

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No. 2013-002612

Cassandra Donaldson,

Respondent,

v.

South Carolina Criminal Justice Academy,

Appellant.

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA
COURT OF APPEALS**

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	)	
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vs.	)	
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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Cassandra Donaldson,

Appellant,

v.

South Carolina Criminal Justice Academy,

Respondent.

Docket No. 12-ALJ-30-0087-AP

FINAL ORDER

This matter is before the Administrative Law Court (ALC or court) on a Notice of Appeal filed by the Appellant, Cassandra Donaldson, seeking review of the decision of the South Carolina Criminal Justice Academy (Respondent) that the Appellant was no longer eligible for certification as a law enforcement officer in South Carolina. Based upon the Record on Appeal and the parties' briefs as well as the applicable law, the decision is reversed and remanded.

BACKGROUND¹

The Appellant was employed as a law enforcement officer with the Barnwell County Sheriff's Office and was assigned as a school resource officer for Williston-Elko School District 29. As part of her duties, she was responsible for providing security for home football games. Over a four-year period, the Appellant was paid approximately Two-Thousand Dollars (\$2,000) by the school district for the same work for which she applied and received compensatory time from the Sheriff's Office. On September 27, 2010, the Sheriff's Office terminated the Appellant's employment on the basis that the Appellant received compensation from the school district for the same hours she submitted to claim compensatory time with the Sheriff's Office.

On October 22, 2010, the Orangeburg County Sheriff's Office requested a finding regarding whether the Appellant was eligible to be certified as a law enforcement officer and, thus, eligible for employment with the Sheriff's Office. On November 2, 2010, the Director of

¹ The Council's Order summarized the facts and specifically included four brief Findings of Fact as a basis for the Council's decision. Generally, an appeal will be remanded where the finder of fact failed to make sufficient findings of fact required by S.C. Code Ann. § 1-23-350. See, e.g., Able Commc'n., Inc. v. S.C. Pub. Serv. Comm'n., 290 S.C. 409, 351 S.E.2d 151 (1986); Baldwin v. James River Corp., 304 S.C. 485, 405 S.E.2d 421 (Ct. App. 1991). Here, while there are some facts the parties do not agree upon, the material facts are undisputed and are sufficient for this court to review the Council's decision under the appellate standard of review.

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the Criminal Justice Academy issued a letter notifying the Appellant that she would not be reinstated due to allegations of misconduct by the Barnwell County Sheriff's Office that had been determined to be founded. The letter also informed the Appellant that if she wished to appeal, she could file a request for a contested case hearing at the ALC. The Appellant timely requested a contested case hearing.

By letter dated December 8, 2010, the General Counsel for the Criminal Justice Academy informed the Appellant that the Law Enforcement Training Council had voted to reinstate the agency level contested case hearing. The parties thereafter submitted to the ALC a Joint Motion to Remand. On February 24, 2011, the case was remanded for an agency level contested case hearing. The hearing officer conducted the contested case hearing on May 31, 2011, and on June 1, 2011, issued a recommendation that the Council affirm the decision to revoke the Appellant's certification as a law enforcement officer. On January 31, 2012, the Council issued an Order of Denial, finding the Appellant is not eligible to be certified as a law enforcement officer in South Carolina. The Appellant timely appealed this decision to the ALC.

STANDARD OF REVIEW

The South Carolina Criminal Justice Academy is governed by the Law Enforcement Training Council. S.C. Code Ann. § 23-23-20 (Supp. 2011); see also About CJA, <http://www.sccja.sc.gov/1About/council/default.aspx> (last visited Oct. 25, 2013). The Council 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) (Supp. 2011). Therefore, a hearing officer conducts the contested case hearing regarding the decision to suspend, revoke, or restrict law enforcement certification; the hearing officer makes a recommendation to the Council; the Council issues a decision; and the ALC reviews the Council's decision in an appellate capacity. (See S.C. Criminal Justice Academy v. Lee, Docket No. 10-ALJ-30-0401-AP (Dec. 16, 2010) for an analysis of which entity is responsible for conducting the contested case hearing in these matters.) The ALC has jurisdiction to hear appeals of the Council's decisions pursuant to § 1-23-600(D), which provides that the APA's standard of review as set forth in § 1-23-380 governs these appeals. See S.C. Code Ann. § 1-23-600(D) (Supp. 2011). That section provides:

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) (Supp. 2011).

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

In this appeal, the Council denied the Appellant's certification as a law enforcement officer based on evidence that she engaged in misconduct through dishonesty and untruthfulness with respect to her employer. The Council cited S.C. Code Ann. Regs. 38-004, which provides:

- A. The Department may deny certification based on evidence satisfactory to the Department that the candidate has engaged in misconduct. For purposes of this section, misconduct means:
 - 1. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually

- imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;
2. Unlawful use of a controlled substance;
 3. The repeated use of excessive force in dealing with the public and/or prisoners;
 4. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
 5. Physical or psychological abuses of members of the public and/or prisoners;
 6. Misrepresentation of employment-related information;
 7. Dishonesty with respect to his/her employer;
 8. Untruthfulness with respect to his/her employer.

B. In considering whether to deny certification based on misconduct, the Department may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

S.C. Code Ann. Regs. 38-004 (2011). The Council found that the Appellant was dishonest and untruthful with her employer by submitting compensatory time requests when she had already received payment from the school district for that work. According to the Council, this practice of "double dipping" constituted a blatant act of dishonesty. Based on this finding of misconduct, the Council denied the Appellant's certification as a law enforcement officer.

The Appellant makes several arguments in this appeal but it is appropriate to first address the Appellant's request to reopen the record. The Appellant seeks to present evidence of examples of individuals who she asserts committed much more egregious misconduct in other professions and occupations but were allowed to keep their certifications and continue in their chosen professions. After due consideration of the Appellant's request, the court finds that the information referenced by the Appellant regarding disciplinary action of attorneys by the South Carolina Supreme Court and disciplinary action of other professionals by the Department of Labor, Licensing, and Regulation is not relevant to the grant, denial, or withdrawal of certification of law enforcement officers by the Council. The Appellant is not proposing to introduce evidence of other law enforcement officers who engaged in the same or similar conduct that the Appellant has admitted to engaging in here. Rather, the Appellant seeks to introduce information about disciplinary actions taken by other governing bodies in this state that may have disciplined non-law enforcement officer members of those bodies for various violations of those governing bodies' laws or regulations. These dissimilar cases are not relevant

to the actions taken by the Council in this case against the Appellant, a law enforcement officer, and therefore, the Appellant's request to reopen the record is denied.

The Appellant also submitted with her brief a compact disc containing videotaped footage of a county sheriff allegedly accused of striking a handcuffed prisoner. The Respondent argues that the videotape, created after the Appellant's contested case hearing, was never provided to the Council for consideration and, therefore, is not properly before this court pursuant to Rule 36(B), SCALC and Rule 210(c), SCACR. S.C. Code Ann. § 1-23-380(3) provides a method for presenting evidence that did not exist at the time of the contested case hearing. Upon a timely application to this court, and upon demonstrating the materiality of the additional evidence and that there was good cause for failure to present the evidence in the original proceedings, the court can order an agency to re-open its hearing and consider the additional evidence. The Appellant did not do this, and instead attached the videotape as an exhibit to her brief. Because the evidence was not considered by the Council, this court cannot consider the appended video tapes. Brown v. Peoplelease Corp., 402 S.C. 476, 741 S.E.2d 761 (Ct. App. 2013). Additionally, the court fails to see the materiality of the videotapes to the issue on appeal. The conduct portrayed in the videotape is entirely different from the offense the Appellant admits to having committed, and nothing in the videotape purports to relate to another law enforcement officer practicing "double dipping" or similar act. Therefore, the court is unable to find any justification for remanding this case to the Council for consideration of the videotape.

Turning to the merits of the Appellant's appeal, the Appellant argues that the regulation permitting the Council to deny certification exceeds the authority of the Council because the statute, § 23-23-80, only authorizes the suspension, revocation, or restriction of certification, not the denial of certification. Upon review of the regulation and the statute at issue, this court finds as a threshold matter that it was improper for the Council to refer to S.C. Code Ann. Regs. 38-004 (2011) in deciding whether to certify the Appellant as a law enforcement officer. As this court noted in several decisions issued in December 2010, the regulations contained in Chapter 38, Article 1, Subarticle 1, entitled "Law Enforcement Training" have not been amended since May 2003. See S.C. Criminal Justice Academy v. Lee, Docket No. 10-ALJ-30-0401-AP (Dec. 16, 2010). In fact, the regulation referenced by the Council in this matter still indicates the Department (of Public Safety) is the entity who may deny certification based on evidence of the

types of misconduct listed in that regulation. The Council's reference to this regulation is troublesome given that the regulation was promulgated by the Department of Public Safety in 2003 when § 23-6-450(f) provided that the Director of the Department of Public Safety was authorized 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 department." Although the Law Enforcement Training Advisory Council (hereinafter referred to as Advisory Council) existed at that time, its composition and role were markedly different from the Law Enforcement Training Council that exists today.

In 2006, Act No. 317 created the current eleven-member Council. In comparison to the Advisory Council that existed previously, the new composition eliminated four seats: Dean or Chairman of the USC School of Law or the College of Criminal Justice; person in administration of a municipality or holding municipal elective office; person in administration of a county government or elected to a county governing body; and Special Agent in Charge of the FBI, Columbia Division. Compare S.C. Code Ann. § 23-6-420(A) (Supp. 2005) with S.C. Code Ann. § 23-23-30(A) (Supp. 2006). The Act also transferred all functions, duties, responsibilities, accounts, and authority statutorily exercised by the Criminal Justice Academy Division from the Department of Public Safety to the Law Enforcement Training Council. S.C. Code Ann. § 23-23-10(D) (Supp. 2006). Significantly, the authority to "certify and train qualified candidates and applicants for law enforcement officers" was transferred from the Director of the Department of Public Safety to the Director of the Criminal Justice Academy in 2006 and subsequently to the current Council in 2008. 2008 S.C. Acts 335; compare S.C. Code Ann. § 23-6-450(f) (Supp. 2005) with S.C. Code Ann. § 23-23-80(6) (Supp. 2006) and S.C. Code Ann. § 23-23-80(6) (Supp. 2008).

While much of the language in the statutes remained the same, the General Assembly removed the statutes from Title 23, Chapter 6—the chapter allocated for the Department of Public Safety's statutes—and added them to Title 23, Chapter 23, entitled "Law Enforcement Training Council." The actions of the General Assembly established a significantly different structure than the one that previously existed. The new structure separated the Council and the Criminal Justice Academy from the Department of Public Safety. While the Council continued to include a seat for the Director of the Department of Public Safety, the Council no longer was a part of the Department of Public Safety and instead became a separate entity. Moreover, prior to

2006, the statute provided that the Director of the Department of Public Safety served as the chairman of the Council. After Act 317, the statute provided for the Council to elect one of its members as chairperson. S.C. Code Ann. § 23-23-30(C) (Supp. 2006). Rather than the Criminal Justice Academy being a division of the Department of Public Safety, it became a separate entity from the Department with its own director hired by and responsible to the Council. In addition, where the Advisory Council previously made recommendations to the Director of the Department of Public Safety, the Council acquired much of the Department's oversight and decision-making authority. See, e.g., S.C. Code Ann. § 23-23-10 ("minimum standards set by the council"); S.C. Code Ann. § 23-23-50 ("council shall develop guidelines").

Significant to this appeal, the responsibility for promulgating regulations changed from the Department of Public Safety to the Law Enforcement Training Council. Compare S.C. Code Ann. § 23-6-450(f) (Supp. 2005) with S.C. Code Ann. § 23-23-80(6) (Supp. 2006). Not only was the Council responsible for promulgating regulations after its creation in 2006, the Council also should have been conducting a formal review of its regulations every five years and submitting a report to the Code Commissioner identifying whether any regulations needed to be amended or repealed. S.C. Code Ann. § 1-23-120(J) (Supp. 2012). The Council has not done this.

As noted above, in 2006, all functions, duties, responsibilities, accounts, and authority statutorily exercised by the Criminal Justice Academy Division of the Department of Public Safety transferred to the Law Enforcement Training Council. S.C. Code Ann. § 23-23-10(D) (Supp. 2006). Assuming *arguendo* that this transfer of functions and authorities also meant that the applicable regulations—those contained in Chapter 38, Article 1, Subarticle 1—transferred as well, this argument would not resolve the fact that the Council did not promulgate regulations after its creation in 2006. Perhaps if the Director of the Criminal Justice Academy had been authorized at the time of the transfer to certify and train qualified candidates, it would support the conclusion that the authority transferred with the Director and the details established in the regulations somehow transferred with it. However, immediately prior to the transfer in 2006, the individual with the statutory authority to certify and train qualified candidates was the Director of the Department of Public Safety, not the Director or Deputy Director of the Criminal Justice Academy Division. In addition, as referenced above, the regulation referenced by the Council in this matter still indicates the Department (of Public Safety), is the entity authorized to deny

certification based on evidence of the types of misconduct listed in that regulation. This is not a situation where the term "Department" was used in the statutes and regulations prior to Act 317 as the entity responsible for promulgating regulations or certifying qualified candidates and the same term applied to the new entity created by Act 317. If that were the case, then it would be an act of futility to require an entity to promulgate new regulations where the Department substantively changed but the actual term within the regulation did not change and merely referred to a different "Department." However, those are not the facts here. Despite best efforts, this court can find no basis for finding that the Council appropriately referenced Regulation 38-004 when issuing its decision regarding the Appellant.

In this appeal, the Council referenced Regulation 38-004, which was promulgated by the Department of Public Safety pursuant to its authority under § 23-6-450(e) and (f). With the creation of the new Council in 2006, new regulations should have been promulgated pursuant to § 23-23-80(5) and (6). Because the Council has not done this, its reference to Regulation 38-004 was improper.

This finding, however, does not end the analysis. The statute in existence at the time the Council considered the Appellant's certification as a law enforcement officer established that the Council was authorized 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) (Supp. 2011). The cardinal rule of statutory construction is to determine the intent of the legislature. Beaufort County v. S.C. State Election Comm'n, 395 S.C. 366, 718 S.E.2d 432 (2011). The legislature's intent should be ascertained primarily from the plain language of the statute. Georgia-Carolina Bail Bonds, Inc. v. County of Aiken, 354 S.C. 18, 579 S.E.2d 334 (Ct. App. 2003). The language must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Municipal Ass'n of S.C. v. AT&T Commc'n of S States, Inc., 361 S.C. 576, 606 S.E.2d 468 (2004). When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning. Anderson v. S.C. Election Comm'n, 397 S.C. 551, 725 S.E.2d 704 (2012). However, if the language of the statute is ambiguous, the court must interpret the statute, resolving any ambiguities in favor of a just, beneficial, and equitable operation of the law. Georgia-Carolina, 354 S.C. at 24, 579 S.E.2d at 337.

The court finds that the language in § 23-23-80(6) is ambiguous. The statute provides that the Council has the authority to certify and train a law enforcement officer separate and apart from its authority to provide for the suspension, revocation, or restriction of the certification. A review of Title 23, Chapter 23 reveals two other statutes regarding the Council's authority to certify law enforcement officers, both of which are silent about the promulgation of regulations. See S.C. Code Ann. §§ 23-23-40 and 23-23-60 (Supp. 2011). In contrast, the only reference to suspension, revocation, or restriction of certification is contained in § 23-23-80 and includes the modifier "in accordance with regulations promulgated by the council." Thus, reading the language of § 23-23-80(6) in the context of Title 23, Chapter 23 leads this court to the conclusion that the General Assembly did not intend for the phrase "in accordance with regulations promulgated by the council" to apply to the Council's authority to certify and train qualified candidates. See Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229 (2001) ("It is well-settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result."). However, it is clear that the General Assembly intended for the Council to promulgate regulations for the purpose of suspending, revoking, or restricting the certification of a law enforcement officer. The Council has failed to do so.

In Captain's Quarters Motor Inn v. S.C. Coastal Council, 306 S.C. 488, 413 S.E.2d 13 (1991), the S.C. Supreme Court addressed facts similar to this case in which a South Carolina agency failed to promulgate regulations as mandated by the General Assembly yet proceeded to regulate the subject matter circumscribed by the statute. The Court established the precedent that an agency's issuance of guidelines rather than promulgating regulations after the General Assembly expressly mandated the promulgation of regulations rendered the formulated test of the agency invalid. The Supreme Court again addressed this issue under a different set of facts in S.C. Coastal Conservation League v. South Carolina Department of Health and Environmental Control, 363 S.C. 67, 610 S.E.2d 482 (2005). In Coastal Conservation, the issue was whether an island was so small as to be regulated under the Small Islands Regulation. Though OCRM promulgated regulations concerning the subject matter of its regulation, it failed to define "small island." The Court found that since the regulations provided no "benchmark for comparative size," it thus afforded DHEC an impermissible "unrestrained discretion" in deciding what islands were small and covered by the more stringent criteria. Accordingly, the Court held that since

there was no promulgated test to determine whether an island is small, the promulgated regulations were invalid. Applying the holdings of these cases to the case at bar, the Council's revocation of the Appellant's law enforcement certification without valid, promulgated criteria to make that determination as required by statute appears void.

In Captain's Quarters, the Court's holding was based upon the premise that "[a]s a creature of statute, a regulatory body is possessed of only those powers expressly conferred or necessarily implied for it to effectively fulfill the duties with which it is charged." Captain's Quarters, 413 S.E.2d at 490. Under that premise, because Coastal Council did not comply with the General Assembly's specific requirement to promulgate regulations for evaluating permit applications, the Court determined that the Coastal Council had overstepped its statutory authority in formulating and applying a test to evaluate those applications without first formalizing the test by regulation. Following that theory, the Court in Coastal Conservation found that OCRM's failure to promulgate a regulation defining "small island" as it was required by the General Assembly allowed OCRM to exercise unrestrained discretion, which is inconsistent with the requisites of the statute. The reason the discretion was improper and the regulation was unreasonably vague was because OCRM had overstepped its statutory authority in failing to formulate and apply a test to evaluate those applications without first formalizing the test by regulation. Accordingly, the two cases present both sides of the same coin: the failure to promulgate any criteria; and the creation of criteria that are not promulgated. In this case, the Council failed to promulgate criteria for the evaluating and exercising their authority to suspend, revoke, or restrict a law enforcement certification. Moreover, the Council relied upon criteria set forth in a defunct regulation that has not been promulgated under the Council's authority, thereby using a test that was not properly promulgated as a regulation. Based on the holdings of Coastal Conservation and Captain's Quarters this court can reach no conclusion other than that the actions of the Council in this case were prohibited, and the Council's revocation decision was invalid.

The Council failed to promulgate regulations for the purpose of suspending, revoking, or restricting the certification of a law enforcement officer. As a result, the Council's decision to revoke the Appellant's law enforcement certification was an error of law, arbitrary and capricious, made upon unlawful procedure, and characterized by an abuse of discretion or clearly unwarranted exercise of discretion. Moreover, the Appellant's rights to be employed as a law

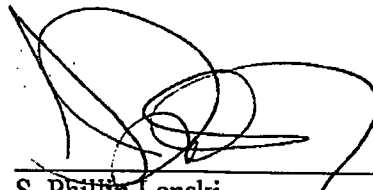
enforcement officer have been prejudiced as a result of the Council's decision. The court, therefore, reverses the Council's decision and remands this case to the Council to promulgate regulations. Based on this court's finding that Regulation 38-004 is defunct and, therefore, cannot be relied upon by the Council, all other challenges by the Appellant to the regulation are moot.

ORDER

IT IS HEREBY ORDERED that the Council's Order of Denial is **REVERSED** and this matter is **REMANDED** to the Council for the promulgation of regulations as required by S.C. Code Ann. § 23-23-80(6); and

IT IS FURTHER ORDERED that within ninety (90) days after promulgating regulations pursuant to S.C. Code Ann. § 23-23-80(6), the Council shall make a determination regarding the Appellant's certification as a law enforcement officer based upon the newly promulgated regulations.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

November 8, 2013
Columbia, South Carolina

STATE OF SOUTH CAROLINA
BEFORE THE CERTIFICATION REVIEW COMMITTEE OF
THE LAW ENFORCEMENT TRAINING COUNCIL

Appeal From Eligibility for Certification Decision

Cassandra Donaldson,

Appellant,

v.

South Carolina Criminal Justice Academy,

Respondent.

ORDER OF DENIAL

Hubert Harrell, Director of the South Carolina Criminal Justice Academy, made an initial determination that Ms. Donaldson was no longer eligible for certification as a law enforcement officer in South Carolina. Ms. Donaldson appealed that ruling and a hearing was held on May 31, 2011 at 10:00 A.M. at the South Carolina Criminal Justice Academy, which is located at 5400 Broad River Road, Columbia, South Carolina. The Hearing Officer who presided was Keila Thomas. Ms. Donaldson, the Appellant attended and was represented by C. Bradley Hutto, Esquire. Brandy Duncan, Esquire, represented the Criminal Justice Academy. The Hearing Officer recommended to the Law Enforcement Training Council to confirm the decision of Director Harrell to deny re-certification of Ms. Donaldson as a law enforcement officer. On October 19, 2011, the Law Enforcement Training Council, after reviewing the record, voted and determined unanimously that Ms. Donaldson is no longer able to be certified as a law

enforcement officer in the State of South Carolina.

SUMMARY OF THE FACTS

Ms. Donaldson was employed as a class one law enforcement officer with the Barnwell County Sheriff's Office from 1997 until the fall of 2010; the date when Ms. Donaldson was terminated for Improper Conduct (Misconduct). The circumstances regarding Ms. Donaldson's separation from the Barnwell County Sheriff's Office were reported to the CJA as required by S.C. Regulation 38-009.

According to documentation provided by the Barnwell County Sheriff's Office, Ms. Donaldson was working security at football games, for which the school district paid her, and she submitted to her employer compensatory time requests, at time and a half, for the same football games.

The first witness to testify was Cassandra Donaldson. She testified that she became a law enforcement officer for Barnwell County Sheriff's Office in 1997 and remained as one until the fall of 2010, when South Carolina Criminal Justice Academy removed her credentials. (Hr. Tr. Page 15 lines 4-14.) In particular, she was assigned as a school resource officer for Williston-Elko School District 29. (Hr. Tr. Page 15 lines 15-21.) As a part of her duties, she was in charge of security for home football games. (Hr. Tr. Page 16 lines 10-19.) Furthermore, she was responsible for making sure there were enough officers present to provide proper security. (Hr. Tr. Page 17 lines 2-6.) She testified that the school district paid her with a check for the time she worked and she submitted to the Sheriff's Office that she was entitled to compensatory time for the same hours. (Hr. Tr. Page 18 lines 1-10.) In fact, she submitted to the Sheriff's Office that

she was entitled to compensatory time at a rate of one and a half. (Hr. Tr. Page 24 lines 3-7.) She admitted that it was wrong to have the school district pay her and receive compensatory time at a rate of one and a half from the Sheriff's Office. (Hr. Tr. Page 25 lines 20-25.) However, she testified that she was never instructed the receiving the pay and compensatory for the same work was wrong. (Hr. Tr. Page 20 lines 1-10.)

FINDINGS OF FACT

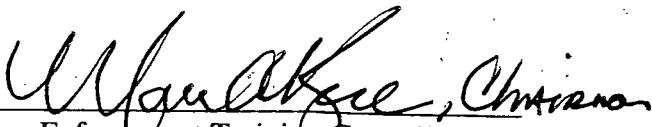
It is found as a fact:

1. Ms. Donaldson worked security at home football games and was paid by the school district.
2. Ms. Donaldson submitted compensatory time requests to the Sheriff's Office for the same home football games that she had already received payment for working from the school district.
3. Ms. Donaldson was terminated for misconduct in the fall of 2010.
4. As required by S.C. Regulation 38-009, Ms. Donaldson's separation from Barnwell County Sheriff's Office and the circumstances surrounding that separation were reported to the CJA.

CONCLUSIONS OF LAW

S.C. Code §23-23-80(6) allows the Law Enforcement Training Council to suspend, revoke, or restrict law enforcement certification in accordance with regulations promulgated by that same council. S.C. Reg. 38-004(A)(7)(8) allows for denial of certification based on evidence satisfactory to CJA that the candidate has engaged in misconduct through dishonesty and untruthfulness with respect to her employer. In this case, the Council finds that Ms.

Donaldson was dishonest and untruthful with her employer by submitting compensatory time requests to her employer when she had already received pay from the school district for that work. This is the practice commonly known as "double dipping" and is a blatant act of dishonesty. Therefore, this Council finds Ms. Donaldson is no longer able to be certified as a law enforcement officer in the State of South Carolina. Ms. Donaldson's request that Director Hubert Harrell's decision be reversed is, hereby, denied.


Law Enforcement Training Council
South Carolina Law Enforcement Division
Post Office Box 21398
Columbia, SC 29221
(803) 737-9000

~~December 1, 2011~~

Dec. 31, 2012



South Carolina Criminal Justice Academy

November 2, 2010

VIA CERTIFIED MAIL

Ms. Cassandra Donaldson
81 Wilton Drive
Williston, S.C. 29853

Dear Ms. Donaldson:

This is to notify you that your certification as a law enforcement officer in South Carolina will not be reinstated at this time.

Allegations of misconduct brought against you by the Barnwell County Sheriff's Office have been determined to be founded. Specifically, the Criminal Justice Academy has been notified you submitted and was granted compensatory time at the same time you submitted and received payment from Williston-Elko High School for work during their football games. Documentation received by the Academy indicates that this behavior took place over the course of four (4) years, i.e., 9/1/06 to 8/20/10. S.C. Reg. 38-004 permits me to deny an officer's request for certification if evidence presented to me indicates an officer has been dishonest with respect to his/her employer.

If you wish to appeal this decision, you may do so by filing a request for a contested case hearing with the Administrative Law Court. Such a request must be filed with the Administrative Law Court within thirty (30) days of receipt of this letter. In addition, such a request must be served on Brandy A. Duncan, General Counsel for the Academy, at 5400 Broad River Road, Columbia, S.C. 29212. Due to the impact such a hearing may have on your career, you may want to consult with a legal representative.

If you have any questions regarding this matter, please do not hesitate to contact my office at (803) 896-7779.

Sincerely,

Hubert F. Harrell
Director

HFH:bk

c: Major Mernard Clarkson, Orangeburg Co. Sheriff's Office
Certification/Compliance File

COA - Record on Appeal 17

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1. Article Addressed to:

Ms. Cassandra Donaldson
81 Wilton Drive
Williston, S.C. 29853

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A. Signature

X

B. Received by (Printed Name)

☐ Agent

☒ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☒ Yes

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Donaldson

PS Form 3811, February 2004

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SENDER: COMPLETE THIS SECTION

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Major Mernard Clarkson
Orangeburg Co. Sheriff's Office
P. O. Box 9000
Orangeburg, S.C. 29116

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

☐ Agent

☒ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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Donaldson

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Cassandra Donaldson,

Appellant,

vs.

South Carolina Criminal Justice Academy,

Respondent.

NOTICE OF ASSIGNMENT
(Appeal)

DOCKET NO. 12-ALJ-30-0087-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on March 2, 2012. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2011), the **Honorable S. Phillip Lenski**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the seventh day of March, 2012.

Ralph King Anderson, III
Chief Administrative Law Judge

By: Jana E. Shealy
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

MAR 07 2012

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Cassandra Donaldson,

Appellant,

vs.

South Carolina Criminal Justice Academy,

Respondent.

NOTICE OF ASSIGNMENT
(Appeal)

DOCKET NO. 10-ALJ-30-0943-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on November 23, 2010. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2009), the **Honorable Ralph King Anderson, III**, Chief Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

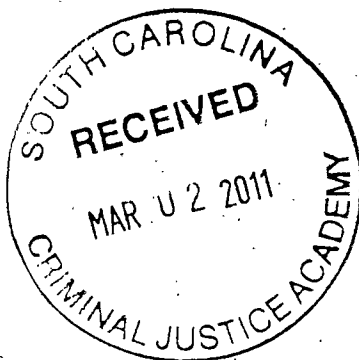
The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the fourth day of January, 2011.

Ralph King Anderson, III
Chief Administrative Law Judge

By: _____

Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201



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COA - Record on Appeal 211

SC ADMIN. LAW COURT

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI HALEY
Governor



KELA E. THOMAS
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

June 1, 2011

Mark Keel, Director
South Carolina Department of Public Safety
Post Office Box 1993
Blythewood, South Carolina 29016

Dear Director Keel:

On May 31, 2011 at 10:00 a.m. I was the hearing officer for the South Carolina Criminal Justice Academy (SCCJA) Law Enforcement Training Council. As the hearing officer, I presided over Cassandra Donaldson's certification hearing. After hearing all the facts that both sides presented, I make the following recommendation to sustain and support the decision of Huber Harrell, Director of the SCCJA not to allow Cassandra Donaldson to maintain her certification as a law enforcement in accordance Section 38-004 Denial of Certification for Misconduct Paragraphs 5 & 7. While Ms. Donaldson has worked for Williston School District #29 for thirteen years, she has displayed extremely poor judgement by being dishonest and untruthful with respect to her employer. Donaldson was being paid through Williston-Elko High School for working football games and also received Comp-Time through the Barnwell County Sheriff's Office on some occasions. Donaldson has admitted that she received both and was that she was wrong.

Although Donaldson's has stated that she was not properly trained how to complete her time sheet paperwork, I cannot overlook what took place over a four year period. The Barnwell County Sheriff's Office was correct to request Donaldson's certification be removed.

My recommendation the SCCJA Law Enforcement Training Council is to affirm the decision of the Director of the SCCJA to revoke Cassandra Donaldson's certification as a law enforcement officer.

Sincerely,

Kela E. Thomas
Kela E. Thomas

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No. 12-ALJ-30-0087-AP

Cassandra Donaldson,

Respondent,

v.

South Carolina Criminal Justice Academy,

Appellant.

NOTICE OF APPEAL

South Carolina Criminal Justice Academy appeals the decision of the Honorable S. Phillip Lenski dated November 8, 2013. Appellant received a copy of this decision on November 11, 2013.

