

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 DOJ 02146

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| <p>Willie Murray IV Petitioner,</p> <p>v.</p> <p>North Carolina Sheriffs Education and Training Standards Commission Respondent.</p> | <p>PROPOSAL FOR DECISION</p> |
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THIS MATTER was heard on October 8, 2025, before Administrative Law Judge Samuel K. Morris in Bolivia, North Carolina pursuant to N.C.G.S. § 150B-40(e), and the request for designation of an Administrative Law Judge to preside at a contested case hearing under Article 3A, Chapter 150B of the North Carolina General Statutes and Chapter 17E of the North Carolina General Statutes to hear Petitioner's appeal of Respondent's determination that his application for justice officer certification should be denied.

APPEARANCES

For Petitioner: Willie Murray
Pro se
70 Willets Drive
Southport, NC 28461

For Respondent: Ian L. Courts
Assistant Attorney General
Counsel for Respondent
Department of Justice
Law Enforcement Liaison Section
9001 Mail Service Center
Raleigh, North Carolina 27699-9001

WITNESSES AND EVIDENCE

Witnesses: Petitioner Willie Murray

Sirena Jones, Dep. Director Of N.C. Sheriffs' Standards
Commission

5. On July 25, 2024, Petitioner received a probationary appointment (F4 form) to the position of deputy sheriff. Resp. Ex. 2

6. On April 30, 2025, Respondent asserted that it found probable cause to deny Petitioner's application for justice officer certifications. (Resp. Ex. 9). Respondent asserts that denial is proper based upon Rule .0204(a)(1) of Chapter 10B of Title 12 of the North Carolina Administrative Code, finding probable cause to believe that Petitioner committed a felony, namely, possessing a weapon on educational property on October 1, 2012 in violation of N.C.G.S. § 14-269.2 (B).

7. Petitioner requested an administrative hearing pursuant to Article 3A of Chapter 150B of the North Carolina General Statutes, asking the Administrative Law Judge to make a proposal for decision to Respondent that Petitioner did not commit a felony offense in violation of Commission rules and a recommendation that the Commission issue a final agency decision that Petitioner did not violate Rule .0204(a)(1) of Chapter 10B of Title 12 of the North Carolina Administrative Code.

OCTOBER 1, 2012 INCIDENT

8. Petitioner was charged with possessing a weapon on educational property on October 1, 2012.

9. At the time of the incident, Petitioner was a student at Pender high School and maintained a strong "high school career." Tr. at 8. Petitioner had no prior disciplinary issues and had not previously come to the attention of school administrators or the School Resource Officer ("SRO").

10. At an uncertain time before the incident—whether days or approximately one week prior—Petitioner had gone hunting with a Harrington & Richardson 12-gauge shotgun that experienced a significant malfunction, rendering it inoperable. The Petitioner disassembled the firearm with the intent to have it examined by his friend's father, who engaged in gunsmithing, and placed the shotgun in a locked toolbox in the bed of Petitioner's truck.¹

11. Several days to a week later, on October 1, 2012, Petitioner went hunting before school. On this occasion, Petitioner used a different shotgun—a Benelli Supernova. Petitioner testified that when he returned home from hunting, he removed the Benelli Supernova from the front seat of his truck and returned it to his gun locker in his room.

12. Petitioner then drove his truck to school and attended classes without incident. While walking through the school parking lot, the principal observed bags

¹ Consistent with Petitioner's testimony, Petitioner stated to the SRO that he had placed the gun in his toolbox the Thursday before October 1, 2012. Resp. Ex. 4 at 3.

of trash, broken arrows, and a broken skinning knife in the bed of Petitioner's truck. The principal notified the SRO of these observations.

13. The SRO then informed Petitioner that he was going to search Petitioner's truck. Petitioner then informed the SRO of the disassembled shotgun in his toolbox, and the SRO performed the search. Petitioner cooperated fully with the SRO throughout this process.

14. During the search, the SRO recovered the shotgun, confirmed that it was inoperable, and contacted his supervisor. Upon direction from his supervisor, Petitioner was taken into custody, transported to jail, charged with possession of weapons on an educational property in violation of N.C.G.S. § 14-269.2, and was subsequently released to his mother on a \$500.00 unsecured bond. This charge was ultimately dismissed.

