

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Joshua A. Vargo,

Appellant,

v.

South Carolina Criminal Justice Academy,

Respondent.

Docket No. 25-ALJ-30-0367-AP

**ORDER DENYING PETITION FOR
REHEARING**

RECEIVED

Jun 15 2026

SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) upon the appeal of Joshua Vargo (“Appellant”) from a final agency decision issued by the Law Enforcement Training Council (“LETC or Council”) of the South Carolina Criminal Justice Academy (“SCCJA” or “Respondent”) to permanently deny Appellant a law enforcement certification. This Court has jurisdiction pursuant to S.C. Code Ann. Section 1-23-600(D) (Supp. 2025); *see also* S.C. Code Ann. § 1-23-505(2) (Supp. 2025).

The Court issued an order affirming the decision of the LETC on April 28, 2026. Appellant filed a Petition for Rehearing on May 8, 2026. The SCCJA responded to the Petition on May 15, 2026. After careful consideration of the Petition, the Court denies the Petition for the reasons stated below.

BACKGROUND

The factual background of this case is fully set forth in the Court’s prior order and is incorporated herein by reference.

DISCUSSION

Rule 40(B), SCALCR, permits a party to petition for rehearing of an appeal. It provides that a party filing such a motion must state “with particularity the points supposed to have been overlooked or misapprehended by the Court.” In this case, Appellant contends that the Court overlooked or misapprehended 19 separate points. The Court will address these arguments individually below.

1. Adderall is not a controlled substance.



Appellant contends that the Court overlooked the fact that it is not common knowledge that Adderall is a controlled substance. Appellant does not elaborate on this argument to explain why this argument, if correct, compels a different result on appeal. Based upon Appellant's prior submissions, the Court assumes Appellant asserts that because many people do not know Adderall is a controlled substance and Appellant did not know, Appellant's failure to disclose the use of Adderall in response to a question concerning controlled substances cannot be considered to have been a *willfully* incorrect response.

Upon review, the Court does not believe it overlooked the fact that it is not common knowledge that Adderall is a controlled substance. The Court specifically stated that, had it been the trier of fact, it may have reached a different result than did the Respondent. However, a reasonable person could conclude that Appellant's failure to disclose Adderall use in response to a written question about controlled substances is an incorrect statement. Adderall is in fact a controlled substance.

With respect to whether the omission can be viewed as willful, the Court views the evidence as mixed. On one hand, Appellant states he did not know Adderall was a controlled substance. On the other hand, there is circumstantial evidence in the record from which Respondent could infer intent. The Court may very well have accepted Appellant's testimony were it the trier of fact. The Court cannot say, however, that no reasonable person could have relied upon the circumstantial evidence in the record, and, as a result, it cannot disturb the factual finding made by LETC.

2. Online Application Form

Appellant asserts that the Court overlooked the fact that Appellant's failure to disclose his use of Adderall as a controlled substance was not made in response to a question but instead was made as part of an initial online job application generated by the Division of Human Resources, which was followed by in-person interviews designed to elicit greater detail. Again, Appellant does not elaborate on this argument to explain why this argument, if correct, compels a different result on appeal. The Court assumes the intended point is that Appellant's omission did not cause harm or prejudice to his potential employer because there was an additional exploration of substance abuse issues later in the application process.

The Court's prior order addressed this argument generally. It noted that Appellant had failed to supply any authority that harm or prejudice to the employer is a factor to be considered.

Appellant's Petition for Rehearing has not cured this omission, and, accordingly, the Court adheres to its prior ruling.

3. Exhibit 6

Appellant contends that Court misapprehended the underlying facts when it concluded that Appellant responded to a question in Exhibit 6 regarding use of another's prescription medication by saying "maybe childhood from mother." According to Appellant, the notation referring to Appellant's mother is one made by the examiner rather than Appellant and may or may not represent a verbal response from Appellant or, at a minimum, a correct or complete transcription of a response from Appellant. Appellant also asserts that Appellant testified that he did inform his prospective employer he had taken prescription medication belonging to another. Finally, Appellant contends that because neither "yes" nor "no" was checked on Exhibit 6, the interviewer must have known that Appellant used prescription not prescribed to him.

