

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski

Appellant Case No. 2020-000345
Case No. 2019-ALJ-30-0344-AP

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Jul 28 2020

SC Court of Appeals

Joseph Ragsdale..... Appellant

v.

South Carolina Criminal Justice Academy Respondent

RECORD ON APPEAL

July 20, 2020

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Joseph Ragsdale,

Appellant.

v.

South Carolina Criminal
Justice Academy,

Respondent.

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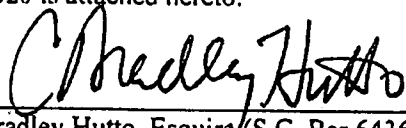
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SC Court of Appeals

NOTICE OF APPEAL

Appellant, Joseph Ragsdale, appeals the Order of Administrative Law Judge S. Phillip Lenski dated January 27, 2020 to permanently deny his eligibility for certification as a law enforcement officer. Judge Lenski's Order affirms the decision of the Law Enforcement Training Council. A copy of the Order dated January 27, 2020 is attached hereto.

February 25, 2020


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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Joseph Ragsdale,)	Docket No. 19-ALJ-30-0344-AP
)	
Appellant,)	
)	
vs.)	
)	FINAL ORDER
South Carolina Criminal Justice Academy,)	
)	
Respondent.)	
)	
)	

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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JAN 27 2020

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.

Wafers 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.**¹

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

January 27, 2020
Columbia, South Carolina

¹ 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.

The following documentation was accepted into evidence at the May 29th hearing, pursuant to the stipulation of the parties, and made a part of the record:

Council Exhibit Number 1: [Personnel Change in Status Report (Notification of Separation Due to Misconduct) and Correspondence of Criminal Justice Academy]

State's Exhibit Number 1: DVD containing audio recordings of two individual interviews conducted by SCDPS Office of Professional Responsibility (OPR):

- OPR Interview of Kevin Mitchum of November 14, 2018 (Excluding interview portion time stamped from 6:48 through 8:40 of indicated running time, also referenced as interview portion time stamped from 6:42 through 4:48 of indicated remaining time)
- OPR Interview of Joseph Ragsdale of November 20, 2018 (Entire interview)

State's Exhibit Number 2: South Carolina Department of Public Safety, Office of Professional Responsibility (OPR) Summary of Interview of Joseph Ragsdale.

Respondent's Exhibit Number 1: Affidavit of Nathan M. Farmer and Affidavit of Joshua T. Farmer

III. ANALYSIS

The essence of the Department of Public Safety's allegation of misconduct against Ragsdale is that he willfully made false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency, except as required by departmental policy or by the laws of South Carolina.

To prevail on the misconduct allegations brought against Ragsdale, the Department was required to establish by "substantial evidence" that Ragsdale's statements made to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency, regarding the incident in which he was involved on October 26, 2018, were willfully false, misleading, incomplete, deceitful, or incorrect and constituted "misconduct" as contemplated by S.C. Code Ann. § 23-23-150 (A) (3) (g).

"Substantial evidence" is more than a mere scintilla of evidence which, based on considering the record as a whole, would allow reasonable minds to reach the conclusion reached by an administrative agency to justify its action. (See, e.g., *South Carolina Department of Motor Vehicles v. Dover*, 423 S.C. 153, 813 S.E. 2d 532, (Ct. App. 2018)) Further, a showing of substantial evidence requires less than a showing of the weight of the evidence and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. [See, e.g., *Office of Regulatory Staff v. S.C. Pub. Serv. Comm'n*, 374 S.C. 46, 647 S.E.2d 223

(2007), citing *Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n*, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984).]

Accordingly, to prove its allegations against Ragsdale, the evidence presented by the Department must have been such that, after consideration of the entire record in this matter, one could reasonably conclude that substantial evidence existed on the record that Ragsdale's representations to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency, in this matter, were false, misleading, incomplete, deceitful, or incorrect and were willful. The term "willful" may be defined as follows:

willful adj. (13c) Voluntary and intentional, but not necessarily malicious. A voluntary act becomes willful, in law, only when it involves conscious wrong or evil purpose on the part of the actor, or at least inexcusable carelessness, whether the act is right or wrong... [See, *Black's Law Dictionary* (10th ed. 2014)]

A "misleading" statement is one that is "deceptive." (See, <https://www.dictionary.com/browse/misleading>) Similarly, a "deceitful" statement, is one that is "intended to deceive" or is "misleading." (See, <https://www.dictionary.com/browse/deceitful>) And, an incomplete statement is one that is "lacking some part." (See, <https://www.dictionary.com/browse/incomplete>)

A review of the recorded interview of Deputy Kevin Mitchum of the Lexington County Sheriff's Office, conducted on November 14, 2018 by Investigator Brandon Bamberg of the South Carolina Department of Public Safety's Office of Professional Responsibility (OPR), established that Joseph Ragsdale unequivocally stated in a phone call he made to Mitchum on October 26th that "my brother just got arrested for shoplifting" at Palmetto State Armory, the location to which Mitchum was responding at the time, and that Ragsdale's statement left Mitchum "under the impression" that the person detained for shoplifting was in fact, Ragsdale's brother. (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 1:56-2:18) The interview further established that Mitchum, once on the scene at Palmetto Armory, spoke with the detained shoplifting suspect who advised him that Ragsdale was not his brother but his friend. (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 3:20-3:28) When confronted by Mitchum with the fact that the shoplifting suspect was not his brother, but a friend, Ragsdale only then acknowledged that the suspect was not really his brother but was "like a brother." (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 3:38-3:53)

A review of the recorded interview of Joseph Ragsdale, conducted on November 20, 2018 by Investigator Brandon Bamberg of the South Carolina Department of Public Safety's Office of Professional Responsibility (OPR), established that Ragsdale admitted in the interview to telling Deputy Mitchum that the suspected shoplifter detained at Palmetto State Armory was "his brother" although Ragsdale noted that the suspect was not his true brother. (State's Exhibit Number 1, Interview of Joseph Ragsdale, time stamp 4:52-5:00, and also 10:17-10:19)

State's Exhibit Number 2, containing a summary of the November 20, 2018 interview of Ragsdale Prepared by the Office of Professional Responsibility (OPR) is consistent with the statements made by Ragsdale during his recorded interview, specifically that he "advised Deputy Mitchum that the shoplifter was his 'little brother'" and that only after Mitchum confronted Ragsdale with the fact that the suspect had indicated that they were not brothers did Ragsdale then "[clarify to] Deputy Mitchum that the shoplifter was not his brother, but that he was like a brother."