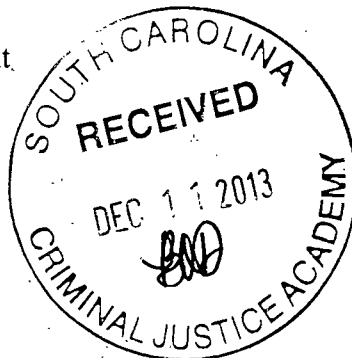
December 9, 2013



Brandy A. Duncan, Chief General Counsel
5400 Broad River Road
Columbia, South Carolina 29212
(803) 896-7414
(803) 896-8347 (fax)
Attorney for Appellant

Other Counsel of Record:

C. Bradley Hutto, Esquire
Williams & Williams
Post Office Box 1084
Orangeburg, South Carolina 29116
(803) 534-5218
(803) 536-6544 (fax)
Attorney for Respondent



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COA - Record on Appeal 23
SC ADMIN

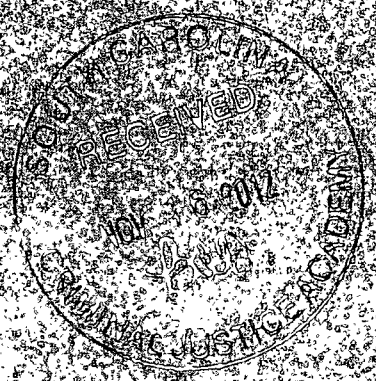
STATE OF SOUTH CAROLINA
ADMINISTRATIVE - CIVIL - APPEALS

Appellant

South Carolina Criminal Justice Academy

Respondent

BRIEF OF RESPONDENT



Bradley White, Esquire
Attorney for Appellant
Williams & Williams
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Orangeburg, South Carolina 29116
(803) 534-5218
(803) 536-6244 (fax)

Brady A. Duncan, Esquire
Attorney for Respondent
5300 Broad River Road
Columbia, South Carolina 29212
(803) 896-7414
(803) 896-8347 (fax)

November 7, 2012

21-CCA- Record on Appeal

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SC ADMIN - APPEALS

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STATEMENT OF ISSUES ON APPEAL

- I. THE DOCUMENTS ATTACHED TO BRIEF OF APPELLANT ARE ATTACHED IN VIOLATION OF RULE 36(B), SCALCR AND RULE 210(C), SCACR
- II. "STATEMENT OF CASE" IN BRIEF OF APPELLANT VIOLATES RULE 37(B)(2), SCALCR AND RULE 208(b)(1)(C), SCACR
- III. APPELLANT FAILED TO PRESERVE ANY OBJECTIONS TO AGENCY PROCESS
- IV. RESPONDENT DID NOT EXCEED STATUTORY AUTHORITY IN DENYING LAW ENFORCEMENT CERTIFICATION TO APPELLANT
- V. S.C. REG. 38-004 IS NOT ARBITRARY OR CAPRICIOUS
- VI. S.C. REG. 38-004 IS NOT UNCONSTITUTIONALLY VAGUE OR OVERBROAD
- VII. S.C. REG. 38-004 DOES NOT VIOLATE DUE PROCESS OR EQUAL PROTECTION
- VIII. DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT WAS NOT AN UNCONSTITUTIONAL TAKING IN VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION, THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND/OR ARTICLE I, SECTION 3 OF THE CONSTITUTION OF SOUTH CAROLINA
- IX. AGENCY PROCESS IS NOT UNCONSTITUTIONAL, ARBITRARY, OR CAPRICIOUS
- X. THE DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT WAS NOT ARBITRARY, CAPRICIOUS, CHARACTERIZED BY AN ABUSE OF DISCRETION, OR CHARACTERIZED BY A CLEARLY UNWARRANTED EXERCISE OF DISCRETION
- XI. THE RECORD SUPPORTS THE DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT
- XII. UNDER S.C. REG. 38-004, RESPONDENT IS NOT REQUIRED TO CONSIDER OR ADDRESS ISSUES OF MITIGATION WHEN DETERMINING WHETHER TO GRANT OR DENY LAW

ENFORCEMENT CERTIFICATION TO A CANDIDATE

STATEMENT OF THE CASE

On September 27, 2010, Appellant, Cassandra Donaldson, was terminated from the Barnwell County Sheriff's Office. In the Personnel Change in Status form (hereinafter, "PCS") submitted to the South Carolina Criminal Justice Academy (hereinafter, "Academy"), the Barnwell County Sheriff's Office alleged Appellant had engaged in misconduct by "being paid by the Williston School System for working Williston-Elko football games where she was the SRO. Deputy Donaldson would then apply with this office and receive compensatory time for the same duty."

On October 22, 2010, the Orangeburg County Sheriff's Office requested the Academy conduct a "Pre-hire Legal Review"¹ of Appellant to assist them in determining whether Appellant would be offered employment with Orangeburg County Sheriff's Office (ROA page 18). On October 29, 2010, Hubert F. Harrell, Director of the Academy, made an initial determination that Appellant was ineligible for recertification as a law enforcement officer in the State of South Carolina due to dishonesty/untruthfulness with respect to her employer. On November 2, 2010, a letter from Director Harrell to Appellant advised Appellant he had made an initial determination that she was ineligible for recertification as a law enforcement officer in the State of South Carolina and advised her of her rights, at that time, to immediately

¹ A pre-hire review is a review of a person's eligibility for training and/or certification conducted by the Academy and the Law Enforcement Training Council only at the request of a law enforcement agency interested in hiring the person. Such reviews are conducted with the implicit agreement between the Academy, the Law Enforcement Training Council, and the law enforcement agency that if it is determined the person is eligible for training and/or certification the law enforcement agency will hire the person as a law enforcement officer. No pre-hire review is ever conducted unless there is a law enforcement agency interested in hiring the person. Such reviews are offered by the Academy and the Law Enforcement Training Council to assist the field in hiring persons that may have had allegations of misconduct brought against them or other qualification issues, by allowing an eligibility review to go forward based on a promise by the law enforcement agency that it will hire the person if they are found to be qualified.

appeal that decision to the Administrative Law Court (ROA pages 12-14). On November 23, 2010, the Academy received a courtesy copy of a letter from Appellant's counsel stating Appellant wished to appeal the Director's initial determination to the Administrative Law Court (ROA page 17). On February 24, 2011, the Administrative Law Court, at the request of the parties, remanded this case back to the Law Enforcement Training Council (hereinafter "Council") for an agency level contested case hearing (ROA pages 8-9). This agency level contested case hearing took place on May 31, 2011.

Appellant consented to the authenticity of those documents entered into evidence at the agency level contested case hearing as exhibits #1-26 (ROA page 22, line 15 – page 23, line 3). The documents reflect the following information:

- 1) On September 1, 2006, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security for H-K-T Football Game" (ROA page 55). On September 5, 2006, Appellant was paid \$80 for "security for HKT" (ROA page 56). On September 1, 2006, Appellant applied for 7 hours² of compensatory time for "Worked Varsity Football Game" (ROA page 57).
- 2) On October 9, 2006, Appellant applied for 4 hours of payment from Williston-Elko High School for "Worked Varsity Football Security (Denmark)" (ROA page 58). On October 10, 2006, Appellant was paid \$80 for "Football Security" (ROA page 59). On October 6, 2006, Appellant applied for 8 hours³ of compensatory time for "Worked Williston-Elko High School Football Game 10-80 Security Escort" (ROA page 60).
- 3) On October 16, 2006, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security Football Game" (ROA page 61). On October 17, 2006, Appellant was paid \$80 for "Security" (ROA page 62). On October 13, 2006, Appellant applied for 6 hours of compensatory time for "Worked Varsity Football Game" (ROA page 63).
- 4) On October 27, 2006, Appellant applied for 3 1/2 hours of payment from Williston-Elko High School for "Security Football Game Blackville" (ROA page 64). On October 30, 2006, Appellant was paid \$70 for "Security" (ROA

² This is 1 more hour than compensatory time at the rate of 1 1/2 hours per hour worked would call for.

³ This is 2 more hours than compensatory time at the rate of 1 1/2 hours per hour worked would call for.

page 65). On October 27, 2006, Appellant applied for 6 hours⁴ of compensatory time for "Worked Varsity Football Game" (ROA page 66).

- 5) On December 11, 2006, Appellant applied for 4 hours of payment from Williston-Elko High School for "Basketball Security Barnwell" (ROA page 67). On December 12, 2006, Appellant was paid \$80 for "Security-Basketball" (ROA page 68). On December 8, 2006, Appellant applied for 9 hours⁵ of compensatory time for "Worked J.V. & Varsity Basketball Game" (ROA page 69).
- 6) On December 15, 2006, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security Escort Basketball Game Aquaris" (ROA page 70). On December 18, 2006, Appellant was paid \$80 for "Basketball Security" (ROA page 71). On December 15, 2006, Appellant applied for 6 hours of compensatory time for "Worked Varsity Basketball Game" (ROA page 72).
- 7) On January 4, 2007, Appellant applied for 3 hours of payment from Williston-Elko High School for "Basketball Security" (ROA page 73). On January 4, 2007, Appellant was paid \$60 for "Basketball Security" (ROA page 74). On January 4, 2007, Appellant applied for 6 hours of compensatory time for "Barnwell High School Basketball Game" (ROA page 75).
- 8) On January 6, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Basketball Security" (ROA page 76). On January 8, 2007, Appellant was paid \$160 for "Basketball Security" (ROA page 77). On January 6, 2007, Appellant applied for 7 ½ hours⁶ of compensatory time for "Worked J.V. & Varsity Basketball Game J.V. Boys Game" (ROA page 78).
- 9) On January 29, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Basketball Security (Denmark-Olar)" (ROA page 79). On January 29, 2007, Appellant was paid \$80 for "Security" (ROA page 80). On January 30, 2007, Appellant applied for 9 hours of compensatory time for "Worked J.V. & Varsity Basketball Game" (ROA page 81).
- 10) On February 7, 2007, Appellant applied for 3 ½ hours of payment from Williston-Elko High School for "Basketball Security Blackville-Hila Game" (ROA page 82). On February 7, 2007, Appellant was paid \$70 for "Security"

⁴ This is ½ hour more than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only allows for request in hour and half hour increments).

⁵ This is 3 more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for.

⁶ This is 1 ½ more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for.

(ROA page 83). On February 6, 2007, Appellant applied for 7 hours⁷ of compensatory time for "Worked J.V. Boys and Varsity Girls & Boys Basketball Game" (ROA page 84).

11) On September 7, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security for Football Game Midland Valley" (ROA page 85). On September 10, 2007, Appellant was paid \$80 for "Security MV" (ROA page 86). On September 7, 2007, Appellant applied for 7 ½ hours of compensatory time for "Worked Williston Football Game" (ROA page 87).

12) On September 17, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Football Security (RSM) Game" (ROA page 88). On September 17, 2007, Appellant was paid \$80 for "Security RSM" (ROA page 89). On September 14, 2007, Appellant applied for 7 hours⁸ of compensatory time for "Worked W-E High School Football Game" (ROA page 90).⁹

13) On September 21, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security Football Game (Wagener)" (ROA page 91). On September 24, 2007, Appellant was paid \$80 for "Security-Wagener" (ROA page 92). On September 21, 2007, Appellant applied for 7 hours¹⁰ of compensatory time for "Worked Williston Football Game and Escorted Mrs. Battle to Enterprise Bank to make a deposit" (ROA page 93).¹¹

14) On September 28, 2007, Appellant applied for 4 hours of payment from Williston-Elko High School for "Football Security (Bamberg)" (ROA page 94). On October 2, 2007, Appellant was paid \$80 for "Bamberg Security" (ROA page 95). On September 28, 2007, Appellant applied for 7 hours¹² of compensatory time for "Worked Williston-Elko High School Football Game/Security Escort to Enterprise Bank" (ROA page 96).

15) On December 5, 2007, Appellant applied for 3 ½ hours of payment from Williston-Elko High School for "Security for Basketball Game" (ROA page 97). On December 6, 2007, Appellant was paid \$70 for "Security" (ROA

⁷ This is 1 ½ more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only allows for request in hour and half hour increments).

⁸ This is 1 more hour than compensatory time at the rate of 1 ½ hours per hour worked would call for.

⁹ Notation that Appellant "Need to Show Total Accumulation."

¹⁰ This is 1 more hour than compensatory time at the rate of 1 ½ hours per hour worked would call for.

¹¹ Notation that "Officer Told told [sic] to break down totals 9-26-07."

¹² This is 1 more hour than compensatory time at the rate of 1 ½ hours per hour worked would call for.

page 98). On December 4, 2007, Appellant applied for 7 ½ hours¹³ of compensatory time for "Worked Williston J.V. & Varsity Basketball Game" (ROA page 99).

16) On December 10, 2007, Appellant applied for 3 ½ hours of payment from Williston-Elko High School for "Security Basketball Silver Bluff" (ROA page 100). On December 10, 2007, Appellant was paid \$70 for "Security" (ROA page 101). On December 7, 2007, Appellant applied for 6 hours¹⁴ of compensatory time for "Worked Basketball Game" (ROA page 102).

17) On December 18, 2007, Appellant applied for 3 ½ hours of payment from Williston-Elko High School for "Security for Varsity Basketball Game Fox Creek" (ROA page 103). On December 14, 2007, Appellant was paid \$70 for "Security" (ROA page 104). On December 18, 2007, Appellant applied for 7 hours¹⁵ of compensatory time for "Worked Williston Basketball Game Varsity" (ROA page 105).

18) On January 9, 2008, Appellant applied for 1 hour of payment from Williston-Elko High School for "Security at Basketball Game" (ROA page 106). On January 11, 2008, Appellant was paid \$20 for "Basketball Security" (ROA page 107). On January 11, 2008, Appellant applied for 7 hours¹⁶ of compensatory time for "Worked J.V. & Varsity Basketball Game" (ROA page 108).

19) On January 14, 2008, Appellant applied for 3 ½ hours of payment from Williston-Elko High School for "Security Basketball" (ROA page 109). On January 16, 2008, Appellant was paid \$140.00 for "Security Basketball" (ROA page 110). On January 10, 2008, Appellant applied for 4 ½ hours of compensatory time for "Worked middle Basketball Game Visitor locked keys in car waited with visitor until locksmith came (locksmith [illegible] from Blackville" (ROA page 111).

20) On January 23, 2008, Appellant applied for 2 hours of payment from Williston-Elko High School for "Security Basketball Bamberg" (ROA page 112). On January 23, 2008, Appellant was paid \$40 for "Security Basketball" (ROA page 113). On January 23, 2008, Appellant applied for 5 hours¹⁷ of

¹³ This is 2 more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only allows for requests in hour and half hour increments).

¹⁴ This is ½ hour more than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only allows for requests in hour and half hour increments).

¹⁵ This is 1 ½ more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only allows for requests in hour and half hour increments).

¹⁶ This is 5 1/2 more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for.

¹⁷ This is 2 more hours than compensatory time at the rate of 1 ½ hours per hour worked would call for.

compensatory time for "Worked middle school Basketball game" (ROA page 114).

- 21) On August 27, 2009, Appellant applied for 4 ½ hours of payment from Williston-Elko High School for "Football Security Williston-Elko vs. Barnwell" (ROA page 115). On August 28, 2009, Appellant was paid \$90 for "Barnwell Football Security" (ROA page 116). On August 27, 2009, Appellant applied for 7 ½ hours¹⁸ of compensatory time for "Worked Barnwell vs. Williston Football Game" (ROA page 117).
- 22) On September 5, 2009, Appellant applied for 4 hour of payment from Williston-Elko High School for "Security for Football Ashley Ridge/W-EHS" (ROA page 118). On September 9, 2009, Appellant was paid \$80 for "Football Security" (ROA page 119). On September 5, 2009, Appellant applied for 6 hours of compensatory time for "Worked Williston-Elko High School Football Game" (ROA page 120).
- 23) On September 18, 2009, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security for North W-E Football Game" (ROA page 121). On September 21, 2009, Appellant was paid \$80 for "Football Security" (ROA page 122). On September 18, 2009, Appellant applied for 6 hours of compensatory time for "WK Williston-Elko Football game" (ROA page 123).
- 24) On October 16, 2009, Appellant applied for 4 hours of payment from Williston-Elko High School for "Security W-E Football Against C.A. Johnson" (ROA page 124). On October 19, 2009, Appellant was paid \$80 for "Football Security" (ROA page 125). On October 16, 2009, Appellant applied for 6 ½ hours of compensatory time for "WK W-E High School Football game" (ROA page 126).
- 25) On October 23, 2009, Appellant applied for 4 hour of payment from Williston-Elko High School for "Security Football Game W-E. H.S. vs. Wagener-Salley" (ROA page 127). On October 27, 2008, Appellant was paid \$80 for "Footbal [sic] Security" (ROA page 128). On October 23, 2009, Appellant applied for 6 ½ hours of compensatory time for "?" (ROA page 129).
- 26) On August 20, 2010, Appellant applied for 4 ½ hours of payment from Williston-Elko High School for "Security Football" (ROA page 130). On August 23, 2010, Appellant was paid \$90 for "Football Security" (ROA page

¹⁸ This is ½ hour more than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only for requests in hour and half hour increments).

131). On August 20, 2010, Appellant applied for 9 hours¹⁹ of compensatory time for "Worked W-E High School Football Game" (ROA page 108).

These documents show that Appellant was paid \$2,070 by Williston-Elko High School for 96 hours of work performing security at sporting events and Appellant also applied for 178 ½ hours of compensatory time for these same hours of work. These documents also show that Appellant regularly used her compensatory time. In fact, Exhibit #26 shows that as of August 20, 2010, little more than a month before her termination, Appellant had used all of her compensatory time with the exception of the 9 hours being applied for on that date (ROA page 132).

Appellant testified first. Appellant testified she worked for the Barnwell County Sheriff's Office as a school resource officer (ROA page 33, lines 7-18). Appellant admitted she would provide a report to the school requesting payment for officers for each sports event worked, that she was paid \$20 per hour to work at these sporting events, and that she also received compensatory time from the Sheriff's Office at the rate of one and a half hours for each hour worked. (ROA page 34, line 17 to page 35, line 26 and page 42, lines 3-7). Appellant also admitted she received payment for working these sporting events (ROA page 36, lines 1-5). Appellant further admitted that she would then fill out a request for compensatory time with the Barnwell County Sheriff's Office for the same sporting events (ROA page 36, lines 6-13). Appellant testified that when she stopped requesting pay from the school for these sporting events, the school asked her why, and "that's what led to the whole Sheriff's office finding out about it" (ROA page 39, lines 10-20). Appellant admitted that being compensated twice for doing work only one time was wrong (ROA page 42, lines 17-19). Further, Appellant stated in a letter

¹⁹ This is 2 hours more than compensatory time at the rate of 1 ½ hours per hour worked would call for (form only for requests in hour and half hour increments).

dated October 19, 2012 to Bette Kottmyer that "I Deputy Cassandra Donaldson was being paid for working Williston-Elko High School Football games and also receiving Comp-Time on some occasion. I admitted that I received both and was wrong" (ROA page 159-160). Appellant then called Lonnie Hosey to testify as a character witness.

On June 1, 2011, Kela E. Thomas, Director of the S.C. Dept. of Probation, Parole, and Pardon Services, member of the Council, and hearing officer for this agency level contested case hearing, issued her written, non-binding, recommendation to the full Council. Director Thomas recommended the Council deny Appellant's request for recertification despite her claims that she was not properly trained in how to complete her time sheet/paperwork (ROA page 11). On October 19, 2011, the full Council, after receiving Director Thomas' recommendation, the hearing transcript, and all evidence from the hearing, voted and unanimously decided that Appellant was no longer able to be certified as a law enforcement officer in the State of South Carolina. The Chairman of the Council issued the final, written decision of the Council on January 31, 2012 (ROA pages 4-7). This Order stated Appellant's request for recertification was being denied based on evidence that Appellant had "engaged in misconduct through dishonesty and untruthfulness with respect to her employer... by submitting compensatory time requests to her employer when she had already received pay from the school district for that work" (ROA pages 6-7).

ARGUMENT

I. THE DOCUMENTS ATTACHED TO BRIEF OF APPELLANT ARE ATTACHED IN VIOLATION OF RULE 36(B), SCALCR AND RULE 210(C), SCACR

Neither of the videos attached via CD to the Brief of Appellant existed at the time of Appellant's contested case hearing. Although Respondent is unable to view the videos, the events referenced by Appellant on pages 9 and 10 of her brief, indicate that these videos relate to an event in January 2012 involving Charleston County Sheriff Al Cannon. As Appellant's contested case hearing took place on May 31, 2011, the events referenced in these videos took place over seven (7) months after Appellant's contested case hearing. Additionally, the full Council decided on October 19, 2011, to unanimously deny Appellant re-certification. Thus, the events referenced in these videos took place approximately three (3) months after the Training Council's decision. Accordingly, these videos and any of the information regarding the underlying behavior deemed relevant by Appellant clearly were not before the Council for consideration, and are not properly included in Brief of Appellant before this or any other appellate court.²⁰

These videos and the underlying behavior deemed relevant by Appellant are extensively discussed in the Brief of Appellant. Since they are not properly included in the Brief of Appellant and could not be properly included in the Record on Appeal, very little discussion of the underlying behavior deemed relevant by Appellant is addressed in

²⁰ See Rule 36(B), SCALCR (Record shall consist of the following: (1) All pleadings, motions, and intermediate rulings; (2) All evidence received or considered; (3) A statement of matters judicially noticed; (4) All proffers of proof of excluded evidence; (5) The final order of decision which is subject to review; (6) The transcript of the testimony taken during the proceeding); Rule 210(c), SCACR (Record on Appeal "shall not" contain matter which was not presented to the trial court or tribunal); and Rule 68, SCALCR (SCACR may, where practicable, be applied in proceedings before the ALC to resolve questions not addressed by the SCALCR).

Brief of Respondent.²¹

**II. "STATEMENT OF CASE" IN BRIEF OF APPELLANT VIOLATES
RULE 37(B)(2), SCALCR AND RULE 208(b)(1)(C), SCACR**

Respondent submits the "Statement of Case" found at pages 2 through 6 of the Brief of Appellant violates, in part, Rule 37(B)(2), SCALCR. In her second paragraph in the "Statement of Case," Appellant states, she "There is no issue as to whether Appellant was entitled to all the compensatory time that was authorized... The issue her employer raises is that Appellant received additional compensation from the school district for working home games." This statement is simply not accurate and, in fact, goes directly to the heart of the factual issue that was before the Council in deciding this case. For these reasons alone, this statement is a violation of Rule 37(B)(2), SCALCR and Rule 208(b)(1)(C), SCACR and should be struck from Appellant's brief. The Council clearly determined that Appellant was NOT entitled to all the compensatory time she received from the Barnwell County Sheriff's Office, BECAUSE she received additional compensation from the school district. (ROA page 6, line 22 – page 7, line 3).

On page 5, in the second paragraph, Appellant states, "On other occasions, officers of the Sheriff's Department had been allowed to provide security for a private credit union during Christmas, receive payment from this credit union, and also receive compensatory time." This is a gross misrepresentation of Appellant's testimony. Appellant's testimony was:

Q: Now, I want to digress for just a second. Other than these football games, were there any other situations in which you as an officer of the Sheriff's Department, or other officers in the Sheriff's Department were allowed to

²¹ See Rule 208(b)(4), SCACR (brief shall reference materials which may be properly included in the Record on Appeal) and footnote 3.

work a second law enforcement type job?

A: During Christmas time, we would work SRP.

Q: Is that a Federal credit union?

A: Yes, sir. And if we have comp time or vacation time, they will let us leave school on comp time or vacation time and go work SRP.

Q: And so you get paid by SRP?

A: Yes, sir.

ROA page 36, line 14 – 25. Clearly, what Appellant was describing in this part of her testimony was a standard extra-duty arrangement and then also applying the idea that if any officer had previously accrued vacation time or compensatory time, that officer could elect to use some of that previously accrued vacation time or compensatory time to take time off from their regular law enforcement duties (i.e. burn leave) to work extra-duty at this federal credit union during Christmas time. In fact, Appellant and her attorney further clarified this later in her testimony:

Q: But there were other occasions with the Sheriff's full knowledge and actually suggesting officers were encouraged to take comp time and work for the Federal Credit Union because the Sheriff wanted to make sure the bank had security coverage.

A: Yes, sir.

ROA page 44, lines 19-24 (emphasis added). Nothing in Appellant's testimony indicates that officers were compensated twice for this extra-duty, i.e. received a paycheck from SRP and earned compensatory time to be taken at a later date.

Next, on page 5, in the second paragraph, Appellant states "The only evidence in the record is that for four years, the Sheriff's Department approved the request of Appellant

without question or concern.” Again, this statement is simply not accurate and goes directly to the heart of the factual issue that was before the Council in deciding this case. For these reasons, this statement is in violation of Rule 37(B)(2), SCALCR and Rule 208(b)(10)(C), SCACR, and should be struck from Appellant’s brief. On Appellant’s request for Compensatory Time dated “9/17/07” (ROA page 90), Appellant’s supervisor specifically stated, “Need to Show Total Accumulation” even though a request for such information was already located on the form (“total amount of Comp. Time Accrued to date.”). Thereafter, Appellant began listing her prior accumulation of compensatory time accrued, the current number of hours requested to be added to her compensatory time, and the new total amount of compensatory time accrued. See ROA pages 96, 99, 102, 105, 108, 111, 115, 117, 120, 123, 126, 129, and 132. This request that Appellant starting showing how she was accumulating compensatory time so quickly clearly shows that as of September 17, 2007 Appellant’s supervisor, at least, was aware that Appellant appeared to accumulating an abnormally high amount of compensatory time and clearly was an effort by the supervisor to attempt to determine how Appellant was accumulating such an abnormally high amount of compensatory time. Therefore, any representation that the Sheriff’s Office approved Appellant’s requests for compensatory time without “question or concern” blatantly ignores facts in the record on appeal.

Finally, on pages 5 and 6, Appellant states,

Appellant challenges this action on multiple grounds:

- 1) Not all actions by law enforcement officers are subject to review by Respondent, and Respondent’s actions to review only selective violations are arbitrary and capricious and unconstitutional;
- 2) Law enforcement employers, who are also certified law enforcement officers, are not subject to reporting that triggers an investigation and action, making the process

arbitrary and capricious and unconstitutional;

3) The denial of a law enforcement certification is subject to constitutional review in that it is draconian when compared to the certifications of other professions.

4) The conclusion that the actions of Appellant constitute 'a blatant 'act of dishonesty' is not supported by the record.

None of these statements are statements of fact and are, in fact, essentially, the headings of Appellant's arguments in her appeal. Moreover, Respondent strongly disagrees with each of these statements. Therefore, none of these statements are properly included in Appellant's "Statement of Case." Respondent will only address these statements to the extent they are discussed in Appellant's arguments.

III. APPELLANT FAILED TO PRESERVE ANY OBJECTIONS TO AGENCY PROCESS

Appellant has failed to preserve any objections to the agency process in this case. Even though Appellant alleges violations of the Fifth and Fourteenth Amendments to the United States Constitution, Article I, Section 3 of the South Carolina State Constitution, due process, equal protection, the agency process in general (alleging process is arbitrary and capricious), and the agency process in this specific case (alleging process is arbitrary, capricious, characterized by an abuse of discretion, and/or characterized by a clearly unwarranted exercise of discretion). All of these alleged violations were waived by Appellant due to her failure to raise these issues during the contested case hearing. See *State v. Byram*, 326 S.C. 107, 485 S.E.2d 360 (1997) (failure to raise constitutional issues at trial results in waiver on appeal). In fact, Appellant never raised any objections during the contested case hearing, including not raising any objections to the Agency process or hearing during the contested case hearing. As a result, these issues are not properly before this Court. See *Id.*; *State v. Carlson*, 363 S.C. 586, 595, 611 S.E.2d 283, 287 (Ct.

App. 2005) ("A plethora of cases from the appellate entities of this state recognize that constitutional rights may be waived."). Therefore, all argument under points 1 and 2 should be disregarded in their entirety. Moreover, Appellant's Statements of Issues on Appeal numbers 2, 3, 4, 5, and 6 should be denied in their entirety.

IV. RESPONDENT DID NOT EXCEED STATUTORY AUTHORITY IN DENYING LAW ENFORCEMENT CERTIFICATION TO APPELLANT

Appellant contends that Respondent exceeded its statutory authority by denying Appellant's request for law enforcement certification under S.C. Reg. 38-004 because S.C. Code §23-23-80(6) "only authorizes the suspension, revocation or restriction of certification." Moreover, Appellant argues that denial of a law enforcement certification is not authorized by S.C. Code §23-23-80(6). Interpretation of a term set forth in a statute should support the statute and should not lead to an absurd result. See *Miller v. Lawrence Robinson Trucking*, 510 S.E.2d 431 (S.C. App. 1998). Most fundamental guide to statutory construction is common sense. *First United Methodist Church of Hyattsville v. U.S. Gypsum Co.*, 882 F.2d 862 (C.A.4.Md. 1989). If S.C. Code §23-23-80 were enforced only as described by Appellant, it would certainly lead to an absurd result. Essentially Appellant has argued that Respondent can grant, suspend, revoke, or restrict law enforcement certification, but cannot deny law enforcement certification. Following Appellant's description, therefore, Respondent would be well within its statutory authority to grant Appellant law enforcement certification and then, in the very next moment, immediately withdraw that same certification. Clearly, such would be an absurd result. S.C. Code §23-23-80 states, "The South Carolina Law Enforcement Training Council is authorized to:...(6) 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..." (emphasis added). The phrase "is authorized to," unlike many other sections of South Carolina law, is a permissive phrase. It is not a mandatory phrase, like "shall" or "must." It appears to be common sense that if the Council has been given permission from the State Legislature to do a certain thing ("...certify and train qualified candidates and applicants..."), then the State Legislature also gave them permission to deny certification and training for candidates and applicants that are not qualified. Thus, in an effort to use common sense and avoid an absurd result in interpretation, Appellant's argument must fail.

Moreover, Appellant argues that because such denial may result in a "lifetime ban" from law enforcement in South Carolina, denial is unconstitutional and violative of due process.²² Appellant provides no argument or authority to support this statement. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority).

V. S.C. REG. 38-004 IS NOT ARBITRARY OR CAPRICIOUS

Appellant argues that S.C. Reg. 38-004 "randomly identif[ies] misconduct that will result in denial of certification," "For some misconduct, a conviction is required; thereby insuring that due process is afforded," and that there is "no gradation of the misconduct so that a person convicted of murder is subject to denial as is a person who misuses a

²² To the extent Appellant claims denial is unconstitutional and violative of due process, Respondent would again reiterate that Appellant failed to preserve any objections to the agency process, including denial of certification, and reincorporates all arguments under section III of this document's Argument as if repeated verbatim.

prescription medication.” These statements are misleading.