Upon review, the Court does not believe it misapprehended or overlooked these points. The Court's review on this issue was limited to determining whether enough evidence existed such that a reasonable person could reach the same conclusion as the LETC. The Court concludes that the notation on Exhibit 6 could reasonably be viewed as representative of Appellant's response to the verbal question asked by the interviewing officer.

Appellant's argument that he did inform his interviewer that he used prescription drugs belonging to another misses the point. The record indicates that, in addition to whatever Appellant may have obtained from his mother as a child, Appellant purchased 10-20 Adderall tablets from a neighbor in college only months before participating in the interview. There is no indication in the record that Appellant disclosed this fact, and a reasonable person could view this omission as either incomplete or misleading or both.

Appellant's final argument regarding what the interviewer must have known suffers from this same defect. Even if the interviewer knew that Appellant had used another's prescription medication, Appellant's recent use of Adderall remained undisclosed.

4. Polygraph Results

Appellant raises several points regarding the polygraph results. Appellant first stresses that the Respondent failed to preserve a transcript or recording of the polygraph interview and the officer who performed the interview did not testify as a witness. Appellant then contends that the polygraph results do not indicate that Appellant engaged in giving deceitful responses relative to

his prior drug use. Appellant next takes issue with two statements in the Court's prior order: (1) that Appellant's responses during the polygraph examination was additional supporting evidence; and (2) that Appellant appears to have passed the polygraph. The Court has considered these arguments and does not believe that a change to its prior order is warranted. The absence of a transcript or recording of the polygraph interview does mean that there is not absolute certainty as to what was said during that interview. The Court views this criticism as one which affects the weight of the evidence presented below rather than its existence. The record does contain some evidence of what was said during the interview, namely, the 2013 Law Enforcement Polygraph Questionnaire. Once again, the Court's appellate review was confined to the question of whether a reasonable person could reach the same conclusion as did the LETC from the evidence in the record.

Appellant argues that the polygraph results do not indicate that Appellant gave untruthful answers. This argument is flawed for a number of reasons. First, the Court did in fact state that Appellant appears to have passed the polygraph. It is, however, critical to note that the polygraph results themselves are not in the record. The Court's statement is therefore merely an assumption. Second, there is no evidence in the record regarding interpretation of polygraph results. As a result, the true significance of "passing" the polygraph is not known. For example, can an applicant pass a polygraph if only a few incorrect or inaccurate answers are given? Assuming there is a threshold score that indicates honesty or dishonesty, what was Appellant's score on the specific question in issue? Appellant attempts to attach dispositive weight to an uncertain assumption.

Appellant's final argument is to reiterate that no harm or prejudice resulted to Appellant's employer as a result of any inaccuracy or omission. Again, Appellant has not provided the Court with any authority that prejudice is required.

5. Mention of Adderall in Other Forms

Appellant argues that the Court misapprehended Appellant's responses to his prospective employer when it stated that "Appellant did not mention the use of Adderall in any other Department questionnaire or form." Appellant states that he told Officer Rikard about his use of Adderall which led Rikard not to check "no" in response to question 16 of Exhibit 6. The Court perceives no error in its statement. As Appellant successfully argued, the statement to Officer Rikard was not made in a questionnaire or form, but verbally to Officer Rikard. Here, the LETC

elected to decertify Appellant for two reasons: (1) statements to law enforcement officers; and (2) statements in written forms. Appellant's argument blurs this important distinction.