Respondent's Exhibit Number 1 consisted of two separate affidavits, one of Nathan Farmer and the other of Joshua Farmer. The affidavits are essentially identical in substance, each affiant asserting that he is not related by blood to Joseph Ragsdale, that each affiant considers Ragsdale as a brother and introduces him as the same, and that each affiant considers Ragsdale to be a member of the his family.

The term "brother" is defined as "[a] male who has one parent or both parents in common with another person." [See, *Black's Law Dictionary* (11th ed. 2019)] A reasonable view of the evidence to which the parties stipulated would clearly show that Ragsdale knew at all times that the detained shoplifting suspect was not his "brother" in the sense that any reasonable person would ascribe to that term. Further, Ragsdale admitted to both Mitchum and OPR that the detained suspect was not his brother; only that the suspect was "like a brother," but was not related by blood. Accordingly, Ragsdale's initial representations to Mitchum regarding his relationship to the detained suspect were knowingly false and made with an intention to mislead and deceive Deputy Mitchum.

Further, Ragsdale's acknowledgment in his interview that he "intentionally" displayed his SCDPS badge, weapon, handcuffs, and radio although dressed in civilian clothing because he felt that the Palmetto State Armory staff might "let a law enforcement officer back there" to see the detained suspect is particularly troubling. (State's Exhibit Number 1, Interview of Joseph Ragsdale, time stamp 8:10-8:18) While Ragsdale's clearly evinced intention to misrepresent the role he played vis-à-vis the detained

suspect to the staff of Palmetto State Armory does not bear directly on the determination of misconduct in this matter, inasmuch as the misrepresentation was not to a law enforcement officer or agent, Ragsdale's conduct clearly demonstrates his deceptive mindset on October 26th particularly with respect to the false and misleading statements he made to Deputy Mitchum.

A review of the evidence in this matter, as stipulated by the parties, established by substantial evidence that Joseph Ragsdale did, on October 26, 2018, willfully misrepresent his relationship with a detained shoplifting suspect to Deputy Kevin Mitchum, a representative of the Lexington County Sheriff's Office, claiming to Mitchum that the suspect was his brother while knowing such representation, by his own admission, to be false.

FINDINGS OF FACT

Based on the Hearing Officer's Recommendation, Hearing Transcripts, Hearing Exhibits, motions, and oral arguments we find as a fact:

1. The allegations of misconduct against Joseph Ragsdale, as reported in the Personnel Change in Status Report (Notification of Separation Due to Misconduct) provided to the Criminal Justice Academy (Academy) by the South Carolina Department of Public Safety (Department), are supported by substantial evidence adduced at the contested case hearing on May 29, 2019;
2. The Department has met its burden of proof in establishing that Ragsdale 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, as was charged in the Personnel Change in Status Report (Notification of Separation Due to Misconduct) provided by the Department to the Academy; and
3. The consideration of the entire record of the hearing in this matter establishes that Joseph Ragsdale's representations to a law enforcement officer, Deputy Kevin Mitchum, a representative of the Lexington County Sheriff's Office, constituted misconduct which was established by substantial evidence at the contested case hearing on May 29, 2019.

CONCLUSIONS OF LAW

Based on the Hearing Officer's Recommendation, Hearing Transcripts, Hearing Exhibits, motions, and oral arguments we conclude as a matter of law:

1. Pursuant to S.C. Code Ann. § 23-23-80 (6), the South Carolina Law Enforcement Training Council ("Council") is authorized, *inter alia*, to "provide for suspension, revocation, or restriction" of law enforcement certification in accordance with the regulations promulgated by the Council;
2. Pursuant to S.C. Code Ann. Regs. 37-025, Council may deny law enforcement certification "based on evidence satisfactory to the Council that the candidate has engaged in misconduct";
3. A review of the record in this matter discloses that there exists substantial evidence that Joseph Ragsdale committed misconduct, pursuant to S.C. Code Ann. § 23-23-150 (A) (3) (g), by willfully

providing false, misleading, incomplete, deceitful, or incorrect statements to Deputy Kevin Mitchum, a representative of the Lexington County Sheriff's Office, as alleged and reported to the Criminal Justice Academy by the Department; and

4. The misconduct allegations regarding Joseph Ragsdale reported by the South Carolina Department of Public Safety have been proven by substantial evidence and, pursuant to the provisions of S.C. Code Ann. Regs. 37-107, Council may conclude that, based on the evidence adduced at the contested case hearing and applicable statutes and regulations, Joseph Ragsdale has committed misconduct and further that, pursuant to S.C. Code Ann. Regs. 37-025, Joseph Ragsdale may be denied eligibility for certification as a law enforcement officer in the State of South Carolina.

SANCTION

THEREFORE, IT IS ORDERED: Mr. Ragsdale is permanently ineligible for a law enforcement certification in South Carolina.

AND IT IS SO ORDERED.



Chief Mark Keel, Chairman
Law Enforcement Training Council
On Behalf of the Law Enforcement Training Council

Sept.
August 15, 2019

STATE OF SOUTH CAROLINA

Before the South Carolina Law Enforcement Training Council

In the Matter of the Law Enforcement)
Certification of Joseph Ragsdale)
)
)
[Department of Public Safety])
)
)
_____)

Docket Number 2019-CJA-01-12

**FINDINGS AND RECOMMENDATIONS
OF HEARING OFFICER
(Contested Case)**

Hearing Officer: William C. Smith
Hearing Date: May 29, 2019
Hearing Reporter: Sandra J. Ayers, Southern Reporting, Inc.