S.C. Reg. 38-004 states,

A. The Department may deny certification based on evidence satisfactory to the Department that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

1. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;
2. Unlawful use of a controlled substance;
3. The repeated use of excessive force in dealing with the public and/or prisoners;
4. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
5. Physical or psychological abuses of members of the public and/or prisoners;
6. Misrepresentation of employment-related information;
7. Dishonesty with respect to his/her employer;
8. Untruthfulness with respect to his/her employer.

B. In considering whether to deny certification based on misconduct, the Department may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

This list of behaviors are not “randomly identif[ied].” This is a specific list of behaviors, as proposed by the Council (proposed in June 1992 in the S.C. State Register Volume 16, Issue 6 and again, for re-numbering and minor amendments, in June 1997 in the S.C.

State Register Volume 21, Issue 6), and was accepted by the State Legislature as behaviors that will define "misconduct" for which denial of law enforcement certification is justified shortly after each filing of Final Regulations in the S.C. State Register.

Appellant argues that "For some misconduct, a conviction is required; thereby insuring that due process is afforded." This statement is grossly misleading. Respondent, consistent with the requirements of the Administrative Procedures Act, has set up an agency level appeal procedure.²³ Moreover, Appellant, as evidenced by this appeal, is also entitled to appeal to higher levels if unsatisfied with her agency level appeal.²⁴ Therefore, any implication that due process is not afforded when law enforcement certification is denied is grossly misleading.

Further, Appellant "contends that the legislative authority envisioned the promulgation of regulations that would take into account levels of misconduct." Appellant puts forth no argument or authority to support this argument, other than to argue that "levels" exist in other areas of the law, such as in the drivers' license system. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority). Just because "levels" exist in other areas of the law, like the drivers' license system, does not give rise to the implication that "levels" must exist in all areas of the law, like law enforcement

²³ The Agency level appeal, includes a contested case hearing presided over by a member of the Council (the hearing officer). This hearing officer submits a written, non-binding, recommendation to the full Council. The full Council is also provided with a full copy of the hearing transcript and all exhibits entered into evidence at the contested case. After familiarizing themselves with the facts of the case, through the transcript, evidence, and recommendation, the full Council makes the final agency decision regarding a candidate's eligibility to certified or re-certified and a final written agency decision is issued to the candidate by the Chairperson of the Council. Candidates are entitled to legal representation throughout the agency level appeal.

²⁴ As provided by the Administrative Procedures Act, Appellant may appeal the final agency decision to the S.C. Administrative Law Court, the S.C. Court of Appeals, and the S.C. Supreme Court.

certification.

Appellant further argues that the denial of law enforcement certification to her is "draconian" when compared to the certifications of other professions. Appellant claims "No other governing body has scheme that calls for the 'death penalty' for a minor violation." With all due respect to Appellant, in *Chevron v. Ruckelshaus*, 467 U.S. 837, 104 S.Ct. 2778, the United States Supreme Court stated, "We have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer, and the principle of deference to administrative interpretations." Therefore, while other agencies may take a more lenient approach to disciplining those they certified or license, the Council has been tasked with determining who should and should not be certified as law enforcement officers in this State. The only legislative "restriction" placed on the Council with regarding to making these decisions is that they do so "in accordance with regulations promulgated by the council," which was done in this case. Thus, while Appellant may feel her denial is "draconian," that does not make the decision unlawful or in error. Appellant tries to further this argument by making comparisons to discipline enacted against attorney Charles Brooks. Such a comparison is irrelevant given the differences in the governing agencies and regulations. Appellant also tries to further this argument by requesting this Court reopen the record of this case to "obtain the records, reports, and warrants from other disciplinary boards, commissions, and LLR." Such a reopening of the record would be in error given the *Chevron* case and the clear differences in governing agencies, statutes, and regulations that would be involved in such an effort. Moreover, such a reopening of the record would inevitably bog this case down for several years as each

denial, renewal, revocation, withdrawal, etc... of every professional license and/or certification from each disciplinary board, commission, and LLR was reviewed for consistency or lack of consistency with this decision, made under a different set of statutes, regulations, and governing board.

VI. S.C. REG. 38-004 IS NOT UNCONSTITUTIONALLY VAGUE OR OVERBROAD²⁵

Appellant puts forth no argument or authority to support this argument. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority). With no argument or authority to further clarify what Appellant means when she alleges S.C. Reg. 38-004 is unconstitutionally vague or overbroad, Respondent simply cannot respond to this allegation. It is wholly unclear from Appellant's brief what Appellant claims S.C. Reg. 38-004 does or does not do that causes it to be unconstitutionally vague or overbroad.

VII. S.C. REG. 38-004 DOES NOT VIOLATE DUE PROCESS OR EQUAL PROTECTION²⁶

Appellant argues there is "no uniformity of review by Respondent" in cases of "misconduct." Appellant argues that a review by Respondent is only triggered "when an certified officer is terminated from employment for 'misconduct.'" This is simply not true. In fact, a quick look at the statutes and regulations governing Respondent

²⁵ To the extent Appellant claims denial is unconstitutional vague or overbroad, Respondent would again reiterate that Appellant failed to preserve any objections to the agency process, including denial of certification, and reincorporates all arguments under section III of this document's Argument as if repeated verbatim.

²⁶ To the extent Appellant claims denial violates due process or equal protection, Respondent would again reiterate that Appellant failed to preserve any objections to the agency process, including denial of certification, and reincorporates all arguments under section III of this document's Argument as if repeated verbatim.

demonstrates that plain factual error of this argument. As pointed out by Appellant, S.C. Code §23-23-80 specifically states Respondent can “ provide for suspension, revocation, or restriction” of law enforcement certification. S.C. Code §23-23-60(C) states, “A certificate as a law enforcement officer issued by the department will expire... upon discontinuance of employment by the officer with the employing entity or agency.” Clearly, Respondent cannot revoke something that is still in place. Therefore, in the statutes governing Respondent there is a clear acknowledgement and understanding that from time to time the certification of actively employed and certified law enforcement officers may be necessary. Moreover, 38-016, 38-017, 38-018, 38-019, and 38-020 also demonstrate that from time to time the certification of actively employed and certified law enforcement officers may be necessary. Therefore, the implication that the only time misconduct is reviewed is when an officer is terminated is simply untrue. To support this allegation, Appellant points to three (3) cases wholly unrelated to Appellant’s.

First, Appellant discusses Charleston County Sheriff Al Cannon and his alleged assault and battery for striking a handcuffed prisoner in January 2012. Appellant argues that because Sheriff Cannon “has not been terminated from employment for misconduct, there is no mandatory reporting to Respondent.” Quite to the contrary, S.C. Reg. 38-017 requires “It shall be the responsibility of the sheriff or the chief executive officer of every law enforcement agency or department within the State to report to the Department the occurrence of any event, or series of events, set forth in R.38-016 which requires the withdrawal of certification of a law enforcement officer who is currently or was last employed by his or her agency.” Additionally, S.C. Reg. 38-017 requires “Only events which are determined as founded by the department or agency shall be reported as

provided herein above.” Therefore, if the Charleston County Sheriff’s Office has found the alleged assault and battery to be “founded” then they are required to report those events to Respondent and proper actions would be taken as needed under Respondent’s governing regulations and statutes. Appellant fails to recognize, however, that in Sheriff Cannon’s case, even if Respondent withdrew Sheriff Cannon’s law enforcement certification, he would still be the Sheriff of Charleston County and would still have all the rights and privileges of that office. Respondent does not have the authority to remove Sheriff Cannon from office.

Second, Appellant next discusses former Lexington County Magistrate Jamie Thomas Lucas. Appellant alleges Mr. Lucas was charged with petit larceny. Appellant does not state the disposition of this charge. Appellant further states Mr. Lucas was found in criminal contempt of a Supreme Court Order. Respondent has never been advised of any of these allegations until it received Appellant’s brief in this case. Moreover, Mr. Lucas is currently working at the Richland County Sheriff’s Office as a class 3 law enforcement officer and the Richland County Sheriff’s Office, consistent with S.C. Reg. 38-003, certified that in their opinion, Mr. Lucas was a candidate of good character and that he had not “engaged in misconduct as defined in R.38-004.” With no evidence in Respondent’s possession to the contrary, what basis would Respondent have to deny Mr. Lucas’ request for recertification?

Third, Appellant vaguely refers to “current highway patrolman [sic] who are certified and employed in spite of abuses to citizens and prisoners that have resulted in suspensions by the Highway Patrol (not the Respondent) and settlements of lawsuits for thousands of dollars.” With no further information to identify these supposed “current

highway patrolman [sic],” Respondent cannot respond to this vague and unrelated allegation beyond reiterating that Respondent can only make decisions based on information in its possession. One member of the Council being aware of an incident does not mean the entire Council is knowledgeable of the incident. Quite to the contrary, if such incidents have occurred, the S.C. Dept. of Public Safety is obligated to report them to Respondent within fifteen (15) days of their final agency action (S.C. Reg. 38-017(B)). Respondent cannot take action on incidents it is not aware of occurring.

Finally, Appellant vaguely refers to “numerous other examples of misconduct by certified law enforcement officers in South Carolina that have not resulted in denial of certification.” Again, with no further information to identify these supposed “numerous other examples,” Respondent cannot respond to this vague and unrelated allegation beyond reiterating that Respondent can only make decisions based on information in its possession. If such incidents have occurred, the employing agency or former agency is obligated to report them to Respondent within fifteen (15) days of their final agency action (S.C. Reg. 38-017(B)). Respondent cannot take action on incidents it is not aware of occurring.

Additionally, Appellant alleges that “The determination that the termination of employment is for ‘misconduct’ is a finding that is made by the employer without a hearing or right to due process.” Again, this is simply untrue. The document that is filed by the employer is merely an allegation of misconduct. See S.C. Reg. 38-009. It is not a finding that the officer actually has committed misconduct. The Council ultimately determines if the allegation is founded or not and if, therefore, the officer has committed

misconduct or not.²⁷ Until the Council makes a determination, the allegation is nothing more than that, an allegation.

VIII. DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT WAS NOT AN UNCONSTITUTIONAL TAKING IN VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION, THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND/OR ARTICLE I, SECTION 3 OF THE CONSTITUTION OF SOUTH CAROLINA²⁸

Appellant puts forth no argument or authority to specifically support this argument. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority). To the extent Appellant puts forth this issue for purposes of attacking the Council's final agency decision for lack of due process and equal protection, please see section VII, above.

IX. AGENCY PROCESS IS NOT UNCONSTITUTIONAL, ARBITRARY, OR CAPRICIOUS²⁹

Appellant puts forth no argument or authority to support this argument, other than those already addressed in section V, above. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority).

²⁷ See footnote 6.

²⁸ To the extent Appellant claims denial is an unconstitutional taking in violation of the Fifth Amendment of the United States Constitution, the Fourteenth Amendment of the United States Constitution, and/or Article I, Section 3 of the Constitution of South Carolina, Respondent would again reiterate that Appellant failed to preserve any objections to the agency process, including denial of certification, and reincorporates all arguments under section III of this document's Argument as if repeated verbatim.

²⁹ To the extent Appellant claims denial is unconstitutional, arbitrary, or capricious, Respondent would again reiterate that Appellant failed to preserve any objections to the agency process, including denial of certification, and reincorporates all arguments under section III of this document's Argument as if repeated verbatim.

The agency process used by the Council is not unconstitutional, arbitrary, or capricious. All candidates for law enforcement certification are reviewed by staff of the S.C. Criminal Justice Academy to make an initial determination about whether they appear to meet the qualifications to be trained and/or certified as law enforcement officers in South Carolina. If there is a question or concern about a candidate's qualifications, that question or concern is brought to the Director of the Criminal Justice Academy's attention. The Director makes an initial decision as to whether that candidate can be training and/or certified. All of these decisions are reported to the Council at their meetings and the Council either approves of the Director's initial decision or rejects the Director's initial decision. If the Director's initial decision is unfavorable to the candidate, the candidate has the immediate option of initiating an agency level appeal. If the Council rejects the Director's initial decision which was favorable to the candidate, therefore changing the decision to one that is unfavorable to the candidate, the candidate has the immediate option of initiating an agency level appeal. As stated previously, the agency level appeal, includes a contested case hearing presided over by a member of the Council (the hearing officer). This hearing officer submits a written, non-binding, recommendation to the full Council. The full Council is also provided with a full copy of the hearing transcript and all exhibits entered into evidence at the contested case. See S.C. Code §1-23-340. After familiarizing themselves with the facts of the case, through the transcript, evidence, and recommendation, the full Council makes the final agency decision regarding a candidate's eligibility to be trained and/or certified and a final written agency decision is issued to the candidate by the Chairperson of the Council. See S.C. Code §§1-23-340, 1-23-350, 23-23-80(6) and *South Carolina Criminal Justice*

Academy v. Draper S. Daniels, 10-ALJ-30-0402-AP Order on Jurisdiction issued December 16, 2010. Candidates are entitled to legal representation throughout the agency level appeal. This process is in clear keeping with the requirements of the Administrative Procedures Act.

X. THE DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT WAS NOT ARBITRARY, CAPRICIOUS, CHARACTERIZED BY AN ABUSE OF DISCRETION, OR CHARACTERIZED BY A CLEARLY UNWARRANTED EXERCISE OF DISCRETION

This issue is also addressed, in part, in sections IV, V, and IX, above. As regards, the allegation that Appellant's denial of law enforcement certification was characterized by an abuse of discretion or a clearly unwarranted exercise of discretion, Appellant puts forth no argument or authority to support these arguments. See *Fields v. Melrose Ltd. Partnership*, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993) (An issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority). Moreover, S.C. Reg. 38-004 clearly states:

The Department may deny certification based on evidence satisfactory to the Department that the candidate has engaged in misconduct. For purposes of this section, misconduct means:...

7. Dishonesty with respect to his/her employer;

8. Untruthfulness with respect to his/her employer.

Thus, with no argument or authority to further clarify what Appellant means when they allege Respondent's denial of Appellant's law enforcement certification was characterized by an abuse of discretion or a clearly unwarranted exercise of discretion, Respondent simply cannot respond to this allegation. It is wholly unclear from

Appellant's brief what Appellant claims Respondent did that would constitute an abuse of discretion or a clearly unwarranted exercise of discretion. Clearly, the governing regulations allow for denial of certification for behavior such as Appellant's in this case.

XI. THE RECORD SUPPORTS THE DENIAL OF LAW ENFORCEMENT CERTIFICATION TO APPELLANT

Appellant argues that the "conclusion of Respondent that the actions of Appellant constitute 'a blatant act of dishonesty' is not supported by the record." This is simply not true. Appellant attempts to overcome her dishonesty by arguing that "[n]o records were falsified. No signature was forged. No hours of work were fabricated." By submitting her requests to accrue compensatory time, Appellant is implicitly representing to the Sheriff's Office that she has worked more than her hours of work that she is already being compensated for via her salary and that she is not being otherwise compensated for these additional hours. Appellant seems to completely forget about the clear misrepresentation she made in this case, i.e., she was being otherwise compensated for these additional hours; she was being paid by the school at the rate of \$20 per hour worked. Moreover, Appellant attempts to further circumvent this issue by arguing that "the Sherriff's [sic] Department lost no money." Again, this is simply not true. Every time Appellant used some of this compensatory leave that she falsely applied for, the Sheriff's Office and, therefore, the public of Barnwell County, had one less Sheriff's Deputy working and was, as a result, not getting what they paid for. The public paid for a Sheriff's Deputy to work a certain number of hours for a certain rate of pay. Because Appellant took leave that she had not actually earned, every time Appellant used that leave, the public was not getting what they paid for.

Further, Appellant argues "There is no evidence in the record that the content of any

of the documents is false.” This is simply not true. As explained above, Appellant had already been paid by the school at the rate of \$20 per hour worked for these hours submitted to the Sheriff’s Office for compensation as compensatory time. Therefore, the information contained on each and every one of these requests for compensatory time was false information submitted to her employer to obtain compensatory time to which Appellant was not entitled. This case is no different from an employee submitting two (2) compensatory time requests to two (2) different supervisors for approval for the same hours worked. Such an act gets the same exact results, the hours were worked, but the employee receives compensatory time they are not entitled to.

XII. UNDER S.C. REG. 38-004, RESPONDENT IS NOT REQUIRED TO CONSIDER OR ADDRESS ISSUES OF MITIGATION WHEN DETERMINING WHETHER TO GRANT OR DENY LAW ENFORCEMENT CERTIFICATION TO A CANDIDATE

Appellant finishes by arguing that Respondent failed to consider mitigating circumstances. Appellant does not state what these mitigating circumstances were, in her brief or during the contested case hearing, but, none the less, Appellant argues that mitigating circumstances should have been considered. S.C. Reg. 38-004(B) states, “In considering whether to deny certification based on misconduct, the Department **may** consider the seriousness, the remoteness in time **and any mitigating circumstances** surrounding the act or omission constituting or alleged to constitute misconduct.” (emphasis added). Nothing in Training Act³⁰ or the corresponding regulations³¹ requires Respondent to consider or address issues of mitigation, Respondent is, however, allowed to consider mitigating circumstances. Therefore, Respondent’s failure to address mitigating factors is not dispositive of this appeal in any way.

³⁰ S.C. Code §23-23-10 et seq.

³¹ S.C. Reg. 38-001 et seq.

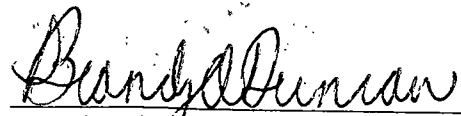
CONCLUSION

For the reasons stated above, Respondent respectfully requests:

1. Appellant's requested relief be denied:
 - a. Because the documents attached to Brief of Appellant are attached in violation of Rule 36(B), SCALCR and Rule 210(C), SCACR;
 - b. "Statement of Case" in Brief of Appellant violates Rule 37(B)(2), SCALCR and Rule 208(b)(1)(C), SCACR;
 - c. Appellant failed to preserve any objections to agency process;
 - d. Respondent did not exceed its statutory authority in denying law enforcement certification to Appellant;
 - e. S.C. reg. 38-004 is not arbitrary or capricious;
 - f. S.C. Reg. 38-004 is not unconstitutionally vague or overbroad;
 - g. S.C. Reg. 38-004 does not violate due process or equal protection;
 - h. Denial of law enforcement certification to Appellant was not an unconstitutional taking in violation of the Fifth Amendment of the United States Constitution, the Fourteenth Amendment of the United States Constitution, and/or Article I, Section 3 of the Constitution of South Carolina;
 - i. Agency Process is not unconstitutional, arbitrary, or capricious;
 - j. Denial of law enforcement certification to Appellant was not arbitrary, capricious, characterized by an abuse of discretion, or characterized by a clearly unwarranted exercise of discretion;

- k. The record supports the denial of law enforcement certification to Appellant; and
- l. Under S.C. Reg. 38-004, Respondent is not required to consider or address issues of mitigation when determining whether to grant or deny law enforcement certification to a candidate.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Brandy A. Duncan", is written over a horizontal line.

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November 7, 2012

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Cassandra Donaldson,

Appellant,

VS.

South Carolina Criminal Justice Academy,)

Respondent.

Docket No. 12-ALJ-30-0087-AP



BRIEF OF APPELLANT

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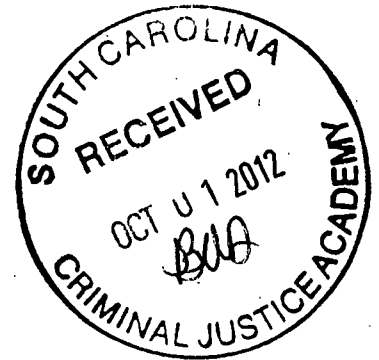
September 26, 2012

ADMINISTRATIVE LAW COURT

Appellant,

South Carolina Criminal Justice Academy,

BRIEF OF APPELLANT



1. Did the decision of the Respondent exceed the statutory authority of the agency?
2. Was the decision of the Respondent based on a regulation that is arbitrary or capricious?
3. Was the decision of the Respondent based on the provisions of a regulation that is unconstitutionally vague and overbroad?
4. Was the decision of the Respondent based on the provisions of a regulation that violates due process and equal protection?

5. Did the decision of the Respondent constitute an unconstitutional taking in violation of the Fifth Amendment of the United States Constitution, the Fourteenth Amendment of the United States Constitution and/or Article I, Section 3 of the Constitution of South Carolina?
6. Was the decision of the Respondent arbitrary or capricious or characterized by abuse of discretion or a clearly unwarranted exercise of discretion?
7. Does the record fail to support the decision of the Respondent in that no misconduct occurred?
8. Did the decision of the Respondent fail to address the issue of mitigating circumstances?

STATEMENT OF CASE

Appellant was employed by the Sheriff's Department of Barnwell County as a law enforcement officer and assigned to a local school district as a school resource officer. In addition to her normal duties, she was eligible to work security at football games in Barnwell County. Deputies who worked at football games were compensated for their time by the local school districts. For games held at schools outside the school district to which Appellant was assigned, she was paid an hourly rate by the host school district. For games held within the school district to which

she was assigned, Appellant was eligible for compensatory time from the sheriff's office. Over a period of four years, Appellant made twenty six claims to the school district to which she was assigned for payment for 99.5 hours and received compensation of \$1,900. For those same hours, Appellant submitted a request for compensatory time to the sheriff's department. Each request for compensatory time was approved by her supervisor. Her compensatory time was taken during the summer months when school was not in session and her services were less needed.

There is no issue as to whether Appellant was entitled to all the compensatory time that was authorized. Appellant's employer did not pay her any money for time that she did not work. In other words, her employer has not paid any money for services that it did not receive. Appellant was paid a salary, and she worked all of the hours for which she was paid. The issue her employer raises is that Appellant received additional compensation from the school district for working home games. The school district to which she was assigned has raised no issue with regard to payments made to Appellant

Appellant's employer (the Sheriff of Barnwell County) terminated her upon learning that the school district had paid her for the same hours that she had used as the basis of her claim for compensatory time. This is alleged to be "double dipping" constituting "dishonesty with respect to her employer" in violation of S.C. Reg. 38-004 (A)(7) and "untruthfulness with respect to her employer" in violation of S.C. Reg. 39-004 (A)(8).

The money (\$1990 over four years) that Appellant received was paid by the school district and would have been paid by it regardless of who worked security for the games. Presumably, if no compensatory time request had been made to the sheriff's department, Appellant would not have violated the "policy" of the sheriff's department. Conversely, if Appellant had received no payment from the school district and had only taken compensatory time from the sheriff's department, Appellant would not have violated the "policy" of the sheriff's department.

Appellant testified that she was unaware that she was not allowed to request compensatory time for the games she worked security that were held in the district to which she was assigned. (ROA p17, lines 21 through 25). Appellant learned of this "policy" in 2010 when her supervisor advised her that she was not allowed to request compensatory time for home games if she also submitted a request for payment to the school district. (ROA p21, lines 5 through 9). Upon learning that this was the "policy" of the Sheriff's Department, Appellant ceased the practice of receiving payment and requesting the compensatory time. (ROA p21, lines 10 through 16) During the four years in question, each request of Appellant to receive compensatory time was approved by her supervisor. This the same supervisor that advised Appellant in 2010 that such requests violated the policy of the Department. On other occasions, officers of the Sheriff's Department had been allowed to provide security for a private credit union during Christmas, receive payment from this credit union, and also receive compensatory time. (ROA p18, line 14 through p19, line 5).

Upon learning that Appellant had received payment from the school district for the same hours for which she had received compensatory time from the sheriff's department, the sheriff terminated Appellant's employment with his department. Thereafter, Appellant's termination was reported to Respondent. Respondent then acted to deny Appellant's law enforcement certification, forever barring her from employment with any law enforcement agency in the State of South Carolina.

There is no evidence in the record that the Sheriff's Department had any written policy addressing the issue of compensatory time for employee's who provided security within the county for sporting events at area public schools. The only evidence in the record is that for four years, the Sheriff's Department approved the requests of Appellant without question or concern. Upon learning of the contrary policy, Appellant ceased the activity when she learned this practice was not allowed.

The denial by Respondent of Appellant's law enforcement certification has the affect of forever barring her from employment as a law enforcement officer in South Carolina. Appellant challenges this action on multiple grounds:

- 1) Not all actions of law enforcement officers are subject to review by Respondent, and Respondent's actions to review only

selective violations are arbitrary and capricious and unconstitutional;

- 2) Law enforcement employers, who are also certified law enforcement officers, are not subject to reporting that triggers an investigation and action, making the process arbitrary and capricious and unconstitutional;
- 3) The denial of a law enforcement certification is subject to constitutional review in that it is draconian when compared to the certifications of other professions.
- 4) The conclusion of Respondent that the actions of Appellant constitute "a blatant act of dishonesty" is not supported by the record.

ARGUMENTS

- 1. Respondent has established a scheme for review that is arbitrary, capricious, and constitutionally suspect.**

Respondent is a statutorily created body charged with certification and regulation of law enforcement officers in this state S.C. Code §23-23-30 et seq. Specifically, Respondent is statutorily authorized to "certify...law enforcement officers and provide for suspension, revocation, or restriction of the certification, in accordance with regulations promulgated by the council." S.C. Code §23-23-80.

South Carolina Regulation 38-004 has been promulgated by Respondent and appears to authorize "denial" of certification for misconduct. Appellant contends that the regulation exceeds the authority of the council because the statute only authorizes the suspension, revocation or restriction of certification. The denial of a law enforcement certification is not authorized by statute. A "denial" of certification is tantamount to a lifetime ban. A person who has his certification denied is forever barred from serving as a law enforcement officer in South Carolina. Even, as in this case, if the person has a law enforcement agency willing to hire him, with full knowledge of why he was terminated by another law enforcement agency, the lack of certification bars such employment. Appellant contends that this is unconstitutional and violative of due process.

The grounds for denial of certification as set forth in S.C. Reg 38-004 are arbitrary and capricious on their face. The regulations appear to randomly identify misconduct that will result in denial of certification. There is no gradation of the misconduct so that a person convicted of murder is subject to denial as is a person who misuses a prescription medication. For some misconduct, a conviction is required; thereby insuring that due process is afforded. In other instances, a mere act that does not lead to a conviction can result in the same penalty - denial for life of a law enforcement certification. In spite of the fact that the statute authorizing the promulgation of regulations mandated the establishment of a system of review that would result in either suspension, revocation, or restriction of certification, Respondent has set up a scheme for denial of certification. Appellant contends that

the statute envisioned a recognition that some misconduct could lead to suspension, other misconduct to revocation, and yet other misconduct could result in the imposition of restrictions. Respondent has chosen to exceed the statutory boundaries and has wrongfully established a scheme by which they claim authority to deny certification.

Appellant contends that the legislative authority envisioned the promulgation of regulations that would take into account levels of misconduct. The legislature itself has established such a system in statute for South Carolina drivers. The arbitrary system for law enforcement officers stands in harsh contrast to the system established for the suspension, revocation, and restriction of drivers' licenses. The driver's license system is graduated and tailored to increase the penalty depending on the nature of the offense. A point system is established for most offenses and the accumulation of too many points can lead to suspension or restriction of the license. Some offenses that are deemed to be singularly egregious (i.e. DUI) lead directly to suspension and for each subsequent offense the suspension period is lengthened. In the case of a fourth offense for DUI, the penalty is revocation. See S.C. Code Title 56, Chapter 5, Article 23.

No such measured system of punishment has been established by Respondent. Instead, Respondent has set up a scheme to deny certification for the slightest level of misconduct... if they decide to hear the case.

There is no uniformity of review by Respondent. Not all misconduct is subject to review. When a certified officer is terminated from employment for "misconduct", a review by Respondent is triggered. The determination that the termination of employment is for "misconduct" is a finding that is made by the employer without a hearing or right to due process. However, if a certified officer commits "misconduct", but is not terminated, no review by Respondent occurs. Similarly, if misconduct is committed by the employer himself, no review is triggered. Also if the misconduct occurs while the certified officer is not employed in law enforcement, no review is triggered. Accordingly, certified law enforcement personnel are treated differently in violation of due process and equal protection provisions.

Consider these examples:

- 1) Charleston County Sheriff Al Cannon was arrested on August 28, 2012, and charged with assault and battery for striking a handcuffed prisoner in January, 2012. Sheriff Cannon has admitted that he physically abused a prisoner. South Carolina Regulation 38-004 (A) (5) provides for denial of a person's law enforcement certification for physical abuse of a prisoner. Sheriff Cannon has announced that he will not resign (i.e. terminate himself for misconduct in violation of Respondent's regulation). Because he has not been terminated from employment for misconduct, there is no mandatory reporting to Respondent. Therefore, Sheriff Cannon will

remain certified. This is so arbitrary and capricious as to be ludicrous. The incident site video was released to the public by The Post and Courier as well as other prominent news reports. *(See Attached Disk for Videos).*

2) Former Lexington County Magistrate Jamie Thomas Lucas was arrested and charged with petit larceny. He was suspended by the Supreme Court and later found in criminal contempt of a Supreme Court Order. He was publicly reprimanded by the Supreme Court, which noted that this was the most severe punishment available. In the Matter of Lexington County Magistrate Jamie Thomas Lucas, 681 S.E. 2d 874 (S.C. 2009). In spite of this background of misconduct, Jamie Thomas Lucas is employed as a Richland County Deputy Sheriff. He certification has not been denied. The level of arbitrariness and capriciousness is laughable.

3) Highway Patrol violations. There are current highway patrolman who are certified and employed in spite of abuses to citizens and prisoners that have resulted in suspensions by the Highway Patrol (not the Respondent) and settlements of lawsuits for thousands of dollars. Because the patrolmen were not terminated for misconduct, there was no report to Respondent and no denial of certification. The records of these incidents are confidential, but Respondent knows about them by virtue of the fact that the Directory of the South Carolina Department of Public Safety is a member of Respondent. S.C. Code 23-22-30. There has been no cover

up, but without termination for misconduct there is no reporting requirement. Respondent is therefore not required to act. These are yet more examples that demonstrate how arbitrary and capricious this system is.

4) In the present case, Appellant has not been arrested or convicted of any offense. She filed forms with her employer that were approved by her supervisor. In spite of 13 years of service as a law enforcement officer, she is now forever barred from being certified. Can you say arbitrary and capricious?

5) There are numerous other examples of misconduct by certified law enforcement officers in South Carolina that have not resulted in denial of certification. Almost all, if not all, involve misconduct that is objectively and subjectively much more egregious than the conduct of Appellant. If this Court believes it would be helpful to fully understand the institutionally flawed system that has been established by Respondent, Appellant hereby moves to reopen the record and obtain the records, reports, and warrants of entities that are members of Respondent that will establish this more completely than the anecdotal examples cited above.

