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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2016-000034

John Elkin,

Respondent,

v.

South Carolina Criminal Justice Academy,

Appellant.

RECORD ON APPEAL

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John Elkin,) Case No. 2016-000034
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Respondent,)
)
vs.)
)
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South Carolina Criminal Justice)
Academy,)
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Appellant.)
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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 15-ALJ-30-0246-AP

John Elkin,

Respondent,

v.

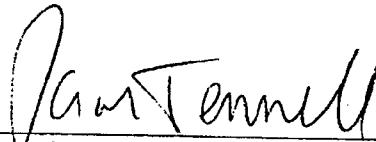
South Carolina Criminal Justice Academy,

Appellant.

NOTICE OF APPEAL

South Carolina Criminal Justice Academy appeals the decision of the Honorable Shirley C. Robinson dated December 10, 2015. Appellant received a copy of this decision on December 10, 2015.

January 7, 2016



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 15-ALJ-30-0246-AP

John Elkin,.....Respondent,

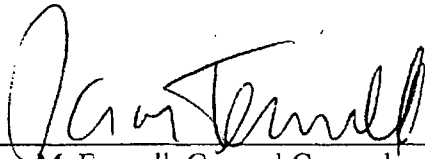
v.

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

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on John Elkin by depositing a copy of it in the United States Mail, postage prepaid, on January 7, 2016, addressed to his attorney of record, C. Bradley Hutto, Esquire, Williams and Williams, PO Box 1084, Orangeburg, SC 29116.

January 7, 2016



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South Carolina Criminal Justice Academy

January 7, 2016

The Honorable Shirley C. Robinson
Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

RE: John Elkin, Respondent, v. South Carolina Criminal Justice Academy, Appellant,
Case No. 15-ALJ-30-0246-AP

Dear Judge Robinson:

Enclosed for filing is a notice of appeal in the above case.

Sincerely,

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Clerk, South Carolina Court of Appeals
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 15-ALJ-30-0246-AP

John Elkin,

Respondent,

v.

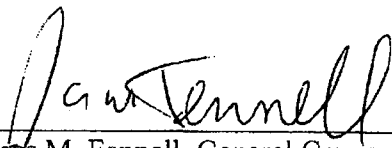
South Carolina Criminal Justice Academy,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Administrative Law Court by depositing a copy of it in the United States Mail, postage prepaid, on January 7, 2016, addressed to The Honorable Shirley C. Robinson, Administrative Law Court 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201.

January 7, 2016



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DEC 10 2015

SC ADMIN. LAW COURT

Docket No. 15-ALJ-30-0246-AP

Appellant,

VS.

South Carolina Criminal Justice Academy.

Respondents.

ORDER

This matter is before the Administrative Law Court (“the ALC” or “the Court”) for an administrative appeal pursuant to section 1-23-600(D) of the South Carolina Code (Supp. 2014). In this matter, John Elkin (“Appellant”) appeals the South Carolina Criminal Justice Academy’s (“the Academy’s”) final decision denying him certification as a law enforcement officer due to one incident of misconduct. Having reviewed the briefs and the parties’ filings, I reverse the Academy’s final decision because substantial evidence does/does not support the Academy’s determination.

Appellant was formerly employed as a law enforcement officer by the Pelion Police Department. On October 13, 2013, Appellant went to his estranged wife's house where he and his wife began arguing in front of their young daughter. As a result of the argument, Appellant's wife called the Lexington County police to report the altercation and Appellant left the premises. Upon leaving the premises, Appellant called his supervisor at the Pelion Police Department, Chief Chris Garner, to inform him law enforcement had been called to his wife's house. During the phone call, Appellant denied being present at his wife's house and asserted the argument took place over the phone. The next morning, October 14, 2013, Appellant met with Chief Garner to admit he had lied to him, and that he had been at his estranged wife's house the night before. Appellant resigned from the Pelion Police Department.

On October 23, 2013, Chief Garner submitted a Personnel Change in Status – Notification of Separation Due to Misconduct to the Academy on behalf of the Pelion Police

Department. The notification indicated Appellant resigned in lieu of termination after engaging in misconduct; specifically, dishonesty/untruthfulness with respect to his employer. The Pelion Police Department policy manual included a provision stating, "Employees of the Department will always display absolute honesty."

On July 21, 2014, Chief Garner issued a letter to the Academy requesting to amend Appellant's Personnel Change in Status form submitted for the October 14, 2013, incident. In the letter, Chief Garner stated: "Through further investigation into the matter I have made the decision to retract the original [Personnel Change in Status] and misconduct report." He further stated:

Based off the above listed information, previous employment conduct, and his military record, I feel that [Appellant's] certification should be reinstated. I am in the process of completing the re-hiring process with [Appellant] and plan on offering him a position as a Class 1 officer.

Chief Garner included a "corrected" Personnel Change in Status form with the letter, which was entitled Notification of Administrative/Routine Separation. He also included a copy of the re-hire background investigation summary for Appellant. These documents were presented to the Law Enforcement Training Council ("the Council") for review. On September 5, 2014, the Council sent Appellant a letter notifying him that the Council had made a preliminary decision finding Appellant was not qualified to be recertified as a law enforcement officer in South Carolina. On September 9, 2014, Appellant requested a contested case hearing before the Council.

A contested case hearing was held before Hearing Officer Chief Mark Keel, Chairman of the South Carolina Law Enforcement Training Council, on November 5, 2014. Chief Chris Garner, Chief of Police in the Town of Pelion in Lexington County, testified on behalf of Appellant. Chief Garner testified Appellant worked for him for almost a year as a law enforcement officer and night shift supervisor. Additionally, Chief Garner recalled that on October 13, 2013, Appellant called him on his cell phone around 6:00 p.m. and stated he had a heated argument with his wife, Kristy, over the phone with regards to the custody of their daughter. He asserted Appellant wanted to give him a "heads up" that Lexington County Sheriff's Department would be calling him because Appellant's wife had reported the incident to the Lexington County Police. Chief Garner stated he specifically asked Appellant if he had been present at his wife's property, and Appellant denied being at his wife's property.

According to Chief Garner, approximately ten minutes after his conversation with Appellant, the Lexington County Sheriff's Department called him and advised him that Appellant had been involved in a domestic argument with his wife at the wife's house. He recalled the Sheriff's Department stating they would call Appellant the following day to interview him.

Chief Garner testified that the next day, Monday, Appellant called him between 11:00 a.m. and 11:30 a.m. to inform him that he was on his way to speak with him. Appellant arrived around noon at Pelion Town Hall and met with Chief Garner who recalled that Appellant was "very upset" and "broke down" telling him that he had lied about not being at his wife's house out of panic. Chief Garner stated Appellant told him and another deputy in the room, Deputy Richardson, the truth about the domestic argument and immediately resigned.

Chief Garner confirmed he reported the resignation to the Academy indicating Appellant had violated the Pelion Police Department's policy of honesty. He stated that after Appellant resigned from his position as a law enforcement officer, Appellant continued to work for the Pelion Police Department as information technology support, and still works for the department in this capacity. Chief Garner explained Appellant worked on the department's in-car cameras, wired the new police department, and did "a lot of gratis work" for the department. However, a couple months before the hearing, Appellant sought to be re-hired as a police officer, and Chief Garner indicated he supported re-hiring Appellant as a law enforcement officer. Chief Garner stated that he briefed the issue of Appellant's resignation to the Pelion City Council immediately after the fact and "it was long-standing with the council" that if Appellant was acquitted of the criminal domestic violence charges or the charges were dismissed that Appellant would be re-hired. He confirmed Appellant was never charged with criminal domestic violence as a result of the incident, and identified a letter from the Town of Pelion's mayor, Barbara Hartley Smith, which was written in support of Appellant. The letter was admitted into evidence and stated, in part:

[Appellant's] willingness to give extra hours, often at no compensation, to facilitate the smooth operation of the Town Hall and the Police Department is an indication of his level of commitment to excellence in service.

In my professional opinion, [Appellant] has those qualities of professionalism and integrity which one seeks when hiring an employee. I would definitely hire him again to serve the Town of Pelion in any capacity for which he is qualified.

In addition, Chief Garner stated he would have no hesitation in re-hiring Appellant, although Appellant would be placed on special probation and monitoring consistent with the circumstances, and it would be a part-time position. Chief Garner testified he has no reason to believe Appellant has been untruthful in the year he has worked for the department since his resignation. He also testified that Appellant has gone above and beyond the call of duty in assisting the department with technical issues on weekend and at odd hours during the night. According to Chief Garner, Appellant recently bought a house in the Town of Pelion and he is dedicated to the town. On cross-examination, Chief Garner testified he was not concerned about a Giglio¹ issue or Appellant's ability to testify in court in the future.

Corporal Edward Richardson testified he works for the Lexington County Sheriff's Department, and is also a part-time law enforcement officer for the Town of Pelion. Corporal Richardson stated he has known Appellant for almost eleven years, and was present on the morning Appellant confessed to Chief Garner that he had lied the night before about his whereabouts. Corporal Richardson testified he was aware Appellant and his wife were having marital problems and that a custody hearing was scheduled for a couple days after the incident. He asserted he and Appellant spent many hours talking on the telephone about Appellant's concerns about the custody hearing. Corporal Richardson testified it was his understanding that Appellant was resigning his commission until the investigation into the alleged criminal domestic violence charge could be resolved. He also stated that Appellant is a very truthful person, and he believes Appellant slipped up in this one instance because he was so concerned about the upcoming custody hearing. Corporal Richardson stated he has "been in the trenches" with Appellant and has no reason not to trust him because Appellant has always had his back in difficult situations.

Daniel R. Bledsoe testified on behalf of Appellant. Mr. Bledsoe stated he currently works for the South Carolina Army National Guard and previously worked for the South

¹ Giglio v. United States, 405 U.S. 150 (1972). In Giglio, the United States Supreme Court held it was reversible error to withhold from the jury evidence of an understanding or agreement as to the potential future prosecution of the government's main witness where the witness's testimony and credibility was essential to the government's case.

Carolina Highway Patrol, and estimated he has known Appellant for five to six years. He shared that Appellant is currently helping the National Guard upgrade its communication system. Mr. Bledsoe testified he believes Appellant would be a good law enforcement officer and believes Appellant would be truthful in his job. He testified Appellant is very dependable, and stated he supported Appellant's reinstatement. When questioned by the hearing officer, Mr. Bledsoe confirmed he had no firsthand knowledge about the incident leading to Appellant's resignation.

Captain George Michael Crider testified he is employed by the Pelion Police Department, and he has been with the department for approximately ten years. Captain Crider stated he has known Appellant for a little over a year, and recalled that he drove Appellant home the day he resigned. In addition, Captain Crider testified he was not present when Appellant spoke with Chief Garner, but he knew Appellant was having marital problems and that an allegation of criminal domestic violence led to Appellant's resignation. He further asserted he never had any problems with Appellant and he believed Appellant was a truthful man.

Lieutenant Darren Lee Norris testified he is employed by the Pelion Police Department. Lieutenant Norris stated he performed the background check on Appellant for re-employment with the department. According to Lieutenant Norris, the background check came back positive. Specifically, he stated Appellant has one non-contributing accident in 2013, had no criminal history, and Appellant's credit report was positive overall. Lieutenant Norris testified he found nothing that would preclude Appellant from being employed with law enforcement, and he had no reason to believe Appellant was untruthful during the background check process. In addition, Lieutenant Norris stated he ran several character references, the majority of whom were in law enforcement, and all the reference checks came back "very positive." Lieutenant Norris confirmed he had no personal knowledge of the incident leading to Appellant resignation.

During Appellant's testimony at the contested hearing, he stated he was thirty-three years old and married at the time, but was in the process of divorce. Appellant described the incident leading to his resignation. He recalled that he went to his estranged wife's house on October 13, 2014. At the time, Appellant was living in Forest Acres and his wife still resided in the marital home in a rural area of Lexington. Appellant also confirmed he and his wife have one child, a five-year-old daughter, who was present the day of the incident. At the time of the incident, Appellant had joint custody of the child with his wife, but anticipated he might receive sole

custody because his wife gave a deposition in which she admitted to upwards of ten affairs during the marriage.

According to Appellant, on the day of the incident he went to his wife's house after they had been texting about the upcoming custody hearing and decided to meet in person to discuss the custody issue. Appellant stated he wanted to explore the possibility of coming to an agreement before involving attorneys. According to Appellant, the child was inside the house and he and his wife were on the porch. He testified that they could not agree on a custody agreement and got into an argument after he asked whether his wife's current boyfriend had been to the house. Appellant stated his wife refused to answer the question so he took her phone to call the boyfriend. He asserted he put the phone into his pocket and began walking away from the residence to leave when his wife grabbed his elbow, attempted to retrieve her phone, and then refused to get out of his way to allow him to leave. Appellant testified he believed his wife was trying to provoke him to become physical, which he did not, and recalled that she eventually walked away, took the child, and walked to her aunt's house where she called 911. In addition, Appellant testified that when his wife finally walked away he got in his car and left.

According to Appellant's testimony, after he left his wife's home, he received a call from the Lexington County Sheriff's Department who wanted to interview him about the incident at his wife's house. Appellant admitted he told the Sheriff's Department he had not been at his wife's house, and also admitted calling Chief Garner to inform him about the incident and that he again denied that he had been at his wife's house. Appellant asserted that he lied because he panicked about how an allegation of criminal domestic violence would affect the custody hearing.

Appellant testified that the day after the incident he called Chief Garner to set up a meeting to tell him the truth about what happened. He confirmed Corporal Richardson was present at the meeting, and he stated that it was during this meeting that he admitted to Chief Garner that he lied and resigned his position. He also stated that the child custody hearing was cancelled as a result of the incident; although, after an investigation into the incident, the criminal domestic charges against him were dropped.

In addition, Appellant testified that after he resigned, he continued to work for the Pelion Police Department by assisting with work on computers, the department's network infrastructure, and the records management system. Appellant testified that he fully accepts

responsibility for his actions on the date of the incident, and asserted he never falsified or lied about anything else; and also stated that he "fully understand[s] where integrity falls in law enforcement" and this was one of the worst mistakes of his life. He explained he was under a lot of stress at the time having to deal with the divorce and his wife sleeping with multiple men. Appellant recalled that during his wife's deposition she stated that if he left her she would make sure he did not have a job or a child, and insinuated that her threat is why he panicked the night of the incident and initially lied about being present.

Additionally, Appellant testified that he has been in law enforcement for ten years, beginning with search and rescue in high school, and moving on to a 911 operator for Lexington County and a volunteer firefighter for the City of Cayce. He stated law enforcement and public safety is the only life he has ever known. Appellant asserted that he could have chosen not to reveal the lie and probably would not have been discovered, but he could not live with a lie because that is not who he is. He acknowledged he has an uphill battle to prove himself if he is re-instated.

Appellant's wife's deposition discussing the incident was admitted into the record. In her deposition, Appellant's wife alleged Appellant has an anger problem. She also testified in the deposition that she was unsure how many men she had slept with during the marriage and times of separation, and admitted lying several times in the marriage. In addition, she admitted willfully preventing Appellant from visiting his daughter in violation of a court order.

Regarding the incident, in her deposition Appellant's wife stated she allowed Appellant to come over to her house after he would not stop texting her. She stated he became agitated after she refused to give him more visitation and threatened to have someone watch the house to see if she did anything wrong. She averred she asked Appellant to leave the property and he would not, so she pulled out her cell phone to call the Lexington County Sheriff's Office. According to the deposition testimony, Appellant took the phone before his wife could complete the call, and she could not get it back so she took the child to her aunt's house and called the Sheriff's Department from there. Appellant's wife admitted she suffered no physical injuries as a result of the encounter with Appellant, and she stated that when she returned from her aunt's house with the police, her cell phone was on the porch railing. However, she alleged the text messages between her and Appellant had been deleted from her cell phone.

Subsequent to the hearing, the Hearing Officer, Chief Keel, determined he had a conflict of interest and notified the parties. The parties decided to have another contested case hearing with a new Hearing Officer. The new contested case hearing took place on February 4, 2015 before Kristie H. Jordan, General Counsel at the York County Sheriff's Department, who was acting as a proxy for Sheriff Bruce Bryant, a member of the Council. At the hearing, the parties agreed to accept the testimony from the previous hearing and submit it to the Hearing Officer without taking further testimony. Attorney for Appellant noted "[i]t was my feeling that maybe the Hearing Officer in this case, since it wasn't actually a member of the Council, may not have been statutorily allowed to do it, but I would agree with that this is the easiest and the fairest way to do it at this time."

On April 7, 2015, following her review of the testimony and documents submitted for the contested case hearing, the Hearing Officer issued a recommendation to the Council that it deny Appellant's request for recertification as a law enforcement officer in South Carolina. The Hearing Officer found that Appellant admittedly lied to his employer on October 13, 2013. She also found that Appellant lied to Lexington County Sheriff's Department Officers and destroyed evidence during a police investigation. Specifically, she found evidence in the record indicated Appellant deleted text messages that would place him at his wife's residence and reveal the lie. The Hearing Officer determined these actions violated South Carolina Regulation 38-004, and the Council had the authority to deny recertification under section 23-23-80(6) of the South Carolina Code.

On April 28, 2015, the Council voted unanimously to adopt the Hearing Officer's April 7, 2015, recommendation and, therefore, denied Appellant's request for recertification. On May 28, 2015, Appellant filed a Notice of Appeal with this Court challenging the Council's decision.

ISSUES

1. Whether substantial evidence supports the Academy's finding of misconduct.
2. Whether the Academy's decision exceeds its statutory authority.
3. Whether South Carolina Regulation 38-004 is unconstitutional, arbitrary or capricious.
4. Whether the Academy erred because it relied on an unconstitutional vague and overbroad regulation.
5. Whether the Academy erred because it relied on a regulation that violates the principles of due process and equal protection.
6. Whether the Academy's decision constituted 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 South Carolina Constitution.

7. Whether the Academy's decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
8. Whether the Academy erred because it failed to address the factors of the seriousness of the misconduct, the remoteness in time of the misconduct, and any mitigating circumstances.

STANDARD OF REVIEW

The Academy assumed the powers of the South Carolina Criminal Justice Academy Division of the South Carolina Department of Public Safety. See S.C. Code § 23-23-10(D) (Supp. 2014) ("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."). Therefore, the Academy is an "agency" under the Administrative Procedures Act ("APA"). See S.C. Code Ann. § 1-23-310(2) (Supp. 2014). Accordingly, the APA's standard of review governs appeals from decisions of the Academy and its Council. See S.C. Code Ann. § 1-23-600(D) (Supp. 2014) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380). Section 1-23-380 provides, in relevant part:

(5) The court may reverse or modify the decision [of an agency] 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.

DISCUSSION

This Court has jurisdiction to hear this appeal pursuant to section 1-23-600(D) of the South Carolina Code (Supp. 2014). The Council is the governing and adjudicative body of the Academy. See S.C. Code Ann. § 23-23-80 (Supp. 2014). The Council has the authority 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 [C]ouncil." S.C. Code Ann. § 23-23-80(6) (Supp. 2014). A potential employer is not allowed to hire a law enforcement officer unless that officer has been certified by the Council. S.C. Code Ann. § 23-23-40 (Supp. 2014).

The Council sets the minimum requirements for certification and hire, but local departments and offices are encouraged to adopt standards higher than the minimum standards. See S.C. Code Ann. § 23-23-10(B) (Supp. 2014) ("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."). One of the requirements for certification is the requirement of good character. S.C. Code Ann. Regs. 38-003 (Supp. 2014). This requirement provides:

Every agency who requests certification of any class of law enforcement officer shall certify to the Council 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.

Regulation 38-004 describes how certification can be denied based on misconduct. It provides, in relevant part:

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

7. Dishonesty with respect to his/her employer;

B. In considering whether to deny certification based on misconduct, the Council 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 (Supp. 2014).

1. Whether substantial evidence supports the Academy's finding of misconduct.

Appellant contends that although he lied, he did not lie "with respect to his employer" within the meaning of Regulation 38-004 because his lie related to a personal matter

unconnected with his employment as a law enforcement officer. Additionally, Appellant argues his lie did not rise to a level of seriousness to warrant the denial of his law enforcement certification.

However, Respondent contends Regulation 38-004 does not distinguish between lies that are told when an officer is on-duty or off-duty. Respondent notes that under Appellant's theory, an officer could be deceitful to his employer about a crime he committed while off-duty and it would not constitute misconduct, which is an absurd result. Respondent maintains Appellant lied to his superior and other police officers investigating the October 13, 2013 incident, which qualifies as dishonesty with respect to his employer. In addition, Respondent argues Appellant admitted to lying, and several people, including Chief Garner, Corporal Richardson, and Captain Crider, confirmed Appellant lied.

I disagree with Appellant's argument that his lie was not "with regard to his employer." After the incident at his estranged wife's house occurred, Appellant called his supervisor, Chief Garner, and lied to him about his whereabouts. Chief Garner was a representative of Appellant's employer, the Pelion Police Department. Therefore, whether he was on or off-duty, Appellant involved his employer when he contacted Chief Garner and admittedly lied to him. Accordingly, I find Appellant's lie falls within the meaning of "dishonesty with respect to his/her employer" under Regulation 38-004(A)(7). However, I also note that the Council based its decision in part on Appellant's similar initial dishonesty to law enforcement investigating the incident and a finding that Appellant tampered with evidence in a police investigation. Although lying during a police investigation is not admirable, the police conducting the investigation was the Lexington County Sheriff's Department, which was not Appellant's employer at the time. Therefore, I find any dishonesty towards the Lexington County Sheriff's Office was not dishonesty with regards to Appellant's employer under Regulation 38-004. Further, Appellant was not before the Hearing Officer on a charge of tampering with evidence in a police investigation; therefore, to the extent the Academy relied on this finding, it was error.

"A reviewing court may reverse or modify an administrative decision if the findings of fact are not supported by substantial evidence." Risher v. S.C. Dep't of Health & Envtl. Control, 393 S.C. 198, 210, 712 S.E.2d 428, 434 (2011); Be Mi, Inc. v. S.C. Dep't of Revenue, 408 S.C. 290, 297, 758 S.E.2d 737, 741 (Ct. App. 2014) ("A reviewing court may reverse or modify an administrative decision if substantial evidence does not support the findings of fact.").

"Substantial evidence is evidence that allows reasonable minds considering the record as a whole to reach the conclusion the administrative agency reached." Be Mi, Inc., 408 S.C. at 297, 758 S.E.2d at 741. Moreover, "[s]ubstantial evidence is not a mere scintilla of evidence nor evidence viewed blindly from one side, but is evidence which, when considering the record as a whole, would allow reasonable minds to reach the conclusion that the agency reached." Burse v. S.C. Dep't of Health & Envtl. Control, 360 S.C. 135, 141, 600 S.E.2d 80, 84 (Ct. App. 2004). "In applying a substantial evidence test, an appellate court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, unless its findings or conclusions are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record." Friends of Earth v. Pub. Serv. Comm'n of S.C., 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010).

Although Appellant admittedly lied to his employer, I find the evidence in the record as a whole shows Appellant's one incident of misconduct is dwarfed by the ample evidence presented in his favor such that this Court cannot in good conscious reach the same conclusion as the Academy and the Council. Since the incident, Appellant has shown his loyalty and trustworthiness through his continued service to his employer, the Pelion Police Department. Chief Garner testified that after Appellant resigned, Appellant remained employed by the department and provided excellent information technology support, which included "a lot of gratis work" and work on weekend and at odd hours. Chief Garner further testified that the Pelion City Council intended to re-hire Appellant as a law enforcement officer, despite the one instance of dishonesty, if the criminal domestic violence charges against Appellant were dropped, which they were. In addition, Chief Garner testified he would have no hesitation in re-hiring Appellant, and indicated Appellant would be placed on special probation and work a part-time position to ensure his reliability. Chief Garner also stated Appellant went above and beyond the call of duty in assisting the Pelion Police Department in the past year and demonstrated his loyalty towards the Town of Pelion and the department.

In addition to the testimony of Chief Garner, several other individuals testified to Appellant's good character and trustworthiness. The Mayor of Pelion submitted a letter attesting to her support for Appellant to be re-hired. Corporal Richardson testified he has known and worked with Appellant in law enforcement for years and has no reason not to trust Appellant, and indicated he believes Appellant's lie was a one-time slip up because Appellant panicked

about the custody hearing. Daniel Bledsoe testified he has known Appellant for years and worked with him in the South Carolina National Guard where Appellant has provided excellent service in his capacity as a National Guardsman. Mr. Bledsoe also stated he trusted Appellant and believed Appellant would be truthful in his job as a law enforcement officer. Lieutenant Norris testified Appellant had a clean background check and his references came back "very positive."

This Court cannot determine the weight to be given testimony as that is the province of the trial court. See Friends of Earth v. Pub. Serv. Comm'n of S.C., 387 S.C. at 366, 692 S.E.2d at 913 ("In applying a substantial evidence test, an appellate court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, unless its findings or conclusions are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record."). However, when the evidence as a whole prevents this Court from coming to the same conclusion as the trial court, this Court has the authority to reverse. See id.; Be Mi, Inc., 408 S.C. at 297, 758 S.E.2d at 741 ("Substantial evidence is evidence that allows reasonable minds considering the record as a whole to reach the conclusion the administrative agency reached."); Bursey, 360 S.C. at 141, 600 S.E.2d at 84 ("Substantial evidence is not a mere scintilla of evidence nor evidence viewed blindly from one side, but is evidence which, when considering the record as a whole, would allow reasonable minds to reach the conclusion that the agency reached."). In this case, Appellant made one mistake during a stressful situation. Within a short period of time, he admitted his mistake and resigned. Since that time, Appellant has shown his loyalty and trustworthiness to the Pelion Police Department and the Town of Pelion to the extent that practically the entire town supports re-hiring him as a law enforcement officer. Considering this evidence, this Court finds substantial evidence does not support the Council's denial of certification.²

2. Whether the Academy's decision exceeds its statutory authority.

Appellant argues the Council did not have the statutory authority to promulgate Regulation 38-004 governing the "denial" of certification because section 23-23-80 of the South

² The Court notes that while the Council is not required to consider "the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct," the circumstances of this case present an ideal opportunity to consider these factors. S.C. Code Ann. Regs. 38-004(B).