15. When questioned by the Undersigned during the hearing as to whether he knowingly possessed or carried the inoperable shotgun on school property, Petitioner testified that he did not. Petitioner explained that he placed that shotgun in the toolbox on a different day, that it "did not cross [his] mind" that morning, and that his attention that morning was focused on removing the Benelli Supernova that he had been using and knew was in his truck.

ANALYSIS OF THE EVIDENCE

16. There was no evidence proffered to rebut Petitioner's testimony that he did not knowingly possess or carry the inoperable shotgun onto school property.

17. Respondent's exhibits establish only that Petitioner was charged with a violation of N.C.G.S. § 14-269.2 and that those charges were later dismissed. The mere fact that an individual was charged—and that the charge was subsequently dismissed—does not constitute evidence that the individual committed the alleged offense. At most, such evidence, gives rise to suspicion or conjecture.

18. The undersigned finds Petitioner's testimony to be truthful, credible, and consistent with the evidence of record. Although a prior statement attributed to Petitioner indicates that on October 1, 2012, "after the hunt and before [he] went to school, [he] completely disassembled the [shotgun] and placed it in the bed mounted tool box [of his truck]," Resp. Ex. 7, Petitioner credibly testified that he placed the firearm in the toolbox several days earlier. This testimony is consistent with the arresting officer's narrative, which states that Petitioner had placed the firearm in the toolbox on the Thursday preceding October 1, 2012. Resp. Ex. 4.

19. The Tribunal further notes that the only other evidence in the record arguably suggesting an inconsistency regarding Petitioner's knowledge is the fact that Petitioner informed the SRO of the firearm's location, as reflected in the SRO

report. *Id.* That Petitioner’s memory was later refreshed when his attention was drawn to the search of his vehicle does not establish that he knowingly possessed or carried a firearm onto campus that morning. Moreover, the prior statement was not made under oath, was not subject to cross-examination, and any ambiguity is credibly clarified by Petitioner’s sworn testimony.

20. Accordingly, the undersigned finds that Petitioner did not knowingly possess or carry a firearm onto the property of Pender High School on October 1, 2012.

CONCLUSIONS OF LAW

1. The parties are properly before this Administrative Law Judge. Jurisdiction and venue are proper and both parties received proper notice of the hearing. 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.

2. The North Carolina Sheriffs’ Education and Training Standards Commission (“Commission”) has certain authority 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 suspend, revoke, or deny certification under appropriate circumstances with substantial proof of a rule violation.

3. The Commission’s Notice of Probable Cause specifies its belief that Petitioner committed the felony of possessing a firearm on educational property on October 1, 2012, in violation of N.C. Gen. Stat. § 14-269.2(b), and that a result of this felony offense, Petitioner's justice officer certification should be denied.

BURDEN OF PROOF

4. N.C. Gen. Stat. § 150B-40(e) provides that “[w]hen a majority of an agency is unable or elects not to hear a contested case,” the agency is to apply to the Office of Administrative Hearings (“OAH”) for designation of an Administrative Law Judge (“ALJ”). In such cases, “[t]he provisions of [Article 3A], rather than the provisions of Article 3, shall govern a contested case” N.C. Gen. Stat. § 150B-40(e).

5. In Article 3A cases, OAH, through an ALJ, sits in place of and presides over the hearing in the place of the agency, and makes a “proposal for decision” back to the agency. N.C. Gen. Stat. § 150B-40.

6. When an agency initiates the administrative process, the agency has not yet made a final decision which is the springboard for commencing a contested case under Article 3. If the legislature had intended Article 3 to apply to Article 3A hearings and procedure, it would not have been necessary to include language that

Article 3A provisions, rather than Article 3 provisions, apply when an Article 3A agency requests an ALJ to conduct an agency hearing. *Homoly v. N. Carolina State Bd. of Dental Examiners*, 121 N.C. App. 695, 698-99, 468 S.E.2d 481 (1996). This distinction is even more significant now that OAH has final decision-making authority in Article 3 cases.

7. In *Peace v. Employment Sec. Comm'n of N. Carolina*, 349 N.C. 315, 328 (1998), the North Carolina State Supreme Court addressed the burden of proof. Although *Peace* is an Article 3 case, the discussion of burden of proof is instructive in this instant case. *Peace* states:

In the absence of state constitutional or statutory direction, the appropriate burden of proof must be “judicially allocated on considerations of policy, fairness and common sense.” 1 Kenneth S. Broun, Brandis & Broun on North Carolina Evidence § 37 (4th ed.1993). Two general rules guide the allocation of the burden of proof outside the criminal context: (1) the burden rests on the party who asserts the affirmative, in substance rather than form; and (2) the burden rests on the party with peculiar knowledge of the facts and circumstances.