Appellant is requesting that the S.C. Regulation 38-004 be stuck down as constitutionally infirm and so lacking due process and equal protection as to be impossible to administer in a manner that avoids arbitrary and capricious results.

2. The denial of a law enforcement certification is subject to constitutional review in that it is draconian when compared to the certifications of other professions.

Respondent has supreme authority over the regulation of law enforcement certifications. Other licenses and certifications in South Carolina have different governing bodies. The Supreme Court of South Carolina oversees the regulation and discipline of attorneys. Various boards organized under the Department of Labor, Licensing, and Regulation have authority to regulate and discipline other professions and occupations ranging from nurses and pharmacist to foresters and beauticians. No other governing body has scheme that calls for the "death penalty" for a minor violation. Only Respondent has adopted this draconian approach.

Regarding the legal profession, the Supreme Court has a range of sanctions from private reprimand, to public reprimand, to definite suspension, to indefinite suspension to disbarment. However, even in the case of disbarment, there is a mechanism to apply to for reinstatement of a law license. The same type system is in place for all other occupations and professions except law enforcement.

In this case, Appellant has been convicted of nothing. Appellant has been accused of the amorphous offense of "double dipping". In lay terms "double dipping" is defined as the act or practice of receiving more than one income or

collecting double benefits from the same employer. Using that definition, no double dipping occurred in this case. Furthermore, the actions of Appellant were made by written requests for either payment or requests for compensatory time that in each instance was approved by a supervisor or employer. If the request of Appellant for either compensation or allocation of compensatory time had been merely denied by either the supervisor or employer, there would be no basis for a finding of misconduct. The fact that the employer lacked a written policy was compounded by the fact that even the supervisor never questioned the requests being made by Appellant. In fact, the supervisor approved each request. When that same supervisor, after four years, advised Appellant that a policy existed that prohibited the making of a request for compensatory time if money was paid by the school district, Appellant ceased making the request. Appellant did not complain or protest, but upon learning of the rule, she obeyed it.

It is not surprising that there was confusion in the mind of Appellant, because her employer had explicitly authorized "double dipping" when he allowed officers to receive compensatory time and pay from the credit union for providing additional security at the credit union during the holiday season. No officer was disciplined or terminated for this conduct. The activity involving the credit union was not reported to or investigated by Respondent.

South Carolina is a right to work state. If the employer in this case wanted to terminate Appellant for any reason, including receiving money from the school

district for the same time for which compensatory time had been requested, the employer had that right. But rather than merely terminating Appellant, the employer viewed the conduct of Appellant in violating an unwritten policy that was contradicted by actual practice within the department in the case of the credit union as misconduct. The employer deemed the termination as being based on misconduct and thus reported the activity to Respondent.

If the employer had deemed the termination of Appellant to be for violation of department policy rather than for misconduct, no report to Respondent would be required. Appellant would then have been able to apply for a job with another law enforcement agency. When a subsequent agency, considering hiring Appellant, contacted the employer for a reference or explanation of Appellant's termination, the Sheriff would have been able to explain the exact reasons for termination (i.e. violation of policy), but the subsequent agency would be at liberty to decide for itself whether or not to hire Appellant. But because the employer deemed the violation of an unwritten and arbitrarily applied policy as misconduct, Appellant's certification has been denied. Appellant is now forever barred from earning a living in the field that she has been educated and trained for.

Appellant is not charged with endangering the public, with mishandling evidence, with accepting a bribe, with incompetence, or violation of any law. Yet under the scheme designed by Respondent, which is being arbitrarily and capriciously applied in an extremely rigid manner, Appellant has been forever

deprived of her ability to work in her chosen field. Appellant contends that this regulatory scheme allows Respondent to unconstitutionally deprive Appellant of a certification and is tantamount to a taking.

Appellant is "accused" of dishonesty that resulted in her receiving less than two thousand dollars over four years. As a matter of comparison, Appellant calls this Court's attention to the misconduct of the attorney in the Matter of Charles Thomas Brooks, III, 731 S.E. d 296 (S.C. 2012). Mr. Brooks was accused of gross overbilling of a state agency by falsifying records. His erroneous reports span nearly three years during which he wrongfully billed the State in excess of sixty thousand dollars (\$60,000). His penalty was a public reprimand. Here Respondent has determined that Appellant's penalty is to be forever barred from her chosen profession. There is no way that professions licensed and certified by the State can discipline people in such an inherently inequitable manner without raising constitutional concerns. Unlike this case in which no records were falsified, Brooks submitted false vouchers. His vouchers sought payment for an amount thirty times greater than Appellant. His penalty was a public reprimand and the ability to continue in his chosen profession. Appellant was given the death penalty.

There are numerous other examples of misconduct in other professions and occupations in South Carolina that have not resulted in denial of certification. Almost all involve misconduct that is objectively and subjectively much more egregious than the conduct of Appellant. If this Court believes that it is necessary in

order to fully understand the institutionally flawed system that has been established by Respondent, Appellant hereby moves to reopen the record and obtain the records, reports, and warrants from other disciplinary boards, commissions, and LLR that will establish this more completely that the anecdotal example of Mr. Brooks cited above.

3. The conclusion of Respondent that the actions of Appellant constitute "a blatant act of dishonesty" is not supported by the record.

The acts of Appellant do not constitute double dipping in the classic meaning of the phrase. There was no surreptitious conduct by Appellant. No records were falsified. No signature was forged. No hours of work were fabricated. Every action of Appellant was in writing and approved by the employer. The Sheriff's Department lost no money. Every hour for which Appellant was paid, she worked. Appellant admitted her conduct, and she only denied knowing of the "policy" until it was revealed to her by the supervisor who had for years been approving her conduct. There was no concealment or cover up. There was no "blatant act of dishonesty."

At most there was an honest mistake. Appellant failed to adhere to an unpublished, unannounced, and unenforced policy against making a claim for compensatory time when the employee had been paid by another entity. The conclusion of Respondent is not supported by the record.

The decision of Respondent is arbitrary and capricious and characterized by an abuse of discretion or clearly unwarranted exercise of discretion. By relying on a regulatory scheme that is both unconstitutional and without statutory basis, Respondent reaches a conclusion that Appellant engaged in misconduct involving dishonesty and untruthfulness. Respondent relies on the documents submitted by Appellant to her employer and the school district. There is no evidence in the record that the content of any of the documents is false. The hours that were submitted were hours that were worked. The signatures of Appellant and the supervisor that she submitted the documents to are real. There is nothing dishonest or untruthful in any of the documents.

4. The decision of Respondent fails to address the issue of mitigating circumstances.

As flawed as it is, the regulation relied on by Respondent allows for consideration of mitigating circumstances. However, no mitigating factors appear to have been considered by Respondent. Nothing in the record suggests Respondent took into account the fact that the alleged misconduct of Appellant was significantly less serious than instances that involve criminal activity or activity that endangers the public.

CONCLUSION

Appellant is requesting that the S.C. Regulation 38-004 be stuck down as constitutionally infirm and so lacking due process and equal protection as to be impossible to administer in a manner that avoids arbitrary and capricious results. In the alternative and additionally, Appellant is asking reversal of the Order of Denial and reinstatement of Appellant's law enforcement certification. Furthermore, in the alternative if necessary, Appellant moves to open the record to obtain records from cases relating to other law enforcement officers to demonstrate the arbitrary and capricious nature of this action and/or Appellant moves to open the record to obtain records from cases relating to other professions and occupations to demonstrate the arbitrary and capricious nature of this action. Finally, if necessary, Appellant seeks a remand with instructions to Respondent, to address the issue of mitigation in this case.



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September 26, 2012

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Cassandra Donaldson)

Appellant,)

v.)

S. C. Criminal Justice Academy,)

Respondent.)

NOTICE OF APPEAL OF FINAL DECISION

Docket No. _____

Notice is hereby given that Cassandra Donaldson does hereby appeal the decision issued by the Certification Review Committee of the Law Enforcement Training Council concerning above named agency received on February 14, 2012, a copy of which is attached. Pursuant to SCALCR 33, Appellant provides the following information:

A. Cassandra Donaldson

C. Bradley Hutto
Williams & Williams
Post Office Box 1084
Orangeburg, SC 29116-1084
(803) 534-5218
cbhutto@williamsattys.com

B. Grounds for appeal:

1. That Appellant did not violate the applicable law.
2. That the agency decision is in error.
3. That the agency failed to establish grounds to decertify Appellant.
4. That S.C. 38-004 is vague and overbroad.
5. That the Respondent failed to consider mitigating circumstances.
6. That Respondent abused its discretion in denying certification.
7. That the decision is in violation of constitutional or statutory provisions.
8. That the decision is in excess of the statutory authority of Respondent.

9. That the decision is arbitrary or capricious.
10. That the decision is characterized by an abuse of discretion.
11. That the decision is a clearly unwarranted exercise of discretion.
12. Such other grounds as may be later amended, supplemented or modified.

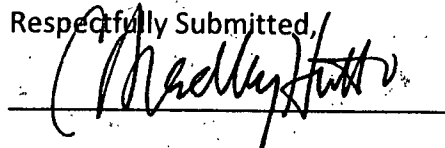
C. A copy of the decision dated January 31, 2012 is attached. The decision was received by counsel for Appellant by email on February 14, 2012.

D. A copy of the transcript is attached.

E. Service is being made contemporaneous with filing. See certification below.

Enclosed is a check in the amount of \$100 for the applicable filing fee in this matter.

Respectfully Submitted,



March 2, 2012

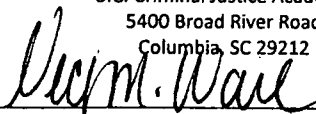
C. Bradley Hutto, Esquire
WILLIAMS AND WILLIAMS
1281 Russell Street (29115)
Post Office Box 1084
Orangeburg, SC 29116
803.534.5218
cbhutto@williamsattys.com
Attorney for Appellant

I hereby certify that I, Vicky M. Ware, paralegal to C. Bradley Hutto, on this ____ day of March, 2012, in Orangeburg, South Carolina served a copy of the foregoing **NOTICE OF APPEAL OF FINAL DECISION** on all parties to this matter by depositing the same in the United States Mail, postage prepaid, and addressed as follows:

Clerk's Office
S.C. Administrative Law Court
1205 Pendleton Street, Ste 224
Columbia, SC 29201

Director Hubert F. Harrell
S.C. Criminal Justice Academy
5400 Broad River Road
Columbia, SC 29212

Brandy A. Duncan
General Counsel
S.C. Criminal Justice Academy
5400 Broad River Road
Columbia, SC 29212



Vicky M. Ware, Paralegal to C. Bradley Hutto

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Cassandra Donaldson,

Appellant,

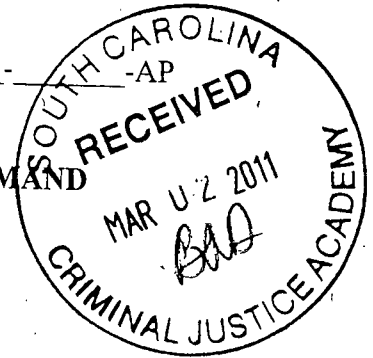
vs.

South Carolina Criminal Justice Academy,

Respondent.

Docket No. ____-ALJ-____-

JOINT MOTION TO REMAND



Appellant, Cassandra Donaldson, by and through her attorney, C. Bradley Hutto, and Respondent, South Carolina Criminal Justice Academy, by and through its attorney, Brandy A. Duncan, hereby jointly move this Honorable Court for an order granting this Motion to Remand this matter back to the agency level for a contested case hearing. The grounds for this request come from the Respondent's offer to return Appellant's case to the agency level for a contested case hearing as stated in its letter dated December 8, 2010 and attached to this Motion as Exhibit A.

WHEREFORE, the undersigned respectfully pray this Court grants this Motion to Remand this matter to the agency level for a contested case hearing.

Respectfully Submitted,

Brandy A. Duncan, General Counsel
Bar #72052
South Carolina Criminal Justice Academy
5400 Broad River Road
Columbia, South Carolina 29212
(803) 896-7414
(803) 896-8347 (fax)
Attorney for Respondent

December 13, 2010

C. Bradley Hutto, Esquire
Bar # 6436
Williams & Williams
Post Office Box 1084
Orangeburg, South Carolina 29116-1084
(803) 534-5218
(803) 536-6544
Attorney for Appellant

December 9, 2010

FILED

DEC 14 2010
COA - Record on Appeal 81

SC ADMIN. LAW COURT



South Carolina Criminal Justice Academy

December 8, 2010

(Via U.S. Mail and E-mail at cbhutto@williamsattys.com)

C. Bradley Hutto, Esquire
Williams & Williams
Post Office Box 1084
Orangeburg, South Carolina 29116-1084

Re: Cassandra Donaldson v. South Carolina Criminal Justice Academy
Case No.: Unassigned at this Date

Dear Mr. Hutto:

On November 17, 2010, the South Carolina Law Enforcement Training Council voted to put back into place an agency level contested case hearing. The Council authorized the Law Enforcement Training Council Chairman to appoint one member of the Council to preside as a hearing officer over the agency level contested case hearing. The Council stated the format of the contested case hearing will be similar to that of a civil trial, including opening statements, taking of sworn testimony, and closing arguments. If you disagree with the final agency decision issued by the Law Enforcement Training Council, you would still be able to appeal that decision to the Administrative Law Court.

If Ms. Donaldson would like to pursue the agency level contested case hearing, please let me know as soon as possible. If Ms. Donaldson wishes to pursue having an agency level contested case hearing, please execute the enclosed Joint Motion to Remand and mail the original to me. I will ensure it is filed as soon as possible.

Please call me at (803) 896-7414 if you have any questions.

Sincerely,

Brandy A. Duncan
General Counsel

cc: Administrative Law Court (w/o Enclosure)

Exhibit A

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5400 BROAD RIVER ROAD / COLUMBIA, SC 29212-3540 / PHONE: (803) 896-7777 / FAX: (803) 896-7776

WILLIAMS & WILLIAMS
ATTORNEYS AT LAW

MARSHALL B. WILLIAMS
(1912 - 1995)
CHARLES H. WILLIAMS, P.A.

CHARLES H. WILLIAMS, II
C. BRADLEY HUTTO
RUSSELL A. BLANCHARD, IV

370 ST. PAUL N.E.
P. O. Box 1084
ORANGEBURG, SOUTH CAROLINA 29116-1084
(803) 534-5218
FAX (803) 536-6544

November 23, 2010

Administrative Law Court
1205 Pendleton St # 224
Columbia, SC 29201-3755

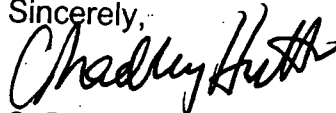
RE: Ms. Cassandra Donaldson

Dear Sir/Madam:

Upon receipt of the letter dated November 2, 2010 from the South Carolina Criminal Justice Academy, I am hereby requesting a contested case hearing on behalf of my client Cassandra Donaldson. She was notified by this letter that her certification as a law enforcement officer in South Carolina will not be reinstated at this time.

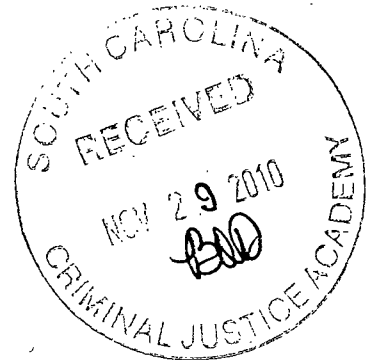
By copy of this letter, I am notifying Brandy Duncan, General Counsel for the Academy of my request.

Sincerely,


C. Bradley Hutto

/vws

cc: Brandy A. Duncan
General Counsel for the Academy
5400 Broad River Road
Columbia, SC 29212





P.O. Box 9000
Orangeburg, SC 29116

Phone 803-531-4647
Fax 803-515-1899

Orangeburg County Sheriff's Office
Barbara Walters, Interim Sheriff

October 22, 2010

To Whom It May Concern:

The Orangeburg County Sheriff's Office is reviewing Cassandra Donaldson's employment application. Ms. Donaldson was terminated from Barnwell County. Please advise this agency if she is eligible to be certified.

Thanks,

M. E. Clarkson
Major Clarkson

RECEIVED
OCT 22 2010

SC Criminal Justice Academy
Office of Misconduct

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

BEFORE THE CRIMINAL JUSTICE
ACADEMY

Cassandra Donaldson,)

Appellant,)

CONTESTED CASE HEARING

vs.)

South Carolina Criminal)

Justice Academy,)

Respondent.)

Contested Case Hearing, taken before Eric B. Gore, a Notary Public for South Carolina, commencing at the hour of 10:00 o'clock A.M., on Tuesday, May 31st, 2011, at the South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C., before Keila Thomas, Hearing Officer, pursuant to Joint Motion to Remand dated December 9th, 2010, and Consent to Agreement by Counsel.

APPEARANCES:

C. Bradley Hutto, Esquire, of the firm of Williams & Williams, Attorneys for Appellant.

Brandy A. Duncan, Esquire, General Counsel, S.C. Criminal Justice Academy, Attorneys for Respondent.

Eric B. Gore, Reporter.

ANNETTE B. GORE

COURT REPORTER

P. O. BOX 51 • IRMO, S.C. 29063

(803) 781-1400

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I N D E X

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2	Opening Statement by Mr. Hutto-----	3
3	" " " " " Continued-----	5
4	Testimony of Cassandra Donaldson:	10
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EXHIBITS

10	State's Exhibits #26 and #27-----	5
11	State's Exhibit #29-----	26
12	Respondent's Exhibit #1-----	35

PROCEEDING:

HEARING OFFICER THOMAS: My name is Keila Thomas, I am the Director of the South Carolina Department of Probation, Parole and Pardon Services, and a Member of the Law Enforcement Council. This is a certification contested case hearing for Timothy Harrison ---

MS. DUNCAN: Excuse me. Cassandra.

HEARING OFFICER THOMAS: Cassandra, what is your full name?

MS. DONALDSON: Cassandra Donaldson ---

HEARING OFFICER THOMAS: And has been initiated at her request. Proceedings of this hearing are being recorded by a court reporter. Anything said during this hearing will be recorded and in case a true and accurate record of this proceeding is needed at a later date. The purpose of this hearing is to review the initial dissemination by Hubert Harold, Director of the South Carolina Criminal Justice Academy and that Cassandra Donaldson is no longer eligible for certification as a police officer in South Carolina. I am the Hearing Officer for today's hearing; Brandy A. Duncan, General Counsel for the South Carolina Criminal Justice Academy, is representing the State in this Proceeding. Brad Hutto is representing Ms. Cassandra Donaldson in this matter. Each party will have an opportunity to call witnesses and to give evidence. Each person who is called to present testimony must take an oath

1 to tell the truth. The party calling the witnesses may
2 question the person first with cross examination by the other
3 party as appropriate. And then I may, also, ask questions if
4 I deem it necessary. At the conclusion of the hearing I will
5 make a written recommendation to the Full Law Enforcement
6 Training Council, a copy of this recommendation will be
7 provided to both parties; the Full Law Enforcement Training
8 Council will be provided with copies of today's transcript
9 hearing, all exhibits entered into the evidence, and my
10 recommendation. After receiving these copies and becoming
11 familiar with the facts of the case, the Full Law Enforcement
12 Training Council will make the final Agency decision as to
13 whether Ms. Donaldson is eligible to be recertified as a law
14 enforcement officer with the State of South Carolina.

15 MS. DUNCAN: I consent to an agreement that
16 Mr. Hutto and I are ready to come to with Ms. Donaldson's
17 permission. It has already entered into evidence twenty-six
18 exhibits that Ms. Donaldson has, and it's simply consented to
19 their authenticities. And I have a separate copy for you so
20 that you can make notes and everything necessary. That's your
21 copy, right?

22 MR. HUTTO: Yes.

23 MS. DUNCAN: I have got an extra copy
24 somewhere. Because of the way we have come to this agreement
25 we have testified that we don't need to call any witnesses
today, we've agreed the documents speak for themselves; and

1 counsel can review them and make a determination as to what
2 else may be appropriate, based on what is contained in those.

3 HEARING OFFICER THOMAS: All right.

4 MS. DUNCAN: Based on what is contained in
5 those. The only other thing that I would ask to put in would
6 basically be a clean copy of the Training Ap and the
7 corresponding Regulations for your review and contemplation.

8 HEARING OFFICER THOMAS: Okay, then we will
9 put a clean copy of those in.

10 MS. DUNCAN: Yes, just mark those as #26 and
11 #27.

12 STATE'S EXHIBITS #26 AND #27
13 MARKED AND ENTERED INTO EVIDENCE.

14 MS. DUNCAN: And then beyond that, then
15 first, Mr. Hutto, is there any litigating evidence you may
16 need for his clients?

17 MR. HUTTO: Thank you. Is it appropriate to
18 make an opening statement?

19 HEARING OFFICER THOMAS: Yes, sir.

20 MR. HUTTO: Cassandra Donaldson was
21 certified in 1997 as a law enforcement officer and worked
22 continuously up until last October, so almost thirteen years
23 as a deputy for Barnwell County. But during that entire time
24 assigned as a school resource officer, so that her duties
25 were at a school. During the first part of her career, she
was at the Middle School, but a few years ago she was

1 transferred or moved over to the High School. She generally
2 worked forty hour weeks, 7:30 to 3:30. So she was at the
3 school while the kids were at the school. The one thing that
4 was different when she moved over from the Middle School to
5 the High School was that she was told that as a part of her
6 responsibilities she would also have to provide security for
7 home football games. Generally the Williston team played ten
8 or eleven games, usually five at home. And so on Friday
9 nights after she would put in her full forty hour week, she
10 was told by the Sheriff that it's her responsibility to
11 provide security at the football games, so usually from 4:30
12 to 8:30, or maybe 5:30 to 9:30 on the Friday nights of the
13 home football games. She was also allowed to provide
14 security at other games where there was a home team in the
15 County that was playing, like Blackville-Hilda or Barnwell
16 High. There are only three high schools in Barnwell County.
17 She was at Williston-Elko. And so on some nights when there
18 would be an off game at Williston-Elko, there may be a home
19 game for one of the other two in county teams. And the
20 reason I point that out, all the security, all three at the
21 games were provided by the Sheriff's Department. Okay? So,
22 the Sheriff's Department had four or five deputies at every
23 home game in the county. If all three teams were at home one
24 particular evening, that would be twelve to fifteen deputies
25 working; only one team was at home, only four or five
deputies. Hers was the only one, though, she and the other

1 resource officers for the individual schools were the only
2 ones that were required to work their home football games.
3 So, on home football game weeks, she was required to work
4 home football games, in essence putting her into overtime
5 status, because she had already worked her forty hour weeks.
6 What you will see from the documents that we have agreed to
7 is that on those nights that she worked overtime, she
8 submitted to the Sheriff's Department, a Barnwell County
9 Sheriff's Department compensatory time form. And I just used
10 the sample of the one, the third page of the exhibit we have
11 here, dated 9/1/06. And these forms were given to her as
12 part of a package that all officers get. In other words, she
13 gets a package that has incident reports and documents that
14 all of the Sheriff's Officers get. So, in her packet is one
15 of these forms. So, when she worked her home football games
16 she filled in how many hours that worked on that particular
17 day. And see on that day she worked from 8:30 to 2300. But
18 you will find those consistently throughout this package. In
19 other words, that's mainly what this package is, consists of
20 compensatory time form. Also, as the home hearing officer for
21 that school, he was responsible to report to the school who
22 are the officers who worked before. It's on page 1, exhibit
23 1, you will see that she actually --- in her handwriting
24 wrote down that Glenda O'Berry worked four hours, Annie
25 Anthony Little worked three hours, and a few minutes, and
that she worked four hours. And the school instructed her

1 that the compensatory time for officers working during the
2 game is \$20.00 an hour. So, what her responsibility was to
3 the school was to let them know which officers had worked
4 there today. So, on the same day that she turned in her comp
5 full time to the Sheriff's Department, she also made a report
6 to Lois Senefco (phonetic) in there which three officers
7 worked the game and how many hours they worked. And this went
8 on for about 2006 until sometime last year. There was never
9 a handbook or form, or anything given to her explaining to
10 her that she was supposed to do it any other way. Now, when
11 she did it this way the first time, nobody said, "This isn't
12 the right way to do it." Now, when she worked, let's say the
13 Blackville-Hilda game, she wasn't responsible for turning in
14 the check requisition form because that would have been the
15 responsibility of the school resource officer for Blackville-
16 Hilda. If Cassandra worked at the Blackville-Hilda home
17 football game, her name would appear on there and she would
18 have gotten the same \$20.00 for working how many hours she
19 worked. But instead of being requested by her it would have
20 been requested by the resource officer for that high school.

21 HEARING OFFICER THOMAS: Mr. Hutto, may I
22 ask a question. I don't want to go too far and not be clear.
23 I am looking at the compensatory time sheet, the third, dated
24 9/1/06. And the top time approved is seven hours, is what is
25 here. Am I ready that ---

MR. HUTTO: It does. All of that seems to be

1 a mathematical error, because it looks like it would have
2 been six ---

3 HEARING OFFICER THOMAS: So, it's a little up
4 there, but then on the cover sheet ---

5 MR. HUTTO: Because it's time and a half, I'm
6 sorry.

7 HEARING OFFICER THOMAS: All right, time and
8 a half. So it is seven hours. But then on the front sheet, we
9 have --- is that four hours?

10 MR. HUTTO: She works four actual hours.

11 HEARING OFFICER THOMAS: Four actual hours.

12 MR. HUTTO: Right. But because it was over
13 time for the Sheriff's Department, it's time and a half. And
14 this is where we are getting into --- and I am going to get
15 there. The Sheriff's Department in essence owed her for over
16 time for those four hours that they required her to work at
17 the game. But instead of giving her pay for that, they gave
18 her comp time. Which in the summer when the kids are out of
19 school, she can take off. Okay. So, she was given comp time
20 at the rate of time and a half. So if she worked two hours
21 she would get three and a half hours of comp time. So, when
22 she put in her comp time, she calculated that out as to what
23 the comp time total was. You know, the Sheriff's Department
24 didn't have to take the four hours and multiply it by 1 1/2,
25 she already had done that for them.

HEARING OFFICER THOMAS: All right, thank

1 you.

2 MR. HUTTO: So, in 2010 she was talking to
3 the resource office from Blackville-Hilda, and he explained
4 to her that she wasn't supposed to put her name as having
5 worked at her home game. Until then nobody had explained
6 that to her. And so she stopped doing it. And that's when
7 they called her in and said, "Why did you stop putting the
8 --- did you not work at the game?" And she said, "I did, but
9 the other officer said I am not supposed to do that, so I
10 didn't." And that's when the Sheriff's Office called her in
11 and said, "You weren't ever supposed to be doing that for the
12 last four years." Our point is this, and this is what we are
13 going to present evidence on today, is that she is an honest,
14 loyal worker of the Sheriff's Department. She understands
15 she is not going back to work there again. But she would
16 like to be --- have her --- she has been out of work now, had
17 her certification withdrawn got nine months. She would like
18 at some point to be able to work as a law enforcement
19 officer. And she will testify to this, there have been no
20 instances of her being reprimanded, or terminated, or any
21 other thing other than one time she was given a --- it's an
22 oral reprimand for not filling out an incident report
23 properly. And she will explain that. But other than that,
24 thirteen years of dedicated service. And what she has been
25 charged with is untruthfulness to her employer. And this is
 --- she did not untruthfully tell her employer how much time

1 she worked. She just did it six hours and turned them in and
2 got comp time, and the Sheriff was satisfied with that. But
3 they didn't want to pay her over time. The school of
4 Williston-Elko is who paid her, and they are charging her
5 with any untruthfulness to them. Okay? They were going to
6 have to pay out that much money anyway. If officers came and
7 signed up a twenty dollars an hour, that's how much security
8 was going to cost and they built that into the gate receipts.
9 So, this is not a classic case of what some people might
10 refer to as double dipping, where the agency who is paying
11 her also gets double dipped against. She was getting comp
12 time from the Sheriff's Department - who was her employer.
13 She also was getting twenty dollars an hour for working
14 ballgames. If she worked Blackville-Hilda, she got twenty
15 dollars an hour; she thought that if she worked Williston,
16 she also got twenty dollars an hour. Turns out, she wasn't
17 supposed to in the eyes of the Sheriff, although the school
18 had never complained. In other words, when these documents
19 are going in on the very first time, if the very first time
20 she had filled those out, somebody had said, "Ms. Donaldson,
21 I know you are new here as a resource officer, but as the
22 home resource officer you don't get to fill out your comp
23 time, you are just to tell us who the other ---, I mean, you
24 don't get to fill out your hours for twenty dollars an hour,
25 you are to report that to us but you don't get to claim
those." But nobody told her that at the school. When she

1 turned in her form at the Sheriff's Office, they never said,
2 "Now, Ms. Donaldson, did you collect at the school, or
3 therefore you would be ineligible." In other words, our
4 point is is that this was not explained to her, when she
5 found out about it and stopped doing it, then she got
6 terminated because it came to light, and they said, "Oh,
7 you've been doing this for three years." She offered to pay
8 the money back and they said, "That's not the issue." To her,
9 she thought that was the issue if somebody had a complaint.
10 But that is what we are going to offer testimony to you about
11 today. I would ask you to --- I know that there are various
12 laws that apply here. I would just call your attention to the
13 general law of South Carolina, which defines employer; and it
14 does in fact define employer in Section 41-10-10. And I have
15 a copy of this for you, and for you. In 41-10-10 it does
16 define employer in Section 1 as a political subdivision of
17 the State, which I think includes the Sheriff's Department.
18 Or, an agent or officer. And then in 41-10-40, it says that
19 pay shall always be made in United States money; and then in
20 41-10-100, it says that no provision of this chapter may be
21 contra gained or set aside by a private agreement. Which, if
22 you just looked at the State law, it would look like they
23 didn't have the ability to give her comp time, they had to
24 pay her because the law requires that. However, there are
25 obviously several Regulations that apply. And those Federal
Regs are found in 29-CFR-55-3.227. And it talks there to

1 outside employment, which I guess this is what it amounts to.
2 And it talks in those sections about the Sheriff could make
3 a list of those officers that were eligible to work for
4 security forces, that kind of thing. And it even says the
5 Sheriff --- or, I said the employer, I mean the Sheriff as
6 the employer, may negotiate the fee, may require the fee to
7 be paid back to the department. It may do a lot of things.
8 But the Sheriff didn't make that arrangement with Williston-
9 Elko in this case. In other words, the Sheriff could have
10 gone to the school and negotiated, "I'll provide you four
11 deputies. I am going to give them comp time, but you need to
12 pay your twenty dollars an hour back to the Sheriff's
13 Department." But he didn't negotiate that. Okay? I guess my
14 point is this, from Ms. Donaldson's point of view, a lack of
15 clarity here, and that nobody ever presented her with
16 instructions or written documents, or in other words, even on
17 the forms it doesn't say, "If you were the home resource
18 officer, you cannot put ---" I mean, there is nothing in
19 writing to tell her that. I noticed that y'all put in the law
20 here today. And I am going to look at specifically in the
21 Act that was put in, on Page 3, under 22-23-30(e). It's on
22 Page 3 of 11. Okay, under "D" at the top, "Members of the
23 Council shall serve without compensation." And it's clear.
24 Somebody clearly stated this is --- you know, even though you
25 are coming as a second --- you shall not do it. Well, there
is no Statute in Barnwell County that says this. There is no

1 policy written --- now, there is a policy, obviously a policy
2 that the Sheriff establishes his own policy. And he had said
3 this violates this policy. But our point is it was never
4 communicated to her, and when she did find out about it from
5 her supervisor, --- and this is another thing. Nobody has ever
6 monitored these forms for four years and said, "You know,
7 something is wrong with this." It wasn't until she heard
8 about it from a fellow officer, when he turned his form in he
9 didn't put his own name on there, the name he was supposed to
10 have. He was her supervisor of the three resource officers,
11 one was the supervisor of the resource officers. He was her
12 immediate supervisor, he told her not to do it anymore, and
13 she quit doing it. So, that is our opening statement. We
14 will have a little bit of testimony now. So, Mr. Court
15 Reporter, if you would swear Ms. Donaldson.

