

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
24 DOJ 02402

TRENTON ALLEN TAYLOR)
)
 Petitioner,)
)
 v.)
)
 NORTH CAROLINA SHERIFFS')
 EDUCATION AND TRAINING)
 STANDARDS COMMISSION,)
)
 Respondent.)
)
 _____)

**PROPOSED FINAL AGENCY
DECISION**

THIS MATTER was commenced by a request filed June 24, 2024, 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 02402) were filed July 15, 2024. The parties received proper Notice of Hearing, and the Administrative Hearing was held in Winston Salem, North Carolina on December 16, 2024, before the Honorable Jonathan S. Dills, Administrative Law Judge.

The Petitioner was represented by counsel William L. Hill. The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter the Commission or Respondent) was represented by Assistant Attorney General J. Joy Strickland.

On April 7, 2025, Judge Jonathan S. Dills filed his Proposal for Decision. On April 9, 2025, 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 June 12, 2025.

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. The OAH ~~hashad~~ jurisdiction over the parties and subject matter; venue ~~was is~~ proper; parties are properly designated; joinder is a nonissue; notice was lawful; and to any extent otherwise, such was properly addressed, unpreserved, and/or waived. G.S. 131E, 150B, & 1A-1, Rule 12.

2. Respondent appears in its role to establish and maintain minimum law enforcement standards. See, Conclusions # 1 & 5.

3. Petitioner was certified on 18 August 2020, with the Ashe County Sheriff's Office; he ~~was terminated involuntarily separated~~ from there on 15 March 2021. He is currently employed as a Davidson County Deputy Sheriff, taking that position on 08 November 2021. He has risen to the position of Canine Handler. (T pp 12, 36).

4. Petitioner received a proposed revocation of his certification by letter mailed from Respondent on 08 May 2024. (T p 20); (R Ex 6).

5. On 24 May 2024, Petitioner appealed to the OAH. (R Ex 7).

6. At hearing, Respondent called three witnesses: Petitioner, Melissa Bowman (Commission Investigator) and Jennifer DeSpain (Ashe County Sheriff's Detective).

7. Ms. Bowman testified that she was assigned to investigate Petitioner following receipt of his Report of Separation (Form F-5). (R Ex 1). It insinuated that he may have committed assault on a female, calling into question his moral character.

8. Bowman interviewed the alleged victim ("AV"), Detective DeSpain, and Petitioner. Ms. Bowman also had a notarized statement from Petitioner. (T p 14); (R Ex. 4).

9. Petitioner admitted to a consensual interaction consisting of "making out" with the AV but denied any assault. He was uniformed and on-duty. (T pp 17-8, 44).

10. The incident began in the early morning hours of 28 February 2021. The AV came to the station around 3am and asked for Petitioner. She felt unsafe in her home and thought someone was "hacking" her cameras, et al. The AV was known for prior, similar complaints. Petitioner told the AV he was busy, left her in the waiting area, and she soon departed. Petitioner thereafter went on patrol. (T p 39-40).

11. At approximately 3:30am, Petitioner stopped at a gas station for an energy drink. He noticed the AV sleeping in her car. He knocked on the window and eventually offered to check her house. The AV agreed and he followed her home. Id.

12. After clearing the home, the AV asked Petitioner to sit with her. He sat and they talked. Eventually both started to flirt and things advanced to kissing and touching. (T pp

44-45).

13. Eventually, this incident came to light. Petitioner was called in and questioned by leadership. He admitted his indiscretions and was terminated. (T pp 48-49).

14. When the incident occurred, Petitioner was 22 years old, and the AV was estimated to be in her early fifties. (T p 46).

15. Although subpoenaed, the AV failed to appear. However, in her interview, she could not remember significant details and denied being traumatized by the incident. Investigator Bowman also testified that Ms. Scott was "matter of fact" about it all. (T pp 25-26).

16. Petitioner's first witness was Sheriff Richard Simmons, Jr., the High Sheriff of Davidson County. Sheriff Simmons testified that he had worked with Petitioner for three years and knows him to be of good moral character. Sheriff Simmons testified that it took a strong work ethic to advance to Canine Handler. (T p 57). Sheriff Simmons was significantly credible.

17. Petitioner next called Lieutenant Jeff Barber, his current supervisor. (T p 61). Mr. Barber testified that he had worked with Petitioner for twenty months and knows him to have strong moral character. (T p 62). Jeff Barber was significantly credible.

18. Petitioner next called Corey Edwards, a co-worker of two years. Edwards testified that he thought highly of Petitioner's moral character and that they had been through a lot together, including a justified shooting. (T p 63). Corey Edwards was significantly credible.