6. Exhibit 6

Appellant asserts that the Court overlooked the fact that it was Rikard who checked the box on Exhibit 6. This argument is to some extent a repeat of Appellant's concerns regarding Exhibit 6, which are discussed above, but, to respond directly to Appellant's contention, the Court notes that it did not overlook the fact that Officer Rikard is the person who prepared Exhibit 6. In its prior order, the Court stated:

The final document is Exhibit 6. The LETC relied upon Appellant's negative answer to the question "Have you ever used and/or experimented with any illegal drug or substance not mentioned above?" in finding that a preponderance of the evidence indicated that Appellant had willfully provided incorrect information on a document. Appellant argues that he did not fill out this form. Instead, it appears that the Exhibit was completed by an officer who recorded Appellant's verbal responses to the set of questions contained in the exhibit.

Appellant argues that because he did not complete the form, it cannot satisfy the requirements of Section 23-23-150(A)(3)(k). The Court agrees with Appellant in this regard; however, as discussed above, Exhibit 6 is evidence of a false or incorrect statement which can authorize decertification pursuant to Section 23-23-150(A)(3)(i).

7. Failure of Proof

Appellant argues that the Court overlooked the Respondent's failure to prove the substance of any conversation between Rikard and Appellant. Appellant asserts that there is no transcript of the interview and contends that Rikard in fact had knowledge of Appellant's Adderall use.¹

The Court's prior order addressed this argument. While the Court concedes there is a lack of certainty with respect to Appellant's statements to Officer Rikard, Rikard's note regarding Appellant having used drugs prescribed to his mother as a child is some evidence that Appellant informed Rikard about childhood use of prescription drugs. The absence of a similar notation regarding Appellant's purchase of another's Adderall pills in college is some evidence that no similar statement was made -- at least at that time and in response to that question. *See, e.g.*, Rule 803(7), SCRE. Again, the Court may have taken a different view of the evidence were it the trier

¹ Appellant also argues that his employer should not be able to second guess its hiring decision more than a decade later. The Court construes this argument as one asserting that it was improper to take action after a ten-year period had elapsed since the incorrect statement. The Court will address this argument *infra*.

of fact. Sitting in appellate capacity, however, the Court's review is confined to the question of whether a reasonable person could have reached the same conclusion as did the LETC, and the Court answers this question affirmatively.

8. Question 16, Exhibit 6

Appellant contends that the Court misapprehended the importance of Question 18 in Exhibit 6. This question asked "'Have you ever used and/or experimented with any illegal drug or substance not mentioned above.'" According to Appellant, the word "illegal" modifies both "drug" and "substance," but because Adderall is not an "illegal" substance, Appellant's failure to disclose the use of Adderall in response to this question cannot be deemed an incorrect, false or misleading response.

Appellant previously made this same argument. As the Court explained in its prior order, Respondent argues that the word "illegal" does not modify the term "substance," with the result that Appellant's failure to disclose Adderall use in response to Question 18 can be considered a false, incorrect or incomplete response.

Upon Appellant's request, the Court has revisited the issue. The Court, however, does not accept Appellant's construction of the question posed by Officer Rikard to Appellant in Exhibit 6. It is possible to read the question so that the word "illegal" modifies both "drug" and "substance," but for Appellant to succeed in the argument he asserts, the term "illegal" must also be read to connote drugs are substances which are illegal to possess. Adderall itself is not illegal for certain individuals to possess, and, therefore, Appellant argues that Adderall does not qualify as an illegal drug or illegal substance.

This construction, which is implicit in Appellant's argument, is, in the Court's view, too narrow. It is inconsistent with the manner in which other questions found in Exhibit 6 appear to operate. For example, Question 10 in Exhibit 6 asks: "[h]ave you ever used and/or experimented with any illegal Inhalants? Yes ___ No ___." A variety of household substances, such as paint thinner, are legal to possess, but still addictive and harmful if inhaled. Were this question to be construed in the manner Appellant suggests Question 18 should be construed, inhaling such products or "huffing" would be excluded from the scope of the question. Such a construction would eliminate the need for Question 10 entirely because an applicant's inhalation of substances which are illegal to possess, such as marijuana, crack cocaine, and heroine, are already covered by other questions found in Exhibit 6.