16 (Cassandra Donaldson, having been duly
17 sworn, testified as follows:)

18 DIRECT EXAMINATION BY

19 MR. HUTTO:

20 Q State your full name, please.

21 A Cassandra Donaldson.

22 Q And where do you live?

23 A 81 Wilson Drive, Williston, South Carolina 29853.

24 Q What county is that located in?"

25 A Barnwell County.

Q Sometime in the mid-1990s, did there come a time

1 in which you received training at the here at the Criminal
2 Justice Academy?

3 A Yes, sir.

4 Q And did you become certified as a law enforcement
5 officer?

6 A Yes, sir.

7 Q And after that, who did you seek employment with?

8 A Barnwell County Sheriff's Office.

9 Q And so, since 1997 up until the time that your
10 credentials were removed by the Criminal Justice Academy, did
11 you work continually for the Sheriff's Department? Or, did
12 you have any other work?

13 A No, just for the Barnwell County Sheriff's
14 Office.

15 Q And as an employee of Barnwell County Sheriff's
16 Department, where were you assigned?

17 A Williston-Elko School District 29.

18 Q And what was your responsibility there?

19 A To provide a safe security for the students.

20 Q And what was your title?

21 A School Resource Officer.

22 Q And how many schools - elementary, middle, high
23 school - how many schools were in ---

24 A Three.

25 Q Just the three?

A Yes, sir.

1 Q And which school were you initially assigned to?

2 A When I first started off, I was at the middle
3 school.

4 Q And at some point in time, did you get re-
5 assigned to the high school?

6 A Yes, sir. The school down graded it from two
7 officers to one.

8 Q And do you remember about when that was?

9 A No, sir.

10 Q And when you got assigned to the high school,
11 were you given any instructions about being responsible at
12 home football games?

13 A Yes, sir. The high school officer was in charge
14 of security.

15 Q At the school?

16 A Yes, sir.

17 Q So even when the athletic contest at the school,
18 you would be in charge?

19 A Yes, sir.

20 Q And so when you worked at home, they used the
21 example of the documents here, but when you worked a home
22 football game, were you responsible for filling out this
23 requisition form for the school?

24 A Yes, sir.

25 Q And were you responsible for recruiting the other
officers that were going to work that week end? Or, how were

1 they assigned to you?

2 A I would give the Sheriff's Department a list of
3 the home games, and then tell him how many officers we need,
4 and they will send the names back, and when the officers
5 come, I record the time they get there. And then turn it in
6 to the school, the school's got to check.

7 Q So, when the officers that show up to work
8 security, like for instance on this September the 1st, of
9 '06, when you saw that officer, O'Berry, an officer, really
10 had come to provide security along with yourself, you
11 reported to the School District that these were the three
12 officers from the Sheriff's Department that worked security
13 that night?

14 A Yes, sir. That would be turned in --- we worked
15 that Friday, I turn that in on a Monday.

16 Q Right. And so where it says "Requested by",
17 that's your signature, Cassandra Donaldson. And then that
18 would be the principal's signature under there as proven. Is
19 that correct?

20 A Yes, sir.

21 Q And is that how you do it every time?

22 A Yes, sir.

23 Q Did anybody ever tell you when you turned your
24 name in on there that as the home resource officer your name
25 should not be there?

A No, sir.

1 Q Now, I guess the second page is actually just a
2 copy of a check, showing that they did in fact pay you for
3 the four hours that you worked that day. You are not
4 disputing that?

5 A No, sir.

6 Q And then the third page related to that
7 particular game would be that you reported to the Sheriff's
8 office that you had worked there and were entitled to comp
9 time.

10 A Yes, sir.

11 Q And that's the form they had given you to use for
12 that. Is that correct?

13 A Yes, sir.

14 Q Now, I want to digress for just a second. Other
15 than these football games, were there any other situations in
16 which you as an officer of the Sheriff's Department, or other
17 officers in the Sheriff's Department were allowed to work a
18 second law enforcement type job?

19 A During Christmas time, we would work SRP.

20 Q Is that a Federal credit union?

21 A Yes, sir. And if we have comp time or vacation
22 time, they will let us leave school on comp time or vacation
23 time and go work SRP.

24 Q And so you get paid by SRP?

25 A Yes, sir.

Q And that's with the knowledge of the Sheriff's

1 Department?

2 A Yes, sir.

3 Q Because during those Christmas holidays the
4 credit union has asked for some extra security to be around.

5 A Yes, sir.

6 Q So other than that time, really the only other
7 time that you worked any time outside of this in law
8 enforcement work is security at the football games.

9 A Yes, sir.

10 Q Now, would there be occasions in which you would
11 work security at a football game where Williston-Elko was not
12 the home team?

13 A Yes, sir.

14 Q And so if Williston-Elko did not have a home game
15 on Friday and you were free, you could volunteer or make
16 yourself available to work at one of the other two high
17 school home football games?

18 A Rock Hill or Barnwell.

19 Q And if you did that, the resource officer there
20 would fill out the form like you had done at Williston, but
21 they would fill out the form for their school.

22 A Yes, sir.

23 Q And they would put your name down just like you
24 had done, you would still get the same twenty dollars an
25 hour.

A Yes, sir.

1 Q At any point in time in the --- the period we are
2 talking about is 2006, '07, '08, '09, and up until last year,
3 did anybody at the Sheriff's Department ever instruct you
4 that the way you were filling out the forms and taking the
5 comp time was wrong?

6 A No, sir.

7 Q Did anybody at the school ever question that you
8 should not have been filling your own name out on the
9 requisition form?

10 A No, sir.

11 Q How did you come to find out that this was not
12 the policy of the Sheriff's Department? Who told you that
13 initially?

14 A Through my Sergeant Donald Danner.

15 Q And in fact as we go through this list, Donald
16 Danner, for instance on number three in the forms, Donald
17 Danner on October the 16th of '06, he worked with you
18 security at the football game, and you turned his name in as
19 working at your football game. Is that right?

20 A Yes, sir.

21 Q Now, he was the school resource officer at which
22 school?

23 A Blackville-Hilda.

24 Q But he was the supervisor of all three resource
25 officers?

A Yes, sir, he is.

1 Q Is the super --- still continues to be. And so
2 you would turn his name in when he worked at your school, he
3 would turn your name in when you worked for his school?

4 A Yes, sir.

5 Q At some point in time he told you that you are
6 not supposed to put your own name on your own home
7 requisition form.

8 A Yes. That's right. You're only supposed to be
9 either/or.

10 Q Either/or. Okay. And when you found out about
11 that, did you stop?

12 A Yes.

13 Q Which did you stop doing?

14 A I didn't get paid, I stopped getting paid and
15 used the comp time.

16 Q Just used the comp time. All right. So, when you
17 stopped getting paid by the school, the school asked why, and
18 that's what led to the whole Sheriff's office finding out
19 about it. Is that right?

20 A Yes, sir, I guess it is.

21 Q Okay. I mean, in other words, a memo didn't come
22 out and say, "You need to stop." You stopped on your own.

23 A I stopped on my own, and then prior to the next
24 week I got called in, and I was terminated.

25 Q All right. So, in reality until you actually
corrected the situation yourself, nothing had happened for

1 four years.

2 A No. I was told if I probably would have kept
3 going everything would have been fine; but, it wasn't right,
4 so I stopped.

5 Q All right. Now, I did mention in my opening
6 statement that during your entire career of nearly thirteen
7 years of law enforcement officer, you were not reprimanded or
8 in other works punished, except for one occasion. Can you
9 explain that?

10 A I had a incident with a student where he want to
11 fight a student on school grounds. I told him fighting
12 wasn't the solution, he shouldn't fight at school. And so I
13 talked to him and everything, and that was the end of it. He
14 said he wasn't going to fight, and stuff like that. And next
15 thing I know I got called in saying I should have did a
16 report because the student wanted to fight another student.
17 But we had resolved it due to the fact I didn't do a incident
18 report, I got reprimanded.

19 Q So, in spite of the fact that you had dealt with
20 the situation and handled it, and talked the young person out
21 of getting in a fight, because you did not document that
22 encounter with the student in a separate incident report, you
23 got reprimanded for not filling out an incident report.

24 A Yes.

25 Q Did you actually report that conversation with
the student somewhere?

1 A Yes, I wrote it down and I talked to him on my
2 --- we keep these sheets. Everything we do every hour, we
3 document what we do.

4 Q So you kept it on your daily log.

5 A Yes.

6 Q You did not fill out a separate incident report--

7 A Like a incident report, he was trying to say he
8 was in a gang, but I had no knowledge he was in a gang. It's
9 just like he is getting in arguments all the time.

10 Q So, other than being called in one time and
11 saying you should have filled out an incident report and not,
12 is that the only other time that you have been called in to
13 be reprimanded or anything of that nature?

14 A Yes.

15 Q When you first, you call it transferred or moved,
16 from the middle school to the high school, and told that it
17 was your responsibility to provide security at the home
18 football games, did they give you any other guidance about it
19 other than it was your responsibility.

20 A We wrote down the names, turn in the names to the
21 secretary, she would give us a check, so we just would give
22 to the people that worked the game the checks.

23 Q So you actually handed out the checks?

24 A Yes, sir.

25 MR. HUTTO: Answer any questions Ms. Duncan
may have for you.

CROSS EXAMINATION BY

MS. DUNCAN:

Q So, Ms. Donaldson, you admit that you did get paid twenty dollars per hour to work at these football games, and also received compensatory time from the Sheriff's Office at the rate of one and a half.

A Yes, ma'am.

Q And over the four years that you did this, it never once occurred to you that you were getting compensated two times for the same work.

A Not til the supervisor said anything, and I stopped. And it was after the four years. Because the Sheriff's Department, the school and the Sheriff's Department in two different buildings. I had a Sheriff's Department incident report I turned in, and then the school would just turn the requisition in to the school.

Q Will you agree that being compensated twice for doing work only one time is wrong?

A Now, that you look at it, yes, ma'am.

Q And would you also agree that in turning these compensatory time sheets in to the Sheriff's Office, when you had already been paid for that work by the school, that that was dishonest to them because you are asking them to give you comp time for time you had already been paid.

A I wouldn't leave to go home because I had to close the gate, open the gate, and I'll be from that school

1 from 7:30 til 11:00 o'clock at night time sometimes.

2 Q Do you fill all that in for comp time when you
3 are there for those hours?

4 A No. Not all the time, no.

5 Q Why not?

6 A I just didn't.

7 Q So, were you filling out the comp time sheets
8 essentially to get paid twice for the football games, once
9 through money and once through comp time to make up for that
10 time when you were there all those extra hours that you
11 otherwise didn't fill out a comp time sheet?

12 A I did fill out a comp time, but I just sometimes
13 I would just make sure everything did up for the game because
14 I had to make sure the referees was gone, had to make sure
15 the football team --- sometimes the football team stayed
16 after the game and they would eat, and stuff like that,
17 depends on how far they would travel, and stuff like that.
18 But it was my job to make sure the football players left, you
19 know, safe.

20 Q But you do agree that is wrong for you to have
21 gotten paid twenty dollars and hour and get comp time at a
22 rate of one and a half.

23 A Yes, ma'am.

24 Q From the Sheriff's Department?

25 A Yes.

Q Ma'am, do you recognize this document?

1 A Yes, ma'am.

2 Q Will you tell us what that document is?

3 A It's a document, and what I wrote to Ms. Bette
4 saying I was paid for work at Williston football game, and
5 receiving comp time. And I admitted that I received both,
6 because I did. And I am sorry for doing it. And I appreciate
7 them letting me resign and do a termination --- resigning.
8 Let me resign instead of doing a termination.

9 MS. DUNCAN: I would ask that this be marked
10 as #28. #28? #29.

11 STATE'S EXHIBIT #29 WAS MARKED
12 AND ENTERED INTO EVIDENCE.

13 MS. DUNCAN: I believe that's all the
14 questions I have for you, Ms. Donaldson. Do you have any
15 follow up, Mr. Hutto?

16 MR. HUTTO: Just one.

17 REDIRECT EXAMINATION BY
18 MR. HUTTO:

19 Q But there were other occasions with the Sheriff's
20 full knowledge and actually suggesting officers were
21 encouraged to take comp time and work for the Federal Credit
22 Union because the Sheriff wanted to make sure the bank had
23 security coverage.

24 A Yes, sir.

25 Q Okay. That's all, Ms. Donaldson.

(Off the record)

1 MR. HUTTO: Do you have any questions, or I
2 can call my next witness.

3 HEARING OFFICER THOMAS: You can call your
4 next witness.

5 MR. HUTTO: We will call Ronnie Hosie.

6 (Ronnie Hosie, having been duly sworn,
7 testified as follows:)

8 DIRECT EXAMINATION BY

9 MR. HUTTO:

10 Q State your name for the record, please.

11 A Ronnie Hosie.

12 Q And where do you reside?

13 A 286 Allen Street, Barnwell, South Carolina.

14 Q And what is your occupation?

15 A Retired, for a cop.

16 Q And do you know Ms. Cassandra Donaldson?

17 A I've known her all of life, you know.

18 Q And y'all attend the same place of worship?

19 A Same church.

20 Q And are you the deacon at her church?

21 A Yes, I am.

22 Q And you have known her all life?

23 A Yes.

24 Q And would you just describe --- let me call on
25 you, I know you don't know anything about the details of
this. But you have known her.

1 A Yes.

2 Q Give the Hearing Officer an open view of her
3 character from your observations of her life time.

4 A Yes. As I said, I knew --- I have known her all
5 of her life, mother and relatives of her family I have known.
6 And when Cassandra was born, I am sixty-four, so you know she
7 is much younger than I am. But she was born, I saw her at
8 church because her mother was an usher. And she would
9 sometimes stand with her mother doing as usher, as a little
10 kid. And she always came to church, her mother brought her.
11 And her mother passed sometime ago. She was then had grown
12 up and began her family and her career. Going to school, she
13 went to Williston-Elko, graduated there, and then to Claflin
14 University in Orangeburg. And I was right next door there
15 because I was with South Carolina State at the time. From
16 when I saw her doing it outside the church, it was nothing
17 that I would dispute or cause her to draw attention to, doing
18 wrong. Because my good friend was her admissions counselor
19 there at Claflin, and I would run into her with him every now
20 and then. At church, she participated in the programs at
21 church, try soon as assistant clerk of the church. We have a
22 small membership, but they are very close family with it. And
23 her children are involved in the church activities. As a
24 matter of fact, she sits behind me in the next pew. So, it's
25 always an opportunity to - and not to disrespect the church,
but if you will, something you can say, you know, do this or

1 we should do that. And she has just been above the board,
2 count up. Never have I known her to think or participate. I
3 saw her as an officer, and I say, "You gonna' go that route,"
4 you know. But she wanted to do that, and she wore her
5 uniform very proudly. She emphasized a good attitude in
6 church because sometimes police officers don't have those
7 attitudes, and they are out of uniform, even. But she
8 electrified that kind of attitude. That she cared about
9 people. And I must say, I do know how much she cares about
10 her children as well as other people's children. She had
11 this, what you call dance school, what do you call it?

12 MS. DONALDSON: Step team.

13 A Yeah, step team. And would take them everywhere
14 all across the state, late hours at night, maybe in Conway
15 with her step team and back to go to church on Sunday
16 morning. And I will say it again, being a police officer, she
17 did those things. Any parade that we had, those children were
18 prepared to appear in the parade. And I say discipline,
19 because that's what she taught them. And I really appreciate
20 knowing her.

21 Q So, in all your dealings with her, and you have
22 known her her whole life, have you ever known her in any way
23 to be dishonest or untruthful, or anything of that nature?

24 A Not --- no, I haven't experienced that at all.
25 Even as a person, she --- again, I say she loved people. But
an answer that might hurt you, she would still be honest

1 enough to tell you at that point. And so, I have great
2 regards for her, high regards.

3 Q Thank you. Answer any questions Ms. Duncan might
4 have for you.

5 MS. DUNCAN: I don't have any questions.

6 MR. HUTTO: Thank you. And you may need to
7 run, but can he be excused?

8 MS. DUNCAN: Oh, I have no problem him being
9 excused.

10 MR. HUTTO: You are welcome to stay, but you
11 are welcome to go.

12 (Off the record)

13 MR. HUTTO: I don't think we have any other
14 witnesses.

15 MS. DUNCAN: Okay. If I could just have a
16 minute to just kind of summarize. Director Thomas, it is
17 the Academy's position that Ms. Donaldson is no longer
18 eligible to be a law enforcement officer in South Carolina
19 under Section --- excuse me, South Carolina Regulation 38-00-
20 4, specifically Section 7 and 8, (a) 7 and 8 under that part
21 which essentially says that it is misconduct if you are
22 engaging dishonestly with respect to your employer, or
23 untruthfulness with respect to your employer. And the Academy
24 believes quite firmly that by being paid for these football
25 games at the rate of twenty dollars an hour, and also
submitting comp time forms for the same time work, that the

1 comp time form is a form of dishonesty to the employer. And
2 we would ask that Ms. Donaldson's certification be denied.

3 MR. HUTTO: And we would respond by saying
4 that all of these forms that were filled out to her employer
5 were truthful. She worked every hour, for every game, she
6 claimed to have worked; and that was a form provided to her
7 by the Sheriff's Department to fill out. And they in no way
8 were prejudiced by her filling out that form because they
9 authorized -- instead of paying her money, instead of them
10 paying her time and a half for working those games -- they
11 wanted her to take that comp time. And they didn't lose
12 anything by having her do that because, in fact, they
13 encouraged her to do that. They could have said, "We are
14 going to pay you time and a half for the football game," but
15 they didn't; they encouraged her to take comp time. Now, the
16 question of the dishonesty is one in retrospect she sees that
17 now, but at the same time, this is the same Sheriff's
18 Department that encouraged people to take comp time and go
19 work for the bank and get paid during Christmas so that the
20 Sheriff could say he provided security service to the bank.
21 So, there was a standard there that --- first of all, there
22 was nothing in writing when she came on that says, either
23 from the school or from the Sheriff, "You have got to choose
24 one or the other." In hindsight she sees now that that was
25 what was expected, but that was unexplained to her when it
was stopped. I would submit to you that the catch-all

1 provision says that the Department may consider the
2 seriousness, frequency and mitigating circumstances. And I
3 would tell you that as far as seriousness, the Sheriff's
4 Department is out of no money in this case, or frequency
5 officer have their home football game. But it stops when she
6 was told not to do it any more. So, she self-reported, and as
7 a result of that did not commit any dishonesty by continuing
8 something she knew to be wrong. Now, in hindsight we can all
9 say, "Well, she should have known," or, "Maybe she should
10 have known," but it was never clearly explained to her, just
11 as I pointed out to you in the Statute. I mean, sometimes
12 when you want to make it clear, you just say it out, "You
13 shall not." But nobody on the form say, "You shall not fill
14 out this form if you have also received time, you shall not
15 receive payment if you are on comp time." Because, in fact,
16 she was encouraged to receive payment from the bank while she
17 was on comp time. So, it's somewhat of a double standard now.
18 And she is not trying to get back on with the Sheriff's
19 Department, but she believes a thirteen --- nearly thirteen
20 year career in law enforcement, it was exemplified by caring,
21 concern for those children at that school, is something that
22 she has to offer to other communities. This is obviously
23 going to be on her record. I think it should be up to the
24 police chiefs, and heads of the other law enforcement
25 agencies as to whether they want to hire her knowing this or
not. And quite frankly, she has received job offers and can

1 go to work as a law enforcement officer with full knowledge
2 that this has occurred. Because most of them don't see this
3 as some huge deal. And I know that the Criminal Justice
4 Academy has got to be sort of level handed as your approach
5 this. I would tell you this, I do believe there is a
6 distinction in the reference to double dipping if you are
7 taking from the same people twice. But in this instance, she
8 was submitting a form to the school, and had the school
9 themselves just said, "It's our policy not to pay our home
10 officers --- you know, thank you for submitting your time,
11 but we are not going to pay you." It's not like she would
12 have complained at that point in time, she would have known
13 that that was the rule. But, you know, this could have very
14 well been headed off on the very first home football game
15 when the two forms were sent in; if somebody had looked at
16 them and said, "You can't do it this way." But, she wasn't
17 told that, and she did it; and now, she realizes that she
18 shouldn't have. She offered to pay the money back. Of
19 course, you realize the money wouldn't go back to the ---
20 employ her, whose complaint is go back to the school, but
21 they are not complaining. Because they were going to have to
22 pay for three officers any way. So, it is a technical, no
23 doubt, a technical violation; but we think that when you talk
24 about this is talking about dishonesty and untruthfulness, we
25 think that speaks to people who would take things out of an
evidence locker, people who would lie on a police report, or

1 cover up that they stopped somebody, or something of that
2 nature as opposed to a situation like this where we would
3 submit to you is more of a technical violation, and is one
4 that is subject to consideration of mitigating circumstances.
5 And the fact that she has had now to be without a law
6 enforcement credentials for nine months, and suffer the
7 financial difficulties in these hard economic times, and not
8 being able to be employed for the last nine months. She has
9 been punished. And whether y'all think that nine months is
10 enough, or six months, or a year, we would just ask you to
11 consider a suspension rather than an outright revocation of
12 her law enforcement credentials; because she has a lot to
13 offer to the community. And it is not going to be through
14 the Sheriff's Department, we know that. And if the Sheriff
15 is offended by what happened and does want to hire her again,
16 that's fine. But we submit to you that other law enforcement
17 agencies should be allowed to consider her past. This should
18 not be disqualifying; it can certainly affect her
19 employability, but we don't think it should disqualify her
20 from being employable because we submit she hasn't done
21 something so terrible that for the rest of her life she can't
22 ever serve as a law enforcement officer and a good law
23 enforcement officer. Thank you.

24 MS. DUNCAN: I just wanted to clarify for the
25 record, the last document that I had put in, we numbered it
as #28, and we actually already had a #28; so we need to

1 change that number for that one sheet to #29 so that we don't
2 have two. Mr. Hutto, did you want them to mark this, that
3 Code Section?

4 MR. HUTTO: I made reference to it. If you
5 want it for the clarity of the record, you want to include
6 it, that's fine.

7 MS. DUNCAN: Yeah, do we have an extra copy
8 or should I just make a copy.

9 MR. HUTTO: I have copies.

10 MS. DUNCAN: If we could mark that for the
11 Defendant, or Respondent, whichever sticker you have.
12 And I believe you have a copy of that, too?

13 HEARING OFFICER THOMAS: Yes.

14 RESPONDENT'S EXHIBIT #1 MARKED AND
15 ENTERED INTO EVIDENCE.

16 MS. DUNCAN: As soon as Director Thomas
17 finishes her recommendation one way or the other, I will make
18 sure we get a copy over to y'all as quick as possible.

19 MR. HUTTO: Thank you.

20 HEARING ADJOURNED.

21

22

23

24

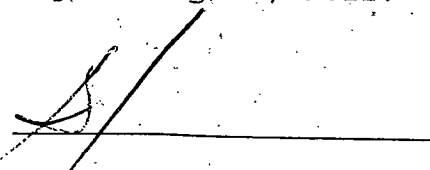
25

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND) CERTIFICATE

3 This is to certify that I, Eric B. Gore, a Notary
4 Public for South Carolina, was hired to take the foregoing
5 proceeding; that I did take notes of the said proceeding; and
6 that the foregoing 35 typewritten pages represent a true,
7 accurate and complete transcription of the said proceeding
8 which took place at the time and location aforestated.

9 IN WITNESS WHEREOF, I have hereunto affixed my
10 hand and official seal this 7th day of August, 2011.

11
12 
13 Eric B. Gore

14 Notary Public for South Carolina

15 My commission expires: 01/16/17.
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25

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#1

CHECK/PAYMENT REQUISITION

Date: 09/01/06

Vendor name: See Below

Address: _____

Account: Athletics

Description of Requisition: Security For H-M-T Football

Game

* Brenda D'Berry 4 HRS 80.00

* And Anthony Little 3 HRS + 15 min 65.00

* Cassandra Donaldson 4 HRS 80.00

Amount: \$ 225.00

Requested by: [Signature]

Approved by: [Signature]

Principal

* Attach all receipts, order forms or invoices.

COA - Record on Appeal 121

WILLISTON-ELKO HIGH SCHOOL
CASSANDRA DONALDSON
ATHLETICS

security for HKT

9/5/2006

18686

80.00

COMMUNITY BAN Security for HKT Football

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETICS

security for HKT

9/5/2006

80.00

18686

80.00

COMMUNITY BAN Security for HKT Football

LMP12 M/P CHECK

80.00

51N311

Barnwell County Sheriff's Office

Compensatory Time

This form is to be filled out when compensatory time is accrued and when use of compensatory time is requested. This form will only be validated upon signature of your immediate supervisor or higher. Each section of this form is to be completed before approval of compensatory time is accepted by this Office and/or approval compensatory time is given. Compensatory time will be accrued on hour and half hour increments only.

Date: 09/01/06 Comp. Time Accrued

Time: 1830 to 2300

Comp. Time Accrued: Hrs. 7 Min.

Reason compensatory time was accrued: WORKED VARSITY FOOTBALL GAME

Total amount of Comp. Time Accrued to date: Hrs. 19 Min. 30

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

Deputy's Signature

9/01/06

Date:

Supervisor's Signature

9-05-06

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#2

CHECK/PAYMENT REQUISITION

Date: 10/09/2006

Vendor name: _____

Address: _____

Account: Athletic Gate

Description of Requisition: Worked Varsity Football Security (Dormitory)

Brenda O'BERRY 4 1/2 hrs = 90⁰⁰

Rodney Brown 4 1/2 hrs = 90⁰⁰

Joey Patsourakos 4 1/2 = 90⁰⁰

Cassandra Donaldson = 4 = 80⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

10/10/2006

18771

80.00

COMMUNITY BAN Football Security

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

10/10/2006

80.00

18771

80.00

COMMUNITY BAN Football Security

LMP12 M/P CHECK

80.00

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 10/06/06 Comp. Time Accrued

Time: 1800 to 2315

Comp. Time Accrued: Hrs. 8 Min. —

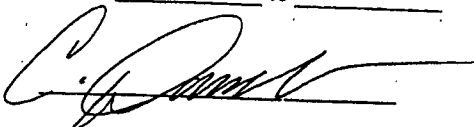
Reason compensatory time was accrued: WORKED WILLIAM-ETNA HIGH SCHOOL FOOTBALL GAME 10-89 SECURITY ESCORT

Total amount of Comp. Time Accrued to date: Hrs. 48 Min. —

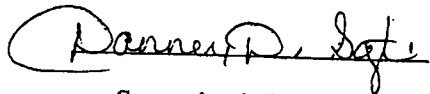
Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____


Deputy's Signature

10/06/06
Date:


Supervisor's Signature

10-10-06
Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#3

CHECK/PAYMENT REQUISITION

Date: 10/16/06

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Football Game

Donald Danner 4HRS 80.00

Rodney Brown 4HRS 80.00

Cassandra Donaldson 4HRS 80.00

Amount: _____

Requested by: [Signature]

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

10/17/2006

18790

80.00

COMMUNITY BAN Security Football

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

10/17/2006

80.00

18790

80.00

COMMUNITY BAN Security Football

LMP12

M/P CHECK

80.00

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 10/13/06 Comp. Time Accrued

Time: 1830 to 2230

Comp. Time Accrued: Hrs. 6 Min.

Reason compensatory time was accrued: WDBHS Varsity Football Game

Total amount of Comp. Time Accrued to date: Hrs. 51 Min. 30

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

C. J. Danner

Deputy's Signature

10/13/06

Date:

Danner, D. Sigs

Supervisor's Signature

10-16-06

Date:

STATE'S
EXHIBIT

#4

Williston-Elko High School
12233 Main Street
Williston, SC 29853

CHECK/PAYMENT REQUISITION

Date: 10/27/2006

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Football Game

Black Hills

DONALD Danner 3 1/2 hrs = 70⁰⁰ CASHMART DONALDSON 3 1/2 = 70⁰⁰

Brenda O'Berry 3 1/2 hrs 70⁰⁰

Rodney Brown 3 1/2 hrs 70⁰⁰

Michael Schumpert 70⁰⁰

Amount: _____

Requested by: C. M. Danner

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.
130 COA - Record on Appeal

WILLISTON-ELKO HIGH SCHOOL

18856

CASSANDRA DONALDSON
ATHLETIC GATE

Security

10/30/2006

70.00

COMMUNITY BAN Security for Football

70.00

WILLISTON-ELKO HIGH SCHOOL

18856

CASSANDRA DONALDSON
ATHLETIC GATE

Security

10/30/2006

70.00

COMMUNITY BAN Security for Football

70.00

LMP12 MP CHECK

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 10 127 106 Comp. Time Accrued

Time: 1830 to 2215

Comp. Time Accrued: Hrs. 6 Min. _____

Reason compensatory time was accrued: WORKED VARSITY FOOTBALL GAME

Total amount of Comp. Time Accrued to date: Hrs. _____ Min. _____

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. [Signature]

Deputy's Signature

10/27/06

Date:

Danner, D. Sgt

Supervisor's Signature

10-31-06

Date:

06

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#5

CHECK/PAYMENT REQUISITION

Date: 12/11/06

Vendor name: Basketball Security Barnwell

Address: _____

Account: _____

Description of Requisition: _____

Brenda O'Leary 4/11/05 80⁰⁰

Donald Wanner 4/11/05 80⁰⁰

Cassandra Wanner 4/11/05 80⁰⁰

Michael Schumpert

Amount: _____

Requested by: [Signature]

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL
CASSANDRA DONALDSON
ATHLETIC GATE

Security-Basketball

12/12/2006

18955

80.00

COMMUNITY BAN Security for Basketball

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security-Basketball

12/12/2006

80.00

18955

80.00

COMMUNITY BAN Security for Basketball

LMP12 M/P CHECK

80.00

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 12/08/06 Comp. Time Accrued

Time: 1600 to 2200

Comp. Time Accrued: Hrs. 9 Min. —

Reason compensatory time was accrued: Worked F.V. & VASNY Barnwell
GAINE

Total amount of Comp. Time Accrued to date: Hrs. 87 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. J. [Signature]

Deputy's Signature

12/11/06

Date:

Danner, D. Sgt.

