans and "not assault, threaten, abuse, follow, harass..." her or her family members. *Id.* at 3. The order further granted Petitioner the use of a firearm for his official law enforcement duties. *Id.* at 4.

~~51-48.~~ \_\_\_\_\_ Petitioner was served on September 4, 2021, with a warrant for arrest for assault on a female in Pitt County Criminal File Number 21 CR 055360, in violation of N.C.G.S. § 14- 33(c)(2), a Class B misdemeanor under the Commission's regulations. The warrant alleged that Petitioner "unlawfully and willfully did assault MELISSA EVANS, a female person, by GRABBING HER BY THE SHOULDERS AND SHOVING AGAINST THE WALL." Resp Exh. 3 (emphasis in original).

~~52-49.~~ \_\_\_\_\_ On or about November 2, 2021, pursuant to Petitioner counsel's agreement with the District Attorney, the Pitt County District Court entered a Conditional Discharge for Petitioner, in which Petitioner pled 'no contest'. The order provided that Petitioner: a) would be subject to twelve months of unsupervised probation; b) must complete an anger management assessment and any treatment recommended; c) would comply with the DVPO; and, d) return to court on November 8, 2022, for compliance review. Resp Exh. 3, p. 6.

~~53-50.~~ \_\_\_\_\_ When Petitioner appeared for court on November 8, 2022, having complied with the Conditional Discharge requirements, the District Court entered a Disposition of Conditional Discharge "dismiss[ing] all charges included in the original Order and discharg[ing] the defendant." Resp Exh 3, p. 3.

~~21.~~ \_\_\_\_\_ 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.~~

~~54. 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.~~

~~55. —~~

56-51. Captain Nancy Poston of the Pitt County Sheriff's Office testified on behalf of Petitioner. Captain Poston is assigned to the Pitt County Detention Center. Poston was promoted to Captain in August of 2021. From 2018-2021, she supervised Petitioner. Poston testified that Petitioner had not had any use of force or disciplinary issues. Poston was aware that there was an internal investigation regarding this issue and the result of the investigation was that the allegations/charges against Petitioner were "unfounded." Tp. 166-167.

57-52. Chief Lim Capehart has been in law enforcement for a total of thirty-four years. He has been the Chief of the Pitt County Detention Center for 4 years. While employed as a lieutenant with the Detention Center, he supervised Petitioner and, pursuant to a directive from the Sheriff, he placed Petitioner on administrative leave while the matter was internally investigated. Tp. 174. He said Petitioner was a good officer and has had no issues with use of force. Chief Capehart was also aware that an internal investigation against Petitioner was unfounded. Tp. 175-176, 178.

58-53. Because of recruiting and retention challenges, he would like to be able to keep Petitioner employed as a detention officer in Pitt County if possible and would not hesitate to keep him employed under certain restrictions or on a probationary period. Tp. 178-79.

54. Chief Capehart is aware of circumstances in which a domestic violence victim does not leave his/her abuser. Tp. 177.

59-55. 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.

**BASED UPON** the foregoing Findings of Fact, the Undersigned makes the following:

## CONCLUSIONS OF LAW

1. The Office of Administrative Hearings ("OAH") ~~had~~ ~~has~~ personal and subject matter jurisdiction over this contested case pursuant to N.C.G.S. § 150B, Article 3A, following a request from Respondent under N.C.G.S. § 150B-40(e) for an Administrative Law Judge to hear this contested case. In such cases the Tribunal sits in place of the agency and has the authority of the presiding officer in a contested case under Article 3A. The Tribunal makes a Proposal for Decision, which contains findings of fact and conclusions of law. Respondent makes the final agency decision. N.C.G.S. § 150B-42.

2. Further, the parties received the statutorily required notice of the hearing in this matter and there is no question as to joinder or misjoinder. There was no objection from either Party to the Undersigned hearing this contested case.

3. To the extent that the Findings of Facts contain Conclusions of Law, or that the Conclusions or Law are Findings of Fact, they should be so considered without regard to the given labels. The court need not make findings as to every fact that arises from the evidence and need only find those facts which are material to the resolution of the dispute. 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).

4. Respondent is authorized by Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify criminal justice officers, and revoke, suspend, or deny such certification when appropriate.

5. 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). In the present contested case, Petitioner has the burden of proof to show that "he is entitled to relief from [the] agency['s] decision[]" to deny his justice officer certification. Overcash v. N.C. Dept' of Env't & Natural Res., 179 N.C. App. 697, 699.

6. Pursuant to 12 NCAC 10B .0204(d)(1), Respondent found that probable cause existed to deny Petitioner's justice officer certification on the basis that Petitioner had committed or been convicted of the Class B misdemeanor of assault on a female, in violation of N.C.G.S. § 14-33(c)(2).

7. 12 NCAC 10B .0204(d)(1) provides that: "The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the . . . certified officer has committed or been convicted of . . . a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B Misdemeanor and which occurred after the date of appointment."

8. A Class B Misdemeanor is defined, in pertinent part, as:

“...an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the ‘Class B Misdemeanor Manual’ as published by the North Carolina Department of Justice and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. . .”

12 NCAC 10B .0103(10)(b)(i).

9. The Respondent's Class B Misdemeanor Manual includes N.C.G.S. § 14-33(c)(2), assault on a female. Resp Exh. 9.

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;

9.11. The sanction for the commission or conviction of a Class B Misdemeanor is contained in 12 NCAC 10B .0205(2)(a) which provides that: “When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be . . . not less than five years where the case of sanction is[] commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1)[.]”

40.12. Further,

“The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension, or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.”

44.13. The evidence at the hearing clearly reveals Petitioner was untruthful and unfaithful to the women he was “dating” and further reveals that he most likely used Ms. Evans in an unseemly way.

~~12.~~ However, a preponderance of the evidence does not support Ms. Evans' rendition of the facts—her own story having been *rewritten* several times and does not support the conclusion that Petitioner assaulted her.

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.

13.—

**PROPOSAL FOR  
DECISIONORDER**

**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.

**IT IS SO ORDERED.**

This the 22<sup>nd</sup> day of November 2024.

\_\_\_\_\_  
**Alan Norman, Chairman**

North Carolina Sheriffs' Education  
and Training 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 the **Petitioner** by mailing a copy to the address below:

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

This the 9<sup>th</sup> day of October 2024.

JOSHUA H. STEIN  
Attorney General

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