The Court construes Question 18 in a similar manner. If Question 18 were read as Appellant proposes, it would exclude from disclosure conduct which is material to the law enforcement employment application. In this case, it was illegal for Appellant, who did not have a prescription, to merely possess Adderall, let alone to consume it. A construction excluding this conduct from the scope of Question 18 cuts against the spirit and purpose of this part of the job application process. Additionally, because Question 18 is the last question asked of an applicant and because it asks about drugs or substances “not mentioned above,” it is clear that Question 18 is intended to be a broad “catch-all” question.

Accordingly, the Court sees no reason to alter or amend its prior Order in this regard.

9. Disclosure of Adderall Use to Rikard

Appellant contends that the Court conclusion that “there is no indication that Appellant’s response to the question regarding use of another’s prescription medication included a confession regarding Appellant’s Adderall use” is incorrect. He argues that: (1) he testified on this subject before the Hearing Officer;² and (2) the Hearing Officer’s report states “he did tell them that he took prescription medication that did not belong to him.”³

To address this contention, the Court has once again reviewed the portions of the record cited by Appellant. This review indicates that Appellant’s characterization of the evidence below is incorrect. Appellant in fact testified that he did not know whether he had informed Officer Rikard of Appellant’s Adderall use. While Appellant did testify that he informed Officer Rikard that he had used prescription drugs which did not belong to him, and the Hearing Officer adopted this testimony in the Hearing Officers’ Report and Recommendation, the statement upon which Appellant and the Hearing Officer appear to rely is the statement that Appellant might have taken his mother’s prescription drugs as a child. This statement omits Appellant’s more recent and therefore material use of another’s Adderall in college.

The Court sees no reason to alter or amend its prior order based upon this argument.

10. Hearing Officer’s Conclusion that Appellant’s Explanation Is Plausible.

Appellant contends that the Court overlooked the Hearing Officer’s conclusion that Appellant’s explanation was plausible. The Court did not overlook this finding. It also concluded that Appellant’s explanation was plausible. This finding, however, is not the controlling factor.

² R. at 162-63.

³ R. at 40.

Under the substantial evidence standard, the Court must address whether a reasonable person could have reached a different conclusion than did the LETC. Stated differently, the Court must also consider whether the LETC's construction of events is plausible. The Court has and continues to conclude that the LETC's findings are plausible, and, therefore, must be affirmed.

11. The Court's Own Finding Regarding Willfulness.

Appellant argues that the Court has misapprehended the import of its own findings that: (1) Appellant's argument against a finding of willfulness is plausible; and (2) there is no direct evidence of willfulness. This argument evidences a misunderstanding of the applicable standard of review. The ultimate question before the Court is not whether Appellant's position is plausible – it is whether the agency's position is plausible. If a reasonable person could reach the same conclusion as did the agency below, the Court is required to affirm. The Court concluded that the LETC's conclusion is plausible and supported by circumstantial evidence. Appellant has not addressed these conclusions in this section of his Petition for Rehearing, and the Court sees no grounds on which it could alter its prior order.

12. Circumstantial Evidence

Appellant argues that the Court misconstrued the circumstantial evidence in this case because said evidence does not lead to the conclusion with reasonable certainty that Appellant acted willfully. Appellant contends that an inference that Appellant had a motive to withhold his Adderall use is improper because Appellant did disclose his Adderall use to Rikard and passed the polygraph examination. According to Appellant "[i]f Appellant was trying to hide his Adderall use in the context of a job application, he would not have truthfully answered the questionnaire when he applied to SLED with full disclosure of his Adderall use.

