

STATE OF NORTH CAROLINA
COUNTY OF SCOTLAND

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 DOJ 02408

<p>Scottie Clifton Dial Petitioner,</p> <p>v.</p> <p>North Carolina Sheriffs Education and Training Standards Commission Respondent.</p>	<p>PROPOSAL FOR DECISION</p>
------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------

THIS MATTER came on for hearing before the Honorable Karlene S. Turrentine, Administrative Law Judge, on October 6, 2025 in Fayetteville, Cumberland County, North Carolina, upon Respondent's request for designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 17E of the North Carolina General Statutes, pursuant to N.C.G.S. § 150B-40(e).

APPEARANCES

Petitioner: Scottie Clifton Dial appeared *pro se*

Respondent: Ian L. Courts, Assistant Attorney General
North Carolina Department of Justice
Attorneys for Respondent

WITNESSES FOR PETITIONER

Scottie Clifton Dial, Petitioner
Chief Deputy Bryan Knight, Scotland County Sheriff's Office

WITNESSES FOR RESPONDENT

Sirena Jones, Deputy Director for Respondent

EXHIBITS

For Petitioner: None

For Respondent:

EXHIBIT NO.	RESPONDENT’S EXHIBITS ADMITTED INTO EVIDENCE WITHOUT OBJECTION
1	Petitioner’s North Carolina Sheriffs’ Education and Training Standards Commission Personal History Statement—Form F-3 (August 14, 2023)
2	Petitioner’s Report of Appointment to NCDOJ Sheriff’s Standard Division—F4 form (August 23, 2024)
3	Scotland County District Court Case Summaries for Docket #s: 04CR000592, 593, 594, 595 and, 04CR053302-820
4	Petitioner’s Criminal Record from AOC
5	Petitioner’s Sworn Statement to NCSETS regarding his criminal record (executed October 29, 2024)
6	NCSETS Letter to Petitioner regarding Probable Cause Committee’s pending review of Petitioner’s eligibility for justice officer certification (February 21, 2025)
7	NCSETS Certified Notification of Probable Cause to Deny Justice Officer Certification (April 30 , 2025)
8	Petitioner’s Request for an administrative hearing (June 9, 2025)

ISSUES

1. Whether substantial evidence exists to support Respondent NC Sheriffs Education and Training Standards Commission’s denial of Petitioner’s detention officer certification for his having committed four or more class B misdemeanors, and;
2. Whether there are extenuating circumstances previously unknown to Respondent Commission such that the Commission should reduce or suspend the period of denial and substitute a period of probation in lieu of denial of Petitioner’s certification.

STATUTES & RULES AT ISSUE

N.C.G.S. § 17E *et seq.*
N.C.G.S. §150B-1, *et seq.*
12 NCAC 10B .0103, .0203, .0204, .0205

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, and; having weighed all the evidence and assessed the credibility of the witnesses by taking into account the appropriate facts for judging credibility, including, but not

limited to, the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences, about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case, the Undersigned makes the following:

FINDINGS OF FACT

1. The parties are properly before this Tribunal in that subject matter and personal jurisdiction and venue are proper and there was no objection to the Undersigned being the judge in this matter. Both parties received proper notice of hearing and, Petitioner exhausted his administrative remedies following receipt of Respondent's Notification of Probable Cause to Deny Justice Officer Certification Letter mailed April 30, 2025, via certified mail. Resp. Exh 7.

2. Pursuant to Chapter 17E of the North Carolina General Statutes and Title 12, Chapter 10B of the North Carolina Administrative Code, Respondent Sheriffs Education and Training Standards Commission ("Respondent" or "the Commission") has the authority (and responsibility) to certify justice officers, including deputy sheriffs, and to revoke, suspend, or deny such certification under appropriate circumstances with valid proof of a rule violation. *See* N.C.G.S. § 17E-4 and 12 NCAC 10B .0204.

3. Petitioner, age 52, has been married to his wife some twenty-five years or more. When they first married, both were working and soon, they had a child. Resp. Exh 1, p.4. Shortly thereafter, Petitioner's wife suffered a mental breakdown, lost her job, and required extensive treatment and several hospitalizations. As a result, the family "[l]ost everything[...and ended up] living with [the wife's] mother." Tpp.29-30-33.

4. In 2004, Petitioner was charged with four (4) counts of misrepresentation to obtain ESC benefits (Scotland County docket nos: 04 CR 592, 593, 594, and 595); and, one (1) count of simple worthless check (Scotland County docket no: 04 CR 53302), all to which Petitioner pled guilty and paid the restitution. Resp. Exh 3; Tpp.21-22. (The record reflects Petitioner went to court on the ESC charges but waived appearance and did not go to court on the worthless check charge. Resp. Exh 3, p.6.

