

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 DOJ 02787

Michael Hoffman Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	PROPOSED DECISION
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THIS MATTER PRESENTS under authority of the North Carolina Constitution, Art. III, Sec. 11, *accord*, Art. IV, Sec. 3; G.S. 7A-750; and G.S. 150B (“APA”); following hearing on the merits before Jonathan S. Dills, Administrative Law Judge (“ALJ”) with the Office of Administrative Hearings (“OAH”); for proposed decision per Art. 3A of the APA. The ALJ sits for the agency to establish facts, apply law, and issue proposal. G.S. 150B-40(e).

APPEARANCES

Petitioner: Michael Hoffman, *pro se*

Respondent: Ian L. Courts, Assistant Attorney General, NC DOJ

ISSUES

Whether Petitioner should be denied law enforcement certification for felony commission.

FINDINGS¹

BASED UPON careful consideration and deliberation of the entire record; having weighed all evidence, and having assessed the credibility of each witness; the undersigned finds:

1. Respondent (“Commission”) appears in its delegated role of oversight and maintenance of minimum standards for justice officer certification. G.S. 17E-4(a)(6) & 7(c).

2. Petitioner received a probationary appointment (F4 form) to the position of a telecommunicator on 21 April 2023. (R Ex 2) (T pp 15-16).

¹ This Tribunal need only find facts material to resolution. *Flanders v. Gabriel*, 110 N.C. App. 438, 440, 429 S.E.2d 611, 612, *aff'd*, 335 N.C. 234, 436 S.E.2d 588 (1993).

3. In his application (F3 form) in December of 2022, Petitioner disclosed felony and misdemeanor charges in New York dating back to 2003. (R Ex 1) (T pp 16-17, 19-20).

4. In May of 2025, Petitioner was properly provided notice and opportunity re the probable cause proceeding of 12 June 2025. (T pp 39-43) (R Ex 9).

5. There, Respondent determined that *probable cause* existed to deny Petitioner's certification for felony commission. (R's Prehearing Statement, Atch 1) (R Ex 10) (T pp 43-48).²

6. On 15 May 2025, Petitioner appealed here. *See* Petition. Hearing on the merits was held on 19 November 2025. *See* Notice.

7. At hearing, Respondent's investigator testified that Petitioner's charges were related to alleged abuse of a former girlfriend. (R Exs 3,4 and 8) (T pp 27-34). She did not appear. (T p 79).

8. Petitioner credibly testified re the prior charges to include that a judge reduced the alleged felony to a misdemeanor charge for which there were two unsuccessful prosecutions. (T pp 60-64, 80-91) (P Ex 6). Petitioner was never again retried. (T p 85).

9. Respondent conceded that there was insufficient evidence available to reasonably conclude that Petitioner committed the subject felony. (T pp 94-96, 99-100).

CONCLUSIONS³

1. Respondent is authorized to certify law enforcement officers and to revoke, suspend, or deny such in appropriate circumstances. G.S. 17E-4 & 4.1; 12 NCAC 10B .0301.

2. First comes a probable cause determination and then if opposed, a hearing on the merits. 12 NCAC 10B .0201. The Commission (like here) may defer to the OAH for hearing that then sits in place of the Commission, which retains final decision-making authority. GS 150B-40(e), *Cf.* Petition.

3. Though Article 3A of the APA is silent regarding the applicable standard of evidence, it is by preponderance. *In re Rogers*, 297 N.C. 48, 59, 253 S.E.2d 912, 919 (1979).

4. 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, Canty v. Commission*, 2014 NC OAH LEXIS 127. These analyses are incorporated by reference.

5. However, to any extent it was Petitioner's burden, he carried it; the state did not. *Cf.* 150B-23(a) & *Harris v. Mangum*, 183 N.C. 235, 239-40, 11 S.E. 177, 179 (1922) (summarizing burden, roles, and decision by preponderance regardless of who introduced what or when).

² *See also* Ex's 13-14.

³ To the extent Findings contain Conclusions or vice versa, they should be appropriately considered regardless of labeling. *Charlotte v. Heath*, 226 N.C. 750, 755, 440 S.E.2d 600, 604 (1946).

6. An applicant or probationary holder that has committed a felony must be permanently denied certification. 12 NCAC 10B .0204(a)(1); 12 NCAC 10B .0205(1)(a).

7. However, here, a preponderance of the credible evidence presented demonstrates that Petitioner did not commit the felony accused.

8. Notwithstanding, Respondent's actions in this case were not arbitrary or capricious. Probable cause and preponderance are axiomatically different standards.

PROPOSAL FOR DECISION

Based on the foregoing, Petitioner's certification should continue unimpeded; the decision of the Commission by and through its probable cause committee should be **REVERSED**.

NOTICE

The agency captioned and addressed herein will make the final decision in this contested case. G.S. 150B-38 *et seq.* (Art.3A).

The parties must be given an opportunity in advance "to file exceptions and proposed findings of fact and to present oral and written arguments to the agency." G.S. 150B-40(e).

The agency or its counsel will timely file a copy of the final decision referencing the case number specified herein with the Office of Administrative Hearings.

SO ORDERED 06 February 2026.



The Honorable Jonathan S. Dills
Administrative Law Judge

