

STATE OF NORTH CAROLINA
COUNTY OF DARE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DOJ 02142

JOHN C. SHEETZ, Jr.,)
)
 Petitioner,)
)
 v.)
)
 NC SHERIFFS' EDUCATION AND)
 TRAINING STANDARDS COMMISSION,)
)
 Respondent.)
 _____)
)

PROPOSAL FOR DECISION

This case comes before Administrative Law Judge Melissa Owens Lassiter, after Respondent requested, pursuant to N.C.G.S. § 150B-40(e), the 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. Pursuant to N.C.G.S. § 150B-41, the parties do hereby jointly submit the following Findings of Fact and Conclusions of Law, and request that the Court issue a Proposal for Decision and recommendation to the Commission based on the record and stipulations before the Court.

APPEARANCES

Petitioner: John C. Graham, Esq.
Sharp, Michael, Graham & Baker, LLP
P.O. Drawer 1027
Kitty Hawk, North Carolina 27949

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

ISSUE

Has Petitioner committed or been convicted of 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 Offered by Petitioner

The following exhibits for Petitioner have been admitted into the record by stipulation of the parties:

1. Exhibit 1, Letter from Dare County Sheriff J.D. "Doug" Doughtie.
2. Exhibit 2, Letter from Captain Allen Moran, Jail Administrator Dare Co. Sheriff's Office.
3. Exhibit 3, Letter from Lt. Greg Creef, Dare County Detention Center.
4. Exhibit 4, Letter from Lt. Amy Hill, Dare County Detention Center.
5. Exhibit 5, Letter from Stg. Leigh Ann George.
6. Exhibit 6, Letter from Corporal William D. Hughes, Dare County Detention Center.
7. Exhibit 7, Letter from Detention Officer Brian Weisenberger.
8. Exhibit 8, Letter from Detention Officer Joseph L. Shull.
9. Exhibit 9, Letter from Detention Officer Rick Bascue.
10. Exhibit 10, Letter from Detention Officer Rossy Zafra
11. Exhibit 11, Letter from Detention Officer Victoria Buczkowski.
12. Exhibit 12, Letter from Jo Ann S. Eure.
13. Exhibit 13, Letter from Julie and Glenn Sawyer.
14. Exhibit 14, Letter from Keil Gray Samson.
15. Exhibit 15, Letter from Shevawn Lozupone.
16. Exhibit 16, Letter from Amy Colanero.
17. Exhibit 17, Letter from Steve House.
18. Exhibit 18, Letter from John Collins.

STIPULATED 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 North Carolina Sheriffs' Education and Training Standards Commission on January 7, 2016.

2. The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter referred to as the "Commission" or "Sheriffs' Commission") has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to deny, revoke, or suspend such certification.

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

- (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. Petitioner is an applicant for justice officer certification through the Dare County Sheriff's Office.

5. Petitioner does not dispute that he has been convicted of a combination of 4 or more misdemeanor offenses, such that his application for certification may be subject to denial pursuant to 12 NCAC 10B .0204(d)(5). Petitioner takes full responsibility for his prior unlawful conduct, and regrets having made poor decisions as a young adult.

6. Petitioner remains convicted of the following Class A and/or Class B misdemeanor offenses:

- i. 1991CR014692, Purchase beer/wine underage (Class A misdemeanor conviction);
- ii. 1992CR006266, Take protected wild animal (Class B misdemeanor conviction);
- iii. 1993CR005437, Underage possession of alcohol (Class A misdemeanor conviction);
- iv. 1995CR002043, Town ordinance violation (Class A misdemeanor conviction);
- v. 1995CR004793, Drink beer/wine while driving (Class A misdemeanor conviction);
- vi. 1995CR004821 Town Noise Ordinance (local ordinance)
- vii. 2000CR003242 Exceeding No Wake Speed (Class A misdemeanor conviction) By way of explanation, this incident occurred in 2000 near the Washington Baum Bridge in Dare County, North Carolina. The Petitioner was operating a boat in a designated No Wake Zone and exceeded the no wake speed limit for that area.
- viii. 2003CR005932 No Valid for Hire Permit (Class A misdemeanor conviction) By way of explanation, the Petitioner was self-employed as a Charter Fisherman, taking people fishing in the waters around Dare County. The Petitioner was cited for not possessing a for Hire Permit which was required for Charter Fisherman.

7. There is insufficient evidence to establish that Petitioner committed the remaining offenses outlined in the January 7, 2016 Notification of Probable Cause, as the individuals involved in those matters have been unresponsive to subpoena.