Carolina Code only authorizes the Council to promulgate regulations governing the "suspension, revocation, or restriction" of certification. S.C. Code Ann. § 23-23-80(6) (Supp. 2014).

Section 23-23-80(6) provides that the Council is 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

In this Court's decision in Preston B. Bethea v. South Carolina Criminal Justice Academy, Docket No. 15-ALJ-30-0116-AP, 2015 WL 5179143, at *6 (Aug. 27, 2015), this Court found that although section 23-23-80(6) is ambiguous as to whether the Council has the authority to deny certification, implicit in the Council's authority to certify officers according to specific standards is its ability not to certify certain candidates who do not meet the standards. See id. Accordingly, this Court found the Council must be able to deny certification to those who do not meet the standards or everyone would be certified and the standards would be rendered meaningless. See id. (citing Bass v. Isochem, 365 S.C. 454, 470, 617 S.E.2d 369, 377 (Ct. App. 2005) ("The language must also be read in a sense which harmonizes with its subject matter and accords with its general purpose.")). To find the Council does not have the authority to deny certification would lead to an absurd result. See Sloan v. S.C. Bd. of Physical Therapy Examiners, 370 S.C. 452, 487, 636 S.E.2d 598, 616 (2006) (holding "[w]here the plain and ordinary meaning of the words used in a statute would lead to a result so plainly absurd that it could not possibly have been intended by the legislature or would defeat the plain legislative intention," the court will, if possible, "construe the statute so as to escape the absurdity and carry the intention into effect"). Thus, I find the Council did not exceed its statutory authority in denying Appellant certification, even if substantial evidence does not support its denial.

Issues 3-6

I find Appellant's issues 3-6 are not preserved for appellate review because Appellant raised these issues for the first time on appeal. Staubes v. City of Folly Beach, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) ("It is well-settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review."). The rule that an argument cannot be raised for the first time on appeal includes constitutional arguments. Eagerton v. Eagerton, 265 S.C. 90, 96, 217 S.E.2d 146, 148 (1975) ("It is well settled that a constitutional question not raised or passed upon in the lower court cannot be raised for the first time on appeal."); Grant v. S.C. Coastal Council, 319 S.C.

348, 356, 461 S.E.2d 388, 392 (1995) ("This appeal is Grant's first mention of any deprivation of due process and, therefore, this issue is not preserved.").

Here, Appellant raised the following issues: (3) South Carolina Regulation 38-004 is unconstitutional, arbitrary or capricious; (4) the Academy erred because it relied on an unconstitutional vague and overbroad regulation; (5) the Academy erred because it relied on a regulation that violates the principles of due process and equal protection; and (6) the Academy's decision constituted 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 South Carolina Constitution.

Appellant's issues 3-6 are all constitutional arguments raised for the first time on appeal. Appellant did not raise any issues related to the constitutionality of any of the statutes or regulations at issue in this case before the Hearing Officer. Accordingly, as indicated above, these arguments are unpreserved for this Court's review. See Staubes, 339 S.C. at 412, 529 S.E.2d at 546 ("It is well-settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review.").

7. Whether the Academy's decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Appellant contends the Council's decision was arbitrary and capricious or characterized by an abuse of discretion. Appellant relies primarily on constitutional arguments to support his position. He claims the grounds for denial of certification set forth in Regulation 38-004 "randomly identify misconduct that will result in denial of certification," the regulation is "overbroad and vague," and "there is no graduation of the misconduct" to reflect variations in the seriousness of an offense. Appellant contends such a broad and random regulation is unconstitutional because it provides the Council with unlimited discretion. Appellant also argues the Council abused its discretion when it appointed Kristie H. Jordan, who is not a member of the Council, to preside as Hearing Officer over Appellant's case. Appellant asserts the Council did not have the authority to appoint a non-member as hearing officer, and as a result, Hearing Officer Jordan's decision must be considered void.

A decision is arbitrary and capricious "if it is without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards."

Trimmier v. S.C. Dep't of Labor, Licensing & Regulation, 405 S.C. 239, 246, 746 S.E.2d 491, 495 (Ct. App. 2013). "The party challenging a governmental body's decision bears the burden of proving the decision is arbitrary." S.C. Dep't of Corrs. v. Mitchell, 377 S.C. 256, 260, 659 S.E.2d 233, 235 (Ct. App. 2008).

Here, Appellant's initial argument does not address whether the Council's decision was made "without a rational basis" or "based alone on one's will and not upon any course of reasoning and exercise of judgment," but rather he argues Regulation 38-004 is unconstitutionally vague and overbroad. This is essentially the same argument Appellant attempted to raise in issue 4. As stated above, Appellant did not preserve this constitutional argument for appellate review, and this Court has no authority to address it.

Next, Appellant contends the Hearing Officer's decision should be declared void because the appointed hearing officer, Kristie H. Jordan, was not a member of the Council, but a proxy for a Council member. This Court notes that at the hearing before Hearing Officer Jordan Appellant noted, "[i]t was my feeling that maybe the Hearing Officer in this case, since it wasn't actually a member of the Council, may not have been statutorily allowed to do it, but I would agree with that this is the easiest and the fairest way to do it at this time." Accordingly, although Hearing Officer Jordan was not a member of the Council, I find Appellant agreed to respect her decision and cannot now complain on appeal about her appointment as a proxy and authority to make a decision in this case.

8. Whether the Academy erred because it failed to address the factors of the seriousness of the misconduct, the remoteness in time of the misconduct, and any mitigating circumstances.

Appellant contends the Council erred when it failed to consider the factors listed under section B of Regulation 38-004 when deciding whether to deny Appellant recertification.

Regulation 38-004(B) provides:

In considering whether to deny certification based on misconduct, the Council 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 (Supp. 2014). The language of the regulation provides the Council *may* consider the seriousness, the remoteness in time, and any mitigating circumstances, but it is *not required* to do so. Therefore, the Council did not err in not considering these factors;

however, the Court agrees with Appellant that review of these factors would have been appropriate under the circumstances of this case.

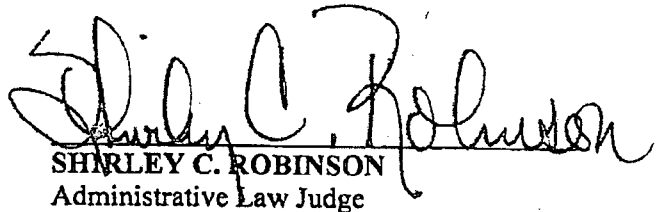
CONCLUSION

Although this case is close, I find substantial evidence does not support the Council's denial of Appellant's request for law enforcement recertification because reasonable minds cannot come to the same conclusion as the Council when reviewing the record as a whole. See Be Mi, Inc., 408 S.C. at 297, 758 S.E.2d at 741 ("Substantial evidence is evidence that allows reasonable minds considering the record as a whole to reach the conclusion the administrative agency reached."); Bursey, 360 S.C. at 141, 600 S.E.2d at 84 ("Substantial evidence is not a mere scintilla of evidence nor evidence viewed blindly from one side, but is evidence which, when considering the record as a whole, would allow reasonable minds to reach the conclusion that the agency reached."); Friends of Earth, 387 S.C. at 366, 692 S.E.2d at 913 ("In applying a substantial evidence test, an appellate court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, unless its findings or conclusions are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record."). In particular, I find the record as a whole shows Appellant's one incident of brief dishonesty is dwarfed by the testimony of his otherwise spotless record of loyalty and trustworthiness as recounted by members of the Pelion Police Department and the Town of Pelion who wish to re-hire Appellant. Accordingly, I reverse the Academy's decision.

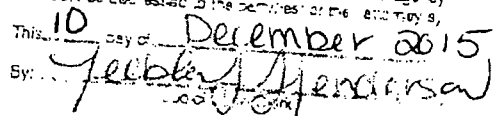
ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED** that the Academy's decision shall be and hereby is **REVERSED**.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

December 10th, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE
This document, the true and correct copy of a case served in accordance with the rules of the South Carolina Judicial Branch, is hereby certified to be a true and correct copy of the original filed in the United States District Court for the District of Columbia. This document is being served by the United States District Court for the District of Columbia, Southern District of New York, on the 10th day of December, 2015. By: 

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John Elkin,

Appellant,

v.

South Carolina Department of Criminal
Justice Academy,

Respondent.

NOTICE OF ASSIGNMENT

DOCKET NO. 15-ALJ-30-0246-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on May 28, 2015. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2014), the **Honorable Shirley C. Robinson**, 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.scale.net.

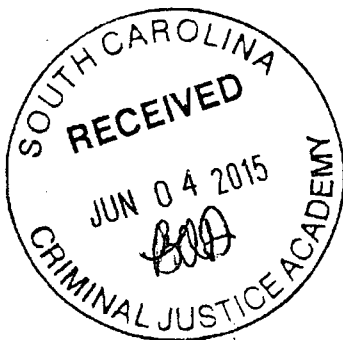
The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the second day of June, 2015.

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



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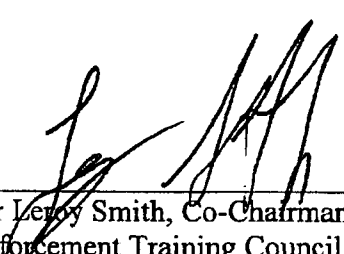
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SC ADMIN. LAW COURT

**LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY**

In the Matter of the Issuance	)	Case No. 14-CJA-009
of Law Enforcement Officer	)	
Certification to John Elkin	)	FINAL AGENCY DECISION
_____	)	

On April 28, 2015, the Law Enforcement Training Council¹ voted unanimously to adopt the April 7, 2015 recommendation written by Kristie H. Jordan, General Counsel and proxy for Sheriff Bruce Bryant as the Final Agency Decision in this case. This April 7, 2015 recommendation is attached and fully incorporated in this document by reference.



Director Jerry Smith, Co-Chairman
Law Enforcement Training Council
On Behalf of the Law Enforcement Training Council

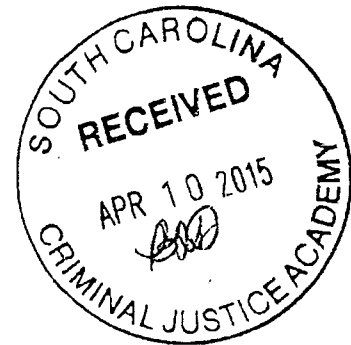
April 28, 2015

¹ All Training Council members were present for this meeting and voted, except for Director Bryan Stirling of the South Carolina Department of Corrections who was represented by his proxy Brian Bolchoz, Inspector General; Attorney General Alan Wilson of the South Carolina Attorney General's office who was represented by his proxy Barry J. Bernstein, Chief of Staff; and Chief Mark Keel of the South Carolina Law Enforcement Division who recused himself from this case.

April 7, 2015

Law Enforcement Training Council

Re: John Elkin
Case No.: 2014-CJA-009



Dear Training Council Members,

On October 23, 2013, the Academy received a Personnel Change in Status (hereinafter, "PCS") of Separation Report from the Pelion Police Department alleging Mr. Elkin engaged in dishonesty/untruthfulness with respect to his employer. On September 4, 2014, the Academy received a PCS of Hire form from the Pelion Police Department stating they had rehired Mr. Elkin as a law enforcement officer. Attached to this PCS of Hire was a letter from the Chief of Police, Chris Garner, and an amended PCS of Separation form. These documents requested to change "the status" of Mr. Elkin's PCS filed on October 23, 2013 and "retract the original PCS [of Separation] and misconduct report." Chief Garner's request, amended PCS, and original PCS were submitted to the Law Enforcement Training Council (hereinafter, "Council" or "Training Council") for a determination of whether Mr. Elkin would need a contested case hearing with regard to the information on file. On July 30, 2014, at one of our regularly scheduled meetings, the Council members present unanimously voted that a contested case hearing was needed.¹

The contested case hearing was held on November 5, 2014 before Chief Mark Keel, Chairman of the Training Council (Transcript of Hearing #2, page 3). During the contested case hearing, Chief Keel began to suspect that he may have a connection with Mr. Elkin that would require his recusal from Mr. Elkin's case (Id.). After concluding the hearing and upon a review

¹ Sheriff Bruce Bryant, who was not present at the Council meeting on July 30, 2014, had previously voted that a contested case hearing was no longer needed.

of additional records on file with the Academy's certification unit, Chief Keel determined that he did need to recuse himself from Mr. Elkin's case (Id.). Because of the need for this recusal, Mr. Elkin's attorney, John O'Leary, Esquire, was contacted. The nature of the conflict and the need for recusal was explained to Mr. O'Leary and Mr. O'Leary was advised that it was up to Mr. Elkin as to how his case could proceed at that point. Mr. O'Leary was told that a whole new contested case hearing could be held before a new hearing officer or the previously held contested case hearing could be sent to the Council with no written recommendation from Chief Keel. Mr. Elkin elected to have a whole new contested case hearing before a new hearing officer.

The second contested case hearing was originally scheduled for January 7, 2015 at 9:30 a.m. Due to an unexpected conflict in Mr. O'Leary's schedule, however, the second contested case hearing had to be continued to February 4, 2015 at 10:00 a.m. When the parties came together for the second contested case hearing, Mr. O'Leary requested that the new Hearing Officer simply use the transcript and evidence from the first contested case hearing to draft a recommendation for the full Training Council, rather than actually holding a whole new contested case hearing (Transcript of Hearing #2, pages 3-4.). The representatives from the Pelion Police Department consented to this procedure and the agreement to this procedure was placed on the record (Transcript of Hearing #2, page 5).

Mr. Elkin was represented by John A. O'Leary, Esquire of O'Leary Associates in the contested case hearing and during all matters subsequent to that hearing, including the agreement on February 4, 2015. Chief Chris Garner appeared on behalf of Mr. Elkin's former employer, Pelion Police Department, at the contested case hearing and during all matters subsequent to that

hearing, including the agreement on February 4, 2015. During the contested case hearing, six (6) witnesses provided testimony: Chief Chris Garner, Cpl. Edward Richardson, Daniel R. Bledsoe, Capt. Mike Crider, Lt. Darren Norris, and John Elkin.

Testimony of Chief Chris Garner

Chief Chris Garner testified first. Chief Garner testified Mr. Elkin worked for him as a law enforcement officer for almost a year (Transcript of Hearing, page 7, lines 1-7). Mr. Elkin was the night shift supervisor (Transcript of Hearing, page 7, line 5). On October 13, 2013, at around 1800 hours, Chief Garner received a telephone call from Mr. Elkin explaining that Mr. Elkin and his wife had a heated argument over the telephone (Transcript of Hearing, page 7, lines 15-21). Mr. Elkin stated he was giving Chief Garner a "heads up that the County would be calling" Chief Garner about the argument because Mr. Elkin's wife had called the Lexington County Sheriff's Office (Transcript of Hearing, page 7, lines 21-23). Chief Garner asked Mr. Elkin where he was and whether Mr. Elkin had been at the property at W.E. Jeffcoat Road (Mr. Elkin's wife's property) (Transcript of Hearing, page 7, line 23 – page 8, line 6).² Mr. Elkin told Chief Garner he was not at the W. E. Jeffcoat Road property (Transcript of Hearing, page 8, line 6 and page 9, lines 10-19). A short time later, Chief Garner was informed by the Lexington County Sheriff's Office that Mr. Elkin had been at the W. E. Jeffcoat Road property at around 1400 hours when the argument occurred between Mr. Elkin and his wife (Transcript of Hearing, page 8, lines 11-20). Just before noon the next day, Chief Garner received a telephone call from Mr. Elkin requesting to meet with Chief Garner (Transcript of Hearing, page 9, line 20 – page 10, line 7). When Mr. Elkin arrived, he was very upset and freely admitted that "he lied to

² Mr. Elkin was living in Forest Acres at this point and was not residing with his wife at the W. E. Jeffcoat Road residence.

[Chief Garner] out of panic and that he indeed was at the [W. E. Jeffcoat] residence” during the argument with his wife (Transcript of Hearing, page 10, lines 7-12 and page 18, lines 11-14).

Testimony of Cpl. Edward Richardson

Cpl. Richardson is a fulltime corporal at the Lexington County Sheriff's Office and also a part-time corporal at the Town of Pelion (Transcript of Hearing, page 25, lines 18-21). Cpl. Richardson testified that he had been in contact with Chief Garner and Mr. Elkins several times the morning of October 14, 2013 (Transcript of Hearing, page 26, lines 17-19, page 29, line 9, page 25, line 25 – page 30 lines 1-3). He further testified that during a conversation with Chief Garner, Chief Garner asked Cpl. Richardson if he “thought that there was any sort of deception” (Transcript of Hearing, page 30, lines 3-4). Cpl. Richardson testified that he told Chief Garner that he “wholeheartedly believed what [Mr. Elkins] was telling [him]” (Transcript of Hearing, page 30, line 7-8). Cpl. Richardson testified that Mr. Elkins called him “a very short time later to tell me that he had been deceptive with me” (Transcript of Hearing, page 30, lines 13-15). Cpl. Richardson further testified that he was present during the October 14, 2013, conversation between Chief Garner and Mr. Elkin (Transcript of Hearing, page 26, lines 10-14 and page 26, line 24-page 27, line 16). Cpl. Richardson confirmed that Mr. Elkin admitted to lying to Chief Garner the prior day (Transcript of Hearing, page 29, lines 5-19 and page 31, line 18-page 32, line 4).

Testimony of Daniel R. Bledsoe

Mr. Bledsoe testified as a character witness for Mr. Elkin and had no direct knowledge about the events at issue (Transcript of Hearing, page 33, line 2-page 36, line 14).

Testimony of Capt. Mike Crider

Pelion Police Capt. Crider testified that he drove Mr. Elkin home just after Mr. Elkin resigned from the Pelion Police Department (Transcript of Hearing, page 37, lines 20-24). Capt. Crider testified that Mr. Elkin seemed upset during the drive home and that Capt. Crider was aware that Mr. Elkin had been having marital problems (Transcript of Hearing, page 37, line 25-page 38, line 8). Capt. Crider was not present during the meeting Mr. Elkin had with Chief Garner (Transcript of Hearing, page 38, lines 9-14). Capt. Crider also testified that Mr. Elkin had always been truthful to him and that he did not have any question about whether Mr. Elkin would be truthful in all his law enforcement duties (Transcript of Hearing, page 38, line 22-page 39, line 2).

Testimony of Lt. Darren Norris

Pelion Police Lt. Norris testified that he performed the background investigation into Mr. Elkin for purposes of his rehire with the Pelion Police Department (Transcript of Hearing, page 40, lines 5-16). Lt. Norris testified that he did not find any negative information on Mr. Elkin during this background investigation (Transcript of Hearing, page 40, line 22-page 46, line 16 and Elkin's Exhibit #4). Lt. Norris further testified that there had been an allegation of misconduct filed by the S.C. Highway Patrol, but "the Academy...ruled...the allegations of misconduct did not meet Regulation 38-004" (Transcript of Hearing, page 46, line 22-page 47, line 20).

Testimony of John Elkin

Mr. Elkin testified that on October 13, 2013, he began texting his estranged wife, Christy, in an effort to come to an agreement regarding child custody (Transcript of Hearing, page 51, lines 13-16, page 52, line 4). Mr. Elkin testified that he and his wife got into an argument

regarding custody of their daughter (Transcript of Hearing, page 49, line 9-page 55, line 2) and whether an alleged paramour had been at the residence (Transcript of Hearing, page 53, line 13-23). Mr. Elkin took Mrs. Elkin's phone, stood up to leave and put her phone in his pocket (Transcript of Hearing, page 53, lines 20, and 23-25). Mrs. Elkins tried to retrieve the phone by attempting to reach into his pocket which put her in between Mr. Elkins and his vehicle (Transcript of Hearing, page 43, lines 7-10). Mr. Elkins stated that she refused to get out of his way and "it was obvious to me that she was trying to provoke me" (Transcript of Hearing, page 54, lines 10-12). Mrs. Elkins retrieved their daughter from inside the residence and walked over to her aunt's house and called 911 (Transcript of Hearing, page 54, lines 18-25 – page 55, lines 1-5). Mr. Elkin testified that when he was originally contacted by law enforcement officers investigating Ms. Elkin's 911 call for this argument, he told the law enforcement officers he had not been at Ms. Elkin's residence (Transcript of Hearing, page 55, lines 3-13). Mr. Elkin also admitted that later that evening he called Chief Garner and "lied" by stating he had not been at Ms. Elkin's house during this argument (Transcript of Hearing, page 55, line 14-page 56, line 6). Mr. Elkin confirmed meeting with Chief Garner the day after the argument with Ms. Elkin, confirmed that he resigned from the Pelion Police Department at that time, and confirmed that he told Chief Garner he had "lied to him" the day before regarding whether he had been at Ms. Elkin's residence during the argument (Transcript of Hearing, page 56, line 14-page 57, line 8 and page 59, line 18-page 3). He further testified that he lied because the only two witnesses to the incident of him being at the residence was he and his wife and that he panicked (Transcript of Hearing, page 59, lines 20-25). Mr. Elkins testified that he went back and recanted after having spoken with his divorce attorney, Jake Moore Jr., and after having told Moore that he had lied

(Transcript of Hearing page 60, lines 11-16). Mr. Elkins stated that "I could have never ever admitted anything and given the lack of any kind of physical evidence or any kind of technical evidence, I could have taken that to my grave and still been working and never having been in here, but that's not me" (Transcript of Hearing page 64, lines 13-18). Mr. Elkins believes that his admission ended up resulting in his arrest (Transcript page 65, lines 1-2). The incident was ultimately investigated by SLED and Mr. Elkins was charged with Criminal Domestic Violence. The Solicitor's Office did not prosecute the charge (Transcript of Hearing, page 59, lines 10-18).

Deposition of Christy Elkin

The deposition of Mr. Elkin's estranged wife, Christy Elkin, was entered into evidence at Mr. Elkin's request. This deposition was referred to numerous times for the propositions that Mrs. Elkin had been serially unfaithful during the marriage (Transcript of Hearing, page 10, lines 13-24, page 27, lines 17-25 - Page 28, lines 1-7, Page 48, lines 16-24, page 50, lines 12-21, page 52, lines 21-25 - page 53, line 1) and that Mrs. Elkin was trying to take his job (Transcript of Hearing, page 61, lines 18-25 - page 62, lines 1-15, page 67, lines 21-25 - page 68, lines 1-22). Mrs. Elkin's also gave testimony during her deposition regarding the incident between her and Mr. Elkin (Transcript of Hearing, page 70, lines 16-19). Review of the deposition revealed that Mrs. Elkin readily admitted to having sexual relations with at least five men during her marriage to Mr. Elkin (Deposition, pages 18-39). Mrs. Elkin's testimony regarding the incident begins on page 62 of the deposition. Mrs. Elkin testified that she allowed Mr. Elkin to come to the residence after multiple texts from Mr. Elkin (Deposition, page 62, lines 5-22) and that he arrived in his police vehicle (Deposition, page 63, lines 1-2). Mrs. Elkin testified that an argument began over visitation and that Mr. Elkin stated he was going to have law enforcement

do weekly welfare checks (Deposition, page 63, lines 16-22 – page 64, lines 1-17). Mrs. Elkin testified that she asked Mr. Elkin to leave multiple times, that he refused, and that when she pulled out her phone to call “Lexington County” he “snatched the phone from me” so she went inside and got their child and walked over to her aunt’s house (Deposition, page 65, lines 10-25 – page 66, lines 15). Mrs. Elkin further testified that Mr. Elkin followed her about halfway through the woods (Deposition, page 67, line 25 - Page 68, line 1). Mrs. Elkin testified that she called “Lexington County” and that she did know that this was going to be trouble for Mr. Elkin. (Deposition, page 68, lines 6-15). Mrs. Elkin testified that prior to walking over to her aunt’s house she had tried to grab he phone back and grabbed at Mr. Elkin’s pocket (Deposition, page 71, lines 22-23). Mrs. Elkin testified that she returned to her home accompanied by the police (Deposition, page 84, lines 12-16). Her cell phone was located on the rail on the porch (Deposition, page 84, line 19). Mrs. Elkin testified that she looked at her phone and discovered that all of the text messages between her and Mr. Elkin had been deleted and that she was not the person who deleted them. (Deposition, pages 84, line 22 through page 88, line 5). Mrs. Elkin testified that she and Mr. Elkin had sexual relations near the end of September, just shortly before the October incident (Deposition, page 95, lines 4-9).

Based on the testimony of the witnesses and the exhibits admitted into evidence, I make the following findings and recommendations:

FINDINGS OF FACT

It is found as a fact:

1. By his own admission during this hearing, Mr. Elkin lied to his employer on October 13, 2013 about whether he was at Ms. Elkin’s residence during an argument.

2. On October 14, 2013, of his own volition, Mr. Elkin admitted to Chief Garner that he had lied to him the day before.
3. By his own admission during this hearing, Mr. Elkin lied to police during a police investigation of which he was the subject.
4. Testimony of Mr. Elkin taken together with the testimony of Mrs. Elkin show that Mr. Elkin destroyed evidence during a police investigation by deleting text messages that would put him at the residence.

CONCLUSIONS OF LAW

It is concluded as a matter of law:

1. 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 the Council.
2. S.C. Reg. 38-004 states, in part:

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

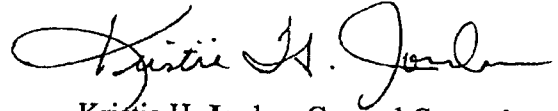
 - 7) Dishonesty with respect to his/her employer.
 - 8) Untruthfulness with respect to his/her employer.
3. Mr. Elkin, by his own admission at this hearing, was untruthful and dishonest to his employer on October 13, 2013.

