

STATE OF NORTH CAROLINA  
COUNTY OF CLEVELAND

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
24 DOJ 00711

Joshua Andrew Phillips Petitioner,  v.  NC Sheriffs Education and Training Standards Commission Respondent.	<b>PROPOSED DECISION</b>
--	--------------------------

**THIS MATTER PRESENTS** under authority of the North Carolina Constitution, Art. III, Sec. 11, *accord*, Art. IV, Sec. 3; G.S. 7A-750; and G.S. 150B (“APA”); following hearing on the merits before Jonathan Scott Dills, Administrative Law Judge (“ALJ”) with the Office of Administrative Hearings (“OAH”); for proposed decision per Art. 3A of the APA. The ALJ sits for the agency to establish facts, apply law, and issue proposal. G.S. 150B-40(e).

**APPEARANCES**

Petitioner: George V. Laughrun, II  
Goodman, Carr, Laughrun, Levine & Greene PLLC

Respondent: J. Joy Strickland, Assistant Attorney General  
North Carolina Department of Justice

**ISSUE**

Whether to revoke Petitioner’s justice officer certification for moral turpitude.

**FINDINGS**<sup>1</sup>

1. The parties are properly here in that venue is appropriate; upon adequate notice, Petitioner timely appealed and the trial held; and no party has otherwise maintained objection.
2. Petitioner was previously certified as a Detention Officer with the Cleveland County Sheriff’s Department (“CCSD”) on 06 September 2018. (R Ex 1). He went to inactive status in January of 2019.

---

<sup>1</sup> 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).

3. Petitioner was a certified EMT with Rutherford County from approximately July 2021 to April 2022. He was terminated for testing positive in a random drug screen. (R Ex 3 & 9).

4. Following termination, Petitioner applied to CCSD and Shelby PD. He is currently employed as a Deputy Sheriff with CCSD, which is well aware of this proceeding.

5. Respondent received a Report of Appointment (Form F-4) from CCSD. (R Ex 2). Respondent routinely gathered documents, made comparisons, and investigated irregularities.

6. Respondent found probable cause to believe that Petitioner lacked the good moral character we require of law enforcement, because he:

- a. Was untruthful re his termination and positive drug test;
- b. Obfuscated within key employment/certification paperwork;
- c. Tested positive for marijuana;
- d. Admitted to using unprescribed hydrocodone; and
- e. Provided hydrocodone to a family member.

(R Ex 10).

7. On the Shelby PD paperwork, Petitioner stated the reason for leaving his EMT position was to “pursue another career opportunity.” (R Ex 5). He also explained his separation as pursuit of “what I really want to do.” (R Ex 6).

8. Petitioner admitted to a history of marijuana and hydrocodone use, explaining the later was for a back injury. *Id.*

9. Shelby PD interviewed Petitioner who repeated past marijuana and hydrocodone use. They soon learned of his positive drug test and termination. (*Cf.* R Ex 8 & 9).

10. On the CCSD paperwork, Petitioner similarly admitted past marijuana and hydrocodone use. He further admitted to giving some Hydrocodone to a cousin. (*Cf.* R Ex 3).

11. In the aforementioned paperwork, Petitioner made it seem like drug use was further in the past than he admitted to at the hearing. Additionally, Petitioner admitted to baking a batch of marijuana brownies for his sick wife in 2018, using hydrocodone in 2020-2021, and testing positive for marijuana metabolites in 2022. *See* paperwork, *supra*.

12. Petitioner was similarly evasive re who’s hydrocodone he had wrongly used. Ultimately, he admitted at trial that it was his aunt’s and not his wife’s. (T p 116).

13. Mitigating factors include, without limitation:

- a. Honorable service in the U.S. Marine Corps;
- b. His past and no longer present health issues;
- c. History of losing his wife and the mother of their two children, to cancer;

- d. Current and exemplary employment with CCSD, which indicates preference of continuing employment;
  - e. His more recent marriage and commitment to all his children, to include several that were adopted; and
  - f. His seeming gain and maintenance of a stabilized life.
14. Letters of reference on Petitioner's behalf were offered and accepted. (P Ex 1-4).
15. This is a close case, with substantial evidence supporting and opposing revocation. The Undersigned is concerned with the timing and significance of Petitioner's drug history, as well as his initial reluctance to admit malfeasance. Ultimately though, he was truthful at hearing.
16. Deference is allowed to the decision making of our High Sheriffs, who are often best placed to determine the competence and character of their deputies.