The Court has largely addressed these arguments above. There is in fact no evidence that Appellant disclosed his Adderall use to Rikard. The record specifically reflects that Appellant did not recall whether he had discussed Adderall with Rikard and could only testify that he informed Rikard he may have used his mother's prescription drugs as a child. Appellant's additional argument that his disclosure of Adderall use to another potential employer ten years later establishes that he had no motive to conceal his Adderall use when applying to the South Carolina

Highway Patrol is a non sequitur. The record is clear that had Appellant disclosed his Adderall use to the South Carolina Highway Patrol, he would not have been hired.⁴

13. Question 14 of Exhibit 6

Appellant argues that the Court misapprehends the import of question 14 of Exhibit 6. Appellant contends that after this question was answered in August, subsequent information regarding Appellant's use of Adderall was developed and clarified by Appellant's polygraph and interview with Rikard. Question 14 of Exhibit 6 asks whether the job applicant has "ever used and/or experimented with DMX, GHB, Rohyphnol (Ruffies)?" Because this question and its answer were not involved in the proceedings below and were not a basis for the LETC determination, the Court assumes that Appellant is referring to Question 18.

Appellant's argument is flawed. It assumes that a willfully false, incorrect or incomplete statement cannot be a basis for decertification if, subsequently, the answer is clarified. As explained above and in its prior Order, the Court can discern no requirement of prejudice or harm to the prospective employer in order for decertification to be permitted. Also as explained above, Appellant's argument rests upon a faulty factual premise. There is no evidence in the record that Appellant discussed Adderall with Officer Rikard. The testimony repeatedly cited by Appellant states that Appellant could not recall whether he discussed Adderall with Rikard.

14. Question 12 of Exhibit 6

Appellant asserts that the Court misapprehended the import of "the answer" in the 2013 Law Enforcement Polygraph Questionnaire.⁵ Question 12 on this form asks "[h]ave you ever used someone else's prescription drugs?" Appellant answered "No." Appellant himself admits that he purchased another's Adderall pills in college, and, in this Petition, asserts that he may have used prescription medication belonging to his mother as a child. These admissions are direct evidence that Appellant's answer to Question 12 was false.

Appellant now argues that the answer "no" was found to be truthful when the polygraph examination was administered, and that the polygraph results themselves are "direct evidence that Appellant did not willfully make a false or incorrect statement." This argument lacks merit. Again, the polygraph results are not in evidence. The parties and the Court have merely speculated

⁴ The fact that Appellant was hired is additional circumstantial evidence that he did not disclose Adderall use to the Highway Patrol.

⁵ Appellant's argument appears to be a reference to Exhibit 4 rather than Exhibit 6.

that Appellant passed the polygraph because he was subsequently hired by the South Carolina Highway Patrol. There is also no evidence in the record demonstrating the manner in which the Highway Patrol utilizes the results. Based upon the record before the Court, there is simply no way to ascertain whether the polygraph examiner found Appellant's response to Question 12 to be truthful, and therefore no evidence to support Appellant's argument. Even if the Court were to accept Appellant's speculation in this regard, it does not negate the existence of the circumstantial evidence of willfulness in the record, and therefore provides no basis on which the Court could reverse the LETC determination.

15. Section 23-23-150

Appellant argues that the Court incorrectly interpreted South Carolina Code Section 23-23-150 when it concluded that there is no requirement that a false statement warranting decertification be material. According to Appellant, such an interpretation would "lead to the absurd result that a scrivener's error or incorrect transposition of numeral could support a conclusion that answers given in response to a questionnaire must be willful and disqualifying." The Court construes this argument as suggesting that the absence of a requirement of materiality would permit decertification for a mere scrivener's error.

This argument misses the mark. A mere scrivener's error would not support decertification because the answer must be both incorrect, false, incomplete *and* willfully made. A scrivener's error, by definition, is not willfully made.