Appearances
For Officer: John A. O’Leary, Esquire
For Department: Marcus K. Gore, Esquire

I. JURISDICTION AND AUTHORITY FOR HEARING

The undersigned, a member in good standing of the South Carolina Bar employed as an attorney by the South Carolina Criminal Justice Academy, was duly appointed by the South Carolina Law Enforcement Training Council (“Council”), pursuant to S.C. Code Ann. § 23-23-80 (10), to sit as hearing officer for the contested case hearing in this matter, pursuant to S.C. Code Ann. § 23-23-150 (D).

Joseph Ragsdale (“Officer”), in response to allegations of certification misconduct reported by the South Carolina Department of Public Safety (“Department”) to the South Carolina Criminal Justice Academy (“Academy”), pursuant to the requirements of S.C. Code Ann. § 23-23-150 (B) and S.C. Code Ann. Regs. 37-023, timely requested a contested case hearing to address the allegations of misconduct filed against him. Notice of the contested case hearing was communicated to the Officer and the Department, in accordance with the requirements of S.C. Code Ann. § 23-23-150 (D), and the matter was properly set for hearing on May 29, 2019.

II. ALLEGATIONS OF MISCONDUCT

The Department’s Personnel Change in Status Report (Notification of Separation Due to Misconduct) dated January 25, 2019, hereinafter “PCS,” alleged that Joseph Ragsdale had committed

misconduct, as defined in S.C. Code Ann. § 23-23-150 (A) (3) (g), by “[w]illfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State.”

Factually, the Department’s allegations referenced an incident occurring on October 26, 2018 in which Ragsdale had been provided information that a person known to him had been detained on suspicion of shoplifting at Palmetto State Armory and in response to which information Ragsdale was alleged to have had a conversation with a Lexington County Sheriff’s Deputy, Kevin Mitchum, who was responding to the scene of the alleged shoplifting incident, in which Ragsdale stated to Mitchum that the detained suspect was his “little brother,” a statement that Ragsdale allegedly knew to be false.

III. STIPULATION OF PARTIES

Counsel for the Officer and Counsel for the Department entered into a stipulation, placed into the record of the hearing of May 29, 2019, that no witness testimony would be offered by either party and that the parties’ respective cases would be presented through submission of their respective exhibits, further identified herein below, to the admission of which neither party raised objection. (Transcript, pp. 6-7)

A stipulation represents “[a] voluntary agreement between opposing parties concerning some relevant point; esp., an agreement relating to a proceeding, made by attorneys representing adverse parties, to the proceeding.” (*Black’s Law Dictionary* (10th ed. 2014) “stipulation”, 2.) The effect of the stipulation in this matter is to bind the parties to the facts to which they have stipulated in their exhibits and to constrain the undersigned from going beyond the stipulated facts, except as may be necessary to draw “reasonable inferences” from them. [See, e.g., *State Farm Mut. Auto. Ins. Co. v. Bookert*, 330 S.C. 221, 499 S.E.2d 480 (Ct. App. 1997), decision rev’d on other grounds, 337 S.C. 291, 523 S.E.2d 181 (1999)] [See, also, Rule 43(k), SCRPC]

IV. DOCUMENTARY EVIDENCE

The following documentation was accepted into evidence pursuant to judicial notice, in accordance with Rule 201 (b) SCRE, and pursuant to stipulation of the parties at the May 29th hearing and made a part of the record:

Council Exhibit Number 1: [Personnel Change in Status Report (Notification of Separation Due to Misconduct) and Correspondence of Criminal Justice Academy]

State's Exhibit Number 1: DVD containing audio recordings of two individual interviews conducted by SCDPS Office of Professional Responsibility (OPR):

- OPR Interview of Kevin Mitchum of November 14, 2018 (Excluding interview portion time stamped from 6:48 through 8:40 of indicated running time, also referenced as interview portion time stamped from 6:42 through 4:48 of indicated remaining time)
- OPR Interview of Joseph Ragsdale of November 20, 2018 (Entire interview)

State's Exhibit Number 2: South Carolina Department of Public Safety, Office of Professional Responsibility (OPR) Summary of Interview of Joseph Ragsdale.

Respondent's Exhibit Number 1: Affidavit of Nathan M. Farmer and Affidavit of Joshua T. Farmer

V. ANALYSIS

The Department was required to establish by substantial evidence that Ragsdale's statements regarding an incident in which he was involved on October 26, 2018, which statements were made to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency, were willfully false, misleading, incomplete, deceitful, or incorrect and, accordingly, constituted "misconduct" as contemplated by S.C. Code Ann. § 23-23-150 (A) (3) (g).

"Substantial evidence" is more than a mere scintilla of evidence which, based on considering the record as a whole, would allow reasonable minds to reach the conclusion reached by an administrative agency to justify its action. (See, e.g., *South Carolina Department of Motor Vehicles v. Dover*, 423 S.C. 153, 813 S.E. 2d 532, (Ct. App. 2018)) Further, a showing of substantial evidence requires less than a showing of the weight of the evidence and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. [See, e.g., *Office of Regulatory Staff v. S.C. Pub. Serv. Comm'n*, 374 S.C. 46, 647 S.E.2d 223 (2007), citing *Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n*, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984).]

Accordingly, to prove the allegations against Ragsdale, the evidence presented by the Department must have been such that, after consideration of the entire record in this matter, one could reasonably conclude that substantial evidence existed on the record that Ragsdale willfully made false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency.