RECOMMENDED SANCTION

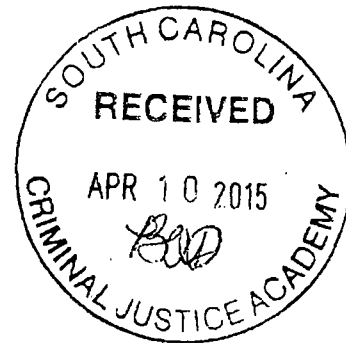
Based on the facts set forth above, I recommend the Training Council deny Mr. Elkin's

request for reissuance of his law enforcement certification.

Sincerely,



Kristie H. Jordan, General Counsel
York County Sheriff's Office
Hearing Officer



**LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY**

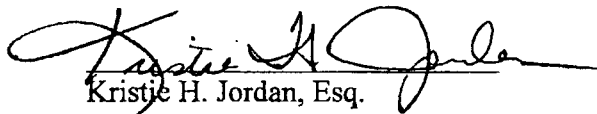
In the Matter of the Issuance
of Law Enforcement Officer
Certification to John E. Elkin

) Case No. 14-CJA-009
)
) CONTINUANCE
)

On December 18, 2014, Counsel for Mr. Elkin requested a continuance of the contested case hearing scheduled for January 7, 2015 at 10:00 a.m. for the following reasons:

- 1) On December 17, 2014, Counsel for Mr. Elkin received notice that *State v. Richard Combs*, a General Sessions case where Counsel represents Defendant Richard Combs, had been scheduled for trial the week of January 5, 2015;
- 2) Counsel does not believe the Richard Combs trial will have concluded by January 7, 2015; and
- 3) Counsel does not believe Richard Combs will enter a guilty plea.

For these reasons, I hereby grant the requested continuance. This case shall be rescheduled to another date with at least thirty (30) days of notice to all parties as to the new hearing date and time.


Kristie H. Jordan, Esq.
Hearing Officer

Date: December 18, 2014

WILLIAMS & WILLIAMS

ATTORNEYS AT LAW

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May 28, 2015

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

RE: Mr. John Elkin

Dear Sir/Madam:

Upon receipt of the letter dated April 28, 2015 and received on May 5, 2015 from the South Carolina Criminal Justice Academy, I am hereby requesting an appeal on behalf of my client John Elkin. He was notified by this letter that his certification as a law enforcement officer in South Carolina will not be reinstated at this time.

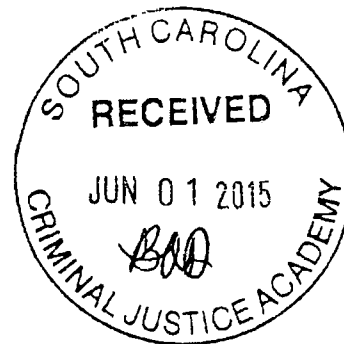
By copy of this letter, I am notifying Brandy Duncan, General Counsel for the Academy of my request.

Sincerely,

C. Bradley Hutto
C. Bradley Hutto

/rfdurr

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



000037

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John Elkin

Appellant/Petitioner,

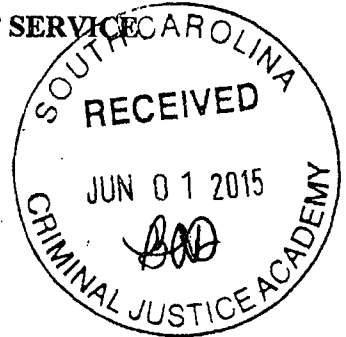
vs.

SC Criminal Justice Academy

Respondent.

Docket No. -ALJ-

PROOF OF SERVICE



I hereby certify that I am the Appellant (Appellant/Petitioner/Respondent) in the above-captioned matter and that on the 28th day of May, 2015, in Orangeburg (city), South Carolina, I served a copy of the forgoing Request for Hearing (type of document) on the following person(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

Brandy Duncan, SCCJA

Name

5400 Broad River Road

Address

Columbia, SC 29212

City/State/Zip

Name

Address

City/State/Zip

Name

Address

City/State/Zip

Name

Address

City/State/Zip

Rebekah F. Durr, paralegal to C. Bradley Hutto
(Print Name)

Rebekah F. Durr
(Signature)

1281 Russell Street

(Street)

Orangeburg, SC 29115

(City, State, Zip Code)

000038

O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

Katie O'Leary Fayssoux (of Counsel)

(Via fax & US mail)

2 page fax
December 18, 2014

SCCJA
Brandy Duncan, General Counsel
5400 Broad River Road
Columbia, SC 29212-3540
FAX: 803-896-7776

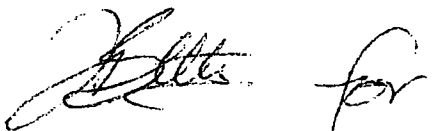
RE: John E. Elkin vs. SCCJA / Case No(s): 14-CJA-009

Dear Ms. Duncan:

By this letter we would respectfully request a continuance of the contested hearing in the above referenced matter which is scheduled for 1/07/2015. I am scheduled to appear in the trial of State v. Richard Combs on that date and therefore will be unable to appear at that hearing. Evidence of this conflict (email between the solicitor and Judge) is here attached. I do apologize for any inconvenience this may have caused. Please advise as to the new date and time for hearing in this matter.

Thank you for your time and consideration in this matter. Again, if you have any questions or if we may be of assistance, please do not hesitate to call.

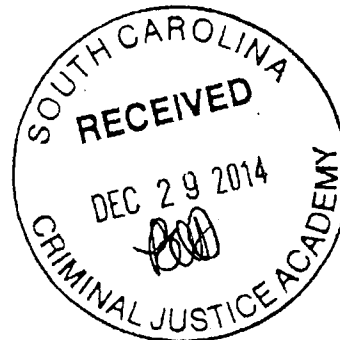
Sincerely,



JOHN A. O'LEARY
Attorney At Law

JAO/jb

cc: John E. Elkin (Via email only)
Darren Norris (Via email only)
Mayor Barbara Smith (via mail)
Eddie Richardson (via mail)
Sgt Dan Bledsoe (via mail)
Chief Chris Garner (via email only)
Captain Crider (via mail)



000039

BEFORE THE SOUTH CAROLINA
LAW ENFORCEMENT TRAINING COUNCIL
CASE NO. 14-CJA-009

John E. Elkin,)
)
v.)
)
South Carolina Criminal)
Justice Academy.)
-----)

COPY

CERTIFICATION HEARING

Wednesday, November 5, 2014
11:12 a.m. - 12:27 p.m.

The certification hearing before Hearing Officer Chief Mark Keel, Chairman of the South Carolina Law Enforcement Training Council, was taken at the South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina on the 5th day of November, 2014 before Christine A. Cortright, Court Reporter and Notary Public in and for the State of South Carolina.

000040



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES**John O'Leary, Esquire**

JOHN O'LEARY ASSOCIATES, PA
 714 Calhoun Street
 Columbia, South Carolina 29201
 Attorney for John E. Elkin

Brandy A. Duncan, Esquire

South Carolina Criminal Justice Academy
 5400 Broad River Road
 Columbia, South Carolina 29212
 Attorney for the SCCJA

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EXHIBITS

Court's Exhibit Number One	6
(Excerpts from S.C. Code of Laws Chapter 23)	
Court's Exhibit Number Two	6
(Excerpts from S.C. Code of Regulations Chapter 38, Article 1, Subarticle 1)	
Court's Exhibit Number Three	6
(Training History Report for Elkin)	
Elkin's Exhibit Number One	17
(Ltr. to Training Council from Mayor Barbara Smith 10/23/14 RE: John Elkin Certification)	
Elkin's Exhibit Number Two	11
(Deposition Transcript of Christy Elkin in Family Court Case 1/23/14)	
Elkin's Exhibit Number Three	14
(Personnel Change in Status Report - Notice of Separation Due to Misconduct 10/14/13; Letter Requesting Change of Status 7/21/14)	
Elkin's Exhibit Number Four	25
(Re-Hire Background Investigation Summary done by LT. Darren Norris)	



1 **HEARING OFFICER:** I want to start with the
2 introduction. My name is Mark Keel. I'm Chief
3 of SLED and I'm Chairman of Law Enforcement
4 Training Council. This is a certification
5 contested hearing for John Elkin and has been
6 initiated at your request. The case number for
7 this hearing is 2014-CJA-009. Proceedings of
8 this hearing are being recorded by a court
9 reporter. Anything said during this hearing
10 will be recorded so a true and accurate record
11 of this proceeding can be prepared for the full
12 Law Enforcement Training Council. The purpose
13 of this hearing is to adjudicate whether Mr.
14 Elkin is still eligible for certification as a
15 police officer in South Carolina. I am the a
16 hearing officer for today's hearing. Mr. Elkin
17 is represented by John O'Leary, Esquire, in
18 this proceeding. Each party will have the
19 opportunity to call witnesses and present
20 evidence. Each person that is called to
21 present testimony must take an oath to tell the
22 truth. The party calling the witness may
23 question the person first, with cross-
24 examination by the other party as appropriate.
25 And I may also ask questions if I deem



1 necessary. At the conclusion of the hearing,
2 I will make a written non-binding
3 recommendation to the full Law Enforcement
4 Training Council. A copy of this
5 recommendation will be provided to both
6 parties. The Full Law Enforcement Training
7 Council will be provided with copies of the
8 transcript from today's hearing, all exhibits
9 entered into evidence, and my recommendation.
10 After receiving these copies and becoming
11 familiar with the facts of the case, the full
12 Law Enforcement Training Council will make the
13 final decision as to whether Mr. Elkin is
14 eligible to be recertified as a law enforcement
15 officer in the state of South Carolina. Is
16 everyone ready to proceed?

17 **MR. O'LEARY:** Yes.

18 **MR. ELKIN:** Yes, sir.

19 **HEARING OFFICER:** All right. As a housekeeping
20 matter, Court Reporter, if you would please
21 mark the following documents as Court exhibits.
22 Those have been given to you. It's South
23 Carolina Code 23-23-10, 30, 60, and 80, which
24 are parts of the Training Act; South Carolina
25 Regs 38-002, 003, 004, 009, and 028, the



1 regulations corresponding to the Training Act
2 that deal with misconduct allegations; and also
3 Mr. John Elkin's certified training report.

4 (Court's Exhibit Numbers One, Two and Three were
5 entered into evidence.)

6 COURT REPORTER: Those have been marked One, Two and
7 Three, Court's Exhibits.

8 HEARING OFFICER: Okay. Thank you. You can call
9 your first witness.

10 MR. O'LEARY: I would call Chris Garner, Chief
11 Garner, at this time, from Pelion. Let me just
12 for the record, I don't know how much you know
13 about this, Mark, but this result is a result
14 of a letter July 30th from the Academy. That's
15 why we're here for the hearing. Chris, state
16 your name.

17 MR. GARNER: Christopher Garner.

18 COURT REPORTER: And let me swear him, please.

19 MR. O'LEARY: Oh, sorry. I thought he was.

20 CHIEF CHRIS GARNER, having been duly sworn, testifies
21 as follows:

22 CHIEF GARNER - DIRECT EXAMINATION BY MR. O'LEARY:

23 Q: Okay. Chris, where are you currently working?

24 A: I am Chief of Police in the town of Pelion in
25 Lexington County.



- 1 Q: Okay. Do you know John Elkin?
- 2 A: I do.
- 3 Q: Okay. And how -- did he work for you as a law
4 enforcement officer?
- 5 A: He did. He was night shift supervisor.
- 6 Q: How long did he work for you?
- 7 A: Almost a year.
- 8 Q: Okay. And during that year an issue came up as
9 to the truthfulness and he -- he left the
10 department, he resigned from the department,
11 correct?
- 12 A: That is correct.
- 13 Q: Tell the board, basically, what that incident
14 was all about. We'll cut to the chase.
- 15 A: On October 13th I received a phone call from
16 John at about 1800 hours via cell phone. This
17 was last year, of course. And he explained to
18 me that he and his wife, Kristy, had had a
19 heated domestic argument over the telephone in
20 regards to custody of their young daughter
21 named Clara. He was giving me a heads up that
22 the County would be calling me, as she called
23 the Lexington County Sheriff's Department. And
24 at that point I asked him where are you at
25 right now. And Sergeant Elkin advised me he



1 was in his apartment over in Forest Acres. I
2 said stay there, don't leave. I said did you
3 go back to the property at W.E. Jeffcoat Road,
4 which was the house that he did share with his
5 wife. Again, he had relocated and was living
6 in Forest Acres. He told me he was not there.

7 Q: Were you aware that he and his wife were having
8 domestic problems?

9 A: Yes.

10 Q: Okay. Go ahead.

11 A: At that point, again, this is maybe another 30
12 minutes had gone by, the Sheriff's Department
13 called me, the watch commander, and advised me
14 that John had been involved in a domestic
15 argument with his wife at the property on W.
16 Jeffcoat. They were going to call him in the
17 following day, which was Monday, for an
18 interview. Again, this is around 1830. I
19 asked what time the incident started, they said
20 around 1400. My concern at that point was why
21 hadn't I been notified so I could have
22 responded to the scene. I said, do I need to
23 go pick up Sergeant Elkin and bring him into
24 the Sheriff's Department tonight. He said
25 absolutely not. He -- he'll be called



1 tomorrow, which was Monday the 14th, for an
2 interview. I explained to the lieutenant that
3 John was enrolled in the Academy. I told him
4 to go ahead and report to the Academy. If they
5 don't want me to come get you tonight,
6 evidently there's no urgency for it. So ---

7 Q: Okay.

8 A: --- I left it at that.

9 Q: Okay. And after that did you receive your call
10 the next morning -- let me ask you this. You
11 talked to him on the phone, correct?

12 A: Yes, sir.

13 Q: In the conversation, what did you ask him?

14 A: What did I ask John?

15 Q: Yes. Yeah.

16 A: I asked him did you go to the residence with
17 Kristy.

18 Q: And what did he say?

19 A: He said he did not.

20 Q: Okay. Now, the next morning did you receive a
21 call or did you personally have a dealing with
22 it?

23 A: The next morning, being the 14th, at around
24 1100 hours, maybe 1130, somewhere in that area,
25 Sergeant Elkin called me at the town hall, told

1 me he was en route to talk to me.

2 Q: Okay.

3 A: And the town hall located in Pelion.

4 **HEARING OFFICER:** This was the 14th?

5 A: Yes, sir. The next day.

6 Q: That's Monday?

7 A: Yeah. It was closer to noon. So now he
8 arrived at the Pelion Town Hall with Deputy
9 Richardson. And John was very upset when he
10 got there and broke down and told me that he --
11 he lied to me out of panic and that he indeed
12 was at the residence.

13 Q: Okay. Have you -- have you been privy to any
14 of the problems that actually had occurred
15 between him and ---

16 A: Yes, I have.

17 Q: --- his wife? Have you ever seen the -- I'd
18 like to introduce that just -- have you ever
19 read the deposition of Kristy ---

20 A: No.

21 Q: --- that was taken?

22 A: I did not.

23 Q: Okay.

24 **MR. O'LEARY:** I would put that in anyway.

25 **COURT REPORTER:** Okay. I've marked that as Number



1 Two.

2 (Elkin's Exhibit Number Two was entered into
3 evidence.)

4 Q: Now, as a result of that meeting, he told you
5 he had told you not the truth as it really was.

6 A: That's correct.

7 Q: And he retracted it totally.

8 A: He did. And at that time he resigned
9 immediately.

10 Q: Okay. Who else was in the room with you?

11 A: Deputy Richardson with Lexington County.

12 Q: And Richardson, what was his role from
13 Lexington County?

14 A: Richardson actually had gone to patrol school
15 with John. They were fellow troopers together
16 ---

17 Q: Okay.

18 A: --- and was a close friend to John.

19 Q: And he was present at the time?

20 A: Yes, he was.

21 Q: And you said that he then immediately resigned
22 from the department because of -- he told you
23 he didn't tell you the truth.

24 A: He did.

25 Q: And this incident really had nothing -- it

1 didn't occur within Pelion, did it?

2 A: No. It was in the county jurisdiction.

3 Q: It's in the county, okay. Now, has he applied
4 -- reapplied when you -- let's see if I can
5 take it back. You then filed with the Academy
6 a report as to the incident, correct?

7 A: Correct. Because under our policy, he violated
8 policy which is honesty.

9 Q: Okay.

10 A: And I explained to John, and John was very
11 understanding and very, you know, he received
12 it well, he understands, he's military, that I
13 didn't have a choice at this point.

14 Q: And you -- off the record.

15 (Off the Record)

16 Q: Is that the letter that you sent over to
17 Director Harrell here at the Academy?

18 A: Correct.

19 Q: And you submitted -- was there an attachment to
20 that too?

21 A: Yes.

22 Q: And it's -- it says that he resigned, correct?

23 A: Right. That is correct, sir.

24 Q: And then you followed up with a document to the
25 Academy as to what occurred?



1 A: Correct, sir.

2 Q: Is this ---

3 MR. O'LEARY: And you haven't got an extra copy of
4 that, do you?

5 MS. DUNCAN: I might. Is that the original?

6 MR. O'LEARY: Yeah. That's the original.

7 A: This is the document.

8 Q: That's the document? I'll just put it in to
9 save time.

10 A: PCS ---

11 MS. DUNCAN: It's that one? Or, well, yeah. Look
12 at ours compared to yours, because ---

13 MR. O'LEARY: Yeah. I'll compare it to see.

14 MS. DUNCAN: --- ours probably has some redactions.

15 MR. O'LEARY: I think mine's got redactions too.

16 MS. DUNCAN: Okay.

17 MR. O'LEARY: Mine's looks thicker, though. Yeah.

18 MS. DUNCAN: You may have the policies attached.

19 MR. O'LEARY: Yeah. The policies -- let me just put
20 mine in. It's easier to read. Yours is a
21 little lighter print.

22 MS. DUNCAN: Okay.

23 Q: Let me just show you this document here and see
24 if you can identify it. Is that what was
25 submitted or you received? Attached to that

1 document is your report as to the incident?

2 A: That's correct. That's the Academy misconduct
3 form.

4 Q: And that -- what was -- when was that dated?
5 What's the date on that?

6 A: 14th.

7 Q: Okay.

8 A: That day he came in and resigned.

9 Q: Okay. Now, has he since contacted your
10 department to be re-employed?

11 A: He has.

12 Q: And when did -- when did that occur?

13 A: A couple months ago. Lieutenant Norris, who is
14 available, has that packet.

15 Q: Okay. And ---

16 MR. O'LEARY: We'll put this -- put that in too, if
17 you don't mind.

18 COURT REPORTER: Okay. That will be Elkin's Three.
19 (Elkin's Exhibit Number Three was entered into
20 evidence.)

21 MS. DUNCAN: All right. And did you want that other
22 one, the amended one?

23 MR. O'LEARY: Yeah.

24 MS. DUNCAN: Put it in as well?

25 MR. O'LEARY: Okay. So you can mark them as one if



1 you want. Whichever ---

2 A: I think Mr. O'Leary, for the record, John
3 remained employed during this time over our IT
4 systems.

5 Q: Okay.

6 A: He did our in-car cameras, he wired the new
7 police department, and did a lot of gratis work
8 for the department during this time.

9 Q: That's what he -- his speciality is electronics
10 and stuff and wiring. Yeah, I noticed that in
11 his resume.

12 A: He is. He's very, very good with that.

13 Q: So he continually -- he wasn't a law
14 enforcement officer?

15 A: No.

16 Q: He still was with the department.

17 A: Correct.

18 Q: Is he still doing that?

19 A: He is.

20 Q: He's still doing that?

21 A: Correct.

22 Q: Okay. Now, he's made application with you to
23 be -- go back to the patrol, correct?

24 A: Correct.

25 Q: And you have tried to get that at the Academy?

1 A: Correct.

2 Q: And the Academy basically said he was
3 disqualified because of the issue of lying?

4 A: Correct.

5 Q: All right. Now, did you submit anything else
6 to the Academy for consideration to -- any
7 additional reports were written or anything?

8 A: No, sir, not to my knowledge.

9 Q: Okay.

10 A: I didn't.

11 Q: Okay. And so he readily accepted his
12 responsibility, told you he lied. He gets
13 terminated. He works with you continuously for
14 that year. And now you're trying to get him
15 back?

16 A: The council -- after his arrest, the council
17 and I met, and I briefed them on the situation.
18 And it was -- it was long-standing with the
19 council if he's ever acquitted of these charges
20 or they're dismissed, they wanted to hire John
21 back as an employee, as a police officer.

22 Q: And there are no criminal charges on him,
23 correct?

24 A: No, sir. There are not.

25 Q: But nothing really came out of that alleged,



1 quote, CDV, correct?

2 A: No, sir.

3 Q: Okay. So did you actually come to council at
4 one time and talk on his behalf?

5 A: To my council?

6 Q: Yeah. No, to this -- your training council --
7 or your ---

8 A: No, sir.

9 Q: --- city council? Okay.

10 A: Town council and I met at Pelion on a personnel
11 issue, yes, sir.

12 Q: And it's the position of the town they'd like
13 to rehire him?

14 A: Yes, sir.

15 Q: And is this a letter -- and see if you can
16 identify that. Who's the mayor?

17 A: Barbara Smith, Barbara Hartley Smith. I know
18 this letter, sir.

19 Q: Okay. And that letter was in support of his
20 hiring, correct?

21 A: That's -- that is correct.

22 **MR. O'LEARY:** And I'd like to submit that too.

23 **COURT REPORTER:** That's been marked as Elkin's One.

24 (Elkin's Exhibit Number One was entered into
25 evidence.)

1 Q: Now, the mayor, she was going to be here today;
2 isn't that correct?

3 A: That's correct.

4 Q: She had some kind of conflict.

5 A: She has a aunt that's in poor health in the
6 state of Florida.

7 Q: Okay. And she sent this letter on his behalf?

8 A: That is correct, sir.

9 Q: And asked that it be considered by the council?

10 A: Yes, sir.

11 Q: Okay. Now, the -- the lie that he told you, he
12 basically denied being on the property that
13 day?

14 A: Correct.

15 Q: He was concerned about a CDV, correct?

16 A: Correct.

17 Q: And his wife was a little unstable, or do you
18 know that?

19 A: Yeah. From talking to John and other law
20 enforcement personnel, yes.

21 Q: Okay. Do you -- did you ever run a check to
22 see how many complaints she has made, phone
23 calls?

24 A: I did at one time, and I can't remember the
25 number.



1 Q: Okay.

2 A: There was -- it was several.

3 Q: Okay. And he's -- he's -- there's no criminal
4 charge against him. You want to re-employ him.
5 And we're here today because the council says
6 that would be disqualifying?

7 A: Correct.

8 Q: This lie had nothing to do, really, with the
9 City of Pelion, right?

10 A: No, sir.

11 Q: And it had nothing really to do with his job --

12 -

13 A: No, sir.

14 Q: --- other than he was married to her, and this
15 occurred as an employee, correct?

16 A: Correct.

17 Q: Okay. You have -- go ahead.

18 A: I think John was really upset because I'm very
19 strict with discipline and I have been. I'm
20 starting my 35th year of law enforcement next
21 month. And I think he -- he's had a long time
22 to think about this. Because I'm, you know,
23 I'm very strong on family ties, family values,
24 and being truthful. And for him to come
25 forward and tell me that, that he did make that



1 mistake, his concern he told me was losing his
2 child.

3 Q: And that -- you haven't seen the pending
4 divorce issues and children -- the child
5 custody or anything, have you?

6 A: No, sir.

7 Q: Okay. You have no hesitations on asking the
8 council to reinstate him?

9 A: No, sir. He'd be placed on special probation
10 and monitoring, of course.

11 Q: Okay.

12 A: And it would be a part-time position.

13 Q: Okay. But there was nothing in that year that
14 he's been working as a, I guess, a civilian for
15 you doing the wiring and things in the
16 department, during that year there's no
17 indication he ever misled you again, did he?

18 A: Not -- not at all.

19 Q: Okay. Okay. And he -- you didn't call him and
20 say come in here and tell me, explain this, did
21 you?

22 A: He -- as a matter of fact, a couple days after
23 his arrest, he called me because we had -- as
24 you can understand, the town had some money
25 tied up in the system.



1 Q: Uh-huh.

2 A: And he made it clear that he would come in and
3 finish that job, and not only finish it, that
4 he would maintain it forever, as long as he was
5 in the area. And he did and has done that.
6 He's been called out on the weekends more than
7 once, late at night or, you know, week nights
8 when these cameras go down and he's been right
9 there for the town. And I explained to the
10 town, I said, you know, we can put in for this
11 process, but it's going to be up to the
12 council.

13 Q: Okay. And so he's dedicated to the town? It's
14 pretty obvious.

15 A: He's very dedicated. Well, since this
16 incident, he has recently purchased a home in
17 the town limits of Pelion and is living in the
18 town limits of Pelion now.

19 Q: Okay. Just a couple questions. The CDV issue
20 was resolved; it was dismissed, correct?

21 A: Solicitor's Office did not prosecute.

22 Q: They didn't prosecute because there was no ---

23 A: That's correct.

24 Q: --- there was really no violation at all?

25 A: Correct.

1 Q: Okay. And you have no qualms about asking him
2 back?

3 A: No.

4 Q: And you have -- you trust him totally?

5 A: I do.

6 Q: And you thought it was impressive, I guess is
7 maybe not the right word, but he came in the
8 very next morning or next -- before noon?

9 A: It took, you know -- again, in 35 years, I've
10 seen a lot. And for someone to come forward
11 like that, and John is quite younger than me,
12 I was impressed.