For purposes of clarity, however, the Court will elaborate on its prior conclusion regarding Section 23-23-150. This code section defines "misconduct" to include:

- (a) a conviction, plea of guilty, plea of no contest or admission of guilt to a felony, a crime punishable by a sentence of more than one year, regardless of the sentence actually imposed, or a crime of moral turpitude, any of which were committed in this State or any other jurisdiction;
- (b) the unlawful use of a controlled substance;
- (c) the repeated use of excessive force in dealing with the public or prisoners;
- (d) dangerous or unsafe practices involving firearms, weapons, or vehicles which indicate either a wilful or wanton disregard for the safety of persons or property;
- (e) the physical or psychological abuse of members of the public or prisoners;

(f) the wilful failure to intervene when observing another officer physically abusing a person, whether or not the person is in custody, while in the performance of his official duties, if the officer knew the person's rights were being violated, the officer had an opportunity to intervene, and the officer chose not to do so;

(g) the wilful and knowing failure to promptly report another officer, while in the performance of his official duties, abusing a person whether or not the person is in custody;

(h) the misrepresentation of employment-related information;

(i) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State;

(j) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction, or their staff members, whether under oath or not;

(k) wilfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State;

(l) the falsification of any application for certification and training based upon which the officer was admitted for training; or

(m) wilfully providing false information to the Criminal Justice Academy or the Law Enforcement Training Council.

S.C. Code Ann. § 23-23-150(A)(3). Absent from the language quoted above is any express requirement that the alleged misconduct be prejudicial or harmful to a potential employer or that a misrepresentation be relied upon in any way by its recipient. Appellant has cited no case which construes section 23-23-150 to require materiality, and the Court's own research has found none. Moreover, from a policy perspective, it is certainly possible that the Legislature concluded that a person who willfully provides a false statement to a law enforcement agency or in a document, form, or report lacks the character necessary to be a police officer.⁶

16. Section 23-23-150(A)(3)(k)

⁶ In illustrating a possible construction of Section 23-23-150, the Court does not mean to comment in any way upon Appellant's character. As the Court has stated numerous times, were it the finder of fact it may have reached a different conclusion than did the LETC.

Appellant contends that the Court's conclusion in its prior Order that the answers in Exhibit 6 were made by Officer Rikard rather than Appellant undermines the validity of the Court's decision to affirm the LETC. The Court of course did agree with Appellant that Rikard recorded the verbal responses made by Appellant and that Appellant himself did not personally record the answers in the polygraph questionnaire, and, as a result, the answers recorded on the questionnaire could not serve as a basis for decertification under Section 23-23-150(A)(3)(k), which addresses the provision of false or incomplete information on a document, report, or form. Stated differently, Appellant prevailed on this argument.

The Court, however, also concluded that Appellant's verbal statement to Officer Rikard could function as a false, incomplete or misleading statement made to a law enforcement agency or its representative which, if willfully made, constitutes a basis for decertification pursuant to Section 23-23-150(A)(3)(i). Appellant contends that there is no evidence in support of this conclusion because Officer Rikard did not testify and there exists no transcript of the interview conducted by him. The Court has previously addressed and rejected this argument. The recorded response to the question by Rikard on the questionnaire is itself evidence of the statement made by Appellant to Rikard.

17. Ten-Year Delay

Appellant argues that the Court's conclusion that Appellant had failed to preserve issues of laches, estoppel, and unclean hands resulting from the 10-year delay between the conduct at issue and decertification were not preserved for review. Appellant asserts that the issue of the ten-year delay has been a constant issue in this case. Appellant notes that the Hearing Officer noted that it was understandable because a person might not remember a conversation from ten years ago. Appellant contends that the delay not only affects witness recollection but also resulted in loss of evidence such as interview transcripts and polygraph results.

The Court has no doubt that the delay could have impaired the recollection of witnesses and resulted in the loss of relevant evidence. The Court, however, sits in an appellate capacity. It can only reach issues which were both raised to and ruled upon below. Even if the Court credits the statement made to the Hearing Officer as raising issues related to laches, waiver, and/or estoppel, the Court could only conclude that the issues were raised to the Hearing Officer. It could not conclude that the issues were ruled upon below. The Hearing Officer's report and recommendation contains no conclusions regarding laches, waiver, or estoppel. These arguments

were not raised to the LETC, and the LETC's final determination, the decision actually on appeal, contains no such ruling. As a result, these issues are not preserved for review. *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial [court]."); *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.").

