



A contested case hearing was held on November 7, 2023. The Hearing Officer accepted the following into evidence: Notice of Misconduct Allegation, Personnel Change in Status Report (Notification of Separation Due to Misconduct)(July 3, 2023 and October 25, 2023), Request for Contested Case Hearing, Notice of Contested Case Hearing, State's Exhibits 1 through 21, and Respondent's Exhibit 1, a letter from Captain Kevin Brown to the Appellant. The Hearing Officer also accepted testimony from the following personnel: Lt. Russell Thompson, Lt. James Reap, Trooper Kevin Michael Renneker, and the Appellant.

On January 5, 2024, the Hearing Officer issued his recommendation to the South Carolina Law Enforcement Training Council (LETC). The Hearing Officer found by a preponderance of the evidence that the Appellant committed misconduct pursuant to subsections § 23-23-150(A)(3)(k) and § 23-23-150(A)(3)(i) of the South Carolina Code by willfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, and by willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency. Therefore, the Hearing Officer recommended that the LETC issue its final agency decision, pursuant to S.C. Code Ann. Regs. 37-107D finding that the allegation of misconduct filed against the Appellant by the Department has been proven by a preponderance of the evidence and to impose such sanction as the LETC in its discretion deems appropriate pursuant to its authority set forth in S.C. Code Ann. Regs. 37-108A.

The LETC met on March 18, 2024, where the parties were given the opportunity to present oral arguments. Prior to this meeting, the LETC reviewed the transcripts, exhibits, motions, and the Hearing Officer's Recommendation. The LETC then voted that the Appellant did engage in misconduct and voted that the Appellant is permanently denied a law enforcement certification in South Carolina. On April 23, 2024, the LETC issued a written decision. The Appellant timely appealed the decision to this court.

#### **STANDARD OF REVIEW**

The South Carolina Criminal Justice Academy (SCCJA) is governed by the Law Enforcement Training Council (LETC). S.C. Code Ann. § 23-23-20. The LETC has the power to "certify and train qualified candidates and applicants for law enforcement officers and provide for suspension, revocation, or restriction of the certification, in accordance with regulations promulgated by the council." S.C. Code Ann. § 23-23-80(6). The ALC has jurisdiction to hear

the appeal of a final decision of the SCCJA pursuant to the Administrative Procedures Act. S.C. Code Ann. § 1-23-600(D). Under the appellate standard of the Administrative Procedures Act, the court's review in appellate cases is limited to the record, absent irregularities in the procedure of the agency. S.C. Code Ann. § 1-23-380(4). Additionally,

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

A decision is supported by substantial evidence when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, "a reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)).

## DISCUSSION

During the South Carolina Highway Patrol (SCHP), Troop 3 command staff's monthly accountability meeting, the command staff initially noticed a discrepancy on a Troop 3 trooper's activity numbers. After that individual was found to have been falsifying public contacts, Troop 3 command staff conducted a further review that identified several officers, one of which was the Appellant, as having numbers that did not match. Further investigation led to the identification of several officers with disproportionate activity numbers. The SCHP referred the matter to Lt. James Reap of the Office of Professional Responsibility (OPR). The SCHP's initial concerns regarding the Appellant were that the Appellant had written an unusually high number of contact-only warnings and that the Appellant had not printed out a number of these warnings.

The Appellant had been employed by the Department since 2019 for approximately four (4) years. Lt. Leap initially reviewed the Appellant's activity over the course of the Appellant's four (4) years with the Department. In the Appellant's first year, the Appellant generated only three (3) contact onlys. In his second year, the Appellant generated nine (9) contact onlys and in his third year, the Appellant generated thirty-nine (39) contact onlys. However, beginning in the Appellant's fourth year, he generated 393 contact onlys. Specifically, during his investigation Lt. Reap discovered that between April 2022 and March 3, 2023, the Appellant generated a total of 910 warnings, 398 of which were contact-only warnings and 349 of which were not printed out and provided to the individual.

At the conclusion of his investigation, Lt. Leap determined that the Appellant was generating contact-only warnings to inflate the appearance of his total activity to the Department. For instance, on March 3, 2023, the Appellant responded to a four-car collision. He generated a Form FR-10 to document the collision and two (2) citations for the driver at fault for the collision for being left of center and having no proof of insurance. However, the Appellant then also generated four contact-only warnings for all four (4) drivers in the collision but did not print the documents or issue them to the drivers. Therefore, when the SCHP reviewed the Appellant's activity during that time period, the Appellant would have four (4) additional points of contact when generating those four (4) documents had been unnecessary.

Similarly, for traffic stops, the Appellant would conduct a legitimate traffic stop and generate a citation for the individual that the Appellant printed out and issued to the individual. However, hours or sometimes days later, the Appellant would then also generate a contact-only

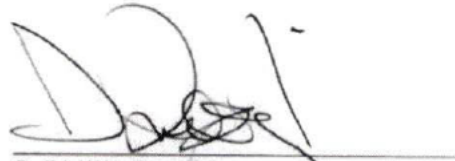
warning for those same individuals the Appellant had previously stopped, but did not print out nor provide the contact only document to those individuals. Lt. Reap clarified that if the Appellant had generated the documents during the traffic stops and then printed and issued the documents to the individuals during the traffic stop, there wouldn't have been any issues. Lt. Reap explained that no one on the SChP is trained to go back at the end of the day and generate more paperwork for somebody they dealt with hours prior. Further, the Appellant generating a contact-only warning in addition to the citation is not required by the public contact law. Specifically, subsection 56-5-6560(A) of the South Carolina Code provides that "[a]ny time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, the officer who initiated the stop must complete a data collection form designed by the Department of Public Safety that must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle." The effect of the Appellant's practice of generating these additional contact-onlys was leading the Department to believe the Appellant had engaged in significantly more enforcement activity than he actually had.

The Appellant testified that he generated public contacts because he felt the need to make sure that he was documenting his every contact and doing his due diligence. He didn't think anything was wrong with generating the public contacts if he was performing them correctly and using them for the intended purpose. The Appellant further stated that he never intended to deceive but that he was just working hard and trying to document everything. The Appellant asserted that he would have nothing to gain by inflating his contacts because he was assigned an unmarked patrol vehicle in March 2023 based off his Driving Under the Influence (DUI) activity and traffic stops. The Appellant further explained that as a trooper it was basically understood that while collision reports, tickets, or any documents pertaining to any other type of investigation would be printed and issued to the individuals, the contact onlys were not. However, the Appellant's own witness, a fellow trooper who has been employed by the Department since 2020, testified that when he generates public contacts or warnings he always prints them out and gives them to the motorists because that was what he was trained to do. Furthermore, the Appellant conceded that a FR-10 collision report or a traffic citation documents the same information that the Appellant would then later document on a warning or public contact.

The evidence supports the decision of the LETC that the misconduct allegations reported by the Department have been proven by a preponderance of the evidence. Therefore, based on the foregoing,

**IT IS HEREBY ORDERED** that the decision of the Law Enforcement Training Council is **AFFIRMED**.

**AND IT IS SO ORDERED.**

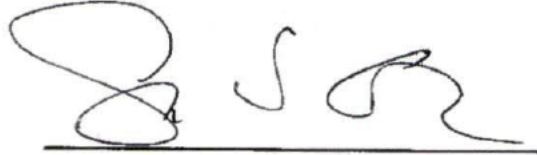
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S. Phillip Lenski  
Administrative Law Judge

November 6, 2024  
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler  
Judicial Law Clerk

November 6, 2024  
Columbia, South Carolina