13 Q: Okay. If you have anything else you'd like to
14 tell the board on his behalf?

15 A: You know, we'll respect whatever the board
16 comes up with, Chief. I've seen a lot --
17 again, I've seen different issues that, you
18 know, didn't make it this far in other
19 situations. And, you know, one -- again, one
20 of my concerns, if I would have been called
21 earlier during the investigation, we wouldn't
22 be sitting here.

23 Q: Okay.

24 A: I could tell you that right now.

25 Q: Who was -- well, during that investigation, did



1 you -- you didn't get involved at all. All --
2 you just found out by phone calls or what?

3 A: John's the first one that ---

4 Q: He ---

5 A: Sergeant Elkin notified me before the Sheriff's
6 Department did.

7 Q: Okay.

8 A: That -- that was my concern.

9 Q: Okay.

10 A: Because I'm a former, as you all know, former
11 commander with Lexington County. When a
12 situation like that happens, that agency had --
13 is to be notified immediately and/or the mayor
14 and/or the on-duty person.

15 Q: So as a former employee there, do you think
16 this matter was a little blown out of
17 proportion by the officer?

18 A: It could have been.

19 Q: It could have been?

20 A: You know, again, my concern is if -- you know,
21 one of my personnel is involved -- no different
22 if he's in a vehicle wreck. We respond to it
23 if he's in his POV. We go to the scene, if
24 possible. Of course, if they're out of state,
25 it's a different story. But again, I'm -- I

1 live less than two and a half miles from this
2 location.

3 Q: So you could have easily responded?

4 A: Yes.

5 Q: Okay. Okay.

6 MR. O'LEARY: I have no further questions.

7 HEARING OFFICER: Chief, I've got one question.

8 CHIEF GARNER - EXAMINATION BY HEARING OFFICER:

9 Q: Does the fact that he has admitted to lying to
10 you, do you have -- does it cause you any
11 concern with Giglio issues that you'd have with
12 him testifying ---

13 A: No, sir.

14 Q: --- in court in the future?

15 A: No, sir.

16 Q: You have no concern about that?

17 A: No, I do not.

18 Q: Okay.

19 A: I mean, I realize I'm going out on the line for
20 this guy, but I don't. I mean, it's my
21 reputation also, and I understand that.

22 MR. O'LEARY: And you said in your original
23 testimony, I think when you first started out,
24 that he was panicked at the time when it all
25 happened?



1 A: Oh, yeah.

2 MR. O'LEARY: I mean, his life was on the line, his
3 wife is trying to get custody, and he's
4 despondent over the fact.

5 A: Correct.

6 MR. O'LEARY: Okay. I have no further questions.

7 MS. DUNCAN: Okay.

8 MR. O'LEARY: Chris, you can leave if -- do you have
9 questions?

10 MS. DUNCAN: No.

11 (Off the Record)

12 CPL. EDWARD RICHARDSON, having been duly sworn,
13 testifies as follows:

14 CPL. RICHARDSON - DIRECT EXAMINATION BY MR. O'LEARY:

15 Q: And state your name.

16 A: Edward Richardson.

17 Q: And, Edward, where are you working?

18 A: I'm actually a corporal at the Lexington County
19 Sheriff's Department, but I am a part-time
20 officer at the Town of Pelion where I also hold
21 the rank of corporal.

22 Q: Okay. So you're in the two locations?

23 A: Yes, sir.

24 Q: And you know John Elkin in this case?

25 A: Very much.

1 Q: How long have you known him?

2 A: I want to say it's almost 11 years at this
3 point.

4 Q: Did you -- did you go through the Academy
5 together?

6 A: We went through the Academy together, but we
7 knew each other prior to the Academy. He
8 actually was employed with my ex-wife at the
9 dispatch highway patrol at the time.

10 Q: Okay. Now let me ask you, I'm just going to
11 get right to the incident on October 13th of
12 '13 and 14th. Do you recall going to the
13 chief's office in Pelion?

14 A: Yes, I do.

15 Q: And who called you over there?

16 A: Honestly, I can't recall if it was -- if it was
17 John or the chief, one of the two of them. I'd
18 been in contact with both all day and was asked
19 to come down there.

20 Q: Were you on duty or off duty, or do you
21 remember?

22 A: I was on duty with the Sheriff's Department at
23 the time.

24 Q: Sheriff's Office. And so you met with Chief
25 Garner, correct?



- 1 A: Yes, sir.
- 2 Q: And John came into that meeting?
- 3 A: Yes, sir.
- 4 Q: And what happened at that meeting?
- 5 A: At that meeting John resigned his position,
6 asked me to take possession of some of his
7 personal weapons considering the situation that
8 had happened and asked me to hold them until
9 the outcome of the case so that they would not
10 be in his possession.
- 11 Q: Okay. And what time of day was that, do you
12 know?
- 13 A: It was around lunchtime, maybe late -- or late
14 morning. I really couldn't recall the time
15 specifically off the top of my head. I know it
16 was some time during the day around lunch.
- 17 Q: Okay. Are you -- you were familiar with John.
18 Were you familiar with his wife?
- 19 A: Yes, sir.
- 20 Q: And you were aware that they were having
21 marital problems?
- 22 A: Yes, sir.
- 23 Q: And do you know what the basis was of the
24 problems?
- 25 A: Yeah. I'm trying to think of the nicest way to



1 put this.

2 Q: No, you can put it -- go ahead, it's fine.

3 A: She, like my ex-wife, decided to be unfaithful
4 numerous, numerous times.

5 Q: You haven't seen the transcript of her
6 deposition?

7 A: I have not seen the transcript.

8 Q: Are you aware that -- or maybe you're not, but
9 this date was the 14th that you were at the
10 chief's office ---

11 A: Yes.

12 Q: --- of October?

13 A: Yes, sir.

14 Q: Are you aware that he was going to have a
15 custody hearing a couple days later?

16 A: Yes, I was.

17 Q: And did that add a lot of tension and concern
18 for John?

19 A: Yes, it did. Actually, we spent a lot of time
20 talking on the telephone about it for the weeks
21 leading up to it.

22 Q: He was quite concerned about getting -- losing
23 joint custody of his child?

24 A: Yes, sir.

25 Q: Okay. Now, he -- when he resigned, did you



1 take him home or did somebody else take him
2 home?

3 A: I did not take him home. I'm not sure who did
4 take him home.

5 Q: Okay.. But you at the time he resigned, is that
6 what -- how the whole conversation began that
7 day; he just said, look, I'm resigning, I lied
8 to you?

9 A: We talked a few times throughout the morning.
10 And when he called me and told me, hey, he was
11 headed over to the chief's office to explain
12 everything to him, like I said, I'm not sure if
13 it was he or the chief that had asked me to ---

14 Q: That's fine.

15 A: --- be present. But yeah, it was pretty much,
16 hey, I made a mistake. He turned around and
17 said I know I didn't do the, what they said;
18 however, I'm going to resign my commission
19 until the end of the investigation.

20 Q: Okay. Now, with this particular situation, are
21 you aware for his propensity for truth?

22 A: Yes.

23 Q: And outside of this particular instance, do you
24 know of any other problem he's ever had?

25 A: When I was asked by the chief when everything



1 happened, because as I said, I'd been on the
2 telephone back and forth with everybody that
3 day, and he asked me point blank if I thought
4 that there was any sort of deception, I told
5 him that I had never in my entire time knowing
6 John ever had him be deceptive about anything
7 and I wholeheartedly believed what he was
8 telling me because I have no reason to believe
9 else -- or otherwise. He's never been
10 deceptive at any time.

11 Q: You think his number one priority at that point
12 in time was the custody issue two days later?

13 A: I believe absolutely it was. And when he
14 called me back a very short time later to tell
15 me that he had been deceptive with me, that was
16 one of the first things that came out of his
17 mouth.

18 Q: Okay. Do you have anything else you'd like say
19 on his behalf?

20 A: This is one of those guys that I've been in the
21 trenches with. I don't know how else to
22 describe it. I mean, Mr. Keel, you've been out
23 there. You've been in the trenches. You've
24 relied on somebody to have your back. You've
25 known what it's like in this -- in this field



1 to trust somebody and how difficult it is to do
2 so. It's like that country song, You Find Out
3 Who Your Friends Are. There's never been a
4 time when I've been involved in a life-
5 threatening situation with John where I haven't
6 known he's going to have my back or a family
7 situation with John where I haven't known that
8 he would have my back. He's my friend all the
9 way around at work and at home, and that's a
10 rarity in this field. It always has been a
11 rarity in this field. And he's one of the few,
12 I can count them on one hand, that I know would
13 be there for me in both situations.

14 Q: I appreciate your testimony. Answer any
15 questions that they may have and that the
16 director may have.

17 **CPL. RICHARDSON - EXAMINATION BY HEARING OFFICER:**

18 Q: Corporal, I just want to ask you again -- and
19 I think you've said it, but basically when he
20 -- when you met with them at the town hall with
21 chief and with John, what was -- what was in
22 essence the conversation that was had that day?

23 A: In essence, the conversation was that he had
24 explained the fact that he had actually been
25 there during the incident. And that based on

1 that situation, he was resigning his commission
2 until the end of the investigation. And
3 apologized for being deceptive in the beginning
4 of the situation.

5 Q: Okay. All right. I don't have anything
6 further.

7 **CPL. RICHARDSON - RE-DIRECT EXAMINATION BY MR.**

8 **O'LEARY:**

9 Q: And one question. The house where this
10 domestic issue took place with Kristy, it's a
11 farm house? It's a rural area, isn't it?

12 A: Yes, sir.

13 Q: Do you understand the basis was just her
14 allegation against him?

15 A: Absolutely.

16 Q: There was no other witnesses?

17 A: Absolutely.

18 Q: Okay. I have no further questions. Listen, I
19 appreciate it. you're excused. If you'd like
20 to go, you have -- feel free to go. And I
21 thank you for coming out here.

22 A: I appreciate it.

23 **HEARING OFFICER:** Corporal, thank you.

24 **(Off the Record)**

25 **DANIEL R. BLEDSOE**, having been duly sworn, testifies



1 as follows:

2 MR. BLEDSOE - DIRECT EXAMINATION BY MR. O'LEARY:

3 Q: State your name.

4 A: Daniel R. Bledsoe.

5 Q: Okay. And Dan, where are you working now?

6 A: Now, I work for the South Carolina Army
7 National Guard at McCrady Training Center.

8 Q: Okay. And you're full time?

9 A: Yes, sir, I am.

10 Q: And you're retired from highway patrol?

11 A: Highway patrol.

12 Q: What year did you retire?

13 A: 2006, sir.

14 Q: You've got no gray hair. That surprised me.
15 So how long have you -- you know John Elkin?

16 A: Yes, sir, I do.

17 Q: Okay. How long have you known him?

18 A: I've known John for -- whenever he came into
19 our unit, I would say five, six years ago.

20 Q: And he's -- he's not full time in the unit?

21 A: He is now.

22 Q: He is?

23 A: He's -- he's on something called ADOS,
24 additional duty, special work orders.

25 Q: What does he do or specialize in?

1 A: Actually, I tasked him with upgrading our
2 communication system at McCrady. We were in
3 violation of Federal Communication Commission
4 laws.

5 Q: Technical violations?

6 A: Yes, sir, technical -- technical violations.
7 Nothing to go to jail over. But tasked him
8 with doing that. He runs ranges. He's just
9 sort of a jack of all trades for us.

10 Q: Do you know his reputation for truth and
11 veracity in his employment and everything?

12 A: I do, yes, sir.

13 Q: And you're aware of why we're here today?

14 A: Yes, sir, I am.

15 Q: Would you have any problems -- you've been in
16 law enforcement. Do you feel that he would be
17 a good law enforcement officer?

18 A: I do.

19 Q: Do you think he'd be truthful in his job?

20 A: Yes, sir, I do.

21 Q: And so you're supporting that they reinstate
22 him or allow him to become one?

23 A: Yes, sir.

24 Q: Okay.

25 A: Very much so.



1 Q: Do you have anything else you'd like to say on
2 his behalf here to the board?

3 A: I will say this. John is someone that I can
4 depend on to run ranges, to be there when I
5 need him. I'm sort of taken out of that role
6 right now, more of a garrison first sergeant.
7 His boss, Sergeant Sandy now, depends on John.
8 My boss talked to me this morning. He said,
9 hey, you know what, John has really, really
10 done a great job with the communication system.
11 Our commander appreciates what he's done. He's
12 actually started working on our website now.
13 And just anything you task him to do, it's
14 going to be done to completion. And never had
15 a problem with John not telling me the truth
16 about things. He's always come to me. And
17 what I appreciate, the getting out the -- you
18 know, staying in the patrol mentality of
19 passing information up, John will pass
20 information along. If he has any kind of
21 problems or anything like that, he'll pass it
22 along to me. So very much support John in his
23 endeavors.

24 Q: Okay. Well, I appreciate your testimony.
25 Answer any questions that they may have.

1 A: All right, sir.

2 **MR. BLEDSOE - EXAMINATION BY HEARING OFFICER:**

3 Q: The only thing -- the only question I've got,
4 do you have -- you don't have any firsthand
5 direct knowledge about this specific incident
6 that he was terminated for and he resigned for?
7 I mean, you weren't there and present when all
8 this happened?

9 A: No, sir, Chief. I was not.

10 Q: All right. I don't have anything else.

11 **MR. O'LEARY:** That's why I didn't -- I didn't think
12 he did, so -- okay. Well, thank you. You're
13 excused if you'd like to be.

14 (Off the Record)

15 **CAPT. MIKE CRIDER**, having been duly sworn, testifies
16 as follows:

17 **CAPT. CRIDER - DIRECT EXAMINATION BY MR. O'LEARY:**

18 Q: Captain, will you state your full name?

19 A: George Michael Crider.

20 Q: Where are you employed?

21 A: Town of Pelion. Pelion Police Department.

22 Q: How long have you been there?

23 A: Ten years.

24 Q: And you work for Chief Garner?

25 A: Chris, yes, sir.



- 1 Q: You been ten years there at that department?
- 2 A: Yes, sir.
- 3 Q: Okay. Now, let me just draw your attention,
- 4 you know John Elkin in this -- you know him,
- 5 don't you?
- 6 A: Yes, sir.
- 7 Q: How long have you known him?
- 8 A: Since June of last year.
- 9 Q: Okay. Are you aware of an incident that
- 10 occurred basically in October the 14th of so,
- 11 did you have occasion to take him from the
- 12 department, after he resigned, home?
- 13 A: Yes, sir.
- 14 Q: And can you describe -- how did you get
- 15 involved in it that day? Did Chief call you?
- 16 A: Yes, sir.
- 17 Q: And you weren't in the room at the meeting,
- 18 correct?
- 19 A: No.
- 20 Q: And your job was to just drive him back to
- 21 wherever he was living.
- 22 A: To home.
- 23 Q: Where did he live at that time?
- 24 A: In Forest Acres.
- 25 Q: Forest Acres? And at that time did he seem a



- 1 little distraught on this being transported
2 home?
- 3 A: Upset.
- 4 Q: He had just resigned in the office.
- 5 A: Yes.
- 6 Q: Are you aware that he was having marital
7 problems that caused a lot of his difficulty?
- 8 A: Yes, sir.
- 9 Q: Okay. And are you aware that there was a CDV
10 allegation against him, and that's what he lied
11 about?
- 12 A: Yes, sir.
- 13 Q: But you weren't privy to that conversation?
- 14 A: No, not at that point. No, sir.
- 15 Q: Do you have -- okay. Do you have any -- have
16 you dealt with him while you were a member of
17 the department when he was with the department?
18 You dealt with him as a supervisor?
- 19 A: Yes, sir.
- 20 Q: And did you have any problems with him?
- 21 A: Not a bit. No, sir.
- 22 Q: Was he always truthful to you?
- 23 A: Yes, sir.
- 24 Q: Did you have any -- any questions about whether
25 he could be truthful to all that does in law



1 enforcement?

2 A: Oh, no. No, sir.

3 Q: Okay. I have no further questions.

4 **HEARING OFFICER:** I have none.

5 Q: Okay. I appreciate it. You're excused if you
6 like to go home.

7 (Off the Record)

8 **LT. DARREN NORRIS**, having been duly sworn, testifies
9 as follows:

10 **LT. NORRIS - DIRECT EXAMINATION BY MR. O'LEARY:**

11 Q: State your name.

12 A: Darren Lee Norris.

13 Q: Okay. And, Darren, where are you employed?

14 A: The Pelion Police Department.

15 Q: Is that full time, part time?

16 A: It is part time.

17 Q: Okay. Is part of your -- how long have you
18 been over there?

19 A: Approximately six years, maybe seven.

20 Q: Okay. And in addition to that, you also do
21 security work, don't you?

22 A: I own a consulting firm.

23 Q: For musicians or singers?

24 A: We do government, corporate ---

25 Q: Okay.

- 1 A: --- entertainment.
- 2 Q: Okay. Is part of your job over with Pelion --
- 3 you know John Elkin?
- 4 A: Absolutely.
- 5 Q: Okay. Did you -- were you asked to do a
- 6 background check of Mr. Elkin for re-employment
- 7 with the department?
- 8 A: I did. The chief directed me to -- part of my
- 9 job aside from training and accreditation is
- 10 anything internal affairs, anything
- 11 investigative. And Chief directed me, after he
- 12 advised me that he was looking at rehiring Mr.
- 13 Elkin, to do a complete background
- 14 investigation, so that's basically what I did.
- 15 Q: And did you do that?
- 16 A: I did.
- 17 Q: And what did you find -- let me ask you this.
- 18 Is your intention to put some of that into
- 19 evidence here or ---
- 20 A: Not unless specifically requested, and then we
- 21 can run copies at that point.
- 22 Q: Tell us what you found.
- 23 A: Basically, I started his background
- 24 investigation on July 16, 2014, and concluded
- 25 on September 2, 2014. Just the high points of



1 the investigation. I ran a South Carolina
2 driving record. The only thing I found there
3 was he had a non-contributing accident on 3/15
4 of 2013. Other than that, it was clear of any
5 violations. Criminal history to include
6 fingerprints. The results were clear of any
7 violations. Fingerprints, of course, came back
8 to his identity. Credit report came back
9 positive. He had several installment and
10 revolving accounts, all of which seemed to be
11 paid on time. There were two potential
12 negatives was the only thing I found. One was
13 a \$251 medical bill, and another one was a
14 settled account. But there were no indication
15 that he lives above his means, and it appears
16 that he pays his bill on time -- bills on time.
17 I didn't see anything that would preclude him
18 from employment with law enforcement such as
19 student loans that were defaulted. And if you
20 have questions on those ---

21 Q: No. Let me just ask you this. Is he current
22 -- does your report reflect the marital status?

23 A: I believe it still is married.

24 Q: He's in the process of a divorce; is that
25 correct? Or do you know that?

1 A: That I'm not sure of.

2 Q: Okay.

3 A: I know he is separated and living on his own.
4 He has his own house that he just purchased
5 within the town limits of Pelion. And, you
6 know, as far as that goes, I know he's moving
7 in the direction towards a divorce. Hope I'm
8 not speaking out of character. That was the
9 last I was informed.

10 Q: How big is Pelion, just out of curiosity,
11 what's the square miles?

12 A: What is it, about three to four square miles,
13 I think. It's small.

14 Q: Okay. So he just bought there. Do you have
15 any indication that he's ever -- he's lying
16 about anything or ---

17 A: None whatsoever.

18 Q: He answered all your questions?

19 A: Absolutely, which brings me to my next point,
20 his character references. I ran several -- I
21 called several character references, both
22 listed and some that I generated. Everything,
23 and majority of them are law enforcement, both
24 personal and previous supervisors, and all of
25 them came back very positive that he is a man



1 of good character. And, you know, just to kind
2 of summarize everything, I don't see anything
3 that would be, you know, detrimental to him
4 serving in law enforcement.

5 Q: But you had no personal knowledge of this
6 incident that took place with the chief, did
7 you?

8 A: I don't. I was actually out of the country at
9 the time ---

10 Q: Okay.

11 A: --- when all this happened.

12 Q: You were on a tour with who?

13 A: Probably Josh Groban.

14 Q: You still doing that?

15 A: Yeah. Fly to Tampa Friday as a matter of fact.

16 Q: Okay. Okay. You're aware too during this
17 period of time since he resigned as an officer,
18 he's been working with the department?

19 A: Absolutely.

20 Q: And are you aware of any of the work he does
21 with the department?

22 A: Yeah. Because I've actually tasked him with
23 several things during that period while I've
24 been back. You know, everything IT related.
25 You know, setting up various laptops, mine

1 included, my desktop, and other things around
2 the agency just to do. Everything has been
3 done in a timely manner. It's been done, you
4 know, just everything seems to work great. I
5 know he streamlined all of our data processing
6 and stuff there and it, you know ---

7 Q: Okay.

8 A: --- has modernized a lot of stuff and made
9 everyone's job a lot easier.

10 Q: And that -- I don't know exactly how to do
11 this, but that is your complete report on him.

12 MR. O'LEARY: If y'all want it, we'll have him copy
13 it or whatever and give it to you if you want.

14 A: I have a summarized which has the bullet points
15 pretty much of everything, what I was basically
16 reading from. You're welcome to enter that
17 into evidence.

18 Q: Yeah. If you don't mind, we'll put that in.

19 A: If I could just hang onto this one copy, or if
20 you have ---

21 Q: We'll make a copy of it.

22 MS. DUNCAN: We'll make a copy.

23 A: Just so I can read from it while we're sitting
24 here.

25 Q: She can mark it, and we'll get a copy. Okay?



1 COURT REPORTER: Okay. That will be Number Four.
2 (Elkin's Exhibit Number Four was entered into
3 evidence.)

4 A: I'm going to actually borrow that one while
5 we're still talking. I'll give it right back
6 to you.

7 Q: Okay.

8 A: Military service, everything is good to go
9 there. Honorable service. His first sergeant,
10 who I believe you already talked to, I had
11 spoke with, and he gave a positive
12 recommendation. I reviewed his DD 214s from
13 active and Guard time. All character of
14 service was honorable. You know, previous
15 employment, you know, there was -- with the
16 Town of Pelion, you guys -- do you want the
17 date ---

18 Q: No. That's in your report?

19 A: Yeah.

20 Q: We'll just put that in there.

21 A: Yes, sir.

22 Q: So whatever -- it's your summary. You looked
23 at the Academy records.

24 A: Absolutely. In a nutshell, I didn't find
25 anything that really jumped out. And honestly,

1 you know, I think he would be an asset to us or
2 any agency that would have him. He's done a
3 really good job. The one thing that -- you
4 know, I've talked to the chief. We've spoke in
5 detail about this. And if it's one thing I can
6 tell you, he's a dedicated father. And that
7 goes a long way.

8 Q: Okay. And are you aware that they -- the
9 divorce, is that final? There's still issues
10 of custody ---

11 A: Absolutely.

12 Q: --- that's up in the air?

13 A: Absolutely.

14 Q: Okay. We have no further questions. I
15 appreciate you coming in.

16 A: Absolutely.

17 (Off the Record)

18 **HEARING OFFICER:** Darren, can I ask one question?

19 **MR. NORRIS:** Yes, sir, Chief.

20 **MR. O'LEARY:** Sorry.

21 **LT. NORRIS - EXAMINATION BY HEARING OFFICER:**

22 Q: Was a review of the Academy -- you say you
23 reviewed his Academy -- was that training
24 records? Or did you review the Academy to
25 determine if there had ever been any other



1 misconduct?

2 A: Yes, sir. There was -- there was only one
3 thing from highway patrol, which was a
4 termination for misconduct. But the Academy
5 also ruled that with that, that the allegations
6 of misconduct did not meet Regulation 38- 004.

7 Q: And do you know what they initially listed it
8 as?

9 A: They just had it checked as misconduct. But my
10 review of it, it appears that it just was -- it
11 was administrative, not having paperwork in on
12 time, and missing a court date. And I don't
13 see -- personally, if that was one of my
14 officers, I would not have sent that in under
15 misconduct.

16 Q: All right. Okay.

17 A: But other than that, there was nothing else.
18 All those other PCS forms had a positive review
19 on it.

20 Q: Okay.

21 MR. O'LEARY: Misconduct covers a lot of things. I
22 mean ---

23 A: Absolutely. I think it's ---

24 MR. O'LEARY: It's a broad area.

25 A: And I think that's kind of a broad area that's

1 used a little too often with a stroke of a pen
2 for people.

3 **MR. O'LEARY:** Appreciate it. Thank you very much
4 for coming in.

5 **JOHN ELKIN,** having been duly sworn, testifies as
6 follows:

7 **MR. ELKIN - DIRECT EXAMINATION BY MR. O'LEARY:**

8 Q: Okay. John, state your full name.

9 A: John Elliot Elkin.

10 Q: How old are you, John?

11 A: Thirty-three.

12 Q: Are you -- still currently married?

13 A: Yes, I am.

14 Q: And you're in the process of a divorce?

15 A: Yes, I am.

16 Q: And you provided me, I think, basically show
17 you this -- is this the transcript you provided
18 for the deposition of your wife?

19 A: It is.

20 Q: Which goes -- in that deposition, doesn't she
21 go into all of her infidelity and her
22 statements as to you -- as to your background
23 and everything?

24 A: Yes.

25 Q: Okay.



1 MR. O'LEARY: I'd introduce that because it's
2 interesting reading.

3 Q: That was done by Jake Moore, wasn't it?

4 A: Jr.

5 Q: That was Jr.'s? Okay. When is the divorce
6 supposed to be final?

7 A: We have a final hearing scheduled for January
8 the 21st.

9 Q: Okay. Now, there was time in October of --
10 around October 13th of last year that you --
11 you initially contacted your wife, correct?

