

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 DOJ 02146

WILLIE MURRAY IV,)
)
 Petitioner,)
)
 v.)
)
NORTH CAROLINA SHERIFFS')
EDUCATION AND TRAINING)
STANDARDS COMMISSION,)
)
 Respondent.)
_____)

**PROPOSED FINAL AGENCY
DECISION**

THIS MATTER was commenced by a request filed June 10, 2025, with the Chief Administrative Law Judge, Donald R. van der Vaart, Esq.,¹ of the Office of Administrative Hearings for the assignment of an Administrative Law Judge. Notice of Contested Case Assignment and Order for Prehearing Statements (25 DOJ 02146) were filed June 11, 2025. The parties received proper Notice of Hearing, and the Administrative Hearing was held in Bolivia, North Carolina on October 8, 2025, before the Honorable Samuel K. Morris, 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, Ian L. Courts.

On January 23, 2026, Judge Samuel K. Morris filed her Proposal for Decision. February 6, 2026, counsel for the Commission sent by certified mail a copy of the ALJ's 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 March 12, 2026.

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:

¹ He is currently no longer the Chief ALJ.

FINDINGS OF FACTS:

~~Based upon careful consideration of the exhibits admitted into evidence, the entire record in this proceeding, and the credibility and believability of witness testimony at hearing, including the witnesses' credibility, demeanor, any interests, biases, or prejudices, the opportunity of the witnesses to see, hear, know, or remember the facts or occurrences about which the witnesses testified, and whether the testimony of the witnesses are reasonable and consistent with other believable evidence in the case, the undersigned finds as follows:~~

INTRODUCTION

1. Both parties were ~~are~~ properly before the Administrative Law Judge ("Tribunal") in that jurisdiction and venue were ~~are~~ proper, and both parties received proper Notice of Hearing for this contested case. Moreover, neither party has contested the final agency decision authority of the Commission in this action; thus, both parties are properly before the Commission for a final agency decision.

2. Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B authorizes Respondent to certify justice officers which includes deputy sheriffs, *inter alia*, and to deny, suspend, or revoke such certification.

3. Petitioner is an applicant for deputy sheriff officer certification with the Pender County Sheriff's Office, and thus subject matter jurisdiction is established for the Commission. 12 NCAC 10B .0201.

4. Petitioner applied to the Pender County Sheriff's Office in 2023. In the personal history section of his application (F3 form), Petitioner was required to list previous criminal charges and convictions. On the F3 form, Petitioner disclosed a prior felony firearm on an educational property charge (N.C.G.S. § 14-269.2 (B)) that was later dismissed in Pender County.

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's Probable Cause Committee found probable cause to deny Petitioner's application for justice officer certifications. (Resp. Ex. 9). Respondent asserted that denial was 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 Tribunal 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.

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 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~~-Tribunal during the administrative 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 established 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~~-Tribunal ~~finds~~ found 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 Tribunal finds that Petitioner did not knowingly possess or carry a firearm onto the property of Pender High School on October 1, 2012.

BASED ON the foregoing Findings of Fact, the Commission makes the following:

CONCLUSIONS OF LAW:

1. The parties ~~are~~ were properly before the Administrative Law Judge Tribunal. Jurisdiction and venue were proper and both parties received proper notice of the hearing. To the extent that the Tribunal’s Findings of Facts contain Conclusions of Law, or that the Conclusions or Law are Findings of Fact, **the Commission has** considered those supported by the evidence without regard to the given labels. **Moreover, neither party has contested the final agency decision authority of the Commission in this action; thus, both parties are properly before the Commission.**

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 Respondent’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. § 150B40(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.~~

~~9.7. 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 Petitioner must prove that it is more likely than not that he did not commit a felony.~~

~~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. The Commission and the Tribunal finds that the Petitioner’s evidence proved that he did not commit a felony.~~

~~MENS REA – POSSESSION OF A WEAPON ON EDUCATIONAL PROPERTY~~

~~11.8. 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.~~

~~12.9. 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).

~~13.10.~~ 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)).

~~14.11.~~ 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)).

~~15.12.~~ 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.

~~16.13.~~ Further, the ~~undersigned~~ Tribunal ~~finds~~ found 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 satisfied the preponderance of the evidence standard that he did not commit a felony offense. Accordingly, the Commission agrees with the Tribunal’s conclusion.

~~17.14.~~ As, the Tribunal noted in its recommendation, the underlying facts and legal analysis in this matter are remarkably similar to those set forth in prior proposed final decisions where this Commission 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). The Commission’s agrees with the Tribunal’s conclusion.

PROPOSAL FOR DECISION ORDER

~~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. THEREFORE, Based upon the foregoing Findings of Fact, Conclusions of Law, the Commission orders that Petitioner’s application for certification be GRANTED.~~

SO ORDERED.

This the 12th day of March, 2026.

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** by mailing and emailing a copy to the address below:

Willie Murray, *Pro Se Petitioner*
70 Willets Drive
Southport, NC 28461

This the _____th day March, 2026.

JEFF JACKSON
Attorney General

/s/ Ian L. Courts
Ian L. Courts
Assistant Attorney General
ATTORNEY FOR THE COMMISSION