

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Joseph Ragsdale, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 South Carolina Criminal Justice Academy, )  
 )  
 Respondent. )  
 )  
 )

Docket No. 19-ALJ-30-0344-AP

FINAL ORDER

**RECEIVED**

FEB 25 2020

**SCC Court of Appeals**

This matter is before the Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed on October 18, 2019 by Joseph Ragsdale (Appellant). The Appellant is appealing the South Carolina Criminal Justice Academy's (SCCJA or Respondent) decision to permanently deny the Appellant's eligibility for certification as a law enforcement officer in the State of South Carolina.

**BACKGROUND**

On January 25, 2019, the South Carolina Department of Public Safety (DPS or Department) submitted a Personnel Change in Status Report (PCS) for Separation due to Misconduct to the SCCJA, following the Appellant's termination as an officer with the Department. The PCS indicated that the Appellant was terminated for misconduct as defined in S.C. Code Ann. § 23-23-150(A)(3)(g). The allegation of misconduct arose out of an incident that occurred on October 26, 2018, when the Appellant was provided information that a person known to him had been detained on suspicion of shoplifting at Palmetto State Armory. In response to this information, the Appellant had a conversation with Deputy Kevin Mitchum, Lexington County Sheriff's Department, the officer responding to the scene of the alleged shoplifting incident, during which the Appellant stated that the detained suspect was his little brother. Deputy Mitchum arrived at Palmetto State Armory and spoke with the detained shoplifting suspect who told Deputy Mitchum that the Appellant was not his actual brother but a close family friend. When Deputy Mitchum confronted the Appellant about whether the shoplifting suspect was actually his brother, the Appellant acknowledged that the suspect was not really his brother, but "like a brother."

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A contested case hearing was held on May 29, 2019. The parties entered into a stipulation that the parties would not offer any witness testimony, and instead would present their respective cases through the submission of exhibits, to which neither party objected. Therefore based on the stipulation, the Hearing Officer accepted into evidence the following: Personnel Change in Status Report (Notification of Separation Due to Misconduct) and Correspondence of Criminal Justice Academy; a disc containing interviews of Deputy Kevin Mitchum and the Appellant by a member of the Office of Professional Responsibility (OPR); DPS, OPR summary of the Appellant's interview; and the affidavits of Nathan M. Farmer and Joshua T. Farmer.

On July 1, 2019, the Hearing Officer issued his recommendation to the Law Enforcement Training Council (LETC or Council). The Hearing Officer found that substantial evidence established the allegation that on October 26, 2018, the Appellant willfully misrepresented his relationship to a shoplifting suspect to Deputy Mitchum, a law enforcement officer, when the Appellant stated to Deputy Mitchum that the suspect was the Appellant's brother, while knowing that statement was false. The Hearing Officer therefore found that the Department had met its burden of proof in establishing that the Appellant engaged in misconduct by willfully providing false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency. Specifically, the Hearing Officer found that the Appellant's representations to Deputy Kevin Mitchum regarding his relationship to the shoplifting suspect, constituted misconduct. Based on his findings, the Hearing Officer recommended that the LETC deny the Appellant eligibility for certification as a law enforcement officer in the state of South Carolina, either permanently or for a specified amount of time, as may be deemed appropriate by council.

The LETC met on August 19, 2019, at which time the parties were given the opportunity to present oral arguments. The LETC heard arguments, reviewed the Hearing Officer's recommendations, the hearing transcript and exhibits, and considered the Appellant's previously submitted Motion in Opposition. The LETC then voted to adopt the Hearing Officer's Recommendation. On September 15, 2019, the LETC issued its final decision that the Appellant is permanently ineligible for a law enforcement certification in South Carolina. The Appellant timely appealed this decision to the ALC.

### ISSUES ON APPEAL

1. Whether the Council's finding of misconduct is supported by substantial evidence.
2. Whether the sanction of denial of certification was excessive, not warranted by the evidence, and was arbitrary and capricious and an abuse of discretion.