12 A: Yes.

13 Q: You were separated from her?

14 A: Yes.

15 Q: Where were you living?

16 A: At the time I was living in Forest Acres on
17 Covenant Road.

18 Q: And she was living where?

19 A: At the marital residence on W.E. Jeffcoat Road.

20 Q: And who -- who owns that house?

21 A: It's owned by my in-laws, her parents, and, you
22 know, we were renting it from them.

23 Q: It's a pretty isolated location?

24 A: It is.

25 Q: You have one child, correct?

- 1 A: That's correct.
- 2 Q: What's the child's name?
- 3 A: Clara.
- 4 Q: How old is Clara?
- 5 A: She's five.
- 6 Q: And do you still currently have joint custody
- 7 with her?
- 8 A: I do, sir.
- 9 Q: And there is an issue about whether you'll get
- 10 sole custody coming up?
- 11 A: Now there is, yes.
- 12 Q: Yes, okay. Because of this deposition?
- 13 A: That deposition and the subsequent actions from
- 14 Kristy and her character.
- 15 Q: How many acts of infidelity did she have in
- 16 here, were there nine, ten?
- 17 A: That -- they don't want to say. It was about
- 18 ten. To date, it's 12.
- 19 Q: Okay. With names and addresses of the -- or
- 20 the people involved, correct?
- 21 A: I believe so.
- 22 Q: Okay. Now, let me -- on that date back in
- 23 October 13th or so, did you -- you called her
- 24 first is my understanding, correct? Or how did
- 25 you -- how did you hook up that day?



1 A: Okay.

2 Q: Hook up is not the right word. How did you
3 contact her or she contact you?

4 A: We had been texting. And up until this point,
5 we had had a very good ---

6 **HEARING OFFICER:** Excuse me. This is October 13th
7 we're talking about?

8 A: October 13th of last year.

9 **HEARING OFFICER:** Okay.

10 A: Yes, sir. And even prior to this event, we had
11 conversations that were calm. I mean, we were
12 very level-headed about things. October 13th,
13 I had started texting her because we had a
14 deposition scheduled, and we were going to try
15 to sit down between the attorneys and see if we
16 could hash some stuff out. And ---

17 Q: Now, is it true there was a hearing coming up
18 maybe four or five days later, three or four
19 days later?

20 A: That's correct.

21 Q: Okay. And did you ultimately go over to the
22 house where she's living?

23 A: I did.

24 Q: And what time of day was that?

25 A: Afternoon.

1 Q: Okay. And in that conversation, tell us what
2 occurred. What were you -- what were you
3 arguing over?

4 A: Child custody.

5 Q: Okay.

6 A: Basically, I was trying to give her the ability
7 to come to an agreement before we have to get
8 all the attorneys involved, pay all the money
9 to everybody, and have her drug through a
10 deposition that was not going to be a pleasant
11 experience for either of us, to include her.
12 And it would be in the best interest of Clara
13 for both of her parents to be in her life a lot
14 more than every other weekend that had been
15 done.

16 Q: Now, that day when you went over there, you
17 talked to her, I think, on the porch, correct?

18 A: That's correct.

19 Q: And the baby was inside?

20 A: That's correct.

21 Q: Correct? And did she -- did your wife get --
22 you told her you knew about her infidelity,
23 correct?

24 A: Oh, yeah.

25 Q: She says that in her deposition.



1 A: That's correct.

2 Q: And you were still willing to try to work
3 things out?

4 A: Yes, I was.

5 Q: Okay. Now, at some point -- what happened?
6 Did she walk away from the house leaving you
7 there on the porch?

8 A: At some point we -- we started arguing about --
9 I don't even know how the argument started. As
10 you find in most cases when you investigate an
11 argument, doesn't really -- really doesn't
12 remember how. But she didn't agree with my
13 plan. I didn't agree with her plan. And I
14 remember at some point I asked her if Javin,
15 her current boyfriend, had been at the house.
16 She didn't want to answer that. Her cell phone
17 was sitting on her -- on the hand -- or the
18 armrest of the rocking chair. She was -- we
19 were both sitting next to each other in rocking
20 chairs. And I reached over and took the phone.
21 I said, well, I'll call Javin and, you know,
22 I'll talk to him because I know he's not
23 supposed to be around his own kids. And I
24 immediately stood up and went to leave the
25 property and put the phone in my pocket. As I



- 1 walked away from the porch and I walked towards
2 my vehicle at the time to leave, Kristy had
3 approached me from behind and with her left
4 hand, reached out with her left hand and
5 grabbed me underneath the right elbow causing
6 two scratches across my elbow. That caused me
7 to turn around. She attempted to get into my
8 right front pocket; which I put her phone in.
9 And that put her in between me and the car.
10 And she refused to get out of my way. I -- it
11 was obvious to me that she was trying to
12 provoke me to either shove her or ---
13 Q: And you did -- you did not touch her or provoke
14 her or anything? She admits that ---
15 A: Never.
16 Q: --- in here, that you never touched her.
17 A: That's right.
18 Q: She walked away eventually, didn't she? She
19 went to her aunt's house next door?
20 A: That's right. I ended up walking back to the
21 house to sit down since she wasn't going to let
22 me in the car. She then went inside, got
23 Clara, and then walked across the property to
24 her aunt's house.
25 Q: Okay. And then you got in your car and left,



1 correct?

2 A: Yes.

3 Q: And then it's your understanding that she then
4 called 911 from her aunt's house?

5 A: That's correct.

6 Q: And that's what started this whole thing,
7 correct?

8 A: That's correct.

9 Q: And the officers contacted you and interviewed
10 -- at some point they talked to you, correct?

11 A: That's correct.

12 Q: And you denied being there, correct?

13 A: That's correct.

14 Q: Okay. Now, you -- it's later that evening, did
15 you also call your chief, Chief Garner?

16 A: I did.

17 Q: Were you scheduled to go to work at all -- when
18 was your next shift? Do you know when you were
19 going to go back?

20 A: I was scheduled to be here for basic detective
21 for two weeks.

22 Q: Oh, you were over at the Academy at that time?

23 A: Right.

24 Q: Okay. And you made a call back to Garner and
25 set up a time to come see him the next morning,

- 1 or how did that work?
- 2 A: I called Chief on the 13th and told him there
3 was an incident at the house and that I denied
4 being there.
- 5 Q: Basically you lied?
- 6 A: I did, yes.
- 7 Q: Okay, yeah. And were you -- at that time were
8 you panicky and scared about the issue of the
9 CDV and the effect it has on custody?
- 10 A: I was, yes.
- 11 Q: Okay. And you told him -- that was a phone
12 conversation with the chief, right?
- 13 A: It was.
- 14 Q: And then the next morning you contacted him
15 again and went over and saw him, didn't you?
- 16 A: That's right.
- 17 Q: And how did -- what time did you get there, do
18 you know?
- 19 A: I -- it was around lunchtime. I mean ---
- 20 Q: Okay. And in the room was who, the other
21 officer?
- 22 A: Deputy Richardson ---
- 23 Q: Okay.
- 24 A: --- and Chief Garner.
- 25 Q: And you told Garner you were going to resign;



1 you said -- told him you had lied to him,
2 correct?

3 A: Yes, sir.

4 Q: And you resigned?

5 A: I did.

6 Q: And then you got a ride home with Captain
7 Crider?

8 A: That's correct.

9 Q: Okay. Now, that divorce issue is still pending
10 and the custody issue is still up in the air,
11 correct?

12 A: It is, yes.

13 Q: What happened about the hearing coming up three
14 days after the 13th around the 15th or 16th?

15 A: Due to the events that had transpired, the
16 Sheriff's Department requested that we not have
17 any contact with Kristy during the
18 investigation, and we had cancelled the
19 hearing. Subsequently after that, the case was
20 transferred to SLED for conflict purposes who
21 also made the request that during their
22 investigation we not have any contact with
23 Kristy, so we halted all family court actions
24 until after the investigation.

25 Q: And the investigations were complete, and you

1 were exonerated, correct? The charges were
2 dropped?

3 A: Right. After an arrest.

4 Q: After the arrest?

5 A: Yes, sir.

6 Q: Okay. And that is -- that whole incident has
7 been cleared up, correct?

8 A: That is correct.

9 Q: And she was asked about that in this deposition
10 too?

11 A: She was..

12 Q: And she clearly said in there that you never
13 touched her and never did anything to her?

14 A: That's right.

15 Q: Okay. Now, after you resigned you've continued
16 to work with the department?

17 A: That's right.

18 Q: And what's your specialty? I noticed your
19 resume. You do the electronic stuff?

20 A: IT related. I work on computers, our network
21 infrastructure, mainly Microsoft Active
22 Directory and Exchange. I've got a familiarity
23 with the records management system at Pelion
24 that we use because I was pretty familiar with
25 it at Cayce, so I was able to speed up how that



1 thing accessed records a good bit as it was
2 running.

3 Q: Where did you learn all that? Where did you go
4 to school?

5 A: I picked it up along the way.

6 Q: You just picked it up?

7 A: I programmed my first basic computer at the age
8 of four.

9 Q: How old are you?

10 A: I'm 33.

11 Q: Thirty-three. You'll have to come teach me.
12 Okay. So that particular day after you spoke
13 to the chief, it was probably a brief meeting,
14 you left, went home, correct?

15 A: That's right.

16 Q: But you continued to work with him?

17 A: That's right.

18 Q: And you readily admitted that you lied?

19 A: Yes, sir.

20 Q: And you lied because the only two witnesses to
21 the incident of you even being there was you
22 and her?

23 A: That's right.

24 Q: Okay. You were panicking, correct?

25 A: That's right.

1 Q: Okay. And you fully accept responsibility for
2 the deception?

3 A: I do.

4 Q: Now, it's my understanding you've reapplied and
5 that's what we're here for today. Have you
6 ever falsified anything else or lied about
7 anything else?

8 A: No, I haven't.

9 Q: You really don't lie, do you?

10 A: No.

11 Q: In fact, the reason after you got Jake Moore
12 involved as your attorney, you said, look, I
13 told him the wrong thing, it's not correct?

14 A: That's right.

15 Q: And that's why you went back and recanted?

16 A: That's right.

17 Q: Okay. Did you ever finish that training that
18 week at the Academy?

19 A: I reported the first day and then I resigned
20 that same day.

21 Q: How long was it, a whole week? Was it supposed
22 to be a week?

23 A: It was supposed to be two weeks.

24 Q: Two weeks? Okay. Okay, I have no further
25 questions at this time.



1 HEARING OFFICER: I have no questions.

2 Q: Okay. Do you have anything that you'd like to
3 say?

4 A: This is one of the worst mistakes of my life.
5 You know, I fully understand where integrity
6 falls in law enforcement. You know, I've made
7 great strides in my life going through this
8 divorce and I, you know ---

9 Q: The divorce has been pretty stressful?

10 A: Yes, it has been.

11 Q: And the custody issue?

12 A: Yes, it has.

13 Q: And her -- you were there that day of that
14 deposition?

15 A: I was.

16 Q: And you didn't react, I mean you just acted ---

17 A: It was tough.

18 Q: I'm sure it was. That's why I wanted you guys
19 to see that particular transcript.

20 A: Living in that environment where, you know,
21 I've got a wife that would come home smelling
22 of other men's cologne, liquor, and sexual
23 activity, I mean, you smell it when it's not
24 with you, and I would confront her about it.
25 And she'd make statements along the lines that

1 if I did decide to leave her, that, you know,
2 the two things I would never have to worry
3 about would be my job and my child.

4 Q: She would take both of them?

5 A: Yeah.

6 Q: And she says that actually in this deposition?

7 A: Yeah.

8 Q: And that was the reason probably why she called
9 911 that night. And I think, it is self -- I
10 can give you the pages.

11 A: I don't know if she exactly -- I forget how she
12 exactly worded it.

13 Q: Oh, she said she'd take your job; that's in
14 there. I reread it.

15 A: Okay. It's been a while since I read it.

16 Q: I'll provide that to the board.

17 A: Okay.

18 Q: And you're asking the board to reconsider and
19 allow you to be sworn in as an officer?

20 A: I am.

21 Q: Okay.

22 MR. O'LEARY: I have no further questions. You got
23 anything?

24 HEARING OFFICER: No.

25 MR. O'LEARY: Okay.



1 A: I got one more thing.

2 Q: Yeah, go ahead.

3 A: You know, I -- no, I'm good.

4 Q: You okay?

5 A: Yeah. I feel like I should say a lot more, but

6 ---

7 Q: Oh, you're -- no, that's fine. I mean, you're
8 one of the coolest guys I've ever seen. And
9 for the board's edification ---

10 **HEARING OFFICER:** You take whatever time ---

11 Q: Yeah. Take ---

12 **HEARING OFFICER:** Take all the time you need, John.

13 Q: Say what you got to say.

14 **HEARING OFFICER:** I mean, like I say, we're not ---

15 Q: You want your job back.

16 **HEARING OFFICER:** We're not in any hurry here today,
17 and we're not trying to rush you. So you take
18 whatever time you need.

19 A: I understand. For a not so emotional guy, this
20 has been an emotional situation for me. I've
21 been in public service for ten years of my
22 life. I can't breathe.

23 **MS. DUNCAN:** Drink some water, if you want.

24 Q: Drink some water there.

25 **MS. DUNCAN:** That's why I bring it in.

1 A: At least on the law enforcement side, ten years
2 of my life. I started public safety when -- if
3 you want to consider Civil Air Patrol public
4 safety doing search and rescue. I did that
5 when I was in high school before I was 18. I
6 later became a 911 operator for Lexington
7 County and a volunteer firefighter. I've been
8 in fire service up until I left the City of
9 Cayce. I don't know any other life. You know,
10 I've got backup plans. I mean, who at this age
11 doesn't. And it would be foolish not to have
12 them. But, you know, I've made my mistakes.
13 I could have -- I could have never ever
14 admitted anything and given the lack of any
15 kind of physical evidence or any kind of
16 technical evidence, I could have taken that to
17 my grave and still been working and never
18 having been in here, but that's not me. And,
19 you know, that's not who I want to be
20 remembered as, that's not who I am, that's not
21 who I want to teach my child that I am. And
22 that's why I came forward knowing full well
23 that at that point that anything that I said to
24 law enforcement would not be, you know, taken
25 with much weight. And it ended up resulting in



1 what I believe -- I believe what ended up
2 resulting in my arrest. And, you know, luckily
3 it was seen for what it was and, you know, the
4 charges were dropped and nolle prossed. You
5 know, -- you know, the moment it got with SLED,
6 I mean, I -- everything I wrote, everything I
7 put down in writing, and if -- you know, I
8 don't believe we have them anymore with the
9 destruction record -- or order. But even the
10 written statement, my statements match the
11 timeline of the events of that day. And I
12 believe that what was explained to me from my
13 attorney on the criminal side was that the --
14 if you look at the two statements, mine reads
15 like a police report. It's very detailed as to
16 what I did, very detailed as to what Kristy
17 did. And you read hers, and it's very detailed
18 as to what I did, but very vague as to what she
19 did. But the timelines match. And,
20 ultimately, that's one of the major deciding
21 factors that the solicitor's office came up
22 with. And I believe it was Dayton Riddle who
23 made that final determination. I've not had
24 any personal contact with him, so I'm speaking
25 kind of out of context from my conversations

1 with my attorney. But, you know, I hate
2 looking at worst case scenario. I was looking
3 at the worst case scenario. I'd been
4 threatened by my wife that she was going to
5 take my kid and my job for years. And we
6 finally got into a situation that felt like the
7 only reason she finally invited me over was to
8 get me into a situation like that. And then,
9 I've got a deputy named Sergeant Ricciardi who,
10 you know, for better or for worse, I mean, he
11 calls up and he says, hey, hey John, you need
12 to tell me what happened out here. I'm like
13 so, you know, I don't know if I need to right
14 now. And he comes back with you need to let me
15 know what happened right now and tell me why I
16 don't need to come and lock you up right now.
17 And for someone that -- I mean, all of us, we
18 understand that you're supposed to look at both
19 sides of everything before you make any arrest
20 determination, and your first contact with
21 somebody, you know, you can't make an arrest
22 decision based on one side until you've seen
23 the full picture. And I've got this guy ready
24 to arrest me, I'm about to lose my career, my
25 livelihood, and my child. And, you know,



1 during that time period, Kristy refused to let
2 me see my child. That was about seven months
3 of I didn't see my child. We had to file a
4 rule to show cause in court where she almost
5 got 30 days for contempt. But we worked it out
6 prior to going before the judge, and the judge
7 -- I believe it was Judge Hurley heard that
8 case in family court, the rule to show cause,
9 and we immediately reinstated visitation
10 because it was no reason the court could have
11 seen to remove that. And, I mean, I found
12 myself in a situation that I'd always -- I'd
13 always been the person to try to referee that
14 for everybody else, and now I'm in that
15 situation. And I reacted very poorly. My
16 integrity for the rest of my life is going to
17 be questioned. I know that. And I've got my
18 scars, and I'm going to have to wear them.
19 There's no way around that. You know, so I've
20 got an uphill battle if I'm reinstated.

21 Q: Could I -- let's show you one thing. I wanted
22 to point this out so y'all have at least of
23 number. On page 69, at line two, can you read
24 that -- just read from line two down to that
25 line is all.

1 A: From line two to line 12?

2 **HEARING OFFICER:** And who is speaking?

3 Q: Okay. This is his wife under oath in the
4 deposition. It took place in January 14th.
5 Considering -- start at the top there.

6 A: Okay. At line two is a question. "But he
7 never once touched you, right?" Answer is,
8 "That's correct." "And he left on his own,
9 didn't he?" "He did." "You called Lexington
10 County?" "Now what -- now you know what" --
11 I'm sorry. "Now you know that John is a police
12 officer, right?" "That is correct." "You knew
13 this was going to be trouble for him, right?"
14 "That is correct." "You called the police and
15 what did you tell them?" "I told them the
16 situation." That's really ---

17 Q: So she -- she admitted -- is that an admission
18 that she called the police knowing it was going
19 to mess you up?

20 A: I believe so.

21 Q: For a couple reasons, custody and the job.

22 A: I believe so.

23 Q: Okay.

24 A: And she's made subsequent conversation to me
25 about her statement to the law enforcement



1 being the best thing she's got going for her.
2 And, you know, she even made the most truthful
3 statement she could make at the time. Luckily
4 -- and I don't have it with me. And if need
5 be, I can turn that over to the council. Since
6 this incident, all of my phone calls with
7 Kristy are recorded. I downloaded an app. And
8 I can turn that over if need be. I didn't know
9 if that would be ---

10 **HEARING OFFICER:** All right. Let me ask you this.
11 I think I'm hearing what you're saying, but as
12 a result of the SLED investigation, you were --
13 the charges were dismissed once they were
14 provided -- once that investigation was
15 provided to the Solicitor's Office?

16 A: The Solicitor's Office, yes, sir.

17 **HEARING OFFICER:** Okay.

18 A: SLED did make the charges.

19 **HEARING OFFICER:** Okay.

20 A: And, I mean, y'all were great. I mean, handled
21 the situation as best as you could.

22 **HEARING OFFICER:** Okay.

23 Q: So you're just asking the board today to really
24 give you another chance?

25 A: Yes, sir.

1 Q: Okay. I have no further questions.

2 A: And I'll respect whatever the board decides.

3 **HEARING OFFICER:** What we'll -- of course, what
4 we'll do at this point is, you know, we won't
5 -- a decision will obviously will not be made
6 today. But as I stated, we will review all the
7 facts in evidence, documents that was presented
8 to us today. That will be written up along
9 with a recommendation from myself. And then
10 the entire Training Council will have the
11 opportunity to review all of that information,
12 a transcript of this hearing today, and then
13 the Training Council as a whole will make the
14 final decision on this matter.

15 **MR. O'LEARY:** And I think that's it. That's
16 basically it. I think it says it all in here
17 about that incident in this transcript,
18 honestly. And that was under oath too. It
19 wasn't just a statement that she made. I mean,
20 he was remorseful. He did this within 24
21 hours, actually within about 12 hours, I think.
22 He went and he told -- and he resigned. He
23 accepted it. He made a mistake, and he's
24 asking y'all to give him another chance.
25 Appreciate it.



(There being nothing further, the hearing concluded
at 12:27 p.m.)

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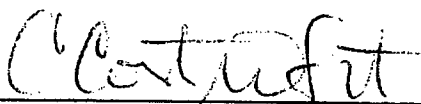


CERTIFICATE

This is to certify that the within hearing consisting of seventy-one (71) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on November 21, 2014.



Christine A. Cortright
Court Reporter

Notary Public for South Carolina
My Commission Expires: August 28, 2016



P

Effective: June 16, 2008

Code of Laws of South Carolina 1976 Annotated Currentness

Title 23. Law Enforcement and Public Safety

Chapter 23. Law Enforcement Training Council

→ → § 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.

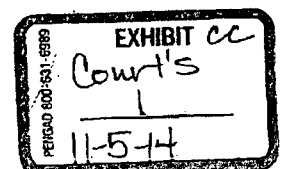
(B) It is the intent of this chapter to encourage all law enforcement officers, departments, and agencies within this State to adopt standards which are higher than the minimum standards implemented pursuant to this chapter, and these minimum standards may not be considered sufficient or adequate in 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.

CREDIT(S)

HISTORY: 2006 Act No. 317, § 1, eff May 30, 2006; 2008 Act No. 335, § 12, eff June 16, 2008.

Current through End of 2013 Reg. Sess.

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Effective:[See Text Amendments]

Code of Laws of South Carolina 1976 Annotated Currentness

Title 23. Law Enforcement and Public Safety

Chapter 23. Law Enforcement Training Council

→→ § 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.

CREDIT(S)

HISTORY: 2006 Act No. 317, § 1, eff. May 30, 2006.

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Effective:[See Text Amendments]

Code of Laws of South Carolina 1976 Annotated Currentness

Title 23. Law Enforcement and Public Safety

Chapter 23. Law Enforcement Training Council

→→ § 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).

CREDIT(S)

HISTORY: 2006 Act No. 317, § 1, eff May 30, 2006.

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Effective: June 16, 2008

Code of Laws of South Carolina 1976 Annotated Currentness

Title 23. Law Enforcement and Public Safety

Chapter 23. Law Enforcement Training Council

→ → § 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.

CREDIT(S)

HISTORY: 2006 Act No. 317, § 1, eff May 30, 2006; 2008 Act No. 335, § 14, eff June 16, 2008.

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C
South Carolina Code of State Regulations Annotated Currentness
Regulations

Chapter 38. Department of Public Safety (Refs & Annos)

Article 1. Criminal Justice Academy

§ Subarticle 1. Law Enforcement Training

→→ 38-001. Authority of Director.

A. The Director is authorized to issue orders directing that public law enforcement agencies and law enforcement officers certified in this state comply with Chapter 23, 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 Council prior to their issuance.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

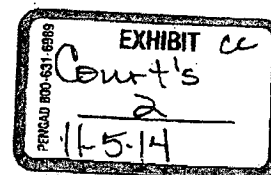
S.C. CODE REGS. 38-001, SC ADC 38-001

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South Carolina Code of State Regulations Annotated Currentness
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Chapter 38. Department of Public Safety (Refs & Annos)

Article 1. Criminal Justice Academy

§ Subarticle 1. Law Enforcement Training

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

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

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997 Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-002, SC ADC 38-002

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South Carolina Code of State Regulations Annotated Currentness
Regulations
Chapter 38. Department of Public Safety (Refs & Annos)
Article 1. Criminal Justice Academy
§ Subarticle 1. Law Enforcement Training
→→ 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 Council.

B. Certification to the Council.

Every agency who requests certification of any class of law enforcement officer shall certify to the Council 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 Academy and/or Council 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.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-003, SC ADC 38-003

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Article 1. Criminal Justice Academy
§ Subarticle 1. Law Enforcement Training
⇒⇒ 38-004. Denial of Certification for Misconduct.

A. The Council may deny certification based on evidence satisfactory to the Council 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 one year or more (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 Council may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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S.C. Code of Regulations R. 38-004

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ATTORNEY GENERAL'S OPINIONS

The intentional overdose of a prescription medication for the stated purpose of committing suicide is an "unlawful use of a controlled substance." S.C. Op.Atty.Gen. (Dec. 6, 2010) 2010 WL 5578961.

S.C. CODE REGS. 38-004, SC ADC 38-004

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Chapter 38. Department of Public Safety (Refs & Annos)

Article 1. Criminal Justice Academy

Subarticle 1. Law Enforcement Training

→ 38-009. Separation from Law Enforcement Employment.

A. All law enforcement agencies and other employers of law enforcement officers are required to notify the Academy 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 Council, contain the facts and circumstances leading to the separation, and be for the Academy and Council'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 23-23-90 and allowed to file a response for the Academy and Council'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.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

NOTES OF DECISIONS

In general 1

1. In general

Town's disclosure of misconduct form reporting African-American police officer's use of excessive force against an arrestee to South Carolina criminal justice academy, pursuant to state regulations, did not constitute public disclosure, as required to establish a due process liberty interest claim arising of town's dissemination of an false and defamatory impression about the officer; failure to comply with the disclosure rule would have subjected the town to civil penalties. *Bell v. Town of Port Royal, South Carolina*, 2008, 586 F.Supp.2d 498. Constitutional Law ¶ 4173(2); Municipal Corporations ¶ 185(7)

S.C. CODE REGS. 38-009, SC ADC 38-009

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S.C. Code of Regulations R. 38-009

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Chapter 38. Department of Public Safety (Refs & Annos)
Article 1. Criminal Justice Academy
§ Subarticle 1. Law Enforcement Training
→→ 38-028. Definitions.

A. For purposes of R. 38-001 - 38-028, the following definitions shall apply:

1. "Agency" means local government or public safety agency employing law enforcement officers.
2. "Director" means the Director of the South Carolina Criminal Justice Academy.
3. "Academy" means the South Carolina Criminal Justice Academy.
4. "Council" means the Law Enforcement Training Council.