The term "willful" may be defined as follows:

willful adj. (13c) Voluntary and intentional, but not necessarily malicious. A voluntary act becomes willful, in law, only when it involves conscious wrong or evil purpose on the part of the actor, or at least inexcusable carelessness, whether the act is right or wrong... [See, *Black's Law Dictionary* (10th ed. 2014)]

A "misleading" statement is one that is "deceptive." (See, <https://www.dictionary.com/browse/misleading>) Similarly, a "deceitful" statement, is one that is "intended to deceive" or is "misleading." (See, <https://www.dictionary.com/browse/deceitful>) An incomplete statement is one that is "lacking some part." (See, <https://www.dictionary.com/browse/incomplete>)

A review of the recorded interview of Deputy Kevin Mitchum, a law enforcement officer and representative of the Lexington County Sheriff's Office, conducted on November 14, 2018 by Investigator Brandon Bamberg of the South Carolina Department of Public Safety's Office of Professional Responsibility (OPR), established that Joseph Ragsdale unequivocally stated in a phone call with Mitchum on October 26th that "my brother just got arrested for shoplifting" at Palmetto State Armory, the location to which Mitchum was responding at the time, and that Ragsdale's statement left Mitchum "under the impression" that the person detained for shoplifting was in fact, Ragsdale's "brother." (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 1:56-2:18) The interview also established that Mitchum, once on the scene at Palmetto State Armory, spoke with the detained shoplifting suspect who advised Mitchum that Ragsdale was not his brother but a friend. (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 3:20-3:28) The interview further established that when confronted by Mitchum with the fact that the shoplifting suspect was not his brother, but a friend, Ragsdale only then acknowledged to Mitchum that the suspect was not really his brother but was "like a brother." (State's Exhibit Number 1, Interview of Kevin Mitchum, time stamp 3:38-3:53)

A review of the recorded interview of Joseph Ragsdale, conducted on November 20, 2018 by Investigator Brandon Bamberg of the South Carolina Department of Public Safety's Office of Professional Responsibility (OPR), established that Ragsdale admitted to Bamberg to having told Deputy Mitchum that the suspected shoplifter detained at Palmetto State Armory was "his brother" although Ragsdale confirmed to Bamberg that the suspect was not his true brother. (State's Exhibit Number 1, Interview of Joseph Ragsdale, time stamp 4:52-5:00, and also 10:17-10:19)

State's Exhibit Number 2, a summary of the November 20, 2018 interview of Ragsdale prepared by the Office of Professional Responsibility (OPR), is consistent with the statements made by Ragsdale to Investigator Bamberg during his recorded interview; specifically that he "advised Deputy Mitchum that the shoplifter was his 'little brother'" and that only after Mitchum confronted him with the fact that the suspect had indicated that they were not brothers did Ragsdale then "[clarify to] Deputy Mitchum that the shoplifter was not his brother, but that he was like a brother."

Respondent's Exhibit Number 1 consisted of two separate affidavits, one of Nathan Farmer and the other of Joshua Farmer. The affidavits are essentially identical in substance, each affiant asserting that he is not related by blood to Joseph Ragsdale, that each affiant considers Ragsdale as a brother and introduces him as the same, and that each affiant considers Ragsdale to be a member of the his family.

The term "brother" is defined as "[a] male who has one parent or both parents in common with another person." [See, *Black's Law Dictionary* (11th ed. 2019)] A reasonable view of the evidence to which the parties stipulated clearly established that Ragsdale was aware at all times that the detained shoplifting suspect was not his "brother" in the sense that any reasonable person would ascribe to that term. Further, Ragsdale ultimately admitted to both Deputy Mitchum, and also to Investigator Bamberg in the course of his OPR interview, that the detained suspect was not his brother; noting only that the suspect was "like a brother" but was not related by blood. Accordingly, Ragsdale's representations to Deputy Mitchum on October 26th regarding his relationship to the detained suspect were knowingly false and made with an intention to mislead and deceive Deputy Mitchum, a law enforcement officer and representative of the Lexington County Sheriff's Office, with regards to his relationship to the detained suspect.

Ragsdale's acknowledgment in his OPR interview that on October 26th he "intentionally" displayed his SCDPS badge, weapon, handcuffs, and radio although dressed in civilian clothing, because he felt that the Palmetto State Armory staff might "let a law enforcement officer back there" to see the detained suspect, is particularly troubling. (State's Exhibit Number 1, Interview of Joseph Ragsdale, time stamp 8:10-8:18) Although Ragsdale's clearly evinced intention to misrepresent the role he played, vis-à-vis the detained suspect, to the staff of Palmetto State Armory does not bear directly on a determination of misconduct in this matter, inasmuch as Ragsdale's misrepresentation was not made to a law enforcement officer or agent, his conduct in that regard clearly demonstrated a contemporaneous

mindset of misrepresentation and deception which ultimately manifested itself in the false and misleading statements he made to Deputy Mitchum.

The evidence in this matter, as stipulated by the parties, and the reasonable inferences drawn from that evidence, establishes by substantial evidence that Joseph Ragsdale did, on October 26, 2018, willfully misrepresent his relationship with a detained shoplifting suspect to Deputy Kevin Mitchum, a law enforcement officer and representative of the Lexington County Sheriff's Office, stating to Mitchum that the suspect was his brother while knowing that statement to be false; as further confirmed by Ragsdale's own admissions during the course of his OPR interview of November 20, 2018.

RECOMMENDED FINDINGS OF FACT

I recommend the following findings of fact:

1. The allegations of misconduct against Joseph Ragsdale, as reported in the Personnel Change in Status Report (Notification of Separation Due to Misconduct) provided to the Criminal Justice Academy (Academy) by the South Carolina Department of Public Safety (Department), are supported by substantial evidence adduced at the contested case hearing on May 29, 2019;
2. The Department has met its burden of proof in establishing that Ragsdale 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, as was charged in the Personnel Change in Status Report (Notification of Separation Due to Misconduct) provided by the Department to the Academy; and
3. The consideration of the entire record of the hearing in this matter establishes that Joseph Ragsdale's representations to Deputy Kevin Mitchum, a law enforcement officer and representative of the Lexington County Sheriff's Office, constituted misconduct which was established by substantial evidence at the contested case hearing on May 29, 2019.