Supervisor's Signature

12-11-06

Date:

STATE'S
EXHIBIT

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#6

CHECK/PAYMENT REQUISITION

Date: 12/15/06

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Escort

Basketball Game Aquarius

Rodney Brown 4HRS = 80⁰⁰

Cassandra Donaldson 4HRS = 80⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____

Principal

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

12/18/2006

1899

80.00

COMMUNITY BAN Basketball Security

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

12/18/2006

80.00

18994

80.00

COMMUNITY BAN Basketball Security

LMP12 M/P CHECK

80.00

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 12/15/06 Comp. Time Accrued

Time: 1800 to 2200

Comp. Time Accrued: Hrs. 6 Min.

Reason compensatory time was accrued: WALKED VARSITY BASKETBALL
Game

Total amount of Comp. Time Accrued to date: Hrs. 98 Min. 30

Requesting Compensatory Time:

to

C. J. Davidson

Deputy's Signature

Time: Hrs. Min.

12/15/06

Date:

Danner D. Sept

Supervisor

12-18-06

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#7

CHECK/PAYMENT REQUISITION

Date: 01-04-07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Basketball Security

Willie Walker 3HRS 60⁰⁰

Michael Schumpert 3HRS 60⁰⁰

CASSANDRA Donaldson 3HRS 60⁰⁰

Amount: _____

Requested by: C. Donaldson

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/4/2007

19004

60.00

COMMUNITY BAN Basketball Security

60.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/4/2007

19004

60.00

COMMUNITY BAN Basketball Security

60.00

LMP12 MP CHECK

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 1/4/07 Comp. Time Accrued

Time: 1745 to 2145

Comp. Time Accrued: Hrs. 6 Min. 0

Reason compensatory time was accrued: Barnwell High School
Basketball Game

Total amount of Comp. Time Accrued to date: Hrs. 43 Min. 0

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

Deputy's Signature

Danner D. St

Supervisor's Signature

Date:

1-8-07

Date:

07
Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#8

CHECK/PAYMENT REQUISITION

Date: 01/06/07

Vendor name: _____

Address: _____

Account: Athletic Site

Description of Requisition: Basketball Security

Varsity Basketball Team Sideline Branch

Donald Danner 4HRS 80.00

Toney Little 4HRS 80.00

Cassandra Donaldson 4HRS 80.00

Amount: _____

Requested by: C. Danner

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

142 COA - Record on Appeal

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/8/2007

160.00

19035

COMMUNITY BAN Basketball Security

160.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/8/2007

160.00

19035

COMMUNITY BAN Basketball Security

160.00

LMP12 M/P CHECK

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 01/06/07 Comp. Time Accrued

Time: 1700 to 2200

Comp. Time Accrued: Hrs. 7 Min. 30

Reason compensatory time was accrued: WORKED J.V. + VARSITY BASKETBALL
GAME J.V. BOYS GAME

Total amount of Comp. Time Accrued to date: Hrs. 96 Min.

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

Deputy's Signature

Danner D. Dett

Supervisor's Signature

Date:

1-8-07

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#9

CHECK/PAYMENT REQUISITION

Date: 1/29/07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Basketball Security

(Denmark-Olar)

Tony Little 4hrs 80.00

Charmelle Donaldson 4hrs 80.00

Amount: _____

Requested by: [Signature]

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

1/29/2007

19072

80.00

COMMUNITY BAN Basketball Security

80.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

1/29/2007

19072

80.00

COMMUNITY BAN Basketball Security

80.00

LMP12 M/P CHECK

51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 1-30-07 Comp. Time Accrued

Time: 1600 to 2150

Comp. Time Accrued: Hrs. 9 Min.

Reason compensatory time was accrued: Worked F.V. + Varsity
Basketball Game

Total amount of Comp. Time Accrued to date: Hrs. 135 Min.

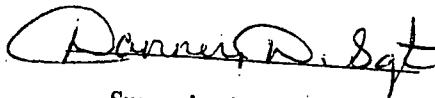
Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.



Deputy's Signature



Supervisor's Signature

Date:

1-31-07

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#10

CHECK/PAYMENT REQUISITION

Date: 2/7/2007

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Basketball Security Blackville-Hilda Ga

Donald Danner 3 1/2 = \$70⁰⁰

Leon Harrison 3 1/2 = \$70⁰⁰

Tony Little 3 1/2 = \$70⁰⁰

Cassandra Donaldson 3 1/2 = \$70⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

2/7/2007

70.00

COMMUNITY BAN Basketball Security

70.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

2/7/2007

19105

70.00

COMMUNITY BAN Basketball Security

70.00

LMP12 WP CHECK

51N311 51N311 51N311

Barnwell County Sheriff's Office

Compensatory Time

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Date: 2/6/07 Comp. Time Accrued

Time: 1700 to 2125

Comp. Time Accrued: Hrs. 7 Min. —

Reason compensatory time was accrued: WORKED J.V BOYS AND VARSITY
GIRLS & BOYS BASKETBALL GAME

Total amount of Comp. Time Accrued to date: Hrs. 153 Min. —

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. Donaldson

Deputy's Signature

Danney D. Sgt.

Supervisor's Signature

Date:

2-12-07

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#11

CHECK/PAYMENT REQUISITION

Date: 9/02/07

Vendor name: _____

Address: Security for midland valley Football Game

Account: _____

Description of Requisition: _____

Frank Mebane, Sami Grant, Willie Walker,
Chuck Arbogast & Cassandra Donaldson
4 HRS @ 20⁰⁰

Security for Football Game midland valley

Amount: _____

Requested by: Cassandra DonaldsonApproved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security MV

9/10/2007

19544

80.00

COMMUNITY BAN Security MV

80.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security MV

9/10/2007

19544

80.00

COMMUNITY BAN Security MV

80.00

LMP12 M/P CHECK

51N311

640 [Signature]

Barnwell County Sheriff's Office

Compensatory Time

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Date: 9.17.07 Comp. Time Accrued

Time: 1745 to 2230

Comp. Time Accrued: Hrs. 7 Min. 30

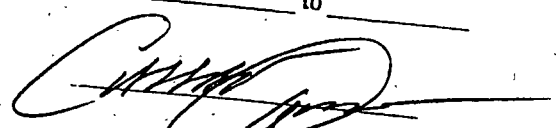
Reason compensatory time was accrued: Worked Willis' Fall
Game

Total amount of Comp. Time Accrued to date: Hrs. 20 Min. 25

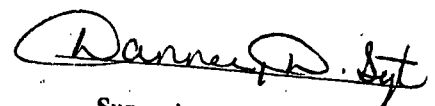
Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____


Deputy's Signature

9/19/07
Date:


Supervisor's Signature

9-10-07
Date:

STATE'S
EXHIBIT

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#12

CHECK/PAYMENT REQUISITION

Date: 9/17/07

Vendor name: _____

Address: _____

Account: Athletic Gate

Description of Requisition: Football Security (RSM) Game

Cassandra Donaldson 4 hrs 80⁰⁰

Rodney Pruitt 3 1/2 hrs 70⁰⁰

Ann Little 3 1/2 hrs 70⁰⁰

Joe Handberry 3 1/2 hrs 70⁰⁰, Chuck Arbogast 3 1/2 hrs 70⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security RSM

9/17/2007

80.00

COMMUNITY BAN Security RSM

80.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security RSM

9/17/2007

19560

80.00

COMMUNITY BAN Security RSM

80.00

LMP12 M/P CHECK

51N311-0001 100

Barnwell County Sheriff's Office

Compensatory Time

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Date: 9/14/07 Comp. Time Accrued

Time: 1750 to 2215

Comp. Time Accrued: Hrs. 2 Min. 00

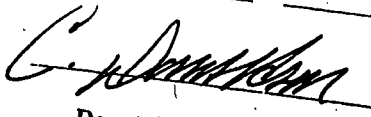
Reason compensatory time was accrued: Worked W-E High School Football Game

Total amount of Comp. Time Accrued to date: Hrs. 27 Min. 25

Requesting Compensatory Time:

Need to show total Accumulation

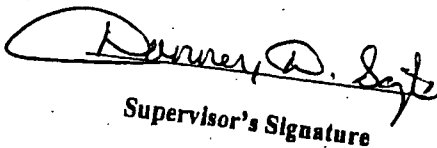
Dates: _____ to _____



Deputy's Signature

Time: Hrs. _____ Min. _____

9/17/07
Date:



Supervisor's Signature

9-19-07
Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#13

CHECK/PAYMENT REQUISITION

Date: 9/21/07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Football Game (Wagon)
David Deering 3 1/2 hrs 70⁰⁰
Anu Little 3 1/2 70⁰⁰ Joe Handberry 3 1/2 hrs 70⁰⁰
Bobby Smeke 3 1/2 hrs 70⁰⁰ Jamie Ganett 3 1/2 hrs 70⁰⁰
Cassandra Donaldson 4 hrs

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL
CASSANDRA DONALDSON
ATHLETIC GATE

Security-Wagener

9/24/2007

10000

80.00

COMMUNITY BAN *Security-Wagener*

80.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security-Wagener

9/24/2007

19593

80.00

COMMUNITY BAN *Security-Wagener*

80.00

LMP12 WP CHECK

51N311 (Page) 4

640 DONALDSON

Barnwell County Sheriff's Office

Compensatory Time

This form is to be filled out when compensatory time is accrued and when use of compensatory time is requested. This form will only be validated upon signature of your immediate supervisor or higher. Each section of this form is to be completed before approval of compensatory time is accepted by this Office and/or approval compensatory time is given. Compensatory time will be accrued on hour and half hour increments only.

Date: 9/21/07 Comp. Time Accrued

Time: 1800 to 2221

Comp. Time Accrued: Hrs. 2 Min.

Reason compensatory time was accrued: Worked williston Football Game and Escorted Mrs. Battle to Enterprise Bank to make a deposit

Total amount of Comp. Time Accrued to date: Hrs. 39 Min.

Requesting Compensatory Time:

Dates: to

C. Plank
Deputy's Signature

Time: Hrs. Min.

9/21/07
Date:

Dannan D. Sgt
Supervisor's Signature

9-26-07
Date:

Officer told to break down totals
9-26-07

STATE'S
EXHIBIT

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#14

CHECK/PAYMENT REQUISITION

Date: 9/28/07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Football Security (Bamberg)

Chuck Arbogast 3 1/2, Bradley Owens 3 1/2

Andy Chavis 3 1/2, Bobby Smith 3 1/2,

Rodney Pruitt 3 1/2, Roger Vanev 3 1/2

Cassandra Davidson 4 HRS

Amount: _____

Requested by: Cassandra Davidson

Approved by: _____
Principal

* Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL
CASSANDRA DONALDSON
ATHLETIC GATE

Bamberg Security

10/2/2007

19624

80.00

COMMUNITY BAN *Bamberg Security*

80.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Bamberg Security

10/2/2007

19624

80.00

COMMUNITY BAN *Bamberg Security*

80.00

LMP12 M/P CHECK

51N311

10/16/07 640

Barnwell County Sheriff's Office

Compensatory Time

Comp Hrs	43.30
gained	7.00
total	<u>50.30</u>

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Date: 9/28/07 Comp. Time Accrued

Time: 1800 to 2240

Comp. Time Accrued: Hrs. 7 Min. 30

Reason compensatory time was accrued: Worked Williston-Elko High School Football Game / Security Escort to Enterprise during

Total amount of Comp. Time Accrued to date: Hrs. 50 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

[Signature]
Deputy's Signature

9/28/07
Date:

[Signature]
Supervisor's Signature

10-1-07
Date:

STATE'S
EXHIBIT

#15

Williston-Elko High School
12233 Main Street
Williston, SC 29853

CHECK/PAYMENT REQUISITION

Date: 12/05/07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security For Basketball Game

Williston-Elko High School / Brunswick High School

Willie Walker, 3 1/2 70⁰⁰

Joe Handberg 3 1/2 70⁰⁰

Michael Schumpert 3 1/2 70⁰⁰ Cassandra Daniels 3 1/2 70⁰⁰

Amount: _____

Requested by: C. J. Daniels

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

19770

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/6/2007

70.00

COMMUNITY BAN Security Basketball

70.00

WILLISTON-ELKO HIGH SCHOOL

19770

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/6/2007

70.00

COMMUNITY BAN Security Basketball

70.00

LMP12 W/P CHECK

51N3113 DEPT. OF CORRECTIONS

1) 01/14/07 0410

Comp Time 68.30

EARNED 7.30

TOTAL 76.0 HRS

Barnwell County Sheriff's Office

Compensatory Time

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Date: 12/04/07 Comp. Time Accrued

Time: 1700 to 2200

Comp. Time Accrued: Hrs. 7 Min. 30

Reason compensatory time was accrued: Worked Williston J.V. + Varsity Basketball Game

Total amount of Comp. Time Accrued to date: Hrs. 26 Min. —

Requesting Compensatory Time:

Dates: — to —

Time: Hrs. — Min. —

[Signature]

Deputy's Signature

12/04/07

Date:

[Signature]

Supervisor's Signature

12-11-07

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#16

CHECK/PAYMENT REQUISITION

Date: 12/19/07

Vendor name: Security Basketball Silver Bluff

Address: _____

Account: _____

Description of Requisition: _____

1 DONALD DANKER 3 1/2
CASSANDRA DONALDSON 3 1/2

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

↓ ↓ ↓ ↓ ↓

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/10/2007

70.00

COMMUNITY BAN *Security for basketball*

70.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/10/2007

19802

70.00

COMMUNITY BAN *Security for basketball*

70.00

LMP12 M/P CHECK

51N311 (1990, 1991, 1992)

640 JONATHAN COMPTIME 76
EARNED 6
82.6

Barnwell County Sheriff's Office

Compensatory Time

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Date: 12-22-07 Comp. Time Accrued

Time: 1730 to 2130

Comp. Time Accrued: Hrs. 6 Min. -

Reason compensatory time was accrued: WORKED BARNWELL GAME

Total amount of Comp. Time Accrued to date: Hrs. _____ Min. _____

Requesting Compensatory Time:

Dates: _____ to _____

C. J. Dumas

Deputy's Signature

Time: Hrs. _____ Min. _____

12/07/07
Date:

Danette D. Syle

Supervisor's Signature

12-11-07
Date:

STATE'S
EXHIBIT

Williston-Elko High School
12233 Main Street
Williston, SC 29853

#17

CHECK/PAYMENT REQUISITION

Date: 12/18/07

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security For Varsity Basketball

GAME Fox Creek

Donald Danner 3 1/2 hrs 70⁰⁰

Cassandra Donaldson 3 1/2 hrs 70⁰⁰

Amount: _____

Requested by: C. Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLIS LUN-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/14/2007

19815

70.00

COMMUNITY BAN *Security for Basketball*

70.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Security

12/14/2007

19815

70.00

COMMUNITY PLAN *Security for Basketball*

70.00

LMP12 M/P CHECK

51N314 : 1000

640 Jonathan 77.50
Earned 7.00

Barnwell County Sheriff's Office TOTAL 106.30

Compensatory Time

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Date: 12/18/07 Comp. Time Accrued

Time: 1730 to 2200

Comp. Time Accrued: Hrs. 7 Min. —

Reason compensatory time was accrued: Worked Williston Basketball
Game Varsity

Total amount of Comp. Time Accrued to date: Hrs. 106 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. J. Domet
Deputy's Signature

12/18/07
Date:

Supervisor's Signature

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#18

CHECK/PAYMENT REQUISITION

Date: 01/09/08

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security At Basketball
GAME

Willie Walker \$70.00

Michael Schumpert 70.00

Cassandra Donaldson \$20.00

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____

Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/11/2008

20.00

COMMUNITY BAN *Basketball Security*

20.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Basketball Security

1/11/2008

19847

20.00

COMMUNITY BAN *Basketball Security*

20.00

LMP12 WP CHECK

61N311820100

Barnwell County Sheriff's Office

Compensatory Time

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Date: 1/14/08 Comp. Time Accrued

Time: 1200 to 2130

Comp. Time Accrued: Hrs. 7 Min. —

Reason compensatory time was accrued: Worked J.V. & Varsity Basketball Game

Total amount of Comp. Time Accrued to date: Hrs. 93 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. Donaldi
Deputy's Signature

01/14/08
Date:

Danner, D. Sgt
Supervisor's Signature

1-14-08
Date:

08

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#19

CHECK/PAYMENT REQUISITION

Date: 01/14/08

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Basketball ²

Name: Ann Tony Little 70⁰⁰ + 70⁰⁰

Cassandra Donaldson 70⁰⁰ 70⁰⁰

Amount: _____

Requested by: [Signature]

Approved by: [Signature]

Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

19853

CASSANDRA DONALDSON
ATHLETIC GATE

Security Basketball

1/16/2008

140.00

COMMUNITY BAN Security for Basketball x 2

140.00

WILLISTON-ELKO HIGH SCHOOL

19853

CASSANDRA DONALDSON
ATHLETIC GATE

Security Basketball

1/16/2008

140.00

COMMUNITY BAN Security for Basketball x 2

140.00

LMP12

M/P CHECK

51N311 C700A 1/16/08

640 JOURNAL Comp time 820
Time Earned 4.36
TOTAL 86.30

Barnwell County Sheriff's Office

Compensatory Time

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Date: 1/12/08 Comp. Time Accrued

Time: 1730 to 2030

Comp. Time Accrued: Hrs. 4 Min. 30

Reason compensatory time was accrued: Worked middle Basketball Game
Visitor took keys in car waited with visitor until
locksmith came (locksmith made from Blackville)

Total amount of Comp. Time Accrued to date: Hrs. 86 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

C. J. [Signature]

Deputy's Signature

Time: Hrs. _____ Min. _____

1/12/08

Date:

Danner D. Sgt.

Supervisor's Signature

1-14-08

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#20

CHECK/PAYMENT REQUISITION

Date: 01/23/08

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Blanket

Blanket

Willie Walker B70⁰⁰

Cassandra Donaldson B40⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

10000

CASSANDRA DONALDSON
ATHLETIC GATE

Security Basketball

1/23/2008

40.00

COMMUNITY BAN Security Basketball

40.00

WILLISTON-ELKO HIGH SCHOOL

19893

CASSANDRA DONALDSON
ATHLETIC GATE

Security Basketball

1/23/2008

40.00

COMMUNITY BAN Security Basketball

40.00

LMP12 WP CHECK

51N311 PORE YD

Barnwell County Sheriff's Office

Compensatory Time

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Date: 1/23/08 Comp. Time Accrued

Time: 1700 to 2000

Comp. Time Accrued: Hrs. 5 Min.

Reason compensatory time was accrued: Worked Middle School Basketball game

Total amount of Comp. Time Accrued to date: Hrs. 103 Min.

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

[Signature]
Deputy's Signature

1/23/08
Date:

[Signature]
Supervisor's Signature

1-28-08
Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

09

STATE'S
EXHIBIT

#21

CHECK/PAYMENT REQUISITION

Date: August 27, 2009

Vendor name: Football Security Williston-Elko

Address: VS. Bainwell

Account: _____

Description of Requisition:

① Cassandra Davidson 4 1/2 hrs 90⁰⁰
② Brenda O'Berry 4 1/2 hrs 90⁰⁰
③ Joe Handberry 4 1/2 hrs 90⁰⁰
④ Darlene Cook 4 hrs 80⁰⁰
⑤ Donald Darn 4 hrs 80⁰⁰
⑥ Eddie Thomas 4 hrs 80⁰⁰
⑦ John Trotter 4 hrs 80⁰⁰
⑧ M. Schrumper 4 hrs 80⁰⁰

Amount: _____

Requested by: [Signature]

Approved by: _____

Principal

*Attach all receipts, order forms or invoices.

CASSANDRA DONALDSON
ATHLETIC GATE

Barnwell Football Security

8/28/2009

21010

90.00

ENTERPRISE BAN *Barnwell Football Security*

90.00

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Barnwell Football Security

8/28/2009

21010

90.00

ENTERPRISE BAN *Barnwell Football Security*

90.00

LMP12 M/P CHECK

51N311

654 Duration Comp Time 1.5
EARNED 7.5
TOTAL 9.0

Barnwell County Sheriff's Office

Compensatory Time

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Date: 08/27/09 Comp. Time Accrued

Time: 1800 to 2250

Comp. Time Accrued: Hrs. 7 Min. 30

Reason compensatory time was accrued: WORKED BARNWELL VS WILLISTON
Football Game

Total amount of Comp. Time Accrued to date: Hrs. 9 Min. —

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

Deputy's Signature

Date:

Danner D. Saff

Supervisor's Signature

8-31-09

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#22

CHECK/PAYMENT REQUISITION

Date: Sept. 05. 2009

Vendor name: Security For Football Ashley Ridge/W-EHS.

Address: _____

Account: _____

Description of Requisition: _____

Eddie Thomas 4/11/05 80⁰⁰

Bradley Owens 4/11/05 80⁰⁰

Michael Schumpeck 80⁰⁰

Cassandra Donaldson 80⁰⁰

Amount: _____

Requested by: Cassandra Donaldson

Approved by: [Signature]
Principal

*Attach all receipts, order forms or invoices.

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

9/9/2009

21054

80.00

ENTERPRISE BAN Football Security

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

9/9/2009

80.00

21054

80.00

ENTERPRISE BAN Football Security

LMP12 M/P CHECK

80.00

51N311

657 UNPAID COMP TIME 4.0
 Earned 6.0
 TOTAL 10.0

Barnwell County Sheriff's Office

Compensatory Time

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Date: 09/05/09 Comp. Time Accrued

Time: 1830 to 2230

Comp. Time Accrued: Hrs. 6 Min.

Reason compensatory time was accrued: Worked Willisdon-Elko High School
Football Game

Total amount of Comp. Time Accrued to date: Hrs. 15 Min.

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

C. Sanchez

Deputy's Signature

09/05/09

Date:

Danner D. Sgt

Supervisor's Signature

9-08-09

Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#23

CHECK/PAYMENT REQUISITION

Date: 9/18/09

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security for North
W-E Football Game.

1. Brenda O'Berry 80⁰⁰ 2. Eddie Thomas 70⁰⁰
3. Chris Williams 70⁰⁰ 4. Christina Dostler
80⁰⁰

Amount: _____

Requested by: [Signature]

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

STON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

9/21/2009

21101

80.00

ENTERPRISE BAN *Football Security*

WILL: STON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

9/21/2009

80.00

21101

80.00

ENTERPRISE BAN *Football Security*

LMP12 M/P CHECK

80.00

51N311

634 DONALDSON comp time 10.0
 Earned 6.0
 TOTAL 16.0

Barnwell County Sheriff's Office

Compensatory Time

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Date: 09/18/09 Comp. Time Accrued

Time: 1830 to 2230

Comp. Time Accrued: Hrs. 6 Min.

Reason compensatory time was accrued: WK Williston-Elko Football game

Total amount of Comp. Time Accrued to date: Hrs. 16 Min.

Requesting Compensatory Time:

Dates: to

Time: Hrs. Min.

C. Donaldson

Deputy's Signature

9/18/09

Date:

Danner D. Sgt

Supervisor's Signature

9-22-09

Date:

STATE'S
EXHIBIT

#24

Williston-Elko High School
12233 Main Street
Williston, SC 29853

CHECK/PAYMENT REQUISITION

Date: 10/16/09

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security W-E Football

Against C.A. Johnson

Darlene Cooks, Brenda O'Berry,

Bradley Owens, Michael Schumpert, Cassandra Danelle

4 hrs = \$80.00

Amount: _____

Requested by: Cassandra Danelle

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

10/19/2009

80.00

COA - Record on Appeal 191

ENTERPRISE BAN Football Security

80.00

WILLISTON-ELKO HIGH SCHOOL

21191

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

10/19/2009

80.00

ENTERPRISE BAN Football Security

80.00

LMP12

MP CHECK

51N311

054 Donaldson Comp time 21
Earned 6
10/17/1 33

Barnwell County Sheriff's Office

Compensatory Time

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Date: 10/16/09 Comp. Time Accrued

Time: 1830 to 2300

Comp. Time Accrued: Hrs. 6 Min. 30

Reason compensatory time was accrued: Wk W-E High School Football game

Total amount of Comp. Time Accrued to date: Hrs. 33 Min. 30

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

[Signature]
Deputy's Signature

10/16/09
Date:

[Signature]
Supervisor's Signature

10-19-09
Date:

Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#25

CHECK/PAYMENT REQUISITION

Date: 10/23/09

Vendor name: _____

Address: _____

Account: _____

Description of Requisition: Security Football Game

W-F 14.5. vs. Waynes-Salley

Jam. Gault 4/11/80 Donald Ramon 4/11/80

Eddie Thomas 4/11/80 Cameron Ramon 4/11/80

Amount: _____

Requested by: Cameron Ramon

Approved by: _____
Principal

*Attach all receipts, order forms or invoices:

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

FootballSecurity

10/27/2009

21215

80.00

ENTERPRISE BAN Football Security

WILLISTON-ELKO HIGH SCHOOL

80.00

21215

CASSANDRA DONALDSON
ATHLETIC GATE

FootballSecurity

10/27/2009

80.00

ENTERPRISE BAN Football Security

LMP12

M/P CHECK

80.00

51N311

639 Donaldson

Comp Time 3
Earned 6
Total 39

Barnwell County Sheriff's Office

Compensatory Time

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Date: 10/23/09 Comp. Time Accrued

Time: 1800 to 2230

Comp. Time Accrued: Hrs. 6 Min. 30

Reason compensatory time was accrued: ?

Total amount of Comp. Time Accrued to date: Hrs. 39 Min. 60

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

[Signature]
Deputy's Signature

10/23/09
Date:

[Signature]
Supervisor's Signature

10-26-09
Date:

10
Williston-Elko High School
12233 Main Street
Williston, SC 29853

STATE'S
EXHIBIT

#26

CHECK/PAYMENT REQUISITION

Date: 08/20/10

Vendor name: Strom - Thurmond High School

Address: _____

Account: Security Football

Description of Requisition: John Trotter, Leon Harrison
Rodney Brown, Tony Little, J.D. Grubbs, Roy Kennedy
Andy Hogg, Billy Rhodes, Bradley Owens, Cassandro
Walden all 4 1/2 hours 90⁰⁰

Amount: _____

Requested by: Cassandro & Donald

Approved by: _____
Principal

*Attach all receipts, order forms or invoices.

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

8/23/2010

90.00

ENTERPRISE BANK - C Football Security

WILLISTON-ELKO HIGH SCHOOL

CASSANDRA DONALDSON
ATHLETIC GATE

Football Security

8/23/2010

90.00

COA - Record on Appeal 197

21804

90.00

ENTERPRISE BANK - C Football Security

90.00

LMP12 M/P CHECK

51N311

639 DONALDSON

Comp Time

EARNED 9.0

TOTAL 9.0

Barnwell County Sheriff's Office

Compensatory Time

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Date: 08/20/10 Comp. Time Accrued

Time: 1640 to 2250

Comp. Time Accrued: Hrs. 9 Min. —

Reason compensatory time was accrued: Worked W-E High School
Football Game

Total amount of Comp. Time Accrued to date: Hrs. 9 Min. —

Requesting Compensatory Time:

Dates: _____ to _____

Time: Hrs. _____ Min. _____

C. Donaldson

Deputy's Signature

08/20/10

Date:

Danner D. Sgt

Supervisor's Signature

8-23-10

Date:

#27

§ 23-23-10. Purpose; definitions.

- (A) In order to insure the public safety and general welfare of the people of this State, and to promote equity for all segments of society, a program of training for law enforcement officers and other persons employed in the criminal justice system in this State is hereby proclaimed and this chapter must be interpreted to achieve these purposes principally through the establishment of minimum and advance standards in law enforcement selection and training.
- (B) It is the intent of this chapter to encourage all law enforcement officers, departments, and agencies within this State to adopt standards which are higher than the minimum standards implemented pursuant to this chapter, and these minimum standards may not be considered sufficient or adequate in cases where higher standards have been adopted or proposed. Nothing in this chapter may be construed to preclude an employing agency from establishing qualifications and standards for hiring or training law enforcement officers which exceed the minimum standards set by the council, hereinafter created, nor, unless specifically stated, may anything in this chapter be construed to affect any sheriff, or other law enforcement officer elected under the provisions of the Constitution of this State.
- (C) It is the intent of the General Assembly in creating a facility and a governing council to maximize training opportunities for law enforcement officers and criminal justice personnel, to coordinate training, and to set standards for the law enforcement and criminal justice service, all of which are imperative to upgrading law enforcement to professional status.
- (D) Upon the signature of the Governor, all functions, duties, responsibilities, accounts, and authority statutorily exercised by the South Carolina Criminal Justice Academy Division of the Department of Public Safety are transferred to and devolved upon the South Carolina Criminal Justice Academy.
- (E) As contained in this chapter:
- (1) "law enforcement officer" means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed; and
 - (2) "council" means the Law Enforcement Training Council created by this chapter.

§ 23-23-20. South Carolina Criminal Justice Academy.

There is hereby created the South Carolina Criminal Justice Academy which shall provide facilities and training for all officers from state, county, and local law enforcement agencies and for other designated persons in the criminal justice system. Correctional officers and other personnel employed or appointed by the South Carolina Department of Corrections may be trained by the department. Administration of this academy must be vested in a director who is responsible for selection of instructors, course content, maintenance of physical facilities,

recordkeeping, supervision of personnel, scheduling of classes, enforcement of minimum standards for certification, and other matters as may be agreed upon by the council. The director must be hired by and responsible to the council. Basic and advance training must be provided at the training facility.