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

1. "Emergency" means 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.

2. "Non-Emergency" means 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.
3. "Pursuit" means a 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.

S.C. Code of Regulations R. 38-028

Page 2

4. "Emergency Response" means 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.

5. "Non-Emergency Response" means 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.

6. "Law Enforcement Emergency Vehicle" means 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.

SUBARTICLE 3 E-911 SYSTEM

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-028, SC ADC 38-028

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Training History Report

SC Criminal Justice Academy

Reported by Acadis® Readiness Suite

11/04/2014

For Elkin, John E

Academy ID 3187-7243

Elkin, John E

Person Status Active

DOB

EEOC

SSN

Gender

Employment

Status	Organization	Title/Rank	Employment Type	Appointment Type	Dates
Active	Pelion Police Dept. (Primary)	Officer	Not Certified		08/02/2014 - Current
Inactive	Pelion Police Dept.	Officer	Class 1 LEO		06/06/2013 - 10/14/2013
Inactive	Cayce Public Safety	Officer	Class 1 LEO		04/28/2011 - 06/06/2013
Inactive	SC Department of Public Safety	Officer	Class 1 LEO		09/16/2010 - 04/21/2011
Inactive	SC Department of Public Safety	Officer	Class 1 LEO		10/02/2009 - 04/08/2010
Inactive	SC Department of Public Safety	Officer	Class 1 LEO		09/17/2007 - 10/14/2008

Certifications

Name	Issued	Expiration	Status
Radar Operator	10/31/2011	12/31/2014	Active
DataMaster	03/14/2008	03/14/2010	Expired
DataMaster Transition	10/29/2010	10/29/2012	Expired
DMT Operator	10/20/2012	10/20/2014	Expired
DUI Detection/SFST Certification	02/02/2011	12/31/2013	Expired
Radar/Lidar Operator	03/01/2008	12/31/2011	Expired
Class 1 Law Enforcement Officer	05/12/2009	05/12/2015	Withdrawn

Training

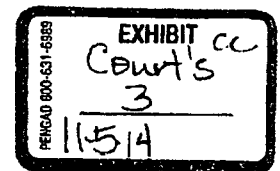
Upcoming, Ongoing, & Unconfirmed

No upcoming & ongoing training data exists.

Current Period to Date (01/01/2014 - 11/04/2014)

No current year training data exists.

Previous Period (01/01/2013 - 12/31/2013)



Course/Title (Course No.)	Training Dates	Grade	Status	Training Category	Hours
Basic Detective - Basic Detective 2013.10.14	10/14/2013 10/25/2013	0.00%	Departed - 10/14/2013		0h 0m
Total Hours					(0h 0m)

Other Periods (through 12/31/2012)

Course/Title (Course No.)	Training Dates	Grade	Status	Training Category	Hours
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Training History Report

SC Criminal Justice Academy

Reported by Acadus® Readiness Suite

11/14/2014

For: Elkin, John E

Academy ID 3187-7243

Lidar - Operator Recert - Lidar Recert-2012.10.01	10/01/2012	10/31/2012	0.00%	Departed - 11/16/2012	0h 0m
DMT - Operator Recert - DMT - Operator Recert 2012.10.31	10/01/2012	10/31/2012	0.00%	Graduated - 10/31/2012	2h 0m
IN-SERVICE	05/02/2012	05/02/2012	N/A	Complete	8h 0m
SEPARATE CERTIFICATIONS	05/02/2012	05/02/2012	N/A	Complete	126h 0m
MRN FORM	05/02/2012	05/02/2012	N/A	Complete	0h 0m
CDV 2011	03/12/2012	03/12/2012	N/A	Complete	4h 0m
LEGAL 11/12	03/12/2012	03/12/2012	N/A	Complete	2h 0m
Radar - Operator Recert - Radar Recert-2011.10.01	10/01/2011	10/31/2011	0.00%	Graduated - 10/01/2011	3h 0m
CDV 2010	05/09/2011	05/09/2011	N/A	Complete	4h 0m
LEGAL 10/11	05/09/2011	05/09/2011	N/A	Complete	2h 0m
DUI/SFST - Recert - DUI/SFST - Recert 2011.02.02	02/02/2011	02/02/2011	0.00%	Graduated - 02/02/2011	2h 0m
DMT Recertification (2790)	10/29/2010	10/29/2010	N/A	Complete	3h 0m
Radar Recertification (3724)	10/30/2009	10/30/2009	N/A	Complete	2h 0m
SCHP - RADAR Recertification (3733)	10/30/2009	10/30/2009	N/A	Complete	4h 0m
DMT Certification (Fall) (2788)	10/27/2009	10/27/2009	N/A	Complete	8h 0m
Legal Update (3171)	10/15/2009	10/15/2009	N/A	Complete	2h 0m
In-Service (2400)	10/15/2009	10/15/2009	N/A	Complete	1h 0m
Straight Baton Recertification - SCHP (2238)	10/15/2009	10/15/2009	N/A	Complete	2h 0m
SCHP Bloodborne Pathogen - CJA (2797)	10/15/2009	10/15/2009	N/A	Complete	1h 0m
SCHP -Domestic Violence Core/Tape (3367)	10/15/2009	10/15/2009	N/A	Complete	4h 0m
SCHP - Firearms and Straight Baton (9014)	10/15/2009	10/15/2009	N/A	Complete	4h 0m
SFST Recertification (8705)	10/15/2009	10/15/2009	N/A	Complete	2h 0m
SCHP 16 Hour NCIC - Reaffirmation (2856)	10/06/2009	10/06/2009	N/A	Complete	2h 0m
SCHP EVR Update (3148)	10/05/2009	10/05/2009	N/A	Complete	1h 0m
SCHP Firearms Requalification (2484)	10/05/2009	10/05/2009	N/A	Complete	2h 0m
Mandatory Retraining Notification (MRN)	05/11/2009	05/11/2009	N/A	Complete	0h 0m
SCHP In-Service/Field (2834)	07/15/2008	07/15/2008	N/A	Complete	1h 0m
SCHP EVR Update (3148)	07/15/2008	07/15/2008	N/A	Complete	1h 0m
OCAT/Body Armor - SCHP/CJA (8294)	07/15/2008	07/15/2008	N/A	Complete	1h 0m
Biased Based Policing Policy - 300.32 (8414)	07/15/2008	07/15/2008	N/A	Complete	1h 0m
Make Up Legal (3978)	05/13/2008	05/13/2008	N/A	Complete	2h 0m
Make Up CDV/Core (3977)	05/13/2008	05/13/2008	N/A	Complete	4h 0m
SCHP - DataMaster Recertification (3735)	03/06/2008	03/06/2008	N/A	Complete	3h 0m
Straight Baton Recertification - SCHP (2238)	03/05/2008	03/05/2008	N/A	Complete	2h 0m
SCHP Bloodborne Pathogen - CJA (2797)	03/05/2008	03/05/2008	N/A	Complete	1h 0m
SCHP In-Service/CJA (2831)	03/05/2008	03/05/2008	N/A	Complete	2h 0m

Training History Report

SC Criminal Justice Academy

Reported By: Grades & Readiness State

11/04/2014

For: Elkin, John E

Academy ID: 3187-7243

RADAR/LIDAR Operator (2725)	03/01/2008	03/01/2008	N/A	Complete	24h 0m
At-Scene Traffic Accident Investigation - IIP (2757)	02/29/2008	02/29/2008	N/A	Complete	80h 0m
Legal Update (3171)	01/31/2008	01/31/2008	N/A	Complete	2h 0m
SCHP -Domestic Violence Core/Tape (3367)	01/31/2008	01/31/2008	N/A	Complete	4h 0m
SCHP In-Service/Field (2834)	12/15/2007	12/15/2007	N/A	Complete	1h 0m
SCHP Firearms Requalification (2484)	12/03/2007	12/03/2007	N/A	Complete	2h 0m
SCHP EVR Update (3148)	11/30/2007	11/30/2007	N/A	Complete	1h 0m
Biased Based Policing Policy - 300.32 (8414)	11/30/2007	11/30/2007	N/A	Complete	1h 0m
OCAT/Body Armor - SCHP/CJA (8294)	11/30/2007	11/30/2007	N/A	Complete	1h 0m
SCHP 40 Hour NCIC - Reaffirmation (9013)	11/01/2007	11/01/2007	N/A	Complete	2h 0m
National Incident Management System (8732)	08/29/2006	08/29/2006	N/A	Complete	4h 0m
Make Up Legal (3978)	05/13/2006	05/13/2006	N/A	Complete	2h 0m
Make Up CDV/Core (3977)	05/13/2006	05/13/2006	N/A	Complete	4h 0m
SCHP Basic (1133)	05/12/2006	05/12/2006	N/A	Complete	766h 0m

Total Hours (1103h 0m)

A grade of ## indicates that the weights for this class are not valid and grades cannot be calculated.

Education

No education data exists.

Miscellaneous

Audit LETS/ACADIS Complete
 Comments NEEDS REVIEW
 Has Application Yes
 Has been Fingerprinted Yes
 Has Birth Certificate Yes
 Has Driver's License Yes
 Has High School Diploma Yes
 Has Medical Form Yes
 Training Audit Complete

THIS IS TO CERTIFY THAT THIS
 IS A TRUE COPY AS CONTAINED
 IN THE FILES OF THE S.C.
 CRIMINAL JUSTICE ACADEMY.

Jeffrey R. Smith
 CUSTODIAN OF RECORDS
 DATE 11/4/2014

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For Official Use Only

Page 3 of 3

TOWN OF PELION

Home of the South Carolina Peanut Party

1010 Main Street
P.O. Box 7
Pelion, S.C. 29126
803-894-3535
803-894-2545

Barbara Hartley Smith, Mayor
Chris Garner, Chief of Police

TO: Law Enforcement Training Council Criminal Justice Academy

FROM: Barbara Hartley Smith,
Mayor, Town of Pelion

RE: John E. Elkin
Case No: 14-CJA-009
Certification

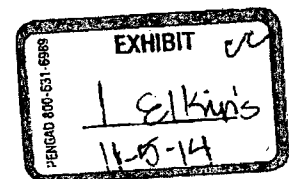
DATE: October 23, 2014

As I will be out of town on November 5, 2014, I am submitting the following as a character witness for John E. Elkin.

I have known Mr. Elkin for approximately three years, formerly while serving on the Pelion Town Council and presently as Mayor of Pelion, SC. I have also observed him outside the realm of his official capacity with the Town of Pelion.

As a former administrator of a private school in the northeast with 150 plus employees and 600 students and having held other administrative positions, I feel that I am well qualified to assess the character of an employee or those who interact with an organization.

Mr. Elkin has repeatedly demonstrated his commitment to the Town of Pelion and the Pelion Police Department. His willingness to give extra hours, often at no compensation, to facilitate the smooth operation of the Town Hall and the Police Department is an indication of his level of commitment to excellence in service. As an example, when the Pelion Police Department was relocated, he worked diligently to ensure that every aspect of our technological needs was met, even though it required additional work time on weekends and nights.



Outside of his official capacity, I have observed Mr. Elkin interact with his daughter. He is a loving, caring and gentle father. His first priority is to provide an environment for his daughter in which she can grow to be a responsible adult. After Mr. Elkin's departure from the Pelion Police Department, I hired him to resolve issues with my personal computer. He was the ultimate professional. This also provided me an opportunity to further assess the nature of his personality.

In my professional opinion, Mr. Elkin has those qualities of professionalism and integrity which one seeks when hiring an employee. I would definitely hire him again to serve the Town of Pelion in any capacity for which he is qualified.

Respectfully,



Barbara Hartley Smith
Mayor, Town of Pelion

Notarized on 10-28-2014 by Jamie K. Pohl
Whose commission expires on 3-29-2016



South Carolina Criminal Justice Academy
Certification-Compliance



OCT 23 2013

PERSONNEL CHANGE IN STATUS REPORT
NOTIFICATION OF SEPARATION DUE TO MISCONDUCT

SCCJA CERTIFICATION

Pelion Police Department	803-894-3535	10-14-2013
Reporting Department	Phone #	Today's Date
John E. Elkin	11/1/13	05-12-15
Officer's Name	Social Security #	Current Certification Date
K.A.		
Officer's Current Home Address	City/Town	Zip Code

PLEASE ☒ CHECK ONE: ☐ E-911 (TCO) ☐ Reserve Officer
☒ Class 1 LE ☐ Class 2 LCO (Jailer) ☐ Class 1 LECO (LEO/Jailer) ☐ Class 3SLE (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: 10-14-2013 (specify mo/day/yr)

____ 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
 xx ____ 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.

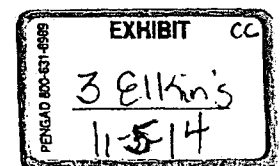
Chief Chris Garner Chris Garner 10-14-2013
 Employing Agency Head (Chief, Sheriff, Director) Date

Christopher G. Garner Chief of Police
 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 CODE: 24 Copy Sent: 10/31/13 ID: K.A. DATE: 11/1/13

Revised 9/09



000135

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: 10-14-2013

Termination Date: 10-14-2013

Reporting Department Pelion Police Department

Reporting Date (Today): 10-15-2013

John E. Elkin

Officer's Name

Current Home Address

Social Security #

Birth Date

Driver's License #

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OCT 23 2013
SCCJA CERTIFICATION

(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.

Chief Chris Garner

Chris Garner

10-14-2013

Employing Agency Head (Chief, Sheriff, Director)

Date

Christopher G. Garner

Chief of Police

Print Name

Official Title

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

SCCJA USE ONLY

Copy sent to Officer on 10/15/13

by

Beth Kitting

Date

SCCJA'S Authorized Signature

Revised 9/09



South Carolina Criminal Justice Academy
Certification-Compliance



OCT 23 2013

MISCONDUCT REPORT SUPPLEMENT

SCJA CERTIFICATION

Officer's Name John E. Elkin SS# _____
Address _____ Ph # _____
City _____ State _____ Zip Code _____
Employing Agency Name Pelion Police Department Today's Date 10-14-2013
Employing Agency Address 1010 Main Street Ph # 803-894-3535
City Pelion State SC Zip Code 29123
Employing Agency Contact Person (for more information) Chief Chris Garner
Contact Telephone Number (Area Code and Telephone Number): 803-894-3535
Date of Separation 10-14-2013

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.)

On 10-13-2013 Sgt. Elkin phoned me and stated [REDACTED]
He advised me that he didn't go to the residence but had a heated conversation via cellphone. [REDACTED]
I asked him direct if he went to the residence and he replied he did not before ending the phone call.
On 10-14-2013 [REDACTED] Sgt. Elkin requested to meet with me at the Pelion Town hall. At 1305 hrs. this date Sgt. Elkin resigned and advised me that he had lied to me concerning the allegation. He affirmed that he did go to the residence. His resignation was accepted.
Enclosed is [REDACTED] the internal Pelion Police policy violation.

Criminal Charges Filed: Yes ☐ No ☒ Date: [REDACTED]
CHARGE(S): [REDACTED]

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): Chief Chris Garner

DATE: 10-14-2013

Print Name: Christopher G. Garner
Revised 9/09

AUTHORIZED TITLE: Chief of Police

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PELION POLICE DEPARTMENT

POLICY AND PROCEDURES MANUAL

POLICY: 1.02 ALTERNATIVE:	DATE: 01/01/2011	REVISION DATE:
TITLE: Rules and Regulations of the Department	PAGE: 1 of 5	
RESPONSIBLE AUTHORITY: Chief of Police		SCCJA CERTIFICATION

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SCCJA CERTIFICATION

GENERAL PURPOSE:

To establish the rules and regulations of the department.

POLICY:

- A. The rules and regulations shall instruct all members of the department in the performance of their duties, unless specifically directed otherwise by the Chief of Police, and are to be adhered to at all times.
- B. Members of the department include all sworn police officers and all other part-time and full-time staff, volunteers and Explorers under the direction of the chief or the chief's designee.
- C. All members are considered to be on-duty when they are performing any police function or otherwise represent themselves as a police officer, or an employee of the municipality.

SPECIFIC PROCEDURES:

1. Integrity

All officers of the department will display the high degree of integrity required by the Law Enforcement Code of Ethics, which follows:

"As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption

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or bribery, nor will I condone such acts by other police officers. I will cooperate with authorized agencies and their representatives in the pursuit of justice.

SOCA CERTIFICATION

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement."

2. General Duties

All officers of the Department will, at all times, within the town limits, prevent crime, preserve the peace, protect life and property, detect and arrest violators of the law, and enforce the laws of the United States, the State of South Carolina, and all local ordinances in accordance with the rules, regulations, policies, procedures, and orders of the town and the Department. Officers will be ever conscious that when they act under "color of law" that the phrase includes not only laws, but also policies, procedures, ordinances, common usage, and custom.

3. Obedience to Laws, Ordinances, Rules and Regulations

- a. Employees of the Department will obey all federal and state laws. They will also obey all laws and ordinances of the town or other jurisdiction in which the employees may be present. Employees will obey all rules, regulations, directives, and orders as may be issued by the Department.
- b. Employees of the Department will obey all lawful orders issued to them by competent authority.
- c. Supervisory personnel of the Department will not knowingly or willfully issue any order in violation of any law or ordinance or of any rule, regulation, general, or special order of the Department.
- d. To permit effective supervision, direction, and control, employees should promptly obey any lawful order of a superior, including an order relayed from a superior by an employee of equal or lesser rank. In the event that an employee is given two apparently lawful but conflicting orders, the last order given should be complied with unless the order is retracted or modified. In the event an employee receives conflicting orders, the employee should inform the person giving the last order of the conflict. The superior giving the conflicting order should then resolve the conflict by retraction, modifying, or requesting the employee to comply with the last order. In the event that the last order is not retracted or modified, the employee will not be held responsible for disobeying the previous order.
- e. No employee of the Department is required to obey any order that is contrary to the laws of the United States, State of South Carolina, or ordinances of the town; however, refusal to obey an order is the responsibility of the officer and he/she may be required to justify that action.

4. General Conduct

- a. Employees of the Department will display respect for their superior officers, subordinates, and associates. When on duty and in the presence of the public, superior officers shall be addressed or referred to by rank.
- b. Employees of the Department will address their subordinates, associates, supervisors, and members of the general public courteously, and will not use abusive, violent, insulting, or provocative language which could be deemed insulting to any person or group by reason of their racial or ethnic background.

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BSA CERTIFICATION

- c. Employees of the Department will at all times be civil and courteous. They will maintain an even disposition and remain calm, regardless of provocation, in executing their duties.
- d. Employees of the Department will not gossip or speak rumors detrimental to the Department or another employee.

e. Employees of the Department will always display absolute honesty.

- f. Employees of the Department will cooperate and coordinate their efforts with other employees to insure maximum effectiveness. This high degree of cooperation and coordination will extend to other law enforcement organizations and governmental agencies.
- g. Employees will restrict personal conversations or personal associations to an appropriate minimum while on duty.
- h. An officer will not display cowardice in the line of duty or in a situation where the public or another law enforcement officer might be subjected to physical danger. Unless actually incapacitated, officers will aid, assist, and protect fellow officers in time of danger or under conditions where danger might reasonably be impending.
- i. Employees of the Department will not at any time use or attempt to use their official position, badge, or credentials for personal or financial gain.

5. Gifts, Gratuities, and Rewards

- a. Employees will not solicit any gifts, gratuities, loans, or fees where there is any direct or indirect connection between the solicitation and their Departmental employment.
- b. Employees will not accept either directly or indirectly any gift, gratuity, loan, or fee, or any other thing of value arising from or offered because of police employment.
- c. Employees will not accept any gift, gratuity, or other thing of value; the acceptance of which might tend to influence directly or indirectly the actions of the employee or any other employee in any manner of official business or which might tend to cast any adverse reflection on the Department or the employee.
- d. No employee of the Department will receive any gift or gratuity from other employees junior in rank without permission from the Chief of Police.
- e. Employees will not accept any gift, gratuity, or reward in money or other considerations for services in the line of duty except lawful salary.

6. Duty

- a. Employees of the Department will report for duty at the time and place specified by their assignment or orders and complete the number of hours on duty required by their assignment.
- b. Employees of the Department, while on duty, will remain alert and awake. If necessary short rest breaks may be taken with the permission of the employee's superior.
- c. Employees of the Department, while on duty, will not engage in any activity or personal business which would cause them to neglect their duty.

7. Leave

- a. Employees of the Department will not be absent from duty without first obtaining the permission of their superior.

- b. Employees of the Department requiring emergency leave or sick leave will notify their superior as soon as possible.

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8. Information

- a. Employees of the Department will not communicate to any person not an employee of the Department any information concerning operations, activities, or matters of police business, the release of which is illegal or may adversely effect the Department.
- b. Employees of the Department will communicate promptly to a Superior information regarding tips on crimes or criminal activity or other relevant information which they come to know. After conferring with the employee, the superior will notify the appropriate division.

SOCIAL CERTIFICATION**9. Public Appearances**

Employees of the Department will not fill speaking engagements or public appearances as official representatives of the Department without permission from the Chief of Police.

10. Use of Alcohol

- a. Employees of the Department will not drink any alcoholic beverage while on duty. Officers on special assignment may, with consent of their superior officer, drink limited quantities of alcohol when necessary to their assignment.
- b. Employees of the Department will not appear for regular duty, or be on regular duty, while under the influence of alcohol to any degree or with an odor of alcohol on his breath.
- c. In the event of an emergency recall, each officer must determine fitness for duty if alcohol has been consumed. A Superior will be consulted and will be asked to confirm or deny the officer's judgement in the matter.
- d. Officers shall not carry weapons when off duty in a situation the officer deems socially inappropriate, particularly when the officer consumes alcohol.

11. Use of Drugs

Employees of the Department will not use any narcotic, stimulating, or dangerous drug while on duty or off duty unless prescribed by a physician. Employees using any prescribed drug, narcotic, or patent medicine that may impair their performance will notify their Superior.

12. Use of Tobacco

Employees of the Department will not use any type of tobacco while in formation, in town vehicles, in town buildings, while engaged in traffic control, or in view of the public.

13. Property and Equipment of the Department

- a. Employees of the Department will be responsible for the proper care and use of Department property and equipment assigned to or used by them and will promptly report any loss, damage, destruction, or defect therein.
- b. Employees of the Department will operate Department vehicles and other equipment in such a manner as to avoid injury to persons or damage to property. Whenever a Department vehicle is involved in an accident, the operator will immediately notify a Superior. No officer will investigate an accident they are involved in.
- c. At the beginning of a tour of duty, employees will examine any vehicle assigned to them and report any operational deficiencies, damage, or defects. Failure to report such will result in a

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OCT 23 2013

presumption that the vehicle was inspected and no problems found. The employee, in this case, will be held responsible for the damage.

- d. Employees of the Department will not temporarily or permanently convert any Department property to their own personal use or the use of another.
- e. When an employee of the Department terminates employment, all issued equipment will be returned as soon as possible. Failure to return all equipment may result in withholding of final compensation.
- f. Employees of the Department will have as part of their issued equipment a copy of the rules and regulations manual and will maintain and make appropriate changes as necessary.

SOCA CERTIFICATION

14. Telephone

Employees of the Department will maintain a telephone in their residences and shall ensure that the Department's list is immediately updated when there is a change.

15. Reporting Arrest, Court Action

- a. Employees of the Department will immediately report any arrest or court action to their Superior, except divorce proceedings.
- b. Any employee of the Department who becomes involved in any accident, incident, or altercation, or any problem which may come to the public attention will give oral notification as soon as possible, and within twenty-four hours in writing to his Superior. This will be forwarded up the chain of command as quickly as possible.

16. Organizations and Memberships

No member of the Department shall be a member of any organization that advocates the violent overthrow of the government; or participate in any organization which has a purpose, aim, objective, or any practices which are contrary to the obligations of a law enforcement officer under these regulations.

17. Money Expenditures

- a. There will be no expenditures of money or financial obligations incurred in the name of the Department by any employee without prior knowledge and permission from the Chief of Police.
- b. No employee shall imply or accept financial liability for loss or damage on behalf of the Town. Any inquires concerning town financial liability will be referred to the Town attorney.

DISTRIBUTION: Manual Holders

EFFECTIVE DATE: January 1, 2011

Approved
Christopher G. Garner
Chief of Police



PELION POLICE DEPARTMENT

Christopher Garner, Chief of Police

July 21, 2014

South Carolina Criminal Justice Academy
5400 Broad River Rd.
Columbia, SC 20212

Director Harrell:

Please accept this letter as an official request to change the status of John E. Elkin's (SCCJA #3187-7243) Personnel Change in Status that was submitted on 10-14-2014 for misconduct.

Through further investigation into the matter I have made the decision to retract the original PCS and misconduct report.

Based off of the above listed information, previous employment conduct, and his military record, I feel that his certification should be reinstated. I am in the process of completing the re-hiring process with Elkin and plan on offering him a position as a Class 1 officer.

I have included a corrected PCS form to replace the original submitted on 10-14-2014.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Chris Garner". The signature is fluid and cursive, with a long horizontal line extending from the end.

Chris Garner
Chief of Police

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JUL 21 2014

SCCJA CERTIFICATION



**South Carolina Criminal Justice Academy
Certification-Compliance**



**PERSONNEL CHANGE IN STATUS REPORT
NOTIFICATION OF ADMINISTRATIVE/ROUTINE SEPARATION**

Pelion Police Department 803-894-3535 7-18-2014
Reporting Department Phone # Today's Date

John E. Elkin 5-12-2015
Officer's Name Social Security # Current Certification Date

Officer's Current Home Address City/Town Zip Code

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

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

*(For all separations **NOT** involving misconduct as defined in S.C. Reg. 38-004)*

**PLEASE ATTACH MRN (MANDATORY RETRAINING NOTIFICATION) FORM
INDICATING IN-SERVICE TRAINING RECEIVED WHILE EMPLOYED WITH YOUR AGENCY**

(Please check appropriate reason(s) for separation)

Date of Separation: 10-14-2014 (specify mo/day/yr)

XXX

Resigned Retired Deceased

Accepted employment with another Law Enforcement Agency

Medical Leave

Military Leave

Failure to successfully complete basic training

Failure to successfully complete in-service training

Transfer from _____ law enforcement classification to _____ law enforcement classification

Termination for violation of AGENCY policy **NOT** involving misconduct as defined in S.C. Reg. 38-004 (i.e., substandard performance, excessive absenteeism, sleeping on duty, etc)

Other (please specify) _____

I hereby attest that the reason for separation of this officer does **NOT** involve misconduct or otherwise disqualify eligibility for certification as defined in S.C. Reg. 38-004.