5. Petitioner is an applicant for detention officer certification with the Scotland County Sheriff's Office ("SCSO"), where he was appointed and worked full time as a detention officer from August 20, 2024¹ until he was placed "on reserve[]". Tp.15; Resp. Exh 2, p.1.

6. When applying to work as a detention officer for the SCSO, Petitioner completed a Personal History Statement (Form F-3) on August 14, 2023. Resp. Exh 1. Therein, Petitioner listed that he had been charged with four (4) counts of misrepresentation to obtain ESC benefits,

¹ There is a discrepancy which Respondent did not fully clear up at trial—the Report of Appointment reflects that Petitioner's date of appointment was 1/18/2024 but the Report was executed on August 20, 2024 and received by Respondent on August 23, 2024. Resp. Exh 2. However, Respondent's witness, Ms. Serena Jones testified that Petitioner's appointment was effective August 20, 2024.

for which he was placed on unsupervised probation and repaid \$654.52. Resp. Exh 1, p.11. However, Petitioner did not, thereon, list the worthless check charge.

7. On October 29, 2024, Petitioner submitted a sworn to and notarized written statement to Respondent with his explanation of the ESC charges and disposition.² Resp. Exh 5.

8. Petitioner's statement to Respondent and his testimony at hearing were completely consistent. Tpp.34-35.

9. On February 21, 2025, Respondent mailed a letter to Sheriff Ralph Kersey (cc:ing Petitioner) advising Petitioner's eligibility for certification would be addressed by Respondent's Probable Cause Committee ("PCC") on March 20, 2025, "in reference to a possible violation of 12 NCAC 10B .0204(d)(5)[]" (Resp. Exh 6, p.1), which grants the Commission authority to revoke, suspend or deny certification of a justice officer if the Commission finds that that officer has committed or been convicted of four or more Class A or Class B misdemeanors at any time prior.

10. The Probable Cause letter does not mention Petitioner's having left off the worthless check charge from his Personal History Statement (Form F-3). Resp. Exh 6. However, when asked at trial, Petitioner credibly testified: "I just absolutely forgot about it. ...I actually knew nothing about it until I...went to get a background check...and they was [sic] telling me about it. So...I took care of it then. ...I just went into—and just paid it. I never went into a courtroom or anything like that." Tpp.22-23, 26.

11. Petitioner was unable to attend the PCC meeting on March 20, 2025 due to his wife's illness and the extensive distance of Kitty Hawk, NC (where the meeting was held—six (6) hours away) from his home in Laurinburg, NC. Tpp.37-38.

12. Moreover, Petitioner was not advised that he was entitled to be accompanied by counsel to the PCC meeting or have counsel there in his place only that "[i]f [the Sheriff, or the Sheriff's] representative, or [Petitioner] wish[ed] to appear before the Committee *to make any presentations,*" they were to contact Alex Radford to schedule a specific time for the case to be heard." Resp. Exh 6, p.1 (emphasis added).

13. Petitioner was not given the opportunity to submit a statement to the PCC in lieu of his attendance at the PCC meeting. (The Probable Cause letter addressed to Sheriff Kersey advises the Sheriff: "In the event you [Sheriff Kersey], or anyone who wishes to be heard *on behalf of Mr. Dial* are unable to attend, [Serina Jones] will be happy to present the Committee with any written statements you may provide." *Id.* Thus, by the plain reading of the PCC letter, Mr. Dial had to attend personally if he personally wanted to submit evidence on his own behalf.)

14. Respondent's Deputy Director, Ms. Sirena Jones testified that the PCC "move[d] forward in absentia since Mr. Dial was not present[...and] determine[d] that the[re] was

² No reason was given at trial for why Petitioner submitted this statement. However, the Undersigned takes official notice that these explanation statements are regularly requested by the Commission's investigators to add to the file for the PCC's review.

p]robable cause to deny [Petitioner's] certification based on the combination of Class A and B misdemeanors." Tp.56.

15. Thus, on April 30, 2025, Respondent sent Petitioner, via certified mail, a Notice of Probable Cause to Deny Justice Officer Certification. Therein, Respondent advised that it had found probable cause to deny Petitioner's justice officer certification due to his having committed or been convicted of four or more Class A or Class B misdemeanors as defined by 12 NCAC 10B .0103 (17)(a) and/or (b). Resp. Exh 7, p.1. To support its determination, Respondent listed the four (4) ESC charges along with the worthless check charge.

