

**STATE OF NORTH CAROLINA**  
**COUNTY OF NASH**

---

**IN THE OFFICE OF**  
**ADMINISTRATIVE HEARINGS**  
**14 DOJ 05068**

ABSALOM TERRELL STAMPLE, )  
Petitioner, )  
 )  
v. )  
 )  
N.C. SHERIFFS' EDUCATION )  
AND TRAINING STANDARDS )  
COMMISSION, )  
Respondent. )

---

**PROPOSAL FOR DECISION**

**THE ABOVE-ENTITLED MATTER** was heard before the undersigned Augustus B. Elkins II, Administrative Law Judge, in Farmville, North Carolina. This case was heard pursuant to N.C.G.S. § 150B-40, designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 150B of the North Carolina General Statutes. Petitioner, without understanding the ramifications of his asking, requested a court reporter. To keep the costs to a minimum, Respondent agreed for Petitioner to submit character reference letter(s) after the close of the hearing, a copy of which would be sent to Respondent. The record was left open for the submission of further materials. The Respondent submitted proposals and argument on February 10, 2015 and Petitioner submitted a letter of reference on February 20, 2015 at which time the record was closed.

**APPEARANCES**

**For Petitioner:** Absalom Terrell Stample, *Pro Se*  
101 Meredith Woods Court  
Nashville, North Carolina 27856

**For Respondent:** Matthew L. Boyatt, Assistant Attorney General  
N.C. Department of Justice  
9001 Mail Service Center  
Raleigh, North Carolina 27699-9001

**ISSUES**

Has Petitioner committed any combination of four (4) or more crimes or unlawful acts defined as either Class A or Class B misdemeanors pursuant to the Commissions' Rules, such that Petitioner's application for certification is subject to denial?

## **EXHIBITS and OTHER MATTERS**

Petitioner, per agreement at hearing, submitted a January 15, 2015 letter of reference

Respondent's Exhibits 1-4 were introduced and admitted.

## **FINDINGS OF FACT**

1. Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, both parties received notice of hearing, and that the Petitioner received by mail the proposed Denial of Justice Officer's Certification letter, mailed by Respondent Sheriffs' Commission on June 20, 2014.

2. The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter referred to as the "Commission" or "Sheriffs' Commission") has the authority granted under the North Carolina General Statutes and the North Carolina Administrative Code to certify justice officers and to deny, revoke, or suspend such certification.

3. 12 NCAC 10B .0204 (d)(3) and 12 NCAC 10B .0204(d)(5) states the Sheriffs' Commission may deny the certification of a justice officer when the Commission finds that the applicant has committed or been convicted of:

(3) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as a class B misdemeanor regardless of the date of commission or conviction.

(5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103 (10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103 (10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

4. The Petitioner is an applicant for certification as a detention officer through the Nash County Sheriff's Office. Petitioner has no previous law enforcement experience prior to seeking employment with the Nash County Sheriff's Office.

5. The Petitioner testified at the administrative hearing and does not dispute that he has been charged with ten (10) misdemeanor worthless check offenses, as set out in greater detail below.

6. On August 1, 2008, Petitioner was charged with two counts of misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 08 CR 055362 and 08 CR 055363. On October 24, 2008, Petitioner was charged with misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 08 CR 057401. On October 31, 2008, Petitioner

was charged with misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 08 CR 057594. (Res. Ex. 2)

7. On November 21, 2008, Petitioner was charged with two counts of misdemeanor worthless checks in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 08 CR 058179 and 08 CR 058180. On December 19, 2008, Petitioner was charged with two counts of misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 08 CR 058801 and 08 CR 058802. (Res. Ex. 2)

8. On January 17, 2009, Petitioner was charged with misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 09 CR 050520. On April 16, 2009, Petitioner was charged with misdemeanor worthless check in violation of North Carolina General Statute § 14-107 in Nash County, North Carolina; Case No. 09 CR 052453. (Res. Ex. 2)

9. All of Petitioner's checks at issue in this case were written by Petitioner in 2008. Petitioner was 20 years old when he was charged with these worthless check offenses. Petitioner admits to writing all of the above-referenced worthless checks.

10. At the time of these 2008 misdemeanor offenses, Petitioner was working part-time at Safelite Auto Glass in Enfield, North Carolina. Petitioner was paid by his employer approximately every two weeks by check.

11. At the time of the above-referenced misdemeanor worthless check offenses, Petitioner possessed bank accounts at the State Employees Credit Union (SECU) and BB&T. His employer required him to cash all checks through BB&T. It was his first experience at opening any type of bank account. Petitioner testified that when he received a check from Safelite, he would take the check to the bank following the direction of his employer and would receive cash payment in the amount of the check.

12. A review of Petitioner's banking statements reveals that during the period in question, Petitioner carried a balance of \$25.00 and only one deposit was made at SECU by Petitioner on June 26, 2008 in the amount of \$150.00. However, the next day Petitioner withdrew the \$150.00. He inquired about pay day loans but did not understand or follow through with any type of action.