EMPLOYING AGENCY HEAD: Chris Gamm DATE: 7/18/14

PRINT NAME: Christopher G. Gamm OFFICIAL TITLE: Chief of Police

CJA USE: MRN: _____ CODE: _____ ID: _____ DATE: _____

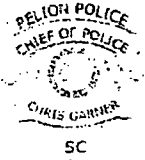
Revised 09-09

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JUL 23 2014

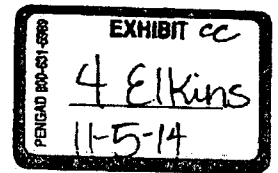
SOCJA CERTIFICATION



RE-HIRE BACKGROUND INVESTIGATION SUMMARY

ELKIN, JOHN ELLIOTT

SCCJA# 3187-7243



1. **Background Investigation Dates:**
Began: July 16, 2014 - Completed: September 2, 2014
2. **South Carolina Driving Record:**
Clear of traffic violations. Non-contributing accident 3-15-2013.
3. **Criminal History:**
Clear of any criminal violations.
4. **Fingerprint Results:**
Returned to the identity as indicated. Clear of any criminal violations.
5. **Credit Report:**
The credit report indicates two negative accounts. One is a paid charge off and the other is a medical collection account for \$251.00. His credit history indicates that he pays his accounts on time as agreed. There were no indications of defaulted students loads or other accounts that would preclude him from working in law enforcement. The candidate's credit report does not indicate that he lives beyond his means.
6. **Character References:**
His character references include a mix of listed and generated contacts both personal and professional. All references indicated that he is a man of good character and someone that can be trusted and relied upon. All references found no reason that he should not serve as a Police Officer.
7. **Military Service:**
The candidate is currently serving as a Military Police Officer in the South Carolina Army National Guard as a Sergeant (E-5). Currently he is on active duty orders assigned to range operations at the McCrady Training Center. His First Sergeant Daniel Bledsoe stated the he is an exemplary soldier. All Form DD-214's indicate Honorable for character of service.

8. Previous Employment/Town of Pelion:

The candidate was previously employed as a Sergeant with the Pelion Police Department from June 2013 – October 2013. He was terminated on October 14, 2014 for violation of PPD policy 1.02.

He has worked as an IT consultant for the Town of Pelion December 2013 – Present. During this time he has proved to be a reliable and trustworthy employee.

9. Previous Employment/Cayce Department of Public Safety

The candidate was employed as a Public Safety Officer with Cayce DPS from April 2011 – June 2013. PCS indicated he resigned on June 6, 2013. No negative information.

10. Previous Employment/South Carolina Department of Public Safety

The candidate was employed by the SC DPS as a Telecommunications Operator and as a State Trooper from February 2005 – April 2011. His PCS form indicates that on April 21, 2011 he separated pending an investigation of misconduct. On May 11, 2011 he was terminated for misconduct.

Review of his academy records did not indicate evidence of misconduct, as the violations appeared to be for missing court and failure to submit paperwork in a timely manner. On May 19, 2011 the SC Criminal Justice Academy issued documentation that the CJA does not substantiate allegations of misconduct pursuant to Reg. 38-004.

His character reference who is a Captain with the South Carolina Highway Patrol indicated that he was that he thought he was a good Trooper and believes he would be an asset to any agency.

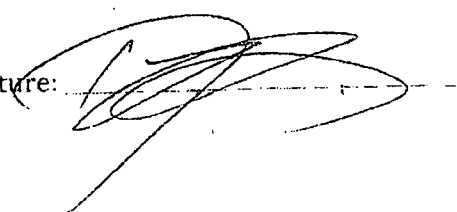
11. Previous Employment/Norfolk Southern

The candidate was employed with the Railroad September 2008 – April 2009. He was laid off from the Railroad. Background reference indicates he was an outstanding employee.

12. Background Investigators Recommendation

The results of this candidate's background investigation did not reveal any evidence that would prohibit him from serving as a Police Officer providing his certification is reinstated. I would recommend an extended probationary period and that the candidate completes the full FTO program before working as a solo officer. Further, I would recommend that monthly evaluation reports be conducted to monitor his performance.

Background Investigator: LT. Darren Norris
Date: September 2, 2014

Signature: 

LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY

In the Matter of the Issuance) Case No.: 14-CJA-009
of Law Enforcement Officer)
Certification of:)
John E. Elkin)

COPY

CONTESTED CASE HEARING

Wednesday, February 4, 2015
10:07 a.m. - 10:14 a.m.

The contested case hearing was taken at the South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina on the 4th day of February, 2015 before Mary H. Occhipinti, Court Reporter and Notary Public in and for the State of South Carolina.



APPEARANCES

Brandy Duncan, Chief General Counsel
 South Carolina Criminal Justice Academy
 5400 Broad River Road
 Columbia, South Carolina 29212

Kristie H. Jordan, Hearing Officer
 York County Sheriff's Department Staff Attorney
 Moss Justice Center
 1675-2A York Highway
 York, South Carolina 29745

John O'Leary, Attorney for John Elkin
 O'Leary Associates, PA
 714 Calhoun Street
 Columbia, South Carolina 29201

Chris Garner, Chief of Police
Barbara Hartley Smith, Mayor
C. Eddie Richardson

INDEX

PAGE

Certificate 7

EXHIBITS

No Exhibits were marked during this hearing.



1 **HEARING OFFICER:** My name is Kristie Jordan and I
2 have been asked to conduct this hearing by the
3 Director of SLED, Mr. Mark Keel, who is also on
4 the Training Council. He conducted the hearing
5 as Hearing Officer. The hearing was conducted
6 to its conclusion, all witnesses being called
7 and all evidence being presented by both
8 parties. At the conclusion of the case,
9 Director Keel determined that there was a
10 conflict for him to actually render a
11 recommendation or to vote on this case, and so
12 the matter was suspended and was set for this
13 new hearing. It's my understanding today that
14 Mr. O'Leary has spoken with his client. They
15 have fully discussed whether or not to go
16 forward with the new hearing or whether to
17 allow the full transcript from the previous
18 hearing, as well as the evidence that was
19 entered in that evidence, whether to let that
20 stand as the full hearing in this case and let
21 that be transferred to the Training Council for
22 their determination. It is my understanding
23 that Mr. O'Leary and his client wish to do
24 that, is that correct, Mr. O'Leary?

25 **MR. O'LEARY:** That's correct, and all the attachments.



1 The only addition was that we discussed that
2 there was one word in the report, that he was
3 terminated from his employment at Pelion and
4 that should have read and reflected that he
5 resigned in lieu of termination. That's really
6 it. It's the same witnesses. Actually, we've
7 got -- we're missing one of the witnesses today
8 that we had in the original hearing, due to an
9 emergency at Fort Jackson. And we had a letter
10 introduced at the first hearing from the Mayor,
11 who is physically present, but it's the same
12 evidence, so we would accept that. I've
13 advised my client of that fact and we've agreed
14 to do that. It was a misunderstanding as to
15 the first transcript and the role that Mark
16 Keel had.

17 **HEARING OFFICER:** Is there anything else that you
18 feel is necessary to add to the record with
19 regard to this case, Mr. O'Leary?

20 **MR. O'LEARY:** Nothing at this time. I was under the
21 misimpression of -- that the decision would
22 have been rendered by a Hearing Officer as
23 opposed to recommendations to the Council. And
24 it was my feeling that maybe the Hearing
25 Officer in this case, since it wasn't actually

1 a member of the Council, may not have been
2 statutorily allowed to do it, but I would agree
3 with that this is the easiest and the fairest
4 way to do it at this time.

5 **HEARING OFFICER:** Is there a representative from the
6 City of Pelion that is present who can speak
7 for the City of Pelion?

8 **CHIEF GARNER:** I'm the Chief of Pelion, Chris Garner,
9 and we agree with this.

10 **HEARING OFFICER:** Mr. Connor, you agree with ---

11 **CHIEF GARNER:** Garner, G-A-R-N-E-R.

12 **HEARING OFFICER:** Garner, okay. Thank you. Let the
13 record reflect that Chief Garner also is in
14 agreement. Is there any other discussion or
15 anything else that you feel needs to be added
16 to the record to provide a full record for the
17 Council?

18 **CHIEF GARNER:** There is not.

19 **HEARING OFFICER:** Okay.

20 **MR. O'LEARY:** That's all we have at this time.

21 **HEARING OFFICER:** Okay. That being said, then we
22 will conclude this hearing. This transcript
23 will be made a part of and attached to the
24 original transcript in this case. It will be
25 made available to the Training Council. Once



1 that -- and I understand that Ms. Duncan will
2 provide Mr. O'Leary with a copy of that
3 transcript. Once the case is set for final
4 decision by the Council, both sides will be
5 advised of the date and will be allowed to be
6 present when the Council discusses the case and
7 will be offered the opportunity to make any
8 statement they wish to the Council before a
9 decision is rendered.

10 **MR. O'LEARY:** That's fair, and if this is -- this is
11 the easiest way to do it and the most
12 economical, I think, for all the parties and
13 time wise.

14 **HEARING OFFICER:** Okay. Nothing further being said,
15 the hearing will be concluded.

16 **(There being nothing further, the hearing was**
17 **conclude at 10:14 a.m.)**

CERTIFICATE

This is to certify that the within hearing consisting of six (6) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on February 17, 2015.



Mary H. Occhipinti
Court Reporter

Notary Public for South Carolina
My Commission Expires: 10/18/2020



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

000153



South Carolina Criminal Justice Academy

SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL

MEETING MINUTES JULY 30, 2014

A meeting of the South Carolina Law Enforcement Training Council was held at the South Carolina Criminal Justice Academy (Academy) on Wednesday, July 30, 2014.

Law Enforcement Training Council Chair Chief Mark Keel asked Jeanne' Crump to call the roll and opened the meeting at 10:04 a.m.

ROLL CALL

Members Present

Chief Mark A. Keel/State Law Enforcement Division
Attorney General Alan Wilson/Attorney General's Office
Director Kela E. Thomas/ SC Probation, Parole and Pardon
Director Leroy Smith/ SC Department of Public Safety
Director Robin Morse/Clinton Department of Public Safety
Director John C. Thomas/North Augusta Department of Public Safety
Director Ronaldo D. Myers / Alvin S. Glenn Detention Center
Director Hubert F. Harrell/SC Criminal Justice Academy

Members Absent

Director Bryan P. Stirling/Dept. of Corrections/Represented by Inspector General Jerry Adger
Director Alvin A. Taylor/ SC Department Natural Resources / Represented by Robert McCullough
Sheriff Edward Darnell/Bamberg CO SO/Not Represented
Sheriff Bruce M. Bryant/York CO SO/Represented by Kristie Jordan

Guest Attendees:

Deputy Director Jarrod Bruder/ S.C. Sheriffs' Association
Amanda Jordon/ Richland CO SO
Matthew Smith/Horry County Fire Rescue

SC Criminal Justice Academy Attendees:

Deputy Director – Mike Lanier
Financial Operations Manager – Tom McQueen
Facilities Operations Manager - Lennie Hicks
Operations Manager – John Yarborough
General Counsel - Brandy Duncan

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Director Harrell stated that he feels that there should be restrictions/limitations with an individual and the employer. If an individual leaves his current agency to pursue a career with another agency they should be required to come back to the Academy.

MOTION: Director Smith made a motion to accept Christine Lee Morrison's deal, with restrictions, that she will only be eligible for a Class 3 status and will never try to pursue a Class 1 certification at any time. The motion was seconded and unanimously approved.

Robert Cook (Darlington CO SO) – Allegation: PCS originally submitted as Routine Separation. This was submitted earlier to the Training Council for misconduct, but Inspector General Adger had concerns and wanted to find out how the Training Council is going to handle attempted suicide cases. Brandy Duncan explained that Robert Cook was suffering from depression and attempted suicide by pointing his service weapon at his head, but at the last minute turned away prior to discharge. The round grazed his head, went through the door and into the tire of his patrol vehicle. Brandy Duncan asked if this would be "unlawful practices with a firearm with disregard to the safety of others". Duncan distributed copies of an AG's Opinion that stated "the use of a controlled substance by an individual for the stated purpose of attempting suicide is an unlawful use of a controlled substance."

Director Smith stated that in this case there are two clear cases of misconduct. 1) Unlawful use of a controlled substance – it was very clear to him in the AG's opinion where it reads, the use of a controlled substance by an individual for the stated purpose of attempting suicide is an unlawful use of a controlled substance." 2) Dealing with the unlawful practices with a firearm where he contemplated suicide and discharged his firearm, grazed his head, the bullet struck the door then went through the tire of the patrol car. Director Smith reported that the statutes read "person or property"

Attorney General Wilson read the conclusion on page 4 of the AG's opinion as listed below: In determining the definition of "controlled substance" in the regulations promulgated by the Department of Public Safety, the Office will defer, as would the courts, to the Department of Public Safety's interpretation of its own regulations. Wilson added that this would not be just on the definition of controlled substance, but enforcement of any application of the regulations. The court's determination will be based on the agency who is enforcing the regulations and if the agency is enforcing it.

MOTION: Director Smith made a motion to classify this case in regards to Robert Cook as misconduct. The motion was seconded and unanimously approved.

John Elkins (Pelion Police Department) – Allegation: Dishonesty/Untruthfulness with respect to his/her employer. Originally submitted by Pelion Police Department as an allegation of misconduct, then later the Chief submitted a letter asking for it to be changed. John Elkins had a criminal charge made against him related to this event but now has an Order For Expungement. Brandy Duncan explained that she has cleared out the documents that she had for the Order For Expungement, but the original allegation of dishonesty is still in the original allegation of misconduct; John Elkins admitted to lying.

The overall conclusion among the Training Council was that John Elkins ruined his creditability and his career in law enforcement by lying.

MOTION: Director Smith made a motion to classify this case in regards to John Elkins as misconduct. The motion was seconded and unanimously approved.

Tiffany Locklear (Marion Detention Center) – Allegation: Physical or psychological abuses of members of the public and/or prisoners. Brandy Duncan explained that Tiffany Locklear has been charged with assault and battery second degree. She was off duty and having bullying issues with her children, went to another parent's home and started punching the mother in the face. Brandy Duncan asked if the Training Council wants to proceed with this case since Tiffany Locklear was off duty at the time of the incident. If Ms. Locklear is convicted she could get up to three years in prison.

It was noted that a concern was that the agency terminated her under the allegation Physical or psychological abuses of members of the public and/or prisoners, which is misconduct, but she was off duty. At this time there is nothing in the regulations that gives the Training Council authority to suspend a certification, so the agency will need to fire them and then the Training Council can make a final determination, if she is convicted.

Director Harrell reported to the Training Council that Ms. Locklear quit before she was fired. In other similar cases officers have been fired on misconducts and then hired by another agency.

Chief Keel explained that they don't have a regulation to suspend someone's certification, but hopefully they will have a 90 day Emergency Regulation the end of today's meeting. They chose to delay the motion on Tiffany Locklear until later in the meeting.

Attorney General Wilson asked if they could finish this discussion under New Business.

Damian J. Ellison (Marion CO SO) – Allegation: Dishonesty/Untruthfulness with respect to his/her employer. Brandy Duncan explained that Deputy Damian Ellison was involved in an accident resulting in a fatality, but he was not at fault. At the time of the incident, the officers found that Damian Ellison's driver's license was under suspension for failure to pay a traffic ticket issued by Kershaw CO SO. Prior to his court date the polygraph taken indicated deception. Damian Ellison pled not guilty to the driving under suspension and had a bench trial. He was found guilty but prior to sentencing the charge was amended to no driver license in possession. Damian Ellison resigned from his duties prior to his termination. Brandy Duncan noted that as of today they have not received any documentation from Kershaw CO SO verifying that Damian Ellison ever received a ticket.

After some discussion, the Training Council had several questions and concerns. The Council asked Brandy Duncan to continue researching the evidence so the Training Council can make a determination at a later date. Based on their questions and concerns the Training Council made several recommendations in her research.

- Who the vehicle was registered to.
- Copy of the traffic ticket



SC SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

5400 Broad River Road
Columbia, South Carolina 29212-3540
Attention: Certification Department
Phone: (803) 896-7802 Fax: (803) 896-7803



PERSONNEL CHANGE IN STATUS - HIRE FORM

Pelion Police Department 803-894-2520 8-3-2014
Reporting Department Telephone # Today's Date

John Elliott Elkin Male
Officer's Name (First MI. Last) SS# or Academy I.D.# Female

8-2-2014 914114
Date of Hire K.A. Date of Birth Race

7791550 SC
Driver's License Number Issuing State

PLEASE CHECK ONE: ☒ Class I LE ☐ Class 2LCO (Jailer)
☐ Class 3SLE (Limited Duty) ☐ Class 1LECO (LEO/Jailer)
☐ Reserve Appointment

Pelion Police Department 8-3-2014
Commissioning Agency Date

AFFIDAVIT OF BACKGROUND INVESTIGATION

I hereby attest that I have conducted a complete background investigation on the above officer. Below is a list of this officer's former law enforcement agencies contacted for terms of separation:

Date Contacted	Agency	Contact Person
9-2-2014	Cayce DPS	Sgt. Jamie Beckham
8-26-2014	SCHP	Cpt. Jones Gamble

My background investigation concluded that this officer is of "Good Character" and does not have any disqualifications which would render the officer uncertifiable under the South Carolina Training Act, Section 23-23-60 and I hereby make application for certification.

A complete and current Criminal History Check has been conducted and charge(s):

☒ WERE NOT FOUND (no CHC / NCIC is required)
☐ WERE FOUND (attach CHC / NCIC showing disposition)

A complete and current Driving Record has been reviewed and Suspension(s) is a result of driving under the influence of alcoholic beverages or dangerous drugs, driving while impaired, reckless homicide, involuntary manslaughter, or leaving the scene of an accident:

☒ WERE NOT FOUND (no Driving Record is required)
☐ WERE FOUND (attach Driving Record showing suspension)

Signature of Investigating Officer: [Signature] LT. Darren Norris
(Print Name)

Authorizing Signature for Department: [Signature] LT. Darren Norris Date: 9-3-2014
(Print Name)

Sworn to and subscribed before me this
3 day of Sept. Year 2014

Chris Garner Chris Garner
Signature of Notary Public for South Carolina Print Name

My commission expires: 9-11-2019

PCS of Hire Form - revised 08/2014

RECEIVED

SEP 04 2014

SCCJA CERTIFICATION

000157



South Carolina Criminal Justice Academy

September 5, 2014

VIA CERTIFIED MAIL

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Re: Recertification of John Elkin

Dear Mr. O'Leary:

This is to notify you that the Law Enforcement Training Council has made a preliminary decision that Mr. Elkin is not qualified to be recertified as a law enforcement officer in South Carolina at this time. In reviewing Mr. Elkin's original PCS of Separation from the Pelion Police Department, the Council noted that it was alleged Mr. Elkin was dishonest/untruthful with respect to his employer. Specifically, that Mr. Elkin "phoned [the Chief of Police] and stated... he didn't go to the residence but had a heated conversation via cellphone... [the Chief of Police] asked [Mr. Elkin] direct if he went to the residence and he replied he did not before ending the phone call." Further that on "10-14-13... Elkin requested to meet with [the Chief of Police] at the Pelion Town hall" and that Mr. Elkin "resigned and advised [the Chief of Police] that he had lied to [the Chief of Police] concerning the allegation. [Mr. Elkin] affirmed that he did go to the residence."

Under S.C. Reg. 38-004,

(A) The Council may deny certification based on evidence satisfactory to the Council 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.

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

Pursuant to the Administrative Procedures Act, Mr. Elkin is entitled to a contested case hearing before the Law Enforcement Training Council. If Mr. Elkin's wishes to afford himself the

opportunity of a contested case hearing, he may do so by filing a written request with the S.C. Criminal Justice Academy within thirty (30) days of receipt of this letter. Please direct this request to Brandy A. Duncan, Chief General Counsel for the Academy, at 5400 Broad River Road, Columbia, S.C. 29212. Please be advised that Mr. Elkin must be employed with a law enforcement agency or be a pre-hire candidate with a law enforcement agency in order to have a contested case hearing before the Council.

Sincerely,

Hubert F. Harrell

Hubert F. Harrell
Director

HFH:bad

cc: John Elkin
Chief Chris Garner, Pelion Police Department

O'LEARY ASSOCIATES, P.A.

JOHN A. O'LEARY, ATTORNEY

Katie O'Leary Fayssoux (of Counsel)

(Via 1 page fax & US Mail)

September 9, 2014

Brandy A. Duncan
General Counsel - SCCJA
5400 Broad River Rd.
Columbia, SC 29212-3540
Fax: 803-896-8347

RE: John E. Elkin
Contested Certification Case Hearing, SCCJA

Dear Ms. Duncan:

Our office represents John Elkin concerning his Certification with SCCJA. On 09-08-14 we received notice from Director Harrell that Mr Elkin is not qualified to be re-certified. We therefore respectfully request the scheduling of a contested case hearing before the Law Enforcement Training Council. Mr. Elkin is a pre-hire candidate with Pelion Police Department. Please advise of the date and location of this hearing and anything further required to perfect this request.

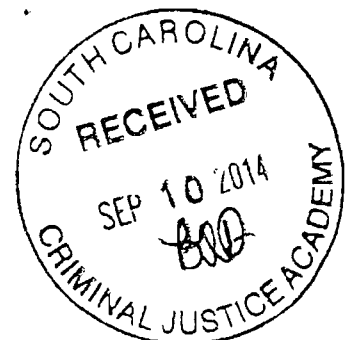
Thank you for your time and consideration in this matter. If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,



JOHN A. O'LEARY
Attorney At Law

for.



JAO/jb
cc: John Elkin (via email only)
Chief Chris Garner, Pelion Police Department.

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South Carolina Criminal Justice Academy

September 30, 2014

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Re: Certification Appeal: John E. Elkin
Case No. 14-CJA-009

Dear Mr. O'Leary:

Mr. Elkin's certification contested case hearing has been scheduled for Wednesday, November 5, 2014 at 11:00 a.m. in the Criminal Justice Academy's conference room. The Criminal Justice Academy is located at 5400 Broad River Road, Columbia, South Carolina 29212. When you arrive at the Academy, please ask the receptionist to call me to the front and I will take you to the conference room. Mr. Elkin's has the right to subpoena witnesses to testify. To assist with this process a blank copy of a hearing subpoena is enclosed.

At the hearing, evidence will be presented that Mr. Elkin was dishonest/untruthful with respect to his employer. Specifically, that Mr. Elkin:

phoned [the Chief of Police] and stated... he didn't go to the residence but had a heated conversation via cellphone... [the Chief of Police] asked [Mr. Elkin] direct if he went to the residence and he replied he did not before ending the phone call. [Further that on] 10-14-13... Elkin requested to meet with [the Chief of Police] at the Pelion Town hall [and that Mr. Elkin] resigned and advised [the Chief of Police] that he had lied to [the Chief of Police] concerning the allegation. [Mr. Elkin] affirmed that he did go to the residence.

Please be advised you are entitled to have an attorney represent you at this hearing. Should you hire an attorney to represent you, please have the attorney send a notice of appearance to me at the address below.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-7414.

Sincerely,

Brandy A. Duncan
Chief General Counsel

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cc: Chief Mark A. Keel, SLED
Chief Chris Garner, Pelion Police Department

**LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY**

In the Matter of the Issuance	)	Case No. 14-CJA-009
of Law Enforcement Officer	)	
Certification to John Elkin	)	SUBPOENA OF WITNESS
_____	)	

TO: _____

YOU ARE HEREBY DIRECTED to personally appear before Mark A. Keel,
Member of the South Carolina Law Enforcement Training Council at the South Carolina
Criminal Justice Academy, at 5400 Broad River Road, Columbia, S.C., on the 5th of
November 2014, at 11:00 a.m., to testify in the above-captioned matter.

Name:

Dated: _____

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

November 20, 2014

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Re: Certification Appeal: John E. Elkin
Case No. 14-CJA-009

Dear Mr. ~~O'Leary~~ ^{John}:

In the middle of Mr. Elkin's certification contested case hearing on November 5, 2014, I began to suspect that I knew or had a connection to Mr. Elkin and his former employment at the South Carolina Department of Public Safety. At the conclusion of the hearing, upon reviewing additional files in the Academy's certification department, I determined that I was the Director of the South Carolina Department of Public Safety when Mr. Elkin was terminated from that agency for misconduct involving dishonesty.

As a result I contacted you regarding this conflict of interest and suggested to you that Mr. Elkin be granted a new contested case hearing with a new hearing officer. Given the conflict of interest and unusual nature of this situation, your request will be granted. I will have Ms. Brandy Duncan contact you as soon as possible to determine what dates will work for this hearing. Please note that this new hearing will be a complete redo, meaning none of the evidence (testimony and exhibits) admitted in the hearing before me will be in the record at the new hearing, unless you present that evidence again. Additionally, I will recuse myself from any further proceedings regarding Mr. Elkin and his certification.