16. The misdemeanors upon which the Commission has determined it should deny Petitioner's certification were committed over twenty (20) years in the past. Moreover, they were committed while Petitioner was under extreme stress and grief as his wife's mental health deteriorated, his family's income was cut by half and, he was trying to raise his son without the benefit of his wife's assistance.

17. Chief Deputy Bryan Knight testified that he has known Petitioner for "a little over two years" and,

"We have no issues at all with Mr. Dial's work. He was very—very motivated. ...He started out—he went to the jail, he attended DOCC, the teaching officer certification for us to get his certification. While he was in there, he was very motivated about not only becoming a good officer, but actually bettering himself also. ...Mr. Dial had put in a lot of effort. He lost 60 pounds while working with us at the Sheriff's Office. I mean, putting in a lot of effort.

And I'm also the School Director for Richmond Community College and I'm the School Director for DOCC program out there. And that particular class that Mr. Dial was in, I would put him in the top three as far as showing effort during PT—during the physical fitness part. Every student must complete 22 hours of physical fitness. They have two—two physical fitness assessments as well as (unintelligible) while on work days, as far as actual physical exercise and everything. The amount of effort from [a man] his age, from Mr. Dial being a larger guy, he put in so much effort to try hard. He was losing weight and everything. ...[H]e tried probably better than 80 percent of the people in the class. And...back [at the office], we have an elevator there[...but h]e would use the stairs instead...just to get extra steps in...he's committed.

When there...was [sic] physical altercations inside of the cellblock, he was definitely not slow by any means. He was there to help officers in each situation they were in. I remember one particular case when they were dealing with an inmate in isolation, and [Mr. Dial] was the first one there, was actually able to keep the situation under control. He did his job, and he did the job well."

Tpp.77-79.

18. Chief Knight further went on to advise the Tribunal that in over 22 years, he had “only actually attended one of these hearings in the past[.]” Tp.80. Thus, with this case at bar, Petitioner was only the second officer for whom Chief Knight has ever come forward to speak on their behalf. *Id.* He stated that it’s really

“just a reflection of [him]self...[a]nd also in support of the Commission and what they do because they do a great job helping us week out bad apples [from] becoming law enforcement officers. And so I do appreciate the fact...[and that’s why] I’m not the type to just come and vouch for somebody just to vouch for them.

So [my being here]...speaks to the character of Mr. Dial, that I’m actually willing to put my name out there behind him. ...[H]e’s a great officer. I would love for him to keep this certification...[because] this is a guy here that’s been a blessing to our Sheriff’s Office, a blessing to our jail. ...[I]t motivates him, he motivated others while he was [t]here. And I have nothing but good things to say about this guy.”

Tpp.80-82.

19. The undisputed evidence clearly reveals that Petitioner has committed no further bad acts in these last twenty-plus years—even though his wife is still experiencing major mental health issues—which solidly confirms Petitioner’s change in ability to cope and make better decisions. Moreover, the evidence supports concluding that through hard work in rebuilding his life, Petitioner has become a good officer of good character doing good for his community.

20. Finally, when asked whether the High Sheriff knew about this case, Chief Knight confirmed that Sheriff Kersey knows about Petitioner’s case and wants Petitioner back on his staff. Tpp. 82-83.

21. The Tribunal found all witnesses: Petitioner, Sirena Jones and, Chief Deputy Bryan Knight to be very credible in their testimonies.

BASED ON the foregoing Findings of Fact, the Undersigned makes the following

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case, pursuant to the Administrative Procedure Act of North Carolina, Article 3A, N.C.G.S. § 150B-40(e), and the parties received proper notice of the hearing in this matter.

2. To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. *Charlotte v. Heath*, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); *Peters v. Pennington*, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).

3. A judge is not required to find all the facts shown by the evidence, but only sufficient material facts to support the decision. *Green v. Green*, 54 N.C. App. 571, 575, 284 S.E.2d 171, 174 (1981); *In re Custody of Stancil*, 10 N.C. App. 545, 549, 179 S.E.2d 844, 847 (1971).