### STANDARD OF REVIEW

The South Carolina Criminal Justice Academy (SCCJA) is governed by the Law Enforcement Training Council (LETC or Council). S.C. Code Ann. § 23-23-20. The Council has the power to "certify and train qualified candidates and applicants for law enforcement officers and provide for suspension, revocation, or restriction of the certification, in accordance with regulations promulgated by the council." S.C. Code Ann. § 23-23-80(6). The ALC has jurisdiction to hear the appeal of a final decision of the SCCJA pursuant to the Administrative Procedures Act. S.C. Code Ann. § 11-23-600(D). Under the appellate standard of the Administrative Procedures Act, the court's review in appellate cases is limited to the record, absent irregularities in the procedure of the agency. S.C. Code Ann. § 1-23-380(4). Additionally,

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

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

S.C. Code Ann. § 1-23-380(5).

A decision is supported by substantial evidence when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence.

*Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, "a reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)).

### DISCUSSION

The LETC permanently denied the Appellant's certification as a law enforcement officer based on its determination that the Appellant willfully misrepresented his relationship with a shoplifting suspect to a law enforcement officer, while knowing such representation to be false, constituted misconduct.

S.C. Code Reg. 37-025 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. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a law enforcement officer, a law enforcement agency, or representative...

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. 37-025.

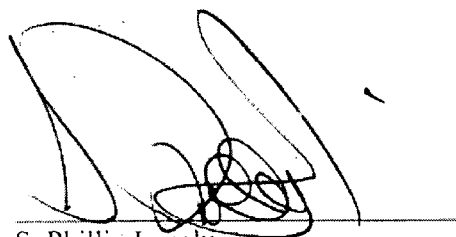
The Appellant contends that the Council's finding that he engaged in misconduct is not supported by substantial evidence but is based on mere speculation or surmise. The Appellant avers that although he referred to the shoplifting suspect as his brother, he did not intend to mislead Deputy Mitchum or interfere in the investigation of the alleged shoplifting. The Respondent argues that the substantial evidence in the record establishes that the Appellant willfully made a false, misleading, incomplete, deceitful, or incorrect statement to a law enforcement officer, when the Appellant told Deputy Mitchum that the shoplifting suspect was his brother, even though the Appellant was fully aware of that fact that the suspect was not his brother at the time he made the statement to Deputy Mitchum. The Respondent clarifies that it is the Appellant's statement to Deputy Mitchum that constitutes misconduct, not an intention by the Appellant to interfere in the investigation.

The court disagrees with the Appellant's contention that the Council's finding of misconduct is not supported by substantial evidence. A review of the evidence, Deputy Mitchum's recorded interview, and the Appellant's own admission establishes that the Appellant made the false statement to Deputy Mitchum that his brother had just gotten arrested for shoplifting. Additionally, while harsh, the court finds that the sanction imposed by the Council was within its discretion.

**ORDER**

**IT IS HEREBY ORDERED** that the decision of the Law Enforcement Training Council is **AFFIRMED**.<sup>1</sup>

**AND IT IS SO ORDERED.**



S. Phillip Lenski  
Administrative Law Judge

January 27, 2020  
Columbia, South Carolina

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<sup>1</sup> While affirming the Council's decision in this matter, this court would be remiss if it did not express its strong concern with the harsh nature of the sanction imposed in this case. 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 Council is granted the explicit authority to do so. S.C. Code Ann. Regs. 37-025. This case involves a single incident of misrepresentation which the Appellant corrected within a very short time. While this court cannot and will not substitute its judgment for the Council, this court is deeply troubled that the Council chose to permanently deny the Appellant eligibility for certification as a law enforcement officer. The court finds persuasive the reasoning of the Administrative Law Court in the case of *Elkin v South Carolina Criminal Justice Academy*, No. 15-ALJ-30-0246-AP, 2010 WP 9256531 (Dec 10, 2015), cited by the Appellant in his brief, where the court found that the fact that the Appellant had lied to his employer did not support the Council's decision to permanently deny certification as a law enforcement officer. However, in *Elkin*, there was substantial evidence in the record about the Appellant's distinguished service and long list of good deeds, which the court found overshadowed his single incident of misconduct. Here, the record does not possess evidence of the Appellant's positive accomplishments, and therefore, this court is reticent to reverse the Council's determination. Notwithstanding this, the court finds the harsh result in this case concerning.

CERTIFICATE OF SERVICE

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



Erika S. Easler  
Judicial Law Clerk

January 27, 2020  
Columbia, South Carolina

**FILED**

JAN 27 2020

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