§ 23-23-30. South Carolina Law Enforcement Training Council; members; terms.

(A) There is hereby created a South Carolina Law Enforcement Training Council consisting of the following eleven members:

- (1) the Attorney General of South Carolina;
- (2) the Chief of the South Carolina Law Enforcement Division;
- (3) the Director of the South Carolina Department of Probation, Parole and Pardon Services;
- (4) the Director of the South Carolina Department of Corrections;
- (5) the Director of the South Carolina Department of Natural Resources;
- (6) the Director of the South Carolina Department of Public Safety;
- (7) one chief of police from a municipality having a population of less than ten thousand. This person must be appointed by the Governor and shall serve at his pleasure;
- (8) one chief of police from a municipality having a population of more than ten thousand. This person must be appointed by the Governor and shall serve at his pleasure;
- (9) one county sheriff from a county with a population of less than fifty thousand. This person must be appointed by the Governor and shall serve at his pleasure;
- (10) one county sheriff from a county with a population of more than fifty thousand. This person must be appointed by the Governor and shall serve at his pleasure; and
- (11) one detention director who is responsible for the operation and management of a county or multi-jurisdictional jail. This person must be appointed by the Governor and shall serve at his pleasure.

(B)(1) The members provided for in subitems (A)(1) through (A)(6) above shall be ex officio members with full voting rights.

(2) The members provided for in subitems (A)(7) through (A)(11) above shall begin serving on January 1, 2007.

In the event that a vacancy arises, it must be filled by appointment or election and confirmation of the original authority granting membership on the basis of the above referenced criteria.

(C) This council shall meet for the first time within ninety days after January 1, 2007, and shall elect one of its members as chairperson and one of its members as vice chairperson. These officers shall serve a term of one year and may be reelected. After the initial meeting, the council shall meet at the call of the chairperson, or at the call of the majority of the members of the council, but it shall meet no fewer than four times a year.

(D) Members of the council shall serve without compensation. A council member who terminates his office or employment which qualifies him for appointment shall immediately cease to be a member of the council.

§ 23-23-40. Certification requirement.

No law enforcement officer employed or appointed on or after July 1, 1989, by any public law enforcement agency in this State is authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has been certified as qualified by the Law Enforcement Training Council, except that any public law enforcement agency in this State may appoint or employ as a law enforcement officer, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the council; provided, that if any public law enforcement agency employs or appoints as a law enforcement officer a person who is not certified, the person shall not perform any of the duties of a law enforcement officer involving the control or direction of members of the public or exercising the power of arrest until he has successfully completed a firearms qualification program approved by the council; and provided, further, that within three working days of employment the department must be notified by a public law enforcement agency that a person has been employed by that agency as a law enforcement officer, and within three working days of the notice the firearms qualification program as approved by the director must be provided to the newly hired personnel. If the firearms qualification program approved by the director is not available within three working days after receipt of the notice, then the public law enforcement agency making the request for the firearms qualification program may employ the person to perform any of the duties of a law enforcement officer, including those involving the control and direction of members of the public and exercising the powers of arrest. Should any such person fail to secure certification within one year from his date of employment, he may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until he has been certified. He is not eligible for employment or appointment by any other agency in South Carolina as a law enforcement officer, nor is he eligible for any compensation by any law enforcement agency for services performed as an officer. Exceptions to the one-year rule may be granted by the director in these cases:

- (1) military leave or injury occurring during that first year which would preclude the receiving of training within the usual period of time; or
- (2) in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or

(3) upon presentation of documentary evidence that the officer-candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of police training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in this chapter or by standards set by the Law Enforcement Training Council; or

(4) if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become a law enforcement officer is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve component of the Armed Forces of the United States, plus ninety days. The director must take all necessary and proper action to ensure that a candidate for certification as a law enforcement officer who performs military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service.

§ 23-23-50. Continuing Law Enforcement Education Credits (CLEEC) in domestic violence requirement; guidelines for exemptions.

(A) A law enforcement officer who is Class 1-LE certified in this State is required to complete Continuing Law Enforcement Education Credits (CLEEC) in domestic violence each year of a three-year recertification period. The number of required annual CLEEC hours in domestic violence shall be determined by the Law Enforcement Training Council but must be included in the forty CLEEC hours required over the three-year recertification period. The training must be provided or approved by the South Carolina Criminal Justice Academy and must include, but is not limited to, the following curriculum: responding to crime scenes, Fourth Amendment issues, incident report writing, mutual restraining orders, orders of protection, determining primary aggressors, dual arrests, victim and offender dynamics, victims' resources, victims' rights issues, interviewing techniques, criminal domestic violence courts, victimless prosecution, offender treatment programs, and recognizing special needs populations.

(B) The Law Enforcement Training Council shall develop guidelines to provide for an exemption from the requirement of certain Class 1-LE certified law enforcement officers whose job responsibilities may not include responding to domestic violence cases from completing CLEEC hours in domestic violence each year. The request for an exemption must be made by the chief executive officer of the law enforcement officer's employing agency. A waiver or exemption from domestic violence training must not reduce the forty CLEEC hours required over the three-year period.

§ 23-23-60. Certificates of compliance; information to be submitted relating to qualification of candidates for certification; expiration of certificate.

(A) At the request of any public law enforcement agency of this State the council is hereby authorized to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this chapter. Members of the council may individually or collectively visit and inspect any training school, class, or academy dealing with present or prospective law enforcement officers, and are expected to promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication. The council may make recommendations to the director, the General Assembly, or to the Governor regarding the carrying out of the purposes, objectives, and intentions of this chapter or other acts relating to training in law enforcement.

(B) All city and county police departments, sheriffs' offices, state agencies, or other employers of law enforcement officers having such officers as candidates for certification shall submit to the director, for his confidential information and subsequent safekeeping, the following:

- (1) an application under oath on a format prescribed by the director;
- (2) evidence satisfactory to the director that the candidate has completed high school and received a high school diploma, equivalency certificate (military or other) recognized and accepted by the South Carolina Department of Education or South Carolina special certificate;
- (3) evidence satisfactory to the director of the candidate's physical fitness to fulfill the duties of a law enforcement officer including:
 - (a) a copy of his medical history compiled by a licensed physician or medical examiner approved by the employer;
 - (b) a certificate of a licensed physician that the candidate has recently undergone a complete medical examination and the results thereof;
- (4) evidence satisfactory to the director that the applicant has not been convicted of any criminal offense that carries a sentence of one year or more or of any criminal offense that involves moral turpitude. Forfeiture of bond, a guilty plea, or a plea of nolo contendere is considered the equivalent of a conviction;
- (5) evidence satisfactory to the director that the candidate is a person of good character. This evidence must include, but is not limited to:
 - (a) certification by the candidate's employer that a background investigation has been conducted and the employer is of the opinion that the candidate is of good character;
 - (b) evidence satisfactory to the director that the candidate holds a valid current state driver's license with no record during the previous five years for suspension of driver's license as a result of driving under the influence of alcoholic beverages or dangerous drugs, driving

while impaired (or the equivalent), reckless homicide, involuntary manslaughter, or leaving the scene of an accident. Candidates for certification as state or local correctional officers may hold a valid current driver's license issued by any jurisdiction of the United States;

- (c) evidence satisfactory to the director that a local credit check has been made with favorable results;
- (d) evidence satisfactory to the director that the candidate's fingerprint record as received from the Federal Bureau of Investigation and South Carolina Law Enforcement Division indicates no record of felony convictions.

In the director's determination of good character, the director shall give consideration to all law violations, including traffic and conservation law convictions, as indicating a lack of good character. The director shall also give consideration to the candidate's prior history, if any, of alcohol and drug abuse in arriving at a determination of good character;

- (6) a copy of the candidate's photograph;
 - (7) a copy of the candidate's fingerprints;
 - (8) evidence satisfactory to the director that the candidate's present age is not less than twenty-one years. This evidence must include a birth certificate or another acceptable document;
 - (9) evidence satisfactory to the director of successful completion of a course of law enforcement training as established and approved by the director, and conducted at an academy or institution approved by the director, this evidence to consist of a certificate granted by the approved institution.
- (C) A certificate as a law enforcement officer issued by the department will expire three years from the date of issuance or upon discontinuance of employment by the officer with the employing entity or agency. Prior to the expiration of the certificate, the certificate may be renewed upon application presented to the director on a form prescribed by the director. The application for renewal must be received by the director at least forty-five days prior to the expiration of the certificate. If the officer's certificate has lapsed, the department may reissue the certificate after receipt of an application and if the director is satisfied that the officer continues to meet the requirements of subsections (B)(1) through (B)(9).
- (D) The director may accept for training as a law enforcement officer an applicant who has met requirements of subsections (B)(1) through (B)(8).

§ 23-23-70. Certificates to be issued to certain officers appointed as chiefs and certain retired law enforcement officers.

- (A) A retired law enforcement officer with twenty years or more law enforcement experience who subsequently serves as a magistrate or municipal judge of this State and is or has been

appointed chief of a municipal department by the governing body thereof must be issued a certificate as a law enforcement officer pursuant to Section 23-23-60 if that person completes the legal course for Class I certified officers taught by the Criminal Justice Academy. This provision applies to a retired law enforcement officer of this State with twenty years or more law enforcement experience whose certificate has lapsed due to a three-year break in service who subsequently is appointed chief of a municipal department by the governing body thereof.

(B) A retired South Carolina law enforcement officer must be issued a certificate pursuant to Section 23-23-60, authorizing him to serve as a certified law enforcement officer, if the officer meets the following qualifications at the time of application:

- (1) the officer must have been retired pursuant to Section 9-11-60 or 9-11-70 for not more than ten years, except that the department may certify an officer who has been retired for more than ten years if the officer provides evidence satisfactory to the director that he has received law enforcement training and experience sufficient to qualify him to serve as a certified law enforcement officer;
- (2) within the previous three years, the officer must have completed a legal course and all other training programs for certified officers mandated by law and taught by the Criminal Justice Academy; and
- (3) the officer must have maintained a constable commission during his retirement, without interruption.

(C) A retired federal law enforcement officer must be issued a certificate pursuant to Section 23-23-60, authorizing him to serve as a certified law enforcement officer, if the officer provides evidence satisfactory to the director that he has received law enforcement training and experience sufficient to qualify him to serve as a certified law enforcement officer.

§ 23-23-80. South Carolina Law Enforcement Training Council: powers and duties.

The South Carolina Law Enforcement Training Council is authorized to:

- (1) receive and disburse funds, including those hereinafter provided in this chapter;
- (2) accept any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter;
- (3) consult and cooperate with counties, municipalities, agencies, or official bodies of this State or of other states, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, concerning the development of police training schools, programs, or courses of instruction, selection, and training standards, or other pertinent matters relating to law enforcement;

- (4) publish or cause to be published manuals, information bulletins, newsletters, and other materials to achieve the objectives of this chapter;
- (5) make such regulations as may be necessary for the administration of this chapter, including the issuance of orders directing public law enforcement agencies to comply with this chapter and all regulations so promulgated;
- (6) 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;
- (7) require all public entities or agencies that employ or appoint law enforcement officers to provide records in the format prescribed by regulation of employment information of law enforcement officers; and
- (8) provide by regulation for mandatory continued training of certified law enforcement officers, this training to be completed within each of the various counties requesting this training on a regional basis.

§ 23-23-90. Internal documents relating to requirements or administration of chapter as basis for court action.

An oral or written report, document, statement, or other communication that is written, made, or delivered concerning the requirements or administration of this chapter or regulations promulgated pursuant to it must not be the subject of or basis for an action at law or in equity in any court of the State if the communication is between:

- (1) law enforcement agencies, their agents, employees, or representatives; or
- (2) law enforcement agencies, their agents, employees, or representatives and the South Carolina Criminal Justice Academy or the Law Enforcement Training Council.

§ 23-23-100. Compliance orders; penalties.

(A) Whenever the director finds that any public law enforcement agency is in violation of any provisions of this chapter, the director may issue an order requiring the public law enforcement agency to comply with the provision. The director may bring a civil action for injunctive relief in the appropriate court or may bring a civil enforcement action. Violation of any court order issued pursuant to this section must be considered contempt of the issuing court and punishable as provided by law. The director also may invoke the civil penalties as provided in subsection (B) for violation of the provisions of this chapter, including any order or regulation hereunder. Any public law enforcement agency against which a civil penalty is invoked by the director may appeal the decision to the court of common pleas of the county where the public law enforcement agency is located.

(B) Any public law enforcement agency which fails to comply with this chapter and regulations

promulgated pursuant to this chapter or fails to comply with any order issued by the director is liable for a civil penalty not to exceed one thousand five hundred dollars a violation. When the civil penalty authorized by this subsection is imposed upon a sheriff, the sheriff is responsible for payment of this civil penalty.

§ 23-23-110. Law enforcement in municipality with single officer when officer attending training.

When a municipality employs only one law enforcement officer and that officer is attending law enforcement training at the South Carolina Criminal Justice Academy as required by law, the sheriff of the county wherein the municipality is located, or the head of the entity in charge of countywide law enforcement if the county sheriff is not, shall provide systematic patrolling of the municipal area while its law enforcement officer is attending the training.

§ 23-23-115. Training of officers with Savannah River Site Law Enforcement Department.

Notwithstanding another provision of law, a person employed as a law enforcement officer with the Savannah River Site Law Enforcement Department, a United States Department of Energy facility, may attend and be trained at the Criminal Justice Academy in accordance with training and certification standards established by the State. Expenses for mandated and elective training must be established by the Criminal Justice Academy and paid by the law enforcement officer's employer. An authorized representative of the United States Department of Energy shall certify to the academy that the officer is employed as a law enforcement officer at the Savannah River Site and request the officer's admission to the academy for training.

§ 23-23-120. Reimbursement for law enforcement training costs.

(A) For purposes of this section, 'governmental entity' means the State or any of its political subdivisions.

(B) After July 1, 2007, every governmental entity of this State intending to employ on a permanent basis a law enforcement officer who has satisfactorily completed the mandatory training as required under this chapter must comply with the provisions of this section.

(C) If a law enforcement officer has satisfactorily completed his mandatory training while employed by a governmental entity of this State and within two years from the date of satisfactory completion of the mandatory training a different governmental entity of this State subsequently hires the law enforcement officer, the subsequent hiring governmental entity shall reimburse the governmental entity with whom the law enforcement officer was employed at the time of attending the mandatory training:

- (1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or

- (2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(D) If the law enforcement officer is employed by more than one successive governmental entity within the two-year period after the date of satisfactory completion of the mandatory training, a governmental entity which reimbursed the governmental entity that employed the officer during the training period may obtain reimbursement from the successive governmental entity employer for:

- (1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or
- (2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(E) The governmental entity that employed the officer during the training period or a governmental entity seeking reimbursement from a successive governmental entity employer must not be reimbursed for more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(F) A governmental entity, prior to seeking any other reimbursement, must first seek reimbursement from the subsequent hiring governmental entity under the provisions of this section. In no case may a governmental entity receive more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(G) No officer shall be required to assume the responsibility of the repayment of these or any other related costs by the employing agency of the governmental entity of the employing agency in their effort to be reimbursed pursuant to this section.

(H) Any agreement in existence on or before the effective date of this section, between a governmental entity and a law enforcement officer concerning the repayment of costs for mandatory training, remains in effect to the extent that it does not violate the provisions of subsections (E), (F), or (G). No governmental entity shall, as a condition of employment, enter into a promissory note for the repayment of costs for mandatory training after the effective date of this section.

§ 23-23-130. Retention of academy-generated revenue.

Notwithstanding any other provision of law, revenue received from the sale of meals to employees and students attending non-mandated, advanced, or specialized training courses, sale of student locks and materials, sale of legal manuals and other publications, postal reimbursement, photo copying, sale of miscellaneous refuse and recyclable materials, tuition from non-mandated, advanced, or specialized courses, coin operated telephones, revenue from E-911 and coroner training, private college tuition, and revenue from canteen operations and building management services, revenue from "Crime-to-Court" and other Criminal Justice Academy training series shall be retained by the academy and expended in budgeted operations for food services, expansion of the department's distance learning programs, professional training, fees and dues, clothing allowance, and other related services or programs as the director of the Criminal Justice Academy may deem necessary. The Law Enforcement Training Council, Criminal Justice Academy shall report annually to the General Assembly the amount of miscellaneous revenue retained and carried forward.

38-001. Authority of Deputy Director.

A. The Deputy Director of the Criminal Justice Academy Division (Academy) of the Department of Public Safety (Department) is authorized to issue orders directing that public law enforcement agencies and law enforcement officers certified in this state comply with Article 9, Chapter 6 of Title 23, Code of Laws of South Carolina, 1976, as amended, and the regulations promulgated pursuant thereto.

B. All orders so issued shall be reviewed and ratified by the Director of the Department prior to their issuance.

38-002. Application for Re-issuance of Certification.

All applications for re-issuance of law enforcement certification shall be submitted within fifteen days after hiring on a form prescribed by the Department.

38-003. Requirement of Good Character.

A. Background Investigations.

Every agency who requests certification of any class of law enforcement officer shall conduct a background investigation in accordance with guidelines issued by the Department.

B. Certification to the Department.

Every agency who requests certification of any class of law enforcement officer shall certify to the Department that, in the opinion of the employing agency, the candidate is of good character and has not engaged in misconduct as defined in R.38-004.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Department for its review and to any future prospective law enforcement employers to assist them in a determination of an applicant's good character for law enforcement certification.

38-004. Denial of Certification for Misconduct.

A. The Department may deny certification based on evidence satisfactory to the Department that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

1. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;

2. Unlawful use of a controlled substance;
3. The repeated use of excessive force in dealing with the public and/or prisoners;
4. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
5. Physical or psychological abuses of members of the public and/or prisoners;
6. Misrepresentation of employment-related information;
7. Dishonesty with respect to his/her employer;
8. Untruthfulness with respect to his/her employer.

B. In considering whether to deny certification based on misconduct, the Department may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

38-005. Firearms Qualification Requirement.

Each law enforcement agency shall maintain proof of completion of a firearms qualification program and keep on file, available for inspection, proof that the firearms qualification program was administered by an Academy accredited firearms instructor.

38-006. Certification.

Certification will occur upon the successful completion of the prescribed training course as set out in 38-007. No candidate may be certified in more than one class at any one time and certification shall be that required for the most recent employing agency.

38-007. Training Requirements for Basic Law Enforcement Certification.

A. Class 1 Certifications

1. Candidates for basic certification as law enforcement officers with full powers shall successfully complete a training program as approved by the Department and will be certified as Class 1-LE.
2. Candidates for basic certification as both law enforcement officers with full powers and as local detention facility officers (jailers) shall successfully complete the requirements to be certified as Class 1-LE and Class 2-LCO and will be certified as Class 1-LECO.

B. Class 2 Certifications

1. Candidates for basic certification as local detention facility officers (jailers) shall

successfully complete a training program as approved by the Department and will be certified as Class 2-LCO.

2. Candidates for basic certification as correctional officers with the Department of Corrections shall successfully complete a training program as approved by the Department and will be certified as Class 2-SCO.

3. Candidates for basic certification as juvenile correction officers with the Department of Juvenile Justice shall successfully complete a training program as approved by the Department and will be certified as Class 2-JCO.

C. Class 3 Certifications. Candidates for basic certification as law enforcement officers with limited powers of arrest or special duties shall successfully complete a training program as approved by the Department and will be certified as Class 3-SLE.

38-008. Equivalent Training.

A. Other States

All candidates who have received law enforcement training in other states shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

B. Federal Training

All candidates who have received law enforcement training with U.S. federal agencies shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

C. Military Training

All candidates who have received law enforcement training as U.S. military police shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

D. Prior Training with Break in Service

1. All certification lapses when an individual terminates active law enforcement duty.

2. A candidate with a break in service of less than one year will be re-certified by the

Academy upon receiving a request by his department and upon providing proof of no disabilities at law.

3. A candidate with a break in service of one year but less than three years will be re-certified upon submission of the application with appropriate documents as set out in R.38-100 and the completion of legal education and firearms training requirements.

4. A candidate with a break in service of three years or more must complete all the requirements of R.38-002, R. 38-005 and R. 38-006.

5. When a candidate becomes subject to new training requirements, as set forth in R.38-007, as a result of a transfer from one agency to another with different training requirements, the candidate must successfully complete the training requirements for the class of certification the candidate will occupy with the new agency.

6. A candidate who has been continuously certified in this state, in any class, and who transfers to a class in which he/she has been previously certified, will be certified in the prior class upon successful completion of the firearms qualification requirement.

38-009. Separation from Law Enforcement Employment.

A. All law enforcement agencies and other employers of law enforcement officers are required to notify the Department when an officer leaves the employment of the agency/employer, regardless of the reason for the separation within 15 days of separation.

B. Such notification shall take place on a form as prescribed by the Department, contain the facts and circumstances leading to the separation, and be for the Department's confidential use and subsequent safekeeping.

C. In the event that such notification contains allegations of misconduct, a copy of such notice shall be sent to the law enforcement officer and the officer shall be informed of the provisions of Section 23-6-460 and allowed to file a response for the Department's use and safekeeping.

D. A willful failure by law enforcement agencies and other employers of law enforcement officers to supply the facts and circumstances of separation shall subject the violator to a civil penalty as provided by law.

38-010. Reserve Police.

A. Definition

In addition to the definition required by law, a "reserve" officer is not paid by the agency for which the officer performs law enforcement duties.

B. Documentation and Reporting

1. Each agency having a reserve law enforcement officer program shall keep on file, available for inspection, all documentation required for regularly salaried law enforcement officers and as set out in R.38-002.

2. Each agency shall certify to the Department, using a form as prescribed by the Department, that such documentation is on file in the agency.

C. In-Service Requirement

Each agency having a reserve law enforcement officer program shall keep on file, and make available for inspection, documentation that each reserve officer has completed the in-service requirement as required by law.

D. Transfers

1. A reserve officer who desires to transfer to regular law enforcement status shall complete all the requirements as set forth by law and under R.38-008 as appropriate for the class of certification which the reserve officer will occupy.

2. A certified law enforcement officer who transfers to reserve status for a period of time not to exceed three years, shall be deemed to have no break in service as defined in R.38-008. Should the period of time exceed three years, the officer shall be deemed to have a break in service and shall complete all the requirements as set forth by law and under R.38-007, as appropriate for the class of certification which the reserve officer will occupy.

E. Operational Procedures

Any law enforcement agency wishing to establish a Reserve Officer program must meet minimum department sponsored certification criteria as required by SCDPS.CJAD Standards Section.

38-011. Traffic Radar Operator.

A. Qualification

Only Class 1 certified law enforcement officers and appointed reserve officers may be accredited as traffic radar operators.

B. Accreditation

To be accredited as a traffic radar operator, a law enforcement officer must complete a course of training taught by a certified law enforcement traffic radar instructor.

38-012. Application for Re-certification.

An application for re-certification must be submitted on a form approved by the Department and is deemed complete when the form, with the necessary information as set out in R.38-013, is

received by the Department.

38-012. Application for Re-certification.

An application for re-certification must be submitted on a form approved by the Department and is deemed complete when the form, with the necessary information as set out in R.38-013, is received by the Department.

38-013. Continuing Law Enforcement Education Requirements for Re-certification.

A. Eligibility

No law enforcement officer is eligible for re-certification unless, in addition to the requirements of R.38-012, the officer has successfully completed, at a minimum, the number of approved continuing law enforcement education hours as appropriate for the officer's certification class, as specified in R.38-007. Such education hours shall be designated as Continuing Law Enforcement Education (CLEE) hours in the context of these regulations.

B. Class 1 Re-certification Requirements:

1. Officers possessing a current Class 1-LE Certification shall be required to obtain forty CLEE hours in a three year period. The forty CLEE hours shall consist of at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period. The remaining required CLEE hours in the three year period may come from any source approved by the Academy.
2. Officers possessing a current Class 1-LECO certification shall be required to complete the number of hours of in-service instruction per year as specified by the Jail Standards Committee and approved by the Department. Each officer shall also be required to complete at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period.

C. Class 2 Re-certification Requirements:

1. Officers possessing a current Class 2-LCO Certification shall be required to complete the number of hours of in-service instruction per year as specified by the Jail Standards Committee and approved by the Department.
2. Officers possessing a current Class 2-SCO Certification shall be required to complete a Department approved agency in-service program of at least forty hours every three years. At least one course each year shall be a legal update course.
3. Officers possessing a current Class 2-JCO certification shall be required to complete a Department approved agency in-service program of at least forty hours every three years. At least one course each year shall be a legal update course.

D. Class 3 Re-certification Requirements:

Officers possessing a current Class 3 Certification shall be required to complete at least one legal update course, presented by the Academy, each year of the three year period.

38-014. Approval of Continuing Law Enforcement Education Hours for Re-certification Requirements.

A. The Department shall approve courses for CLEE hours toward officer re-certification upon application made on a form approved by the Department and containing the following information concerning the courses.

1. The name of the course sponsor and its address;
2. The course agenda showing the actual number of hours of instruction;
3. A listing of course faculty with educational and professional credentials for each faculty member;
4. A copy of the course written materials, including a lesson plan and any test instruments which will be used;
5. Any supporting material which the course offeror wishes to submit for the Department's consideration.

B. The Department shall maintain a listing of courses which are approved for CLEE hours towards officer re-certification and shall indicate after each course the number of CLEE hours for which the course is approved. The listing shall be updated on an annual basis.

C. Courses, once approved, shall be added to the listing maintained by the Department. In order to receive continuing approval for course offerings, the offeror of each course must provide, on each successive second anniversary of the course's being placed on the listing, an updated application form and supporting documentation as stated in paragraph (A) of this section. Failure to comply with this requirement shall result in the course being removed from the listing and having its approval withdrawn.

38-015. Extension of Certification Renewal Date.

A certified law enforcement officer who is unable to complete the requirements of R.38-013 within the three year period specified will be granted an extension to his/her renewal date in the following cases:

A. Military Leave. Any officer called to active military duty for a period of more than thirty consecutive days shall be granted an extension to his/her renewal date, as specified in § 23-6-440(C) of the South Carolina Code of Laws, for the duration of the active duty, plus ninety days.

B. Medical, Disability or Administrative Leave.

1. Any officer who is on disability leave, medical leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, with or without pay, for a period of more than thirty consecutive days, shall be granted an extension to his/her renewal date, as specified in § 23-6-440(C) of the South Carolina Code of Laws, for the duration of the leave, provided such extension does not exceed one year.

2. Any officer on medical leave, disability leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, for a period of one year or more shall be treated under R.38-008(D)(3) or (4).

C. Eligibility and Application for Extension of Renewal Date.

1. Only officers whose law enforcement responsibilities have been suspended will be eligible for an extension of renewal date.

2. Application by the employing agency for an extension of renewal date shall be made within forty-five days of the beginning of military leave, medical leave, disability leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, on a form prescribed by the Department.

3. Notification by the employing agency of a return to active law enforcement duty shall be made within fifteen days of return to active law enforcement duty on a form prescribed by the Department.

38-016. Withdrawal of Certification of Law Enforcement Officers.

A. A law enforcement officer, certified pursuant to the provisions of R.38-007 and R.38-008, shall have his or her certification as a law enforcement officer withdrawn by the Department upon the occurrence of any one or more of the following events:

1. The officer is found to have falsified any application for certification and training based upon which the officer was admitted for training.

2. The officer is found to be ineligible for service as a law enforcement officer because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility is not discovered until after the officer's initial certification.

3. The officer is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the officer from obtainment of certification as provided for in R.38-007 and R.38-008.

4. Evidence satisfactory to the Department that the officer has engaged in misconduct. For

purposes of this section, misconduct means:

- a. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude;
- b. Unlawful use of a controlled substance;
- c. The repeated use of excessive force in dealing with the public and/or prisoners;
- d. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
- e. Physical or psychological abuses of members of the public and/or prisoners;
- f. Misrepresentation of employment-related information;
- g. Dishonesty with respect to his/her employer;
- h. Untruthfulness with respect to his/her employer.
- i. Violations of criminal law resulting from administrative inquiries.

Provided however that in considering whether to withdraw certification based on misconduct, the Department may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

B. The officer's certification expires due to the officer's failure to meet re-certification requirements as set out in R. 38-013.

38-017. Reporting of Events Requiring Withdrawal of Certification.

A. It shall be the responsibility of the sheriff or the chief executive officer of every law enforcement agency or department within the State to report to the Department the occurrence of any event, or series of events, set forth in R.38-016 which requires the withdrawal of certification of a law enforcement officer who is currently or was last employed by his or her agency.

B. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the Department.

C. A willful failure to report information shall subject the violator to a civil penalty as provided by the Department.

D. Only events which are determined as founded by the department or agency shall be reported

as provided herein above.

38-018. Investigation of Events Requiring Withdrawal of Certification; Notification to Officer.

- A. Upon receipt of a report pursuant to R.38-017A, the Department shall initiate an investigation into reported events which require withdrawal of the law enforcement officer's certification.
- B. The Department may suspend the certification of any law enforcement officer pending the outcome of an investigation initiated pursuant to paragraph (A) above.
- C. A law enforcement officer who is the subject of an investigation shall be notified of its initiation on a form prescribed by the Department, sent by certified mail to the current address on file at the Academy, return receipt requested, as soon as practicable after the investigation is initiated.
- D. Duplicate of such notice shall be sent, in the same manner prescribed in paragraph (C) above, to the current sheriff or chief executive officer of the employing agency or department of the law enforcement officer.
- E. The Department may direct that the investigation, on its behalf, be conducted. The investigation shall be sent to the Department for its confidential use and review.
- F. Where the Department's investigation indicates that withdrawal of the law enforcement officer's certification is not warranted, the Department shall notify the law enforcement officer and the sheriff or chief executive officer of the employing law enforcement agency of its finding, in accordance with the notice provisions of paragraphs (C) and (D) above.
- G. Where the Department's investigation indicates that withdrawal of the law enforcement officer's certification is warranted, the Department shall proceed in accordance with R.38-019.

38-019. Notification of Withdrawal of Certification.

- A. Prior to the withdrawal of a law enforcement officer's certification pursuant to R.38-016, the Department shall notify the officer whose certification is to be withdrawn on a form prescribed by the Department sent by registered mail, to the current address on file at the Academy, return receipt requested, to the officer.
- B. Such notice shall be provided to the officer ten days in advance of the effective date of withdrawal of the certification.
- C. Duplicate of such notice shall be sent in the same manner as in paragraph (A) above, to the current sheriff or the chief executive officer of the law enforcement agency or department of the law enforcement officer.