8. A preponderance of the evidence presented at the administrative hearing establishes that Petitioner has been convicted of a combination of four or more class A or class B misdemeanor offenses, such that his application for certification may be subject to denial pursuant to 12 NCAC 10B .0204(d)(5).

9. Petitioner John C. Sheetz is 40 years old, and is a native of Dare County, North Carolina.

10. Petitioner is a 1993 graduate of Manteo High School, and thereafter attended Pitt Community College for two years majoring in Criminal Justice.

11. Petitioner has been married since 2004 to Stacy Sheetz, and has one child, a son, Christian age 9.

12. Petitioner has been licensed as a Captain by the United States Coast Guard since 2001.

13. Petitioner has been employed by the Dare County Sheriff's Office as a Corrections Officer since September 29, 2014. During the time he has worked at the Dare County Detention Center, Petitioner has been an excellent employee, as shown by the attached Exhibits hereto from Sheriff J.D. Doughtie, Captain Allen Moran, Lt. Greg Creef, Lt. Amy Hill, and other Detention Officers.

14. Petitioner attended the Detention Officer Certification Course at Albemarle District Jail from April 19, 2015 until his graduation on May 22, 2015.

15. Petitioner has been a member of the Board of Directors of the Outer Banks Walk Against Addiction for almost seven years. He is also on the Board of Directors for OBX Project Purple, a local organization focused on preventing substance abuse in children and young adults.

16. Petitioner also serves on the Board of Directors of the Dare County Crime Line.

17. Petitioner has been active as a Football Coach for over ten years, at all levels from peewee to varsity high school.

18. Petitioner coached the Go Far Program at First Flight Elementary School in 2014 and 2015.

19. Petitioner was a Cub Scout leader for Pack 116 for two years. He has long had a reputation in the community in which he resides as a role model and mentor for young men.

20. Based on the eighteen letters from various persons who live and/or work in Dare County, Petitioner's reputation in the community in which he resides is excellent, and his character is good. (See attached Exhibits to this Proposal for Decision). In these letters, Petitioner is described as well-respected, honest, respectful of others, hard-working, and highly-qualified. Petitioner has handled many obstacles in his life with grace, exhibits a strong work ethic, and is extremely involved and dedicated to his community. In particular, Dare County Sheriff Doug Doughtie opines that Petitioner:

[I]s sorry for what he did during the earlier years of his life, but happy that he never caused any injury to anyone that was lasting. He knows the Lord, and accepts full

responsibility for his action, but since that time, has shown just what kind of a young man he is.

I certainly stand behind him and would appreciate anything you can do for a young man who has grown up into a fine person and a good Detention Officer with much to offer if still given the chance.

(Pet. Exh. 1)

STIPULATED 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)(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 been convicted of:

- (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 .0103(2), “convicted” or “conviction” means and includes, for purposes of that Chapter, the entry of (a) a plea of guilty; (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or (c) a plea of no contest, nolo contendere, or the equivalent.

4. 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)(5).

5. A preponderance of the evidence shows that Petitioner has been convicted of a combination of 4 or more offenses classified as either Class A or Class B misdemeanors pursuant to the Commission’s rules, as set out in the above Findings of Fact. Petitioner does not dispute that these misdemeanor convictions remain on his record.

6. The preponderance of the evidence shows that these offenses occurred when Petitioner was in his late teen years and early twenties.

7. Based on a combination of 4 or more convictions, classified as either Class A or Class B misdemeanor pursuant to Respondent's rules, Petitioner's application for certification is subject to denial pursuant to 12 NCAC 10B .0204(d)(5).

8. However, pursuant to 12 NCAC 10B .0205, the Commission has the authority to issue a lesser sanction than outright denial of certification where extenuating circumstances warrant a lesser sanction. A preponderance of the evidence presented demonstrated that extenuating circumstances exist to authorize the Commission to issue a lesser sanction than outright denial of Petitioner's certification.

PROPOSAL FOR DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law and pursuant to 12 NCAC 10B .0205, the undersigned recommends Respondent **ISSUE** a justice officer Certification to Petitioner, and place Petitioner on a one (1) year probationary period, during which time Petitioner shall not violate any federal or state law and shall remain in compliance with the rules established by the Sheriffs' Commission. Petitioner's certification shall remain in full force and effect at the conclusion of this probationary period, provided Petitioner remains in compliance with the rules established by the Respondent Commission.

NOTICE

The North Carolina Sheriffs' Education and Training Standards Commission will make the Final Decision in this contested case. The Commission 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).

This the 20th day of July, 2016.

Melissa Owens Lassiter
Administrative Law Judge