18. Laches, Estoppel, Unclean Hands, and Waiver

Appellant's arguments in Section 18 of his Petition for Rehearing duplicate the concerns outlined in Section 17 of the Petition and have been addressed above.

19. Conduct Occurring Prior to Certification

Appellant finally argues that the Court misapprehended the import of the fact that the alleged misconduct occurred prior to Appellant's certification as a law enforcement officer. He contends that if the misconduct had been discovered at the time of the application, he would simply not have been hired and would not have been subject to permanent decertification. The Court considered this argument previously and concluded that it was not properly preserved for appellate review.

Appellant now contends that principles of issue preservation do not apply because the issue is a jurisdictional one which may be raised at any time. It is certainly true that the requirement of error preservation does not apply to issues of *subject matter* jurisdiction, which can be raised at any time. *Town of Hilton Head Island v. Godwin*, 370 S.C. 221, 223, 634 S.E.2d 59, 60–61 (Ct. App. 2006) (providing "[t]he lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised sua sponte by the court"); cf. *Ex parte Cannon*, 385 S.C. 643, 654, 685 S.E.2d 814, 820 (Ct. App. 2009) (providing "[p]ersonal jurisdiction may be waived, but subject matter jurisdiction may not be waived").

Subject matter jurisdiction is defined as the power to hear and determine cases of the general class to which the proceedings in question belong. *In re Nov. 4, 2008 Bluffton Town Council Election*, 385 S.C. 632, 637, 686 S.E.2d 683, 685–86 (2009). The Court does not view Appellant's argument as one that implicates subject matter jurisdiction. There is no question that the LETC is vested with jurisdiction to hear and adjudicate cases involving the denial or withdrawal of a law enforcement officer's certification. See S.C. Code Ann. § 23-23-150(E)

("[t]he parties must be sent, via certified mail, or electronically if requested, a copy of the hearing officer's recommendation to the full Law Enforcement Training Council. Either party who opposes the recommendation may file a motion in opposition of the hearing officer's recommendation but must do so within fifteen working days of receipt. Another party may file a response to the motion in opposition but must do so within ten working days of the receipt of the motion in opposition. These motions shall be submitted to the full Law Enforcement Training Council, along with the recommendation, hearing transcript, and exhibits. The council may schedule oral arguments for the next quarterly scheduled meeting. *After reviewing the motions, recommendation, hearing transcript, and exhibits, the council may vote and issue a final agency decision at any time other than at a quarterly or special meeting.*") (emphasis added); S.C. Code Regs. Ann. § 37-026. The LETC had subject matter jurisdiction to entertain Appellant's case.

Appellant's argument is instead more properly characterized as an argument that conduct which occurred before an individual was a law enforcement officer or candidate does not fall within the definition of misconduct set forth in South Carolina Code Section 23-23-150 or South Carolina Regulation 37-026, as these provisions are intended to regulate conduct which occurred when an individual is a law enforcement officer or candidate and not a private individual. There is some support for this argument, but, as it is not one involving subject matter jurisdiction, it is subject to requirements of error preservation, which were not satisfied in this case. The Court therefore cannot address the substance of the argument.

ORDER

IT IS HEREBY ORDERED that the Petition for Rehearing is **DENIED**.⁷
AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

June 1, 2026
Columbia, South Carolina

⁷ The Court has thoroughly reviewed the record in this case and the arguments of the parties. The factual discrepancies highlighted by Appellant, along with his other arguments, were not overlooked, and had the Court been the finder of fact, it may have reached a different conclusion. However, when serving an appellate role, this Court has limited authority to disturb decisions made below.

CERTIFICATE OF SERVICE

I, Jared Thompson, hereby certify that I have on 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).



Jared Thompson
Judicial Law Clerk

June 1, 2026
Columbia, South Carolina