RECOMMENDED CONCLUSIONS OF LAW

I recommend the following conclusions of law:

1. Pursuant to S.C. Code Ann. § 23-23-80 (6), the South Carolina Law Enforcement Training Council ("Council") is authorized, *inter alia*, to "provide for suspension, revocation, or restriction" of law enforcement certification in accordance with the regulations promulgated by the Council;
2. Pursuant to S.C. Code Ann. Regs. 37-025, Council may deny law enforcement certification "based on evidence satisfactory to the Council that the candidate has engaged in misconduct";
3. A review of the record in this matter discloses that there exists substantial evidence that Joseph Ragsdale committed misconduct, pursuant to S.C. Code Ann. § 23-23-150 (A) (3) (g), by willfully providing false, misleading, incomplete, deceitful, or incorrect statements to Deputy Kevin Mitchum, a law enforcement officer and representative of the Lexington County Sheriff's Office, as alleged and reported to the Criminal Justice Academy by the Department; and
4. The misconduct allegations regarding Joseph Ragsdale reported by the South Carolina Department of Public Safety have been proven by substantial evidence and, pursuant to the

provisions of S.C. Code Ann. Regs. 37-107, Council may conclude that, based on the evidence adduced at the contested case hearing and applicable statutes and regulations, Joseph Ragsdale has committed misconduct and further that, pursuant to S.C. Code Ann. Regs. 37-025, Joseph Ragsdale may be denied eligibility for certification as a law enforcement officer in the State of South Carolina.

RECOMMENDED DISPOSITION

Based on the foregoing considerations and the evidence adduced at the contested case hearing of May 29, 2019, it is recommended that the South Carolina Law Enforcement Training Council:

- A) Issue its final agency decision, pursuant to S.C. Code Ann. Regs. 37-107 D. finding that the allegations of misconduct reported against Joseph Ragsdale by the South Carolina Department of Public Safety have been proven by substantial evidence; and
- B) Deny Joseph Ragsdale 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, pursuant to its authority set forth at S.C. Code Ann. Regs. 37-108 A.

I SO FIND AND RECOMMEND:



William C. Smith
Contested Case Hearing Officer

Date: July 1, 2019



Southern Reporting, Inc.

Transcript of
Hearing

5/29/2019

In the Matter of the Law Enforcement Certification
of Joseph Ragsdale
2019-CJA-01-12

ORIGINAL

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: Depos@southernreporting.net

South Carolina Criminal Justice Academy

LETC Case Number: 2019-CJA-01-12

)	
)	Transcript
In the Matter of the Law)	
Enforcement Certification)	of
of Joseph Ragsdale,)	
)	Hearing
)	
)	

Date: May 29, 2019

Time: 10:09 a.m.

Location: South Carolina Criminal Justice Academy

5400 Broad River Road, Columbia, South Carolina

Reported by
Sandra J. Ayers

APPEARANCES

Presiding: Hearing Officer William C. Smith
South Carolina Criminal Justice Academy
Columbia, South Carolina

For the South Carolina Department of Public Safety:
Marcus Gore, Esq.
South Carolina Department of Public Safety
Blythewood, South Carolina

For Joseph Ragsdale: John A. O'Leary, Esq.
O'Leary Associates, PA
Columbia, South Carolina

Also Present: Joseph Ragsdale
Ethan Gray
Christopher Brumlow

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State's Exhibit Number 2, South Carolina Department of Public Safety, Office of Professional Responsibility "Interview of Subject," in re: Trooper J.L. Ragsdale. Pages 35 and 36. 13
Respondent's Exhibit Number 1, "Affidavits of Nathan M. Farmer and Joshua T. Farmer." 14

1 PROCEEDING

2 HEARING OFFICER SMITH: Good morning. My name is Bill
3 Smith. I'm an attorney employed by the South
4 Carolina Criminal Justice Academy and was appointed
5 by the South Carolina Law Enforcement Training
6 Council, in accordance with South Carolina Code
7 Section 23-23-80, to sit as the hearing officer for
8 today's hearing. The hearing today is a
9 certification-contested case hearing for Joseph
10 Ragsdale.

11 Mr. Ragsdale timely requested today's hearing
12 after being notified by the Criminal Justice
13 Academy that certain allegations of misconduct had
14 been filed against him by the South Carolina
15 Department of Public Safety. Those allegations
16 could affect Mr. Ragsdale's ability to be certified
17 as a law-enforcement officer in the State of South
18 Carolina, and the purpose of today's hearing is to
19 receive evidence that will allow the full Law
20 Enforcement Training Council, after receipt and
21 review of the evidence and my handwritten -- excuse
22 me -- and my written recommendations following
23 completion of the hearing, to render its final
24 agency decision as to whether Mr. Ragsdale is
25 eligible for certification as a law-enforcement

1 officer in the State of South Carolina.

2 The case number for today's hearing is 2019-
3 CJA-01-12. Mr. Ragsdale is represented at today's
4 hearing by John O'Leary, who's a member in good
5 standing of the South Carolina Bar. Department of
6 Public Safety is represented by Marcus Gore, who is
7 also a member in good standing of the South
8 Carolina Bar. Today's proceeding is being recorded
9 by a court reporter, and an accurate transcript of
10 the hearing today will be provided to the Law
11 Enforcement Training Council at the conclusion of
12 the hearing.

13 My role in today's hearing is as a neutral
14 hearing officer. I've been provided, prior to
15 today, a copy of the "Personnel Change in Status
16 Report for Misconduct" form, which includes the
17 allegations of misconduct made by the Department of
18 Public Safety against Mr. Ragsdale and the
19 documentation previously provided to Mr. Ragsdale
20 by the Criminal Justice Academy advising him of the
21 misconduct allegations and of the availability of a
22 contested-case hearing regarding the allegations.
23 Those documents provide the jurisdictional basis
24 for today's hearing, and, accordingly, pursuant to
25 Rule 201 of the Rules of Evidence, I'll take

1 judicial notice of those -- the parties already
2 reviewed them -- and ask the reporter to mark that
3 now as Council Exhibit 1.

4 Council Exhibit Number 1, Letter in re:
5 "Allegation of certification misconduct
6 and right to contested case hearing."

7 HEARING OFFICER SMITH: Okay. I received no other
8 documentation or information related to the
9 underlying circumstances of the allegations of
10 misconduct made by the Department of Public Safety
11 against Mr. Ragsdale. And, at this point in time,
12 I'm not familiar with any evidentiary aspects of
13 the case. My understanding, so as to preclude
14 going through the full boilerplate here, is that
15 the parties have agreed to stipulate as to several
16 items; is that correct, Mr. Gore?