13. Petitioner admitted that he was aware there were no funds in his bank accounts. He testified that his intention was to come back at a later date and pay for the outstanding checks he had written. However, Petitioner stated he was struggling financially and he was never able to pay back the worthless checks before the matter ended up in court. Petitioner stated he takes care of his mother who can't take care of herself, providing her with some financial support.

14. Petitioner entered into a deferred prosecution agreement with the State, wherein he admitted to writing the above-referenced worthless checks. Petitioner was placed on unsupervised probation for 12 months and was ordered to pay restitution in the amount of \$783.47.

15. Petitioner paid restitution in full and the criminal charges against Petitioner were dismissed pursuant to the deferred prosecution agreement.

16. By issuing the above-referenced checks in 2008 without sufficient funds, Petitioner has committed ten misdemeanor worthless check offenses within the meaning of North Carolina General Statute § 14-107. This finding of fact is consistent with Petitioner's admission of responsibility in subparagraph 5 of Petitioner's Order to Defer Prosecution. (Res. Ex. 3)

17. Pursuant to 12 NCAC 10B .0103 (10)(a), the commission of Petitioner's first three worthless check offenses constitute Class A misdemeanors pursuant to the Commission's Rules. Pursuant to North Carolina General Statute § 14-107 (d)(1), and more specifically 12 NCAC 10B .0103 (10)(b), a fourth and all subsequent misdemeanor worthless check offenses pursuant to N.C.G.S. § 14-107 constitute Class B misdemeanors as set forth in the Class B Misdemeanor Manual adopted by the Commission. Petitioner's remaining seven worthless check offenses constitute the commission of seven Class B misdemeanor offenses pursuant to the Commission's Rules.

18. Based on the evidence presented at the hearing, including Petitioner's sworn testimony and the exhibits introduced into the record, the Undersigned finds that Petitioner has committed three Class A misdemeanors and seven Class B misdemeanors.

19. In mitigation, Petitioner was 20 years old at the time of these offenses in 2008. Petitioner was living alone for the first time and was handling his own finances for the first time. Petitioner has admitted responsibility for his unlawful actions and has paid restitution in full. Petitioner has not written a worthless check since these offenses in 2008. Moreover, per letter from Lt. R. Smith, Facility Administrator of the Nash County Detention Facility, Petitioner "has grown into a very dedicated officer." Lt. Smith goes on to state that Petitioner is "loyal and an asset to the Nash County Sheriff's Office."

### **CONCLUSIONS OF LAW**

1. The parties are properly before the undersigned Administrative Law Judge and jurisdiction and venue are proper.

2. Pursuant to 12 NCAC 10B .0204(d)(3) and 12 NCAC 10B .0204(d)(5), the Commission may revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or certified officer has committed or been convicted of:

(3) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as a class B misdemeanor regardless of the date of commission or conviction.

(5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

3. Pursuant to 12 NCAC 10B .0205(3)(d), when the Commission denies the certification of a justice officer, the period of sanction shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(3) and 12 NCAC 10B .0204(d)(5).

4. The preponderance of the evidence presented at the administrative hearing establishes that Petitioner committed ten (10) separate counts of misdemeanor worthless check within the meaning of N.C.G.S. § 14-107. Petitioner's commission of the first three worthless check offenses constitute Class A misdemeanors pursuant to the Commission's Rules. Petitioner's commission of the subsequent seven worthless check offenses constitute seven Class B misdemeanor offenses:

5. Petitioner has committed a combination of 4 or more offenses classified as either Class A or Class B misdemeanors. Petitioner's application for certification is therefore subject to denial pursuant to 12 NCAC 10B .0204(d). Pursuant to 12 NCAC 10B .0205, the Respondent may, in its discretion, reduce or suspend the period of sanction imposed for the Petitioner's commission of a combination of four or more Class A or Class B misdemeanors.

### **PROPOSAL FOR DECISION**

The Undersigned holds that there is sufficient evidence in the record to properly and lawfully support the Conclusions of Law, and finds that Petitioner has committed a combination of four or more offenses classified as either Class A or Class B misdemeanors

Based on all the mitigating factors including the testimony of Petitioner and the letter from Lt. Smith, Nash County Detention Facility Administrator, the Undersigned proposes that the Commission exercise its equitable discretion and suspend or greatly reduce any period of sanction, or substitute a period of probation in lieu of denial, and grant Petitioner his justice officer certification at the soonest possible time.

### **NOTICE**

The agency making the Final Decision in this contested case 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. N.C.G.S. § 150B-40(e). The agency that

will make the final decision in this contested case is the North Carolina Sheriffs' 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 his attorney of record. It is requested that the agency furnish a copy to the Office of Administrative Hearings.

**IT IS SO ORDERED.**

This is the 2<sup>nd</sup> day of March, 2015.

---

Augustus B. Elkins II  
Administrative Law Judge