4. Pursuant to N.C.G.S § 17E-4 and Title 12, Chapter 10B of the North Carolina Administrative Code, the Commission has the authority to certify justice officers and to revoke, suspend, or deny such certification, and specifically as relates to the case at bar:

“SANCTIONS FOR VIOLATIONS BY INDIVIDUALS

When any person certified by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules in this Subchapter, the Commission may take action to correct the violation and to ensure that the violation does not re-occur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) summarily suspending the individual’s certification for a specified period of time or until acceptable corrective action is taken by the individual upon a specific finding that allowing the individual to work poses a danger to the public health, safety and welfare; or
- (5) revoking or denying the individual’s certification. ...Where action is being taken against an applicant for justice officer certification or a certified justice officer, the sanctions set out in 12 NCAC 10B .0205 apply.”

12 NCAC 10B .0203 (emphasis in original).

5. 12 NCAC 10B .0204(d)(5) states that Respondent **may** deny certification of a justice officer when the Commission finds the applicant for certification has committed or been convicted of “any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor regardless of the date of commission or conviction.” Emphasis added. Thus, the Commission is not statutorily mandated to deny Petitioner’s certification.

6. Even in times when the Commission is mandated by rule to deny a justice officer’s certification, the Commission still has latitude. “The Commission may either reduce or suspend the periods of sanction...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.” 12 NCAC 10B .0205(2)(g) (emphasis added).

7. During the administrative hearing in the instant case, extenuating circumstances emerged which the Probable Cause Committee could not have known, specifically that: a) At the time of the commission of the misdemeanors upon which the PCC's findings rest, Petitioner's whole life was falling apart (*see Findings of Fact #3 and 16 above*); b) Even though Petitioner's wife's mental health has not greatly improved over the years, Petitioner has had no other bouts with the law; c) Petitioner has been a great law enforcement officer when he had the opportunity; and, d) Petitioner's supervisors, including the High Sheriff, want him to return the SCSO's employ.

8. In further support of Conclusions of Law #8 and 10 above, the Tribunal determines there are numerous additional extenuating circumstances in this matter:

- a. the low level and seriousness of the misdemeanors;
- b. the dates of the crimes being approximately 20+ years ago;
- c. the circumstances surrounding the misdemeanors as described above
- d. the undisputed present good character of the Petitioner;
- e. Petitioner's consistent determination and tenacity throughout his DOC training and time with the Scotland County Sheriff's Office;
- f. the exemplary employment record of Petitioner with the Scotland County Sheriff's Office;
- g. that Petitioner was forthright in disclosing the aforementioned offenses in his application for certification and was granted probationary certification.

N.C.G.S. § 93B-8.1(b1).

9. Substantial evidence supports that the Commission has the authority to deny Petitioner's certification. However, the many extenuating circumstances are grounds upon which the Commission should utilize its discretion and grant certification to Petitioner—even if it does so with a probationary period required.

10. In addition, N.C.G.S. § 17C-9(a) provides that “Any justice officer who the Commission determines does not comply with this Chapter or any rules adopted under this Chapter shall not exercise the powers of a justice officer and shall not exercise the power of arrest **unless the Commission waives that certification or deficiency.**” The Commission shall enforce this section by the entry of appropriate orders effective upon service on either the department or the justice officer. (Emphasis added).

11. Applied in this case, given that the Commission granted Petitioner probationary certification and that Petitioner's charges and/or convictions forming the basis for the denial of certification in this matter all occurred more than twenty (20) years ago when Petitioner was under extreme stress and hardship, and considering Petitioner has had no other criminal involvement and has proven himself to be a hardworking and valuable detention officer, a preponderance of the evidence presented at hearing demonstrates that the Commission should exercise its considerable discretion afforded it by statute and grant Petitioner's justice officer certification.

PROPOSAL FOR DECISION

THEREFORE, BASED ON the foregoing Findings of Fact and Conclusions of Law, by a preponderance of the evidence, the Tribunal hereby proposes that Respondent **REVERSE** its decision to deny Petitioner's certification for five (5) years and, instead **GRANT HIS CERTIFICATION** and place Petitioner on **PROBATION for a period of two (2) years** due to the extenuating circumstances brought out at the administrative hearing.

NOTICE

The **North Carolina Sheriffs' Education and Training Standards Commission** will make the Final Decision in this contested case. As the Final Decision maker, that agency 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 pursuant to N.C.G.S. § 150B-40(e).

The Undersigned hereby orders that agency to serve a copy of its Final Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6700, within ten (10) days of its issuance.

SO ORDERED, this the 16th day of January, 2026.



Hon. Karlene S. Turrentine
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:

Scottie Clifton Dial
scottiedial@yahoo.com
Petitioner

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

Ian Lamar Courts Esq.
North Carolina Department of Justice
icourts@ncdoj.gov
Attorney For Respondent

This the 16th day of January, 2026.



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