19. All character witnesses clearly wanted Petitioner to retain his certification and to continue working with them.

20. Petitioner then testified further. He loves his current job. He received commendation from Sheriff Simmons for apprehending a felon in a foot chase. (T p 66). He was promoted from Deputy I to Deputy II. (P Ex 7). A transcript of his certifications was admitted. (P Ex 8). He has gotten married since the subject incident. (T p 67). His wife, Sheriff Simmons, Lt. Barber and Deputy Edwards remained in the courtroom in support of Petitioner. (T p 68).

21. Petitioner has consistently maintained that he had a consensual encounter with the AV. See, the Record in toto. Petitioner made multiple statements concerning the event including the following:

In his handwritten statement, Petitioner, in part stated the following: Around February 2021, while I was on duty I had gone over to a lady's house around 4:00 AM. While I was there, the lady and myself had made out. We made out till about 4:50 AM. At that time I had left to go back to the Sheriff's Office. . . . It was

a mutual agreement to meet that night. (Respondent's Exhibit 4)

When Petitioner was interviewed by Investigator Bowman on 29 January 2024, regarding the incident with Ms. Scoot, Petitioner provided the following, in part, He did not remember her name until that was provided by investigator. He said he believes that the first time he met her it was on a call for service to her home because she thought someone hacked into her camera and she heard some noises in her home while home alone.

The second time Petitioner interacted with Scott, was a couple of weeks after the first incident. He was on duty that night. She was afraid someone was stalking her and she made a call to the Sheriff's Office requesting his assistance. He spoke with her in the parking lot, but then she left. He could not recall why.

The third incident occurred approximately 30 minutes after the first incident. Petitioner said he went to a nearby gas station get something to drink and saw her in the parking lot. He spoke with her again and she said she was afraid to go home. He told her to go to her house and he would follow her. When they arrived, she invited him inside. He said they both were flirting with each other. He sat on the couch, and she came and sat beside him. He stated they started kissing and making out. After a period of time, he told her he had to go back to work. Taylor said she told him he could come back that weekend. Taylor confirmed that he was on duty while at her home. (Respondent's Exhibit 5)

22. Petitioner was significantly credible.

232. At the close of evidence, Petitioner's counsel moved for dismissal of the claim that Petitioner committed the Class B misdemeanor offense of assault on a female. The motion was granted because there was insufficient evidence to sustain the allegation. Specifically, the AV was absent, and anything presented re what she said in support was hearsay. Further, much of what was introduced re AV's account contradicted the state's case.

234. On the alleged criminal element of this matter, it could legitimately be seen as a he said she said issue, and the competent evidence presented lacked the latter.

245. Petitioner stipulated to the authenticity and admission of Respondent's exhibits, except to the extent, they offered statements of the AV against Petitioner. The latter was given 4 appropriate weight and consideration. Respondent stipulated to the authenticity and admission of Petitioner's exhibits.

CONCLUSIONS OF LAW

1. Respondent is authorized to certify this member of law enforcement and to

revoke, suspend, or deny certification in proper circumstances. G.S. 17E-4 & 4.1; 12 NCAC 10B .0301.

2. 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).

3. The burden of proof for cases under Article 3 of the Administrative Procedure Act, N.C.G.S. 150B, is allocated by statute. See N.C.G.S. 150B-25.1. There is no statutory allocation of the burden of proof in administrative actions arising out of Article 3A of the APA. While N.C. Gen. Stat. § 150B-40 enumerates the powers of the presiding officer, including an Administrative Law Judge in Article 3A cases, such statute does not address which party has the burden of proof in an Article 3A contested case hearing. Neither has the North Carolina Constitution nor the General Assembly addressed the burden of proof in Article 3A cases. However, the Commission has consistently held that Petitioner has the burden of proof in the case at bar as does a petitioner in an Article 3 case. Overcash v. N.C. Dep't. of Env't & Natural Resources, 179 N.C. App 697, 635 S.E.2d 442 (2006) (stating that "the burden of proof rests on the petitioner challenging an agency decision"). If a reviewing court places the burden on the Respondent, it has met its burden.

~~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, Cauty v. Commission, 2014 NC OAH LEXIS 127. These analyses are incorporated by reference.~~

~~4. Regardless, to any extent the burden fell to Petitioner, he carried it. To any extent it fell to Respondent, it failed. Cf. 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).~~

~~5. The Commission e4. The Commission~~ establishes minimum standards. 12 NCAC 10B .0204(b)(2).

