

STATE OF NORTH CAROLINA
COUNTY OF SCOTLAND

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 DOJ 02408

SCOTTIE C. DIAL,)
)
 Petitioner,)
)
 v.)
)
 NORTH CAROLINA SHERIFFS')
 EDUCATION AND TRAINING)
 STANDARDS COMMISSION,)
)
 Respondent.)
)
 _____)

PROPOSED FINAL AGENCY
DECISION

THIS MATTER was commenced by a request filed June 27, 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 02408) were filed July 7, 2025. The parties received proper Notice of Hearing, and the Administrative Hearing was held in Fayetteville, North Carolina on October 6, 2025, before the Honorable Karlene S. Turrentine, 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 16, 2026, Judge Karlene S. Turrentine 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:

1. The parties were properly before the Tribunal in that subject matter and personal jurisdiction and venue were proper and there was no objection to the Tribunal hearing the contested 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. 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. 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, 2024 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, 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. 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 fines 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.37-38.²

~~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.)~~

~~14.12. In February of 2025, Petitioner was informed via certified mail that he would have the opportunity to present his case before the Probable Cause Committee of the Respondent in Kitty Hawk, North Carolina on March 20, 2025. Petitioner did not attend that PC Committee hearing. Petitioner when asked why he did not attend he responded: "One, we just -- I think it was like --well, it was past November. My wife had another breakdown. . . And we had to have her hospitalized eight times that time before we got --but I was still dealing with that, and she was just starting to get better." (Trans. pgs. 35-38)(Resp. Ex. 6).~~

~~15.13. Petitioner did not submit a statement in lieu of his attendance at the meeting, despite the PCC Notification Letter informing him that he had the right to do so. (Resp. Ex. 6).~~

16.14. Respondent's Deputy Director, Ms. Sirena Jones testified that the PCC "move[d] forward in absentia since Mr. Dial was not present[...and] determine[ed] that the[re] was p]robable cause to deny [Petitioner's] certification based on the combination of Class A and B misdemeanors." Tp.56.

² The Commission notes the Tribunal's expressed concern about the distance petitioners must travel to appear before the Commission at its different meeting locations throughout the State. The Commission acknowledges and supports Respondent's counsel statements in support of the Commission: "So they [The Commission] can choose where they meet. So they meet in March, they meet in June, they meet in September, as well as December, and they get to choose where they meet. Because they like to rotate the commission throughout the state. . . It's just so that different sheriffs can have face and see the Commission, and the Commission can see the different agencies across the state." (Trans. pgs. 37-39).

~~17.15.~~ 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.

~~18.16.~~ The misdemeanors upon which the Probable Cause Committee determined supported a denial 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.

~~19.17.~~ 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.

~~20.18.~~ 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 weed 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

~~21-19.~~ 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.

~~22-20.~~ 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.

~~23-21.~~ 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~~ Commission makes the following:

CONCLUSIONS OF LAW:

1. The Office of Administrative Hearings had 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. Moreover, the Commission has subject matter over this matter and the authority to issue a final agency decision pursuant to Article 3A of N.C. Gen. Stat. § 150B-40.

2. To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they are considered by the Commission 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).~~

4.3. 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).

5.4. 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 a Petitioner's certification.

6.5. 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).

7.6. 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.

8.7. 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).

~~9-8.~~ 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.

~~10-9.~~ 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).

~~11-10.~~ 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.

ORDER

THEREFORE, BASED ON the foregoing Findings of Fact and Conclusions of Law, by a preponderance of the evidence, the Commission hereby orders that Petitioner's certification be GRANTED and Petitioner be placed on PROBATION for a period of two (2) years due to the extenuating circumstances brought out at the administrative hearing. ~~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.~~

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:

**Scottie Clifton Dial
14141 Kiser Road
Laurinburg, NC 28352**

This the _____th day March, 2026.

JEFF JACKSON
Attorney General

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