17 MR. GORE: Yes.

18 HEARING OFFICER SMITH: Mr. O'Leary?

19 MR. O'LEARY: That's correct.

20 HEARING OFFICER SMITH: And my understanding is,
21 further, based upon discussion with the parties, is
22 that those exhibits which will include both State
23 and Respondent's exhibits will be marked and,
24 pursuant to stipulation, entered. And I am to
25 review those to include a bracketed portion of a

1 recording, I believe, the Department of Public
2 Safety will submit, in making recommendations on
3 the -- the case today; is that correct, Mr. Gore?

4 MR. GORE: Yes.

5 HEARING OFFICER SMITH: Mr. O'Leary?

6 MR. O'LEARY: That's correct. The two portions are --
7 my client, Mr. Ragsdale, is on the tape, and the
8 other one is a Lexington -- interview of a
9 Lexington County deputy.

10 HEARING OFFICER SMITH: Okay. My further understanding
11 is there will be no witnesses called today since
12 we're proceeding on stipulation; is that correct?

13 MR. O'LEARY: That's correct.

14 MR. GORE: That's right.

15 HEARING OFFICER SMITH: Okay. All right. Mr. Gore, do
16 you want to offer or explain on the record the
17 exhibits the State proposes to introduce?

18 MR. GORE: Absolutely. The State has two audio
19 interviews, which were conducted by its Office of
20 Professional Responsibility. The first one is an
21 interview that was done with Mr. Ragsdale on
22 November the 20th of 2018. That interview appears
23 in its entirety on this disk. And, secondly, is an
24 interview that was done with the Office of
25 Professional Responsibility, with a Lexington

1 County Deputy Mitchum, on November the 14th of
2 2018. That interview also appears in its entirety
3 here, but there is a portion that we have
4 stipulated should not be considered by you
5 because --

6 HEARING OFFICER SMITH: Okay.

7 MR. GORE: -- it contains some hearsay. Specifically --
8 and the portion of the interview begins at the
9 6-minute-and-48-second mark and runs through the
10 8-minute-40-second mark. And I also have on here
11 -- I think this is the way, John, you measured it.
12 If you -- if you're -- that's the time --

13 HEARING OFFICER SMITH: -- to be excluded?

14 MR. GORE: Correct. That's the time --

15 HEARING OFFICER SMITH: Okay.

16 MR. GORE: -- that has run. If you look at it from the
17 time that is remaining on the tape --

18 HEARING OFFICER SMITH: Uh-huh.

19 MR. GORE: -- you can flip that, which I think is --

20 MR. O'LEARY: It runs --

21 MR. GORE: -- the way you did it, John.

22 MR. O'LEARY: It runs backwards.

23 MR. GORE: It runs backwards.

24 HEARING OFFICER SMITH: Okay.

25 MR. GORE: And that would be from the 6.42 mark to 4.48

1 mark, because it's showing you the time remaining
2 on the audio, but those still encompass the same
3 segments.

4 HEARING OFFICER SMITH: Okay. So there is -- just so I
5 understand here --

6 MR. GORE: Uh-huh.

7 HEARING OFFICER SMITH: -- are these interviews on one
8 DVD disk?

9 MR. GORE: That's correct.

10 HEARING OFFICER SMITH: Okay. And the first that you
11 alluded to was the audio interview of Mr. Ragsdale
12 on November the 20th, 2018; is that right?

13 MR. GORE: That's correct.

14 HEARING OFFICER SMITH: And I will review that entire
15 interview; is that correct?

16 MR. GORE: That's correct. It's approximately 30
17 minutes.

18 HEARING OFFICER SMITH: Okay. All right. And the
19 second item you've alluded to is November the 14th,
20 2018, interview of a gentleman named "Mitchum,"
21 from the Lexington County Sheriff's Office, and I
22 am to exclude the section from 6-minutes-48-seconds
23 statement at 40 seconds, or reviewing it backwards,
24 6 minute, 42 seconds to 4 minutes, 48 seconds; is
25 that correct?

1 MR. GORE: That is correct.

2 HEARING OFFICER SMITH: Okay.

3 MR. O'LEARY: Could I just mention one thing? The one I
4 had originally looked at was 6.16 to 4.36.

5 HEARING OFFICER SMITH: So --

6 MR. O'LEARY: It's basically overlapping.

7 HEARING OFFICER SMITH: All right.

8 MR. GORE: I think yours is shorter than mine?

9 MR. O'LEARY: Yeah. There was a little -- was a slight
10 difference.

11 HEARING OFFICER SMITH: All right. Now, wait -- wait a
12 second. Six-sixteen to . . .

13 MR. O'LEARY: Mine was -- I -- he gave a little more
14 time than I did, so we'll just --

15 HEARING OFFICER SMITH: Okay.

16 MR. O'LEARY: -- accept his numbers.

17 HEARING OFFICER SMITH: But either way is fine by me.

18 MR. O'LEARY: His numbers are fine.

19 HEARING OFFICER SMITH: But there is -- there is no
20 objection to -- obviously, you're stipulating this
21 to the -- well, we're fine. You're stipulating to
22 it.