~~6. Assault on a female is a class B misdemeanor, and the Commission has the authority to deny Petitioner for no less than five years for committing it. G.S. 14-33(a)(2); 12 NCAC 10B .0204(d)(1); cf. 12 NCAC 10B .0103(17)(b)(i), 12 NCAC 10B .0205(2)(a), and (Ex 8).~~

~~7. Notwithstanding, the Commission has discretion. 12 NCAC 10B .0205(2); cf. 12 NCAC 10B .0204(c) ("may" presents choice). But for dismissal on this issue, it would be appropriate to exercise such discretion here.~~

Moral Character

86. Every criminal justice officer shall be of good moral character, as defined by case law. 12 NCAC 10B .0301(12). At issue is Petitioner's current character. Id.

97. Moral turpitude is "conduct that is contrary to justice, honesty, and morality." Richardson v. Mancil, NO. COA09-1400 (27 April 2010), 2010 N.C. App. LEXIS 2323 at 18-19 (internal quotations omitted) (citing Black's Law Dictionary, 1101 (9th ed. 2009).

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

449. 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).

102. Isolated instances are seldom enough. In Re Rogers, supra at 58, 253 S.E.2d at 918.

~~13. Only severe conduct may serve as a basis for finding moral turpitude. Devalle v. N.C. Sheriffs' Educ. & Training Standards Comm'n, 289 N.C. App. 12, 28, 887 S.E.2d 891, 901 (factually similar to the matter sub judice).~~

114. Congruous are the mandates of *Peace v. Employment Sec. Comm'n of N. Carolina*, 349 N.C. 315, 328, 507 S.E.2d 272, 281 (1998): In absence of clear mandate, we decide upon considerations of "policy, fairness and common sense." Judiciousness, and a standard of obvious and severe transgression, in this sense are akin.

125. Findings are viewed in the aggregate. *In re Legg*, supra at 673-674, 386 S.E.2d at 183.

~~16. Finally, the employer is generally in the best position to observe and determine an officer's individual 'character, competence, and fitness to serve' in a law enforcement capacity. Marcum v. N. C. Criminal Justice Educ. & Training Standards Comm'n, 2016 WL 6830998, 15 DOJ 07702 (emphasis added).~~

~~17. The totality of credible evidence demonstrates current, good moral character.~~

~~18. Credibility, it is the province of this Tribunal. In re G.G.M., 377 N.C. 29, 35, 855 S.E.2d 478, 483 (2020); Brithaven of Morganton v. DHR, 118 N.C. App. 379, 388, 455 S.E.2d 455, 462-3 (1995). "[D]eciding which permissible inference to draw ... is as much within the fact finder's province as is deciding which of two contradictory witnesses to believe." *Halloway v. Tyson Foods, Inc.*, 193 N.C. App. 542, 548, 668 S.E.2d 72, 76 (2008).~~

~~19. Hearsay is subject to discount/disregard. 26 NCAC 03 .0122; G.S. 8C-1, Rule 803.~~

~~2013. Notwithstanding the rulings contained herein, the actions of the Probable Cause Committee were not arbitrary or capricious. There was probable cause to believe malfeasance. *State v. Campbell*, 282 N.C. 125, 129, 191 S.E.2d 752, 755 (1972); but see, *Scroggs v. N.C. Criminal Justice Educ. & Training Standards Comm'n*, 101 N.C. App. 699, 701, 400 S.E.2d 742, 744 (1991) (looking back too far or taking too long can equate to arbitrary and capriciousness).~~

~~21. This ruling is based upon a preponderance of credible evidence; there is substantial evidence justifying the following proposal. G.S. 150B-42.~~

~~**PROPOSAL**~~

~~-WHEREFORE, certification should be ALLOWED, and the decision of the Probable Cause Committee REVERSED.~~

~~**ORDER**~~

~~It is hereby ORDERED that Petitioner's Justice Officer Certification is revoked indefinitely for lacking the good moral character required of a justice officer.~~

~~Or in the alternative:~~

~~It is hereby ORDERED that Petitioner's conduct in this case constituted lack of good moral character, but no action is being taken to revoke his certification as he has regained his good character. It is highly recommended to any employing Sheriff that Petitioner's conduct be closely monitored.~~

IT IS SO ORDERED.

This the 12th day of June 2025.

Alan Norman, Chair
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's Counsel** by mailing a copy to the address below:

**William L Hill
Frazier, Hill & Fury RLLP
whill@frazierlawnc.com**

This the 19th day of May 2025.

JEFF JACKSON
Attorney General

/s/ J. Joy Strickland _____
J. Joy Strickland
Senior Deputy Attorney General
ATTORNEY FOR THE COMMISSION