Id.

8. Neither the North Carolina Constitution nor the General Assembly has addressed the burden of proof in Article 3A cases. Applying the statutory law along with “considerations of policy, fairness and common sense,” the Undersigned determines that Respondent should bear the burden of proof in an action where Respondent proposes to take some action against an applicant based upon its investigation into that individual.

9. The burden of proof is the preponderance of the evidence standard. *See* N.C. Gen. Stat. §§ 150B-23(a); -29(a); and -34(a). Accordingly, Respondent must prove that it is more likely than not that Petitioner committed a felony offense to lawfully deny Petitioner’s application for justice officer certification.

10. Nevertheless, as explained below, even if the burden were on the Petitioner, the undersigned finds that the Petitioner’s evidence also proves that he did not violate any Commission rule.

MENS REA—POSSESSION OF A WEAPON ON EDUCATIONAL PROPERTY

11. The elements of a violation under N.C. Gen. Stat. § 14-269.2(b) are that a person unlawfully:

- a. knowingly;
- b. possess or carry, whether openly or concealed;
- c. any gun, rifle, pistol, or other firearm of any kind on educational property or to a curricular or extracurricular activity sponsored by a school.

12. In *State v. Haskins*, 160 N.C. App. 349 (2003), the Court of Appeals initially declined to read a criminal intent requirement into the crime of possession of a weapon on educational property because the plain language of the statute included no reference to a *mens rea* element. *Haskins*, 160 N.C. App. at 352, superseded by statute as recognized in *State v. Huckelba*, 240 N.C. App. 544, 559-62 (2015).

13. Following that decision, however, the General Assembly amended N.C. Gen. Stat. § 14-269.2(b) to add a specific intent element by including the word “knowingly.” See Act of June 17, 2011, S.L. 2011-268, § 4, N.C. Sess. Laws 1002, 1003-04 (codified as amended at N.C. Gen. Stat. § 14-269.2(b) (2019)).

14. The Court of Appeals has since acknowledged and recognized the added *mens rea* requirement of “knowingly.” *State v. French*, 273 N.C. App. 601, 606 (2020) (citing *State v. Huckelba*, 240 N.C. App. 544, *rev’d on other grounds*, 368 N.C. 569 (2015)).

15. Because the felony alleged by the Commission contains a *mens rea* element requiring the wrongful conduct be done knowingly, the undersigned's determination that Petitioner did not knowingly possess or carry a firearm onto the property of Pender High School on October 1, 2012, establishes as a matter of law that Petitioner did not commit the offense.

16. Further, the undersigned finds that, upon weighing the evidence, because the Petitioner did not knowingly possess or carry a firearm onto the property of Pender High School on October 1, 2012, Petitioner's evidence satisfies by the preponderance of the evidence standard that he did not commit a felony offense.

17. The Tribunal notes that the underlying facts and legal analysis in this proposal for decision are remarkably similar to those set forth in prior proposed final decisions where the Respondent ultimately granted certification. See, e.g., *Black v. NC Sheriffs' Education and Training Standards Commission*, 20 DOJ 03453 (2021 N.C. OAH Lexis 65) (imposing the specific intent of knowingly in reviewing a violation of N.C. Gen. Stat. § 14-269.2(b) and proposing that certification be granted).

PROPOSAL FOR DECISION

Based upon the foregoing Findings of Fact, Conclusions of Law, the undersigned proposes that the North Carolina Sheriffs' Education, Training, and Standards Commission render a final agency decision finding that Petitioner is **NOT**

in violation of Rule .0204(a)(1) of Chapter 10B of Title 12 of the North Carolina Administrative Code, and that Petitioner's application for certification be **GRANTED**.

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this Proposal for Decision, to submit proposed Findings of Fact and to present oral and written arguments to the agency. N.C.G.S. § 150B-40(e).

The agency that will make the final decision in this contested case is the North Carolina Sheriffs' Education and Training Standards Commission.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to any attorney of record. N.C.G.S. § 150B-42(a).

IT IS SO ORDERED.

This the 23rd day of January, 2026.



Samuel K Morris
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 at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), 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 subsequently will place the foregoing document into an official depository of the United States Postal Service:

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This the 23rd day of January, 2026.



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