23 MR. GORE: Well, and -- and I'll -- I'll clarify exactly
24 what it is.

25 HEARING OFFICER SMITH: Okay.

1 MR. GORE: Because I think it will be easy -- it'll be
2 obvious what it is.
3 MR. O'LEARY: Yeah.
4 MR. GORE: Deputy Mitchum described some conversations
5 that he had with some employees of the --
6 HEARING OFFICER SMITH: Okay.
7 MR. GORE: -- Palmetto State Armory.
8 HEARING OFFICER SMITH: All right.
9 MR. GORE: Those conversations would be hearsay at --
10 and --
11 HEARING OFFICER SMITH: Okay.
12 MR. GORE: -- should not be considered.
13 HEARING OFFICER SMITH: All right.
14 MR. O'LEARY: But --
15 MR. GORE: And -- and nor do they --
16 HEARING OFFICER SMITH: But we're --
17 MR. GORE: -- form the basis for our allegations.
18 HEARING OFFICER SMITH: Okay. But we're stipulating to
19 his testimony here today?
20 MR. GORE: Absolutely.
21 HEARING OFFICER SMITH: Okay. With that --
22 MR. GORE: Short of that one part.
23 HEARING OFFICER SMITH: With that --
24 MR. GORE: That's correct.
25 HEARING OFFICER SMITH: Gotcha. Okay. Just to make

1 sure. So we'll mark that as State's Exhibit 1,
2 John, and you're good with that?
3 MR. O'LEARY: Yes.
4 HEARING OFFICER SMITH: Okay. Well, let me go ahead and
5 ask the reporter to mark that, then, as State
6 Exhibit 1.
7 State's Exhibit Number 1, DVD in re:
8 Ragsdale: Ragsdale interview and Deputy
9 Mitchum interview.
10 HEARING OFFICER SMITH: Okay. All right. Any -- (To
11 Mr. O'Leary) Did you want to comment?
12 MR. O'LEARY: I had two -- we've agreed to them --
13 HEARING OFFICER SMITH: Well, is there -- (To Mr. Gore)
14 Before we go on, do you have anything else?
15 MR. GORE: Well --
16 HEARING OFFICER SMITH: I -- I want to kind of do them
17 in order so I get --
18 MR. GORE: I understand.
19 MR. O'LEARY: Okay. No, that's fine.
20 HEARING OFFICER SMITH: -- State's --
21 MR. O'LEARY: This is --
22 MR. GORE: Well, and I'll -- I'll mark --
23 MR. O'LEARY: -- his down here, somewhere. There.
24 MR. GORE: -- this as mine, John.
25 MR. O'LEARY: Okay.

1 MR. GORE: It doesn't matter since it is --
2 MR. O'LEARY: That's fine.
3 MR. GORE: -- the Department's document. By
4 stipulation, we also have a summary of Mr.
5 Ragsdale's interview with the Office of
6 Professional Responsibility.
7 HEARING OFFICER SMITH: Okay.
8 MR. GORE: That's a two-page document, and . . .
9 HEARING OFFICER SMITH: And, John, you've seen that, or
10 you were -- here we go.
11 MR. O'LEARY: Yeah, no. That's correct.
12 HEARING OFFICER SMITH: Okay.
13 MR. O'LEARY: I -- yeah. I gave it to him and then -- I
14 was going to introduce that.
15 HEARING OFFICER SMITH: Okay.
16 MR. O'LEARY: As long as it's in.
17 MR. GORE: It's a department document, so I guess it
18 should come in as our document.
19 MR. O'LEARY: And we had two additional affidavits of
20 the --
21 HEARING OFFICER SMITH: Okay. Wait -- wait one second.
22 MR. O'LEARY: Okay. Okay.
23 HEARING OFFICER SMITH: Let me just get through this
24 first. So we're good with that as State's 2?
25 MR. O'LEARY: Yeah. That's fine.

1 HEARING OFFICER SMITH: All right. Then, we'll go ahead
2 and mark that as State's 2, without objection.
3 State's Exhibit Number 2, South Carolina
4 Department of Public Safety, Office of
5 Professional Responsibility "Interview of
6 Subject," in re: Trooper J.L. Ragsdale.
7 Pages 35 and 36.
8 MR. O'LEARY: Do you need an extra copy while we . . .
9 MR. GORE: No. I got it.
10 MR. O'LEARY: Okay.
11 MR. GORE: And, I guess, to be clear, the way John has
12 printed this, there's a little bit here that
13 precedes it. I don't think it matters, but --
14 MR. O'LEARY: No. It --
15 MR. GORE: -- interview of the subject is --
16 HEARING OFFICER SMITH: Okay.
17 MR. GORE: -- what you're interested in.
18 HEARING OFFICER SMITH: So I'm to focus on the interview
19 of the --
20 MR. GORE: Correct.
21 HEARING OFFICER SMITH: -- everything below the -- the
22 dark banner here?
23 MR. GORE: That's right. Yeah.
24 MR. O'LEARY: That's fine.
25 HEARING OFFICER SMITH: Okay. All right. Anything else

1 from the Department?

2 MR. GORE: That's all the Department has.

3 HEARING OFFICER SMITH: All right. John, go ahead.

4 MR. O'LEARY: We just had two affidavits we'd agreed to.

5 There's one of a Nathan Farmer and a Joshua Farmer.

6 They are two brothers of -- of the person who was

7 apprehended in this situation.

8 HEARING OFFICER SMITH: Okay. Do you want those marked

9 as one exhibit? Are they together or --

10 MR. O'LEARY: It's -- they're -- just as soon to the

11 other. That's fine. It's easier for you.

12 HEARING OFFICER SMITH: Okay. So affidavits of -- what

13 were the names again?

14 MR. O'LEARY: Josh -- hold on. Nathan Farmer.

15 HEARING OFFICER SMITH: Nathan Farmer. Okay.

16 MR. O'LEARY: And Joshua Farmer.

17 HEARING OFFICER SMITH: Okay. And Joshua Farmer. Okay.

18 And those will be Respondent's Exhibit 1, both of

19 them contained in one exhibit; is that right?

20 We'll just --

21 MR. O'LEARY: Yes.

22 HEARING OFFICER SMITH: Okay.

23 MR. O'LEARY: That's correct.

24 HEARING OFFICER SMITH: Without objection, obviously,

25 we're stipulating, okay?