38-020. Confidentiality of Notification.

All notifications to law enforcement officers and their respective employing law enforcement agencies pursuant to R.38-017, R.38-018 and R.38-019 shall be handled in a confidential and sensitive manner.

38-021. Law Enforcement Emergency Vehicle Training Requirement.

A. Every agency which employs one or more law enforcement officers who use emergency vehicles shall make provision for the training set out in R.38-022 as appropriate for each such officer's law enforcement duty requirements prior to any such officer's certification as qualified by the Department.

B. Officers holding valid certification on the effective date of these regulations must successfully complete the training set out in R.38-022, as is appropriate for such officer's law enforcement duty requirements within 180 days of such date.

38-022. Law Enforcement Emergency Vehicle Training Programs.

A. Non-Emergency Response Training

1. Every law enforcement officer who drives or operates an emergency vehicle shall successfully complete a course of instruction as prescribed by the Department relating to non-emergency operation of the law enforcement emergency vehicle.

2. Every agency required to make provision for the training prescribed in R.38- 022(A)(1) shall promulgate written policy and procedure concerning non-emergency vehicle response, consistent with the provisions of the course of instruction prescribed by the Department, which shall be included as part of the training program provided to its officers.

B. Emergency Response Training

1. Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in response to an emergency, as defined in these regulations, shall successfully complete a course of instruction as prescribed by the Department relating to emergency response operation of the law enforcement emergency vehicle.

2. Every agency required to make provision for the training prescribed in R.38- 022(B)(1) shall promulgate written policy and procedure concerning emergency response with the law enforcement emergency vehicle, consistent with the provisions of the course of instruction prescribed by the Department, which shall be included as part of the training program provided to its officers.

C. Pursuit Training

1. Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in pursuit of an actual or suspected violator

of the law, as defined in these regulations, shall successfully complete a course of instruction as prescribed by the Department relating to pursuit operation of the law enforcement emergency vehicle.

2. Every agency required to make provision for the training prescribed in R.38-022(C)(1) shall promulgate written policy and procedure concerning pursuit operation of the law enforcement emergency vehicle, consistent with the provisions of the course of instruction prescribed by the Department which shall be included as a part of the training program provided to its officers.

38-023. Notification of Training Compliance.

A. Every agency required to conduct training pursuant to R.38-022 shall provide proof of completion of the required training programs, including appropriate instruction in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.38-022.

B. A law enforcement officer who transfers from one agency to another shall be required to successfully complete the training program appropriate for the agency to which transfer has occurred, in accordance with R.38-022. Provided, however, that an officer who has successfully completed a training program pursuant to R.38-022 within a period of one year of the date of transfer to another agency, where the successfully completed program is appropriate for the officer's law enforcement duty with the agency to which transferred, shall not be required to complete another training program upon such a transfer, but rather the employing agency to which transferred shall provide appropriate instruction to the transferred officer in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.38-022. This training shall be reported to the Department as required in R.38-023(A).

38-024. Continuing Training Requirement.

A. The training required by R.38-022 shall be conducted on a continuing basis no less frequently than annually. Every agency shall report, on the form prescribed by the Department, the provision of appropriate training on or before the expiration of the current certification. Nothing in these regulations shall be construed to prohibit such training on a basis more frequently than annually.

B. Officers successfully completing appropriate required emergency vehicle training shall be provided CLEE hours in accordance with R.38-013 appropriate for the number of hours of instruction received.

38-025. Approval of Training Programs.

A. All agencies required to conduct training programs pursuant to R.38-022 shall, prior to initiation of the required training, submit training materials as required by the Department to the Academy for review and approval.

B. CLEE hours shall be awarded only for materials properly submitted and approved by the Department.

38-026. Equivalent Law Enforcement Emergency Vehicle Training.

Training provided by other states, the federal government or private training providers, will be evaluated in a fashion consistent with the provisions of R.38-008. In each instance where an agency or officer submits a request for credit for equivalent training, the employing agency must provide verification that appropriate instruction in the written policies and procedures of the agency has occurred, in accordance with the directives of R.38-023(B) regarding transferred officers.

38-027. Effect of Failure to Comply.

A. Any agency which willfully fails to comply with the directives of R.38-021 through 38-026, shall be subject to a civil penalty as provided by law.

B. Any law enforcement officer found not to be in compliance with the directives of R.38-021 through 38-026, shall have his or her certification as a law enforcement officer withdrawn in accordance with R.38-016(A)(2) and his or her authority to exercise law enforcement powers shall cease, and the officer's certification shall be deemed to have lapsed.

38-028. Definitions.

For purposes of R.38-021 and 38-022, the following definitions shall apply:

A. Emergency: A sudden or unexpected occurrence involving an imminent threat to human life or immediate potential for extreme property damage under conditions requiring immediate response to curtail imminent harm to human life.

With respect to the suspected commission of a criminal offense and law enforcement response to such offense, the classification of the crime as felony or misdemeanor shall not be the sole determinative factor of whether an emergency is present; but rather all known factors, in accordance with the first paragraph above, will be weighed in a determination of whether an emergency exists.

B. Non-Emergency: A situation involving conditions routinely encountered in line of law enforcement duty which does not pose an imminent threat to human life or immediate potential for extreme property damage which would require immediate response to curtail harm to human life.

C. Pursuit: An event involving a law enforcement officer attempting to apprehend a person in a motor vehicle while that person is trying to avoid capture by willfully failing to yield to the officer's signal to stop. It also includes the closing of the distance between a law enforcement vehicle and the violator's vehicle under circumstances where the violator is not yet aware of the law enforcement action.

D. Emergency Response: The driving of a law enforcement emergency vehicle by a law enforcement officer in response to an emergency, as defined herein, where the response is conducted in accordance with state law and department policy.

E. Non-Emergency Response: The driving of a law enforcement emergency vehicle by a law enforcement officer in response to a non-emergency, as defined herein. This response involves operation of the law enforcement emergency vehicle in all modes other than emergency response or pursuit mode.

F. Law Enforcement Emergency Vehicle: A motor vehicle, as defined by the laws of this state, whether marked or unmarked, used by a law enforcement agency in the conduct of law enforcement operations, in accordance with state law and department policy.

38-060. Definitions.

A. "Operator" means a telecommunications operator or dispatcher employed in an E-911 system.

B. "Agency" means local government or public safety agency employing operators.

C. "Director" means the Director of the South Carolina Department of Public Safety.

D. "Academy" means the Division of Training and Continuing Education of the South Carolina Department of Public Safety.

38-061. Minimum Requirements for E-911 Operator Enrollment in Training.

A. All agencies having operators as candidates for training and certification shall submit to the Academy, the following:

1. an application under oath in a format prescribed by the Director;
2. evidence satisfactory to the Director that the candidate possesses a high school diploma or equivalent recognized and accepted by the South Carolina Department of Education;
3. evidence satisfactory to the Director that the candidate's present age is not less than eighteen years;
4. evidence satisfactory to the Director that the candidate has not been convicted of any criminal offense that carries a possible sentence of more than one year.

B. Nothing in this regulation shall be construed to preclude any agency from establishing qualifications or standards for hiring that exceed these minimum standards.

38-062. Training Requirements for Certification.

A. Candidates for certification as operators shall successfully complete a prescribed course of training as approved by the Director and will be certified as Class 4-TCO.

B. Candidates employed as operators on the effective date of these regulations may be certified without completing the training referenced in paragraph (A) above if the candidate has:

(1) two years continuous employment as an emergency services dispatcher and no break in service of longer than six months; or

(2) one year continuous employment as an emergency services dispatcher, no break in service of more than six months, and prior training accredited by the Academy, and the candidate successfully passes a comprehensive test as approved by the Director and administered by the Academy. No retest will be offered.

38-063. Break in Service after Certification.

A. All certification lapses upon separation from employment.

B. Candidates with prior certification and a break in service of less than one year will be recertified upon a request by the employing agency, provided the agency produces evidence satisfactory to the Director that the candidate has not been convicted of any criminal offense that carries a possible sentence of more than one year.

C. Candidates with prior certification and a break in service of more than one year must meet the requirements of 38-061 and 38-062(A).

38-064. Separation from Employment.

Agencies shall notify the Academy of the separation from employment of any certified operator. If the separation is a result of the conviction for a criminal offense carrying a possible sentence of more than one year, such conviction shall be reported to the Academy. All reports shall take place on a form approved by the Director.

38-065. Cost of Training.

The cost of training shall be established by the Academy. Agencies shall forward an authorized purchase order for this amount with each application for training.

#29

October 19, 2010

Cassandra Donaldson
81 Wilton Drive
Williston, South Carolina

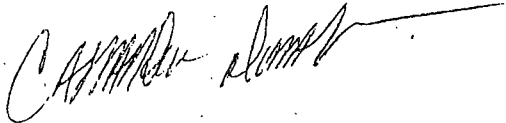
Attention: Ms. Bette Kottmyer

The facts and circumstances leading to my separation with the Barnwell County Sheriff's Office is that I Deputy Cassandra Donaldson was being paid for working Williston-Elko High School Football games and also receiving Comp-Time on some occasion. I admitted that I received both and was wrong, I am regrettable sorry for it. I am thankful I had the opportunity to resign in lieu of termination. I am very appreciative of this.

I worked for Williston School District#29 for thirteen years, while at Williston, I was the Step Team Advisor for Williston School District #29 Elementary, Middle and High School Step Team. Am also in charge of the Senior Class Trip as an Advisor.

I had the chance to work with my children along with other students in various grades. I can only hope you will forgive me for the bad choice that I made. I have worked hard in my school, with parents and the community as a School Resource Officer and will continue to work hard in Law Enforcement if giving another chance. I consider myself a honesty Christian young lady. Please read attached references.

Respectfully,



Cassandra Donaldson

247-29-9577

RECEIVED
OCT 25 2010

SC Criminal Justice Academy
Office of Misconduct

The South Carolina Criminal Justice Academy
Certification Unit

5400 Broad River Road
Columbia, S.C. 29212-3540



Attention: Ms. Bette Kottmyer

Under Regulations 38-009, I wish to file response to the personnel change in status form containing allegations of misconduct submitted to the Criminal Justice Academy by my previous law enforcement employer.

The facts and circumstances leading to my separation are:

I Cassandra Donahsen was being paid to working Williston-Elmo High School Football games and also receiving Comp-Time on some occasions. I admitted that I received both and was wrong. I am regrettable sorry for it. I am thankful I had the opportunity to resign in lieu of termination. I am very appreciative of this. I worked for Williston School District #29 for thirteen years, while at Williston I was the Step Team Advisor for Williston School District #29. I am also the Advisor for the Senior Class Trip. I can only hope you will forgive me for the bad choice that I made. I have worked hard in my school, with parents and the community as a school resource officer and will continue to work hard in law Enforcement if given another chance. I consider myself a honest Christian young lady. Please read attached references.

Respectfully,

Cassandra Donahsen
Signature

Cassandra Donahsen
Print Name

267-29-9577
Social Security Number

RECEIVED
OCT 25 2010

SC Criminal Justice Academy
Office of Misconduct

#1

Title 41 - Labor and Employment

CHAPTER 10.

PAYMENT OF WAGES

SECTION 41-10-10. Definitions.

As used in this chapter:

(1) "Employer" means every person, firm, partnership, association, corporation, receiver, or other officer of a court of this State, the State or any political subdivision thereof, and any agent or officer of the above classes employing any person in this State.

(2) "Wages" means all amounts at which labor rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the amount and includes vacation, holiday, and sick leave payments which are due to an employee under any employer policy or employment contract. Funds placed in pension plans or profit sharing plans are not wages subject to this chapter.

SECTION 41-10-20. Applicability of chapter.

This chapter applies to all employers in South Carolina except that Section 41-10-30 does not apply to:

(1) employers of domestic labor in private homes.

(2) employers employing fewer than five employees at all times during the preceding twelve months.

SECTION 41-10-30. Notification to employees of wages and hours agreed upon; recordkeeping requirements; requirement of itemized statement of gross pay and deductions for each pay period.

(A) Every employer shall notify each employee in writing at the time of hiring of the normal hours and wages agreed upon, the time and place of payment, and the deductions which will be made from the wages, including payments to insurance programs. The employer has the option of giving written notification by posting the terms conspicuously at or near the place of work. Any changes in these terms must be made in writing at least seven calendar days before they become effective. This section does not apply to wage increases.

(B) Every employer shall keep records of names and addresses of all employees and of wages paid each payday and deductions made for three years.

(C) Every employer shall furnish each employee with an itemized statement showing his gross pay and the deductions made from his wages for each pay period.

SECTION 41-10-40. Medium of payment; deposit of wages to employee's credit; prohibition against deductions in absence of written notice; time and place of payment.

(A) Every employer in the State shall pay all wages due in lawful United States money or by negotiable warrant or check bearing even date with the payday.

(B) An employer may deposit all wages due to the employee's credit at a financial institution which is doing business in the State and is insured by an agency of the federal government. When an employee's wages are paid by deposit at a financial institution, he must be furnished a statement of earnings and withholdings. Any wage deposit plan adopted by an employer shall entitle each employee to at least one withdrawal for each deposit, free of any service charge.

(C) An employer shall not withhold or divert any portion of an employee's wages unless the employer is required or permitted to do so by state or federal law or the employer has given written notification to the employee of the amount and terms of the deductions as required by subsection (A) of Section 41-10-30.

(D) Every employer in the State shall pay all wages due at the time and place designated as required by subsection (A) of Section 41-10-30.

SECTION 41-10-50. Payment of wages due discharged employees.

When an employer separates an employee from the payroll for any reason, the employer shall pay all wages due to the employee within forty-eight hours of the time of separation or the next regular payday which may not exceed thirty days.

SECTION 41-10-60. Unconditional payment of wages conceded due.

In case of a dispute over wages, the employer shall give written notice to the employee of the amount of wages which he concedes to be due and shall pay the amount without condition within the time set by this chapter. Acceptance by the employee of the payment does not constitute a release as to the balance of his claim.

SECTION 41-10-70. Investigation of alleged violations; resolution of disputes.

Upon written complaint of any employee alleging a violation of this chapter, the Director of the Department of Labor, Licensing, and Regulation or his designee may institute an investigation of the alleged violation. If the Director of the Department of Labor, Licensing, and Regulation or his designee determines that a violation exists, he shall endeavor to resolve all issues by informal methods of mediation and conciliation.

SECTION 41-10-80. Violations and penalties; civil actions by employees; administrative review of civil penalties.

(A) Any employer who violates the provisions of Section 41-10-30 must be given a written warning by the Director of the Department of Labor, Licensing, and Regulation or his designee for the first offense and must be assessed a civil penalty of not more than one hundred dollars for each subsequent offense.

(B) Any employer who violates the provisions of Section 41-10-40 must be assessed a civil penalty of not more than one hundred dollars for each violation. Each failure to pay constitutes a separate offense.

(C) In case of any failure to pay wages due to an employee as required by Section 41-10-40 or 41-10-50 the employee may recover in a civil action an amount equal to three times the full amount of the unpaid wages, plus costs and reasonable attorney's fees as the court may allow. Any civil action for the recovery of wages must be commenced within three years after the wages become due.

(D) The Director of the Department of Labor, Licensing, and Regulation or his designee shall promulgate regulations to establish a procedure for administrative review of any civil penalty assessed by the commissioner.

SECTION 41-10-90. Actions for collection of penalties; deposit of amounts collected.

In each case where a civil penalty assessed under subsection (A) or (B) of Section 41-10-80 is not paid within sixty days the Director of the Department of Labor, Licensing, and Regulation or his designee shall bring an action against the assessed employer for collection of the penalty. Any amounts collected must be turned over to the State Treasurer for deposit in the general fund of the State.

SECTION 41-10-100. Prohibition against private agreements which contravene chapter.

No provision of this chapter may be contravened or set aside by a private agreement.

SECTION 41-10-110. Right of Commissioner of Labor to enter and to conduct investigation.

The Director of the Department of Labor, Licensing, and Regulation or his designee, his inspectors, agents, or designees, upon proper presentation of credentials to the owner, manager, or agent of the employer, may enter at reasonable times and have the right to question either publicly or privately any employer, owner, manager, or agent and the employees of the employer and inspect, investigate, reproduce, or photograph time records or payroll records for the purpose of determining that the provisions of this chapter are complied with.

Title 41 - Labor and Employment
CHAPTER 10.
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(B) Any employer who violates the provisions of Section 41-10-40 must be assessed a civil penalty of not more than one hundred dollars for each violation. Each failure to pay constitutes a separate offense.

(C) In case of any failure to pay wages due to an employee as required by Section 41-10-40 or 41-10-50 the employee may recover in a civil action an amount equal to three times the full amount of the unpaid wages, plus costs and reasonable attorney's fees as the court may allow. Any civil action for the recovery of wages must be commenced within three years after the wages become due.

(D) The Director of the Department of Labor, Licensing, and Regulation or his designee shall promulgate regulations to establish a procedure for administrative review of any civil penalty assessed by the commissioner.

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South Carolina Criminal Justice Academy Certification-Compliance



PERSONNEL CHANGE IN STATUS REPORT NOTIFICATION OF SEPARATION DUE TO MISCONDUCT

104-12
MP

<u>Barnwell County Sheriff's Office</u>	<u>803-671-0552</u>	<u>09-30-10</u>
Reporting Department	Phone #	Today's Date
<u>Donaldson, Cassandra</u>		<u>01-30-10</u>
Officer's Name	Social Security #	Current Certification Date
<u>Officer's Current Home Address</u>	<u>City/Town</u>	<u>Zip Code</u>

PLEASE ☒ CHECK ONE: ☐ E-911 (TCO) ☐ Reserve Officer

☒ Class 1 LE ☐ Class 2 LCO (Jailer) ☐ Class 1 LECO (LEO/Jailer) ☐ Class 3 SLE (Limited Duty)

~~(For any separation involving misconduct as defined in S.C. Reg. 38-004)~~

~~(Completion of the back of this form and attachment of Separation Supplement is REQUIRED)~~

(Please check appropriate reason(s) for separation)

Date of Separation:

9
01-27-10

Per Capt. Driffeth
(specify mo/day/yr) 10/29/10

OCT 04 2010

SCCJA
CERTIFICATION

Separation or retirement pending investigation for

Separation or retirement pending civil action or indictment for

Termination for violation of Agency policy INVOLVING MISCONDUCT as defined in S.C. Reg. 38-004

☒ Resignation in Lieu of termination for violation of Agency policy INVOLVING misconduct as defined in S.C. Reg. 38-004

Only events which have been substantiated by investigation have been reported above. The facts & information herein are true & accurate to the best of my knowledge. ~~All investigation report(s), statements, test results, audio/video records, or other documentation related to the misconduct are attached to this Misconduct Report Form.~~

Marvin Ed Carroll 9/30/10
Employing Agency Head (Chief, Sheriff, Director) Date

Marvin Ed Carroll Sheriff
Print Name Official Title

NOTE: A willful failure to report may subject the violator to a civil penalty as provided by law.

CJA USE: MRN 11 CODE 11 Copy Sent: 10/14/10 ID: MSF DATE: 10/14/10

MISCONDUCT REPORT FORM

This form ~~MUST be completed within 15 days~~ of the discovery of any event of misconduct which is determined to be "FOUNDED" by the agency or department. Report of misconduct is required by S.C. Reg. 38-017 and is the responsibility of the chief executive officer of every law enforcement agency regardless of any possible adjudication, and regardless of the action taken by the agency. Misconduct Reports must include and have attached to the original report all investigation report(s), statements, test results, audio/video records, or other documentation related to the misconduct. The Misconduct Report Form, Separation Supplement, and all documentation related to the misconduct must be forwarded to the Criminal Justice Academy's Certification/Compliance Unit, Attention: Katherine Gunter.

Date of Discovery: 09-21-10Termination Date: 09-27-10Reporting Department Barnwell County Sheriff's OfficeReporting Date (Today): 09-30-10Donaldson, Cassandra

Officer's Name

Current Home Address

Social Security #

Birth Date

Driver's License #

(Please indicate the nature of the misconduct by checking the appropriate selection below.)

☐ Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any) or a crime of moral turpitude in this or any other jurisdiction;

☐ Unlawful use of a controlled substance;

☐ The repeated use of excessive force in dealing with the public and/or prisoners;

☐ Dangerous and/or unsafe practices involving firearms, weapons and/or vehicle which indicated either a willful or wanton disregard for the safety of persons or property;

☐ Physical or psychological abuses of members of the public and/or prisoners;

☐ Misrepresentation of employment-related information;

☒ Dishonesty/untruthfulness with respect to his/her employer;

Only events which have been substantiated by investigation have been reported above. The facts & information herein are true & accurate to the best of my knowledge. ~~All investigation report(s), statements, test results, audio/video records, or other documentation related to the misconduct are attached to this Misconduct Report Form.~~

Employing Agency Head (Chief, Sheriff, Director)

Date

Marvin Ed Carroll

Sheriff

Print Name

Official Title

NOTE: A willful failure to report may subject the violator to a civil penalty as provided by law.

SCCJA USE ONLYCopy sent to Officer on: 10/14/2010by Bette K. H. [Signature]

Date

SCCJA'S Authorized Signature

Revised 9/09



South Carolina Criminal Justice Academy Certification-Compliance



MISCONDUCT REPORT SUPPLEMENT

Officer's Name Donaldson, Cassandra **SS#** _____
Address _____ **Ph #** _____
City _____ **State** _____ **Zip Code** _____
Employing Agency Name Barnwell County Sheriff's Office **Today's Date** 09-30-10
Employing Agency Address P.O. Box 384 **Ph #** 803-541-1052
City Barnwell **State** SC **Zip Code** 29812
Employing Agency Contact Person (for more information) Sheriff Carroll
Contact Telephone Number (Area Code and Telephone Number): 803-541-1052
Date of Separation 09-27-10

The below information is REQUIRED for all separations due to misconduct:

Reason for Separation: (Do not use generic terminology such as conduct unbecoming, failed to meet agency standards, violation of agency operating procedures, etc. Be specific. Detailed information describing act(s) of misconduct is necessary for efficient processing. Attach additional sheets if necessary for full documentation.)

Deputy Donaldson was being paid by the Williston School System for working Williston-Elko football games where she was the SRO. Deputy Donaldson would then apply with this office and receive compensatory time for the same duty.

Criminal Charges Filed: Yes ☐ No ☒ **Date:** _____

CHARGE(S):

Only events which have been substantiated by investigation have been reported above. The facts & information herein are true & accurate to the best of my knowledge. All investigation report(s), statements, test results, audio/video records, or other documentation related to the misconduct are attached to this Misconduct Report Form.

EMPLOYING AGENCY HEAD (Chief, Sheriff, Director):

DATE: 9/30/0

Print Name:Marvin Ed Carroll

AUTHORIZED TITLE:Sheriff

Revised 9/09

COA - Record on Appeal 235

Lonnie Hosey

District No. 91 - Allendale-
Barnwell Counties
P. O. Box 423
Barnwell, SC 29812



404-A Blatt Building
Columbia, SC 29211

Tel. (803) 734-2829

Committee:

Medical, Military, Public
and Municipal Affairs

House of Representatives

State of South Carolina

October 20, 2010

Ms. Bette Kottmyer
Certification/Compliance
Criminal Justice Academy
5400 Broad River Road
Columbia, South Carolina 29212

Dear Ms. Kottmyer:

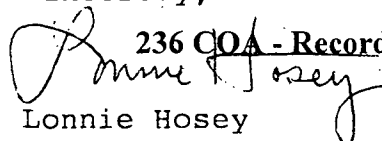
I have been asked by Ms. Cassandra Donaldson to write a letter of reference/recommendation on her behalf. I have known Cassandra all of her natural lifetime and I have known her family for a longer time. She is a constituent of South Carolina House District No. 91 and far beyond that she is a lifelong member of St. Thomas Grove Baptist Church where I have worshipped for more than sixty-three years. She serves in the position of the Church's assistant clerk. She and her children attend church regularly.

Intensely motivated, Cassandra is a very sincere person who possesses a strong sense of awareness of things that are important to her achieving success in life situations. She is never satisfied with the ordinary things in life, because she participates in civic and community activities succinctly. Because she is blessed with a humble spirit, she demonstrates her love for mankind each day by helping and caring for their well being.

Cassandra is dedicated, confident, motivated, organized and ready at all times to help someone. She has been through a lot of difficult moments in her life, but that has not stopped her from pursuing her dream. In fact, those hardships have made Cassandra into a role model for the youth at the church where she encourages them to further their education after graduating from high school. She prompts them to set goals for their dreams.

Cassandra was employed with the Barnwell County Sheriff Department for more than thirteen years. She met the challenge of being a very good officer. However, life situations sometimes causes one to make the wrong decision. In her case, I wholeheartedly request for her a second chance. Therefore, unequivocally I recommend that she be extended another job opportunity with a Department of the South Carolina Law Enforcement.

Sincerely,


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Lonnie Hosey



John D. Holston
Chief of Police

BLACKVILLE POLICE DEPARTMENT

5997 N. Lartigue Street
Blackville, S.C. 29817
(803) 284-3444 fax: (803) 284-9107



Jackie T. Holman
Mayor

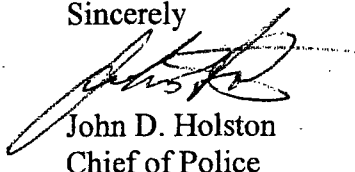
October 14, 2010

To Whom It May Concern:

I have known Cassandra Donaldson both professionally and personally for the past 15 years and during that time I have come to know her as an honest, hardworking, and dedicated law enforcement and good friend. Cassandra and I worked together as S.R.O.s with the Barnwell County Sheriff's Office from 1997-2002 and during that time I had numerous opportunities to witness the high degree of dedication and loyalty that Cassandra possesses; not only as a law enforcement officer but also as an active role model for the faculty and students she served as S.R.O. for the Williston-Elko School District. Cassandra has been actively involved in after school programs for the students she served to include coaching the Williston-Elko High School Step Team and various other athletic programs. Cassandra has been a mentor and act as mediator for students dealing with both law enforcement and non law enforcement issues.

Cassandra has always been dedicated to serving the community by sharing her talents, knowledge, and resources to help address the needs of any individual regardless of who they are. Cassandra is a great people person and has always been willing to go the extra mile to insure that a healthy professional and personal relationship is maintained. It is my belief that Cassandra will be a great asset to your organization and provided you and your organization with the type of professional service that you will be proud of.

Sincerely



John D. Holston
Chief of Police

October 13, 2010

Freddie L. Houston Sr.
1835 Davis Bridge RD.
Williston, South Carolina 29853

To whom it may concern,

This letter is a letter of reference in support of Miss. Cassandra Donaldson who I have had the pleasure of knowing over the past 20+ years to gain successful employment.

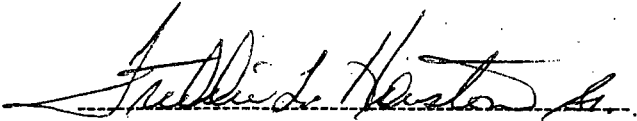
Miss Donaldson is a caring mother and a hard worker who is dependable and has the ability to work well with others and with little or no supervision. Miss Donaldson resides in the Town of Williston where she was raised and lived most if not all of her adult life.

As Barnwell County Council Representative of district # 1, I have known Cassandra as a school resource officer at the Williston Elko High school where she was employed and where I served for over 14 years prior to being elected to council in 2000.

I have heard nothing but good things about her work and her relationship with the community, students and school over the past years. Miss Donaldson would be an asset to any employer who is willing to employ her in to their company or organization.

If I can be of any further assistance in helping Cassandra to obtain employment, please do not hesitate to call me at (803) 266-7961.

Respectfully yours,

A handwritten signature in cursive script, reading "Freddie L. Houston Sr.", written over a horizontal line.



THE SOUTH CAROLINA
SCHOOL BOARDS ASSOCIATION

Dr. Paul Kröhne
Executive Director

Executive Committee

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Spartanburg Five

Bruce Davis, *President-Elect*
Hampton Two

Cynthia Smith, *Vice President*
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Rock Hill Three

Connie Smith
Spartanburg Two

Paul Talmadge
Anderson Five

Peggy Tyler
Orangeburg Cons. Four

March 16, 2009

Ms. Cassandra Donaldson
Williston-Elko High School
12233 Main St.
Williston, SC 29853

Dear Ms. Donaldson:

We continue to receive great reviews for our 2009 SCSBA Annual Convention and I want to thank you so much for the role you and the *Williston-Elko high School Blue Ice Steppers* played in its success.

One of the highlights of the convention is always the featured student entertainment. This is such a source of pride both for those attending the convention from the sponsoring district and for those in the audience. Board members know very well the amount of time and energy invested to present such a polished performance.

I am sure you could see from those attending the general session on Sunday morning how much they were enjoying your performance.

We are honored that you accepted our invitation to perform and commend you and all involved in a most professional and enjoyable presentation. What a privilege it must be for you to teach and work with such talented young students.

Sincerely,

Gwen Jobes Hampton, MSW
Director of Leadership Development

c: Mrs. Alexia Clamp, Superintendent, Williston 29 Schools
Mrs. Doris Young, Board Chair, Williston 29 Schools

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No. 2013-002612

Cassandra Donaldson,.....Respondent,

v.

South Carolina Criminal Justice Academy,.....Appellant.

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 29, 2014



Brandy A. Duncan, Chief General Counsel
5400 Broad River Road
Columbia, South Carolina 29212
(803) 896-7414
(803) 896-8347 (fax)
Attorney for Appellant

RECEIVED

APR 30 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No. 2013-002612

Cassandra Donaldson,.....Respondent,

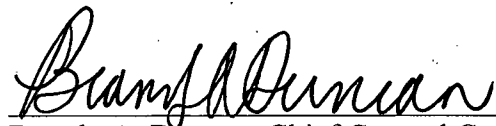
v.

South Carolina Criminal Justice Academy,.....Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Cassandra Donaldson by depositing a copy of it in the United States Mail, postage prepaid, on April 30, 2014, addressed to her attorney of record, C. Bradley Hutto, Esquire, Williams & Williams, Post Office Box 1084, Orangeburg, South Carolina 29116.

April 30, 2014



Brandy A. Duncan, Chief General Counsel
5400 Broad River Road
Columbia, South Carolina 29212
(803) 896-7414
(803) 896-8347 (fax)
Attorney for Appellant

RECEIVED

APR 30 2014

SC Court of Appeals