

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
11 DOJ 13159

CHARLESENE COTTON,  
Petitioner,  
v.

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**PROPOSAL FOR DECISION**

N.C. CRIMINAL JUSTICE  
EDUCATION AND TRAINING  
STANDARDS COMMISSION,  
Respondent.

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This contested case came on for hearing before the Honorable Joe L. Webster, Administrative Law Judge, on April 20, 2012, at the Office of Administrative Hearings, Raleigh, North Carolina.

**APPEARANCES**

Petitioner: Jonathan W. Trapp  
Attorney at Law  
3400 Croasdaile Drive  
Durham, NC 27705

Respondent: Catherine F. Jordan  
Assistant Attorney General  
NC Department of Justice  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**WITNESSES**

Petitioner: Charlesene Cotton

Respondent: Edward Zaposky  
Shanda Williams

**ISSUES**

Whether Commission's Findings that Petitioner assaulted and resisted a government official in violation of N.C.A.C. 09A .204(b0(3)(A) is supported by a preponderance of the evidence?

## **EXHIBITS ADMITTED INTO EVIDENCE**

Respondents Exhibits 1-16

### **FINDINGS OF FACT**

BASED UPON careful consideration of the documents and exhibits received and admitted into evidence and the entire record in this proceeding, the undersigned Administrative Law Judge makes the following FINDINGS OF FACT:

1. On March 7, 2009, Petitioner Charlesene Cotton accompanied her son to a basketball game in which her son was to participate. The game and all relevant facts took place at Lyon's Park in Durham, North Carolina.
2. After seeing rough play by an opposing player against her son, Petitioner walked over to her son's team's bench to talk to the coach about the tone of the game.
3. Officer Shanda Williams of the Durham Police Department was working off duty at Lyons Park that same morning and was in the gymnasium foyer about two steps away from the gymnasium doorway when she heard a commotion in the gymnasium. Officer Williams estimated there were approximately fifty people in the gym including players and spectators. When Officer Williams looked into the gymnasium she saw Petitioner talking to one of the coaches. Officer Williams approached Petitioner, tapped her on the shoulder and asked her to leave the bench area.
4. Petitioner told the officer that she was asking her son's coach a question and that she wanted to make sure no one got hurt during the game.
5. Officer Williams reiterated to Petitioner that spectators were not supposed to be behind the bench and that Ms. Cotton needed to return to the bleachers.
6. Petitioner told Officer Williams she was not leaving until she got the information she needed from the coach.
7. Officer Williams then told Petitioner she needed to leave the gymnasium. Petitioner was irate and argued with Officer Williams that she had placed "soft hands" on Petitioner.
8. As Petitioner was being lead out of the gym she heard a commotion from behind her and saw her son being restrained by the crowd and Officer Williams calling for back up. While being lead out of the gym by Officer Williams, Petitioner's son, a juvenile, age 15, came up and hit Officer Williams in the mouth. The son's coach and referee grabbed Petitioner's son. Petitioner then went over and grabbed her son.
9. The incident caused pandemonium in the gym and the game came to a stop.

10. Petitioner and her son were arrested by the Durham Police Department.
11. Petitioner denies doing anything wrong.

12. Respondent Probable Cause Committee found that probable cause existed to suspend Petitioner's juvenile justice certification pursuant to 12 N.C.A.C. 09A .0204(b)(3)(A), which provides that the Commission may suspend the certification of a criminal justice officer when the certified officer has committed or been convicted of a criminal offense or unlawful act defined in 12 N.C.A.C. 09A .0103 as a Class B misdemeanor, to wit: the Class B misdemeanor of "Assault Government Official/Employee" (N.C.G.S. Section 14-33(c)(4), [Durham County 2009CR42481] which occurred on March 7, 2009. Further the Probable Cause Committee found that probable cause existed to suspend Petitioner's juvenile justice officer certificate pursuant to 12 N.C.A.C. 09A .0204(b)(3)(A), which provides that the Commission may suspend the certification of a criminal justice officer when the certified officer has committed or been convicted of a criminal offense or unlawful act defined in 12 N.C.A.C. 09A .0103 as a Class B misdemeanor, to wit: the Class B. misdemeanor of "Resisting Public Officer" (N.C.G.S. Section 14-223) [Durham County 2009CR42481] which occurred on March 7, 2009.

### **CONCLUSION OF LAW**

1. The Court has jurisdiction over the parties and subject matter.
2. The undersigned finds by a preponderance of the evidence that Petitioner engaged in disorderly conduct and does not find by a preponderance of the evidence that Petitioner committed an assault upon Officer Williams or that Petitioner resisted arrest.

**THEREFORE**, based on the foregoing the undersigned finds that Petitioner engaged in Disorderly Conduct and the Commission's finding that Petitioner Assaulted a Government Official and Resisted a Police Officer be reversed. The undersigned recommends that Petitioner's 5 year suspension be suspended on condition that Petitioner successfully complete 10 hours of anger management, 10 hours of dispute resolution training and 10 hours of speaking to middle school students about dispute resolution. The undersigned orders Petitioner to submit documentation showing proof of completion of all three terms to Commission and this Court within 90 days of order.

### **NOTICE**

The agency making the final decision in this contested case is required to give each party and 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 Criminal Justice 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).

This \_\_\_\_\_ day of June, 2012.

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Judge Joe L. Webster  
Administrative Law Judge