CALEA



An Accredited Law Enforcement Agency

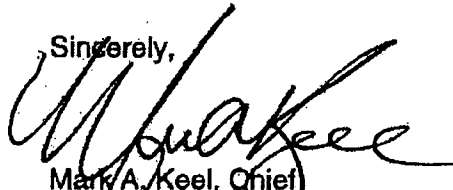
P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588

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Mr. O'Leary
Page 2
November 18, 2014

I apologize for the inconvenience that this has caused you and your client. Please be assured we will take the appropriate steps to ensure this does not occur again in the future.

Sincerely,



Mark A. Keel, Chief
S. C. Law Enforcement Division

MAK/dwh

cc: Brandy A. Duncan, Chief Counsel, SC CJA
Chief Chris Garner, Pelion Police Department

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South Carolina Criminal Justice Academy

November 24, 2014

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201



Re: Certification Appeal: John E. Elkin
Case No. 14-CJA-009

Dear Mr. O'Leary:

Mr. Elkin's **rescheduled** certification contested case hearing has been scheduled for Wednesday, January 7, 2015 at 9:30 a.m. in the Criminal Justice Academy's conference room. The Criminal Justice Academy is located at 5400 Broad River Road, Columbia, South Carolina 29212. When you arrive at the Academy, please ask the receptionist to call me to the front and I will take you to the conference room. Mr. Elkin's has the right to subpoena witnesses to testify. To assist with this process a blank copy of a hearing subpoena is enclosed.

At the hearing, evidence will be presented that Mr. Elkin was dishonest/untruthful with respect to his employer. Specifically, that Mr. Elkin:

phoned [the Chief of Police] and stated... he didn't go to the residence but had a heated conversation via cellphone... [the Chief of Police] asked [Mr. Elkin] direct if he went to the residence and he replied he did not before ending the phone call. [Further that on] 10-14-13... Elkin requested to meet with [the Chief of Police] at the Pelion Town hall [and that Mr. Elkin] resigned and advised [the Chief of Police] that he had lied to [the Chief of Police] concerning the allegation. [Mr. Elkin] affirmed that he did go to the residence.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-7414.

Sincerely,

Brandy A. Duncan
Chief General Counsel

cc: Kris Jordan, Representative for Sheriff Bruce Bryant
Chief Chris Garner, Pelion Police Department

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**LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY**

In the Matter of the Issuance)
of Law Enforcement Officer)
Certification to John Elkin)
_____)

Case No. 14-CJA-009

SUBPOENA OF WITNESS

TO: _____

YOU ARE HEREBY DIRECTED to personally appear before Kris Jordan, Representative of Sheriff Bruce Bryant, Member of the South Carolina Law Enforcement Training Council, at the South Carolina Criminal Justice Academy, at 5400 Broad River Road, Columbia, S.C., on the 7th of January 2015, at 9:30 a.m., to testify in the above-captioned matter.

Name:

Dated: _____

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South Carolina Criminal Justice Academy

December 29, 2014

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Re: Certification Appeal: John E. Elkin
Case No. 14-CJA-009

Dear Mr. O'Leary:

Mr. Elkin's **rescheduled** certification contested case hearing has been scheduled for Wednesday, **February 4, 2015 at 10:00 a.m.** in the Criminal Justice Academy's conference room. The Criminal Justice Academy is located at 5400 Broad River Road, Columbia, South Carolina 29212. When you arrive at the Academy, please ask the receptionist to call me to the front and I will take you to the conference room. Mr. Elkin's has the right to subpoena witnesses to testify. To assist with this process a blank copy of a hearing subpoena is enclosed.

At the hearing, evidence will be presented that Mr. Elkin was dishonest/untruthful with respect to his employer. Specifically, that Mr. Elkin:

phoned [the Chief of Police] and stated... he didn't go to the residence but had a heated conversation via cellphone... [the Chief of Police] asked [Mr. Elkin] direct if he went to the residence and he replied he did not before ending the phone call. [Further that on] 10-14-13... Elkin requested to meet with [the Chief of Police] at the Pelion Town hall [and that Mr. Elkin] resigned and advised [the Chief of Police] that he had lied to [the Chief of Police] concerning the allegation. [Mr. Elkin] affirmed that he did go to the residence.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-7414.

Sincerely,


Brandy A. Duncan
Chief General Counsel

cc: Kris Jordan, Representative for Sheriff Bruce Bryant
Chief Chris Garner, Pelion Police Department

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**LAW ENFORCEMENT TRAINING COUNCIL
CRIMINAL JUSTICE ACADEMY**

In the Matter of the Issuance)
of Law Enforcement Officer)
Certification to John Elkin)
_____)

Case No. 14-CJA-009

SUBPOENA OF WITNESS

TO: _____

YOU ARE HEREBY DIRECTED to personally appear before Kris Jordan,
Representative of Sheriff Bruce Bryant, Member of the South Carolina Law Enforcement
Training Council, at the South Carolina Criminal Justice Academy, at 5400 Broad River
Road, Columbia, S.C., on the 4th of February 2015, at 10:00 a.m., to testify in the
above-captioned matter.

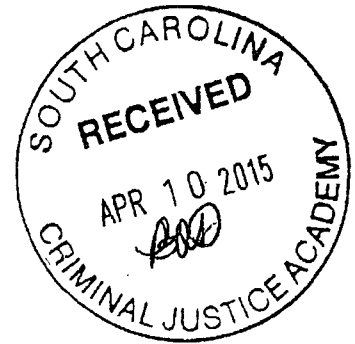
Name:

Dated: _____

April 7, 2015

Law Enforcement Training Council

Re: John Elkin
Case No.: 2014-CJA-009



Dear Training Council Members,

On October 23, 2013, the Academy received a Personnel Change in Status (hereinafter, "PCS") of Separation Report from the Pelion Police Department alleging Mr. Elkin engaged in dishonesty/untruthfulness with respect to his employer. On September 4, 2014, the Academy received a PCS of Hire form from the Pelion Police Department stating they had rehired Mr. Elkin as a law enforcement officer. Attached to this PCS of Hire was a letter from the Chief of Police, Chris Garner, and an amended PCS of Separation form. These documents requested to change "the status" of Mr. Elkin's PCS filed on October 23, 2013 and "retract the original PCS [of Separation] and misconduct report." Chief Garner's request, amended PCS, and original PCS were submitted to the Law Enforcement Training Council (hereinafter, "Council" or "Training Council") for a determination of whether Mr. Elkin would need a contested case hearing with regard to the information on file. On July 30, 2014, at one of our regularly scheduled meetings, the Council members present unanimously voted that a contested case hearing was needed.¹

The contested case hearing was held on November 5, 2014 before Chief Mark Keel, Chairman of the Training Council (Transcript of Hearing #2, page 3). During the contested case hearing, Chief Keel began to suspect that he may have a connection with Mr. Elkin that would require his recusal from Mr. Elkin's case (Id.). After concluding the hearing and upon a review

¹ Sheriff Bruce Bryant, who was not present at the Council meeting on July 30, 2014, had previously voted that a contested case hearing was no longer needed.

of additional records on file with the Academy's certification unit, Chief Keel determined that he did need to recuse himself from Mr. Elkin's case (Id.). Because of the need for this recusal, Mr. Elkin's attorney, John O'Leary, Esquire, was contacted. The nature of the conflict and the need for recusal was explained to Mr. O'Leary and Mr. O'Leary was advised that it was up to Mr. Elkin as to how his case could proceed at that point. Mr. O'Leary was told that a whole new contested case hearing could be held before a new hearing officer or the previously held contested case hearing could be sent to the Council with no written recommendation from Chief Keel. Mr. Elkin elected to have a whole new contested case hearing before a new hearing officer.

The second contested case hearing was originally scheduled for January 7, 2015 at 9:30 a.m. Due to an unexpected conflict in Mr. O'Leary's schedule, however, the second contested case hearing had to be continued to February 4, 2015 at 10:00 a.m. When the parties came together for the second contested case hearing, Mr. O'Leary requested that the new Hearing Officer simply use the transcript and evidence from the first contested case hearing to draft a recommendation for the full Training Council, rather than actually holding a whole new contested case hearing (Transcript of Hearing #2, pages 3-4.). The representatives from the Pelion Police Department consented to this procedure and the agreement to this procedure was placed on the record (Transcript of Hearing #2, page 5).

Mr. Elkin was represented by John A. O'Leary, Esquire of O'Leary Associates in the contested case hearing and during all matters subsequent to that hearing, including the agreement on February 4, 2015. Chief Chris Garner appeared on behalf of Mr. Elkin's former employer, Pelion Police Department, at the contested case hearing and during all matters subsequent to that

hearing, including the agreement on February 4, 2015. During the contested case hearing, six (6) witnesses provided testimony: Chief Chris Garner, Cpl. Edward Richardson, Daniel R. Bledsoe, Capt. Mike Crider, Lt. Darren Norris, and John Elkin.

Testimony of Chief Chris Garner

Chief Chris Garner testified first. Chief Garner testified Mr. Elkin worked for him as a law enforcement officer for almost a year (Transcript of Hearing, page 7, lines 1-7). Mr. Elkin was the night shift supervisor (Transcript of Hearing, page 7, line 5). On October 13, 2013, at around 1800 hours, Chief Garner received a telephone call from Mr. Elkin explaining that Mr. Elkin and his wife had a heated argument over the telephone (Transcript of Hearing, page 7, lines 15-21). Mr. Elkin stated he was giving Chief Garner a "heads up that the County would be calling" Chief Garner about the argument because Mr. Elkin's wife had called the Lexington County Sheriff's Office (Transcript of Hearing, page 7, lines 21-23). Chief Garner asked Mr. Elkin where he was and whether Mr. Elkin had been at the property at W.E. Jeffcoat Road (Mr. Elkin's wife's property) (Transcript of Hearing, page 7, line 23 – page 8, line 6).² Mr. Elkin told Chief Garner he was not at the W. E. Jeffcoat Road property (Transcript of Hearing, page 8, line 6 and page 9, lines 10-19). A short time later, Chief Garner was informed by the Lexington County Sheriff's Office that Mr. Elkin had been at the W. E. Jeffcoat Road property at around 1400 hours when the argument occurred between Mr. Elkin and his wife (Transcript of Hearing, page 8, lines 11-20). Just before noon the next day, Chief Garner received a telephone call from Mr. Elkin requesting to meet with Chief Garner (Transcript of Hearing, page 9, line 20 – page 10, line 7). When Mr. Elkin arrived, he was very upset and freely admitted that "he lied to

² Mr. Elkin was living in Forest Acres at this point and was not residing with his wife at the W. E. Jeffcoat Road residence.

[Chief Garner] out of panic and that he indeed was at the [W. E. Jeffcoat] residence” during the argument with his wife (Transcript of Hearing, page 10, lines 7-12 and page 18, lines 11-14).

Testimony of Cpl. Edward Richardson

Cpl. Richardson is a fulltime corporal at the Lexington County Sheriff's Office and also a part-time corporal at the Town of Pelion (Transcript of Hearing, page 25, lines 18-21). Cpl. Richardson testified that he had been in contact with Chief Garner and Mr. Elkins several times the morning of October 14, 2013 (Transcript of Hearing, page 26, lines 17-19, page 29, line 9, page 25, line 25 – page 30 lines 1-3). He further testified that during a conversation with Chief Garner, Chief Garner asked Cpl. Richardson if he “thought that there was any sort of deception” (Transcript of Hearing, page 30, lines 3-4). Cpl. Richardson testified that he told Chief Garner that he “wholeheartedly believed what [Mr. Elkins] was telling [him]” (Transcript of Hearing, page 30, line 7-8). Cpl. Richardson testified that Mr. Elkins called him “a very short time later to tell me that he had been deceptive with me” (Transcript of Hearing, page 30, lines 13-15). Cpl. Richardson further testified that he was present during the October 14, 2013, conversation between Chief Garner and Mr. Elkin (Transcript of Hearing, page 26, lines 10-14 and page 26, line 24-page 27, line 16). Cpl. Richardson confirmed that Mr. Elkin admitted to lying to Chief Garner the prior day (Transcript of Hearing, page 29, lines 5-19 and page 31, line 18-page 32, line 4).

Testimony of Daniel R. Bledsoe

Mr. Bledsoe testified as a character witness for Mr. Elkin and had no direct knowledge about the events at issue (Transcript of Hearing, page 33, line 2-page 36, line 14).

Testimony of Capt. Mike Crider

Pelion Police Capt. Crider testified that he drove Mr. Elkin home just after Mr. Elkin resigned from the Pelion Police Department (Transcript of Hearing, page 37, lines 20-24). Capt. Crider testified that Mr. Elkin seemed upset during the drive home and that Capt. Crider was aware that Mr. Elkin had been having marital problems (Transcript of Hearing, page 37, line 25-page 38, line 8). Capt. Crider was not present during the meeting Mr. Elkin had with Chief Garner (Transcript of Hearing, page 38, lines 9-14). Capt. Crider also testified that Mr. Elkin had always been truthful to him and that he did not have any question about whether Mr. Elkin would be truthful in all his law enforcement duties (Transcript of Hearing, page 38, line 22-page 39, line 2).

Testimony of Lt. Darren Norris

Pelion Police Lt. Norris testified that he performed the background investigation into Mr. Elkin for purposes of his rehire with the Pelion Police Department (Transcript of Hearing, page 40, lines 5-16). Lt. Norris testified that he did not find any negative information on Mr. Elkin during this background investigation (Transcript of Hearing, page 40, line 22-page 46, line 16 and Elkin's Exhibit #4). Lt. Norris further testified that there had been an allegation of misconduct filed by the S.C. Highway Patrol, but "the Academy...ruled...the allegations of misconduct did not meet Regulation 38-004" (Transcript of Hearing, page 46, line 22-page 47, line 20).

Testimony of John Elkin

Mr. Elkin testified that on October 13, 2013, he began texting his estranged wife, Christy, in an effort to come to an agreement regarding child custody (Transcript of Hearing, page 51, lines 13-16, page 52, line 4). Mr. Elkin testified that he and his wife got into an argument

regarding custody of their daughter (Transcript of Hearing, page 49, line 9-page 55, line 2) and whether an alleged paramour had been at the residence (Transcript of Hearing, page 53, line 13-23). Mr. Elkin took Mrs. Elkin's phone, stood up to leave and put her phone in his pocket (Transcript of Hearing, page 53, lines 20, and 23-25). Mrs. Elkins tried to retrieve the phone by attempting to reach into his pocket which put her in between Mr. Elkins and his vehicle (Transcript of Hearing, page 43, lines 7-10). Mr. Elkins stated that she refused to get out of his way and "it was obvious to me that she was trying to provoke me" (Transcript of Hearing, page 54, lines 10-12). Mrs. Elkins retrieved their daughter from inside the residence and walked over to her aunt's house and called 911 (Transcript of Hearing, page 54, lines 18-25 – page 55, lines 1-5). Mr. Elkin testified that when he was originally contacted by law enforcement officers investigating Ms. Elkin's 911 call for this argument, he told the law enforcement officers he had not been at Ms. Elkin's residence (Transcript of Hearing, page 55, lines 3-13). Mr. Elkin also admitted that later that evening he called Chief Garner and "lied" by stating he had not been at Ms. Elkin's house during this argument (Transcript of Hearing, page 55, line 14-page 56, line 6). Mr. Elkin confirmed meeting with Chief Garner the day after the argument with Ms. Elkin, confirmed that he resigned from the Pelion Police Department at that time, and confirmed that he told Chief Garner he had "lied to him" the day before regarding whether he had been at Ms. Elkin's residence during the argument (Transcript of Hearing, page 56, line 14-page 57, line 8 and page 59, line 18-page 3). He further testified that he lied because the only two witnesses to the incident of him being at the residence was he and his wife and that he panicked (Transcript of Hearing, page 59, lines 20-25). Mr. Elkins testified that he went back and recanted after having spoken with his divorce attorney, Jake Moore Jr., and after having told Moore that he had lied

(Transcript of Hearing page 60, lines 11-16). Mr. Elkins stated that "I could have never ever admitted anything and given the lack of any kind of physical evidence or any kind of technical evidence, I could have taken that to my grave and still been working and never having been in here, but that's not me" (Transcript of Hearing page 64, lines 13-18). Mr. Elkins believes that his admission ended up resulting in his arrest (Transcript page 65, lines 1-2). The incident was ultimately investigated by SLED and Mr. Elkins was charged with Criminal Domestic Violence. The Solicitor's Office did not prosecute the charge (Transcript of Hearing, page 59, lines 10-18).

Deposition of Christy Elkin

The deposition of Mr. Elkin's estranged wife, Christy Elkin, was entered into evidence at Mr. Elkin's request. This deposition was referred to numerous times for the propositions that Mrs. Elkin had been serially unfaithful during the marriage (Transcript of Hearing, page 10, lines 13-24, page 27, lines 17-25 - Page 28, lines 1-7, Page 48, lines 16-24, page 50, lines 12-21, page 52, lines 21-25 - page 53, line 1) and that Mrs. Elkin was trying to take his job (Transcript of Hearing, page 61, lines 18-25 - page 62, lines 1-15, page 67, lines 21-25 - page 68, lines 1-22). Mrs. Elkin's also gave testimony during her deposition regarding the incident between her and Mr. Elkin (Transcript of Hearing, page 70, lines 16-19). Review of the deposition revealed that Mrs. Elkin readily admitted to having sexual relations with at least five men during her marriage to Mr. Elkin (Deposition, pages 18-39). Mrs. Elkin's testimony regarding the incident begins on page 62 of the deposition. Mrs. Elkin testified that she allowed Mr. Elkin to come to the residence after multiple texts from Mr. Elkin (Deposition, page 62, lines 5-22) and that he arrived in his police vehicle (Deposition, page 63, lines 1-2). Mrs. Elkin testified that an argument began over visitation and that Mr. Elkin stated he was going to have law enforcement

do weekly welfare checks (Deposition, page 63, lines 16-22 – page 64, lines 1-17). Mrs. Elkin testified that she asked Mr. Elkin to leave multiple times, that he refused, and that when she pulled out her phone to call “Lexington County” he “snatched the phone from me” so she went inside and got their child and walked over to her aunt’s house (Deposition, page 65, lines 10-25 – page 66, lines 15). Mrs. Elkin further testified that Mr. Elkin followed her about halfway through the woods (Deposition, page 67, line 25 - Page 68, line 1). Mrs. Elkin testified that she called “Lexington County” and that she did know that this was going to be trouble for Mr. Elkin. (Deposition, page 68, lines 6-15). Mrs. Elkin testified that prior to walking over to her aunt’s house she had tried to grab he phone back and grabbed at Mr. Elkin’s pocket (Deposition, page 71, lines 22-23). Mrs. Elkin testified that she returned to her home accompanied by the police (Deposition, page 84, lines 12-16). Her cell phone was located on the rail on the porch (Deposition, page 84, line 19). Mrs. Elkin testified that she looked at her phone and discovered that all of the text messages between her and Mr. Elkin had been deleted and that she was not the person who deleted them. (Deposition, pages 84, line 22 through page 88, line 5). Mrs. Elkin testified that she and Mr. Elkin had sexual relations near the end of September, just shortly before the October incident (Deposition, page 95, lines 4-9).

Based on the testimony of the witnesses and the exhibits admitted into evidence, I make the following findings and recommendations:

FINDINGS OF FACT

It is found as a fact:

1. By his own admission during this hearing, Mr. Elkin lied to his employer on October 13, 2013 about whether he was at Ms. Elkin’s residence during an argument.

2. On October 14, 2013, of his own volition, Mr. Elkin admitted to Chief Garner that he had lied to him the day before.
3. By his own admission during this hearing, Mr. Elkin lied to police during a police investigation of which he was the subject.
4. Testimony of Mr. Elkin taken together with the testimony of Mrs. Elkin show that Mr. Elkin destroyed evidence during a police investigation by deleting text messages that would put him at the residence.

CONCLUSIONS OF LAW

It is concluded as a matter of law:

1. 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 the Council.
2. S.C. Reg. 38-004 states, in part:

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

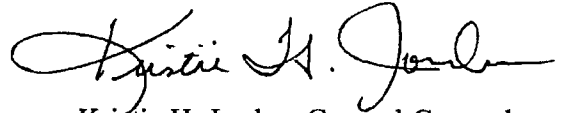
 - 7) Dishonesty with respect to his/her employer.
 - 8) Untruthfulness with respect to his/her employer.
3. Mr. Elkin, by his own admission at this hearing, was untruthful and dishonest to his employer on October 13, 2013.

RECOMMENDED SANCTION

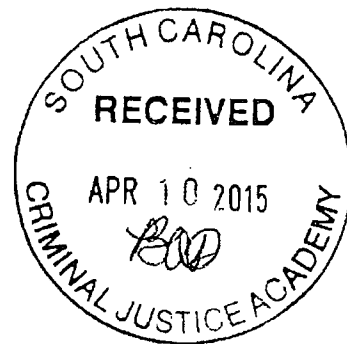
Based on the facts set forth above, I recommend the Training Council deny Mr. Elkin's

request for reissuance of his law enforcement certification.

Sincerely,



Kristie H. Jordan, General Counsel
York County Sheriff's Office
Hearing Officer





South Carolina Criminal Justice Academy

April 8, 2015

Attorney General Alan Wilson
S.C. Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211

Director Bryan Stirling
S.C. Dept. of Corrections
4444 Broad River Road
Columbia, South Carolina 29210

Director Leroy Smith, Co-Chairman
S.C. Dept. of Public Safety
10311 Wilson Blvd.
Blythewood, South Carolina 29016

Director Ronaldo Myers
Alvin S. Glenn Detention Center
201 John Mark Dial Drive
Columbia, South Carolina 29209

Director Alvin Taylor
S.C. Dept. of Natural Resources
1000 Assembly Street
Columbia, South Carolina 29202

Director John C. Thomas
North Augusta Dept. of Public Safety
444 East Buena Vista Avenue
North Augusta, South Carolina 29841

Sheriff J. Edward Darnell
Bamberg County Sheriff's Office
Post Office Box 210
Bamberg, South Carolina 29003

Director Jerry Adger
S.C. Probation, Parole, & Pardon Services
Post Office Box 50666
Columbia, South Carolina 29205

Director Robin E. Morse
Clinton Dept. of Public Safety
404 North Broad Street
Clinton, South Carolina 29325

Re: Certification Appeal: John Elkin
Case No. 14-CJA-009

Dear Training Council Members:

Enclosed please find the following documents from the hearing referenced above:

- 1) The non-binding, written recommendation from Hearing Officer Kris Jordan;
- 2) The transcript from both hearings; and
- 3) A CD containing electronic copies of all exhibits entered into evidence at the hearing.

Please review these materials and make yourself familiar with the facts of this case so a final agency decision may be made at the next Training Council meeting, currently scheduled for Tuesday, April 28, 2015 at 10:00 a.m.

000180

If you have any questions or concerns, please call me at (803) 896-7414.

Sincerely,



Brandy A. Duncan
Chief General Counsel

Enclosures as Stated

cc: Kris Jordan, General Counsel (No Enclosures)
York County Sheriff's Office
Moss Judicial Center
1675-2A York Highway
York, South Carolina 29745-7430

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Chief Chris Garner
Pelion Police Department
1010 Main Street
Pelion, South Carolina 29123



South Carolina Criminal Justice Academy

May 4, 2015

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Re: In the Matter of the Issuance of Law Enforcement Officer Certification to John Elkin
Case No. 14-CJA-009

Dear Mr. O'Leary:

Enclosed please find the final agency decision in the above referenced case. Mr. Elkin is entitled to appeal this decision to the Administrative Law Court if he chooses. Any such appeal must be filed with the Administrative Law Court within thirty (30) days after receiving this notification and must be served on me on the Law Enforcement Training Council's behalf.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-7414.

Sincerely,

Brandy A. Duncan
Chief General Counsel

Enclosure as Stated

cc: Chief Chris Garner
Pelion Police Department
1010 Main Street
Pelion, South Carolina 29123

000182

WILLIAMS & WILLIAMS
ATTORNEYS AT LAW

MARSHALL B. WILLIAMS
(1912 - 1995)
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C. BRADLEY HUTTO
RUSSELL A. BLANCHARD, IV
DAVID R. WILLIAMS
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May 29, 2015

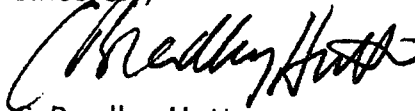
Brandy A. Duncan
General Counsel for the Academy
5400 Broad River Road
Columbia, SC 29212

RE: Mr. John Elkin

Dear Brandy:

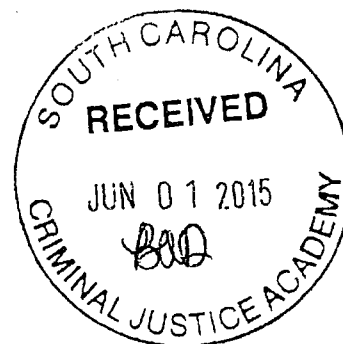
I am hereby requesting a copy of the transcript from the hearing which was held on February 4, 2015. By copy of this letter I am notifying the Administrative Law Court of this request.

Sincerely,


C. Bradley Hutto

/rfdurr

c:
Administrative Law Court
Attn: Jana Shealy



000183

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2016-000034

RECEIVED
AUG 11 2016
SC Court of Appeals

John Elkin,

Respondent,

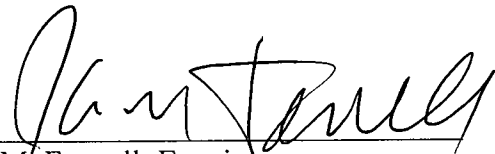
v.

South Carolina Criminal Justice Academy,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal contains all material proposed to be included by the parties and not any other material.



James M. Fennell, Esquire
SC BAR # 72576
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Columbia, South Carolina 29212
(803) 896-7722
(803) 896-8347 (fax)
jfennell@sccja.sc.gov
Attorney for Appellant

August 11, 2016