### CONCLUSIONS<sup>2</sup>

1. Respondent ("Commission") appears in its delegated role of oversight and maintenance of minimum standards for justice officer certification. G.S. 17E-4(a)(6) & 7(c).
2. Respondent is authorized to certify law enforcement officers and to revoke, suspend, or deny certification in proper circumstances. G.S. 17E; 12 NCAC 10B.
3. Though Article 3A of the APA is silent re the applicable standard of evidence, it is undisputedly by preponderance. *In re Rogers*, 297 N.C. 48, 59, 253 S.E.2d 912, 919 (1979).
4. As the Tribunal has repeatedly concluded, the State generally bears the burden of proof when it proposes to restrict certification. *See, Russell v. Commission*, 2022 NC OAH LEXIS 55; *cf., Graves v. Commission*, 2022 NC OAH LEXIS 374 (new applicant); *see also, Canty v. Commission*, 2014 NC OAH LEXIS 127. These analyses are incorporated by reference.
5. Regardless, here both parties sufficiently presented to reach proposal and decision. *Harris v. Mangum*, 183 N.C. 235, 239-40, 11 S.E. 177, 179 (1922) (summarizing the interplay of burden, participant roles, and a decision by preponderance of the probative evidence regardless of who successfully introduced it or when).
6. Every criminal justice officer shall *be* of good moral character, as defined by caselaw. 12 NCAC 10B .0301(12). At issue is Petitioner's current character. *Id.*
7. 12 NCAC 10B .0204(b)(2) requires revocation, denial, or suspension when a justice officer fails to meet or maintain minimum standards to include good moral character.

---

<sup>2</sup> 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).

8. 12 NCAC 10B .0205(3)(b) requires that such revocation, denial, or suspension continue indefinitely, or for “so long as the stated deficiency, infraction, or impairment” persists.

9. The purpose is not to punish a candidate but to protect the public and preserve integrity. *In re Legg*, 325 N.C. 658, 673, 386 S.E.2d 174, 182 (1989).

10. The term good moral character is unusually ambiguous. *Konigsberg v. State*, 353 U.S. 252, 262-63 (1957).

11. Due to concerns about flexibility and vagueness, certification restriction based on moral turpitude must be judiciously applied. *In re Willis*, 288 N.C. 1, 15, 215 S.E.2d 771, 780 (1975), *appeal dismissed*, 423 U.S. 976 (1975).

12. Acts of moral turpitude are described to involve "baseness, vileness, or depravity." *Dew v. State ex rel. N.C. Dep't of Motor Vehicles*, 127 N.C. App. 309, 311, 488 S.E.2d 836, 837 (1997) (internal quotations and citation omitted).

13. It may be defined as "[c]onduct that is contrary to justice, honesty, or morality." Black's Law Dictionary, 1101 (9th ed. 2009); *cf. and contrast, In re Willis, supra* at 10, 215 S.E.2d at 775-77 (1975) (“honesty, fairness, and respect for the rights of others and for the law....”).

14. Isolated instances are seldom sufficient. *See In Re Rogers*, 297 N.C. 48, 58, 253 S.E.2d 912, 918 (1979).

15. Only severe conduct may serve as a basis for moral turpitude. *Devalle v. N.C. Sheriffs' Educ. & Training Standards Comm'n*, 289 N.C. App. 12, 28, 887 S.E.2d 891, 901 (2023).

16. In absence of mandate, we resort to “policy, fairness and common sense.” *Peace v. Employment Sec. Comm'n of N. Carolina*, 349 N.C. 315, 328, 507 S.E.2d 272, 281 (1998). Judiciousness and a standard of obvious and severe transgression, in this sense, are akin.

17. There is substantial evidence justifying the following proposal. G.S. 150B-42.

### **PROPOSAL**

**BASED ON** the foregoing, it is proposed that Petitioner’s certification NOT be revoked.

If the Commission concurs, Petitioner is encouraged to do better and take advantage of this additional opportunity, as it could be the last. If you need help, get it.

### **NOTICE**

The agency captioned and addressed herein will make the final decision in this contested case. G.S. § 150B-38 *et seq.* (Art.3A).

The parties must be given an opportunity in advance “to file exceptions and proposed findings of fact and to present oral and written arguments to the agency.” G.S. 150B-40(e).

The agency or its counsel will timely file a copy of the final decision referencing the case number specified herein with the Office of Administrative Hearings.

**SO ORDERED** 13 December 2024.



The Honorable Jonathan S. Dills  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below by electronic service as defined in 26 NCAC 03 .0501(4) and/or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center which thereafter places the foregoing document into an official depository of the U.S. Postal Service, as follows:

George Laughrun  
Goodman, Carr, Laughrun, Levine and Greene PLLC  
mbarbee@goodmancarr.net  
Attorney For Petitioner

J. Joy Strickland  
NC Department of Justice  
jstrickland@ncdoj.gov  
Attorney For Respondent

This the 13th day of December, 2024.

  
Karen L Rust

Karen L Rust  
Law Clerk  
N. C. Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh, NC 27609-6285  
Phone: 984-236-1850