1 MR. GORE: Correct. No objection.

2 Respondent's Exhibit Number 1, Affidavits
3 of Nathan M. Farmer and Joshua T. Farmer.

4 HEARING OFFICER SMITH: All right. Anything else
5 to . . .

6 MR. O'LEARY: Nothing -- oh, I had one other additional
7 one, but he objected to it, so we've withdrawn
8 that.

9 HEARING OFFICER SMITH: Okay. All right. So, just to
10 kind of -- not conclude, but just to summarize
11 this, we have State's Exhibit 1, which is the two
12 audio interviews: the first one on November the
13 20th, 2018, of your client, Mr. Ragsdale; the
14 second one, November the 14th, the interview of
15 Deputy Mitchum; and there are parts to be bracketed
16 that I've indicated on here. State's 2 is a
17 summary of the Office of Professional
18 Responsibility interview with Mr. Ragsdale, under
19 the banner, "Interview of Subject." And then
20 Respondent's Exhibit 1 is the -- are the affidavits
21 of Nathan Farmer and Joshua Farmer, both included
22 as one exhibit. Then, of course, we've got the
23 Council exhibit, which is just the allegations of
24 misconduct.

25 All right. Is that all the evidence, then,

1 that we -- we have for the record?

2 MR. GORE: Nothing further from the Department.

3 HEARING OFFICER SMITH: John?

4 MR. O'LEARY: Nothing -- nothing further.

5 HEARING OFFICER SMITH: Okay. So, is there anything

6 additional, beyond these items, that I need to

7 consider or anything you want to bring up?

8 MR. O'LEARY: I -- no. I don't think so. Not that I

9 can think of at this time.

10 HEARING OFFICER SMITH: Okay. And --

11 MR. GORE: I don't think so.

12 HEARING OFFICER SMITH: And, again, we've dispensed with

13 most of the boilerplate, but, obviously, the burden

14 is on DPS to --

15 MR. GORE: Certainly.

16 HEARING OFFICER SMITH: -- prove, by substantial

17 evidence, that Mr. Ragsdale has committed the

18 misconduct alleged, and I will draft the findings

19 of recommendations for this. And do you want them

20 by -- by e-mail, as usual, or . . .

21 MR. O'LEARY: That's fine.

22 HEARING OFFICER SMITH: Okay.

23 MR. GORE: That's fine with me.

24 HEARING OFFICER SMITH: So I'll send the transcript, the

25 exhibits, and the findings of recommendations by e-

1 mail, and I have both of y'all's e-mails, I know.

2 I've almost got them committed to memory, but,

3 anyway, anything else that we need to take up?

4 MR. O'LEARY: I don't think so, no.

5 MR. GORE: Nothing further from the Department.

6 HEARING OFFICER SMITH: Okay. Then, that will conclude

7 our hearing.

8 MR. O'LEARY: Okay.

9 HEARING OFFICER SMITH: Thank you so much.

10 (Whereupon the within hearing was

11 concluded at 10:20 a.m.)

12 (*This transcript may contain quoted material.

13 Such material is reproduced as read or quoted

14 by the speaker.)

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South Carolina Criminal Justice Academy

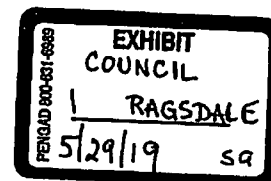
January 28, 2019

Joseph Ragsdale
121 Shumpert Road
West Columbia, SC 29172

2019-CJA-01-12

Hand Delivery Only

RE: Allegation of certification misconduct and right to contested case hearing



Dear Mr. Ragsdale:

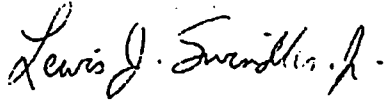
The South Carolina Department of Public Safety has filed an allegation of certification misconduct against you. In particular, willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency except when required by departmental policy or by the laws of this State. You cannot be employed as a law enforcement officer or as a telecommunications operator; have the authority of a law enforcement officer; perform any duties of a law enforcement officer, including those duties involving the control and direction of member of the public, detainees, or prisoners; or exercise the power of arrest, while this allegation of misconduct is pending.

A person against whom an allegation of misconduct has been received by the academy may request a contested case hearing. The request must be made within three years after receipt of the allegation of misconduct and the service of the allegation on the officer, whichever is later. A person who fails to request a contested case hearing within the time allowed shall be deemed to have waived his right to a contested case hearing. The Law Enforcement Training Council shall proceed to enter a final agency decision to deny the person his law enforcement certification or telecommunications certification for a specified time period, up to a permanent denial. Hearings must be scheduled and conducted expeditiously and efficiently, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record. The academy shall schedule a contested hearing within sixty days of receiving a request for a hearing, however, a continuance may be granted for cause. S.C. Code Section 23-23-150 (D) (emphasis added).

If you wish to dispute the allegations of certification misconduct, you must file the Request for Contested Case Hearing form, which is enclosed.

Please be advised that 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 James M. Fennell 5400 Broad River Road, Columbia, South Carolina 29212. If you have any questions or concerns, please do not hesitate to contact Mr. Fennell at 803-896-7722.

Sincerely,



Lewis J. Swindler, Jr.
Director

I have received the allegation of certification misconduct and my right to a contested case hearing. I acknowledge that I have three (3) years to request a contested case hearing. If I do not request the contested case hearing within three (3) years, I understand that I will have waived my right to having one. Additionally, the Law Enforcement Training Council will proceed to enter a final agency decision, against me, to deny me a law enforcement certification for specified time period, up to permanent denial. Finally, I acknowledge that I cannot be employed as a law enforcement officer or telecommunications operator until this allegation of misconduct is favorably resolved.

Print Name

Witness

Signature

Witness Signature

Date

Date



South Carolina Criminal Justice Academy
Certification-Compliance



**PERSONNEL CHANGE IN STATUS REPORT:
NOTIFICATION OF SEPARATION DUE TO MISCONDUCT**

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. The Misconduct Report Form, Separation Supplement, and all documentation related to the misconduct must be forwarded to the Criminal Justice Academy's Certification Unit.

Reporting Department *

SC Department of Public Safety

Agency Email *

angelathomton@scdps.gov
example@example.com

Agency Phone # *

803 - 896-8734
Area Code Phone Number

Today's Date *

01-25-2019
Date

Officer's Name *

Joseph Leslie Ragsdale
First Name Middle Name Last Name

Academy ID # *

XXXX-XXXX

Home Telephone # *

803 - 755-7495
Area Code Phone Number

Officer's Current Home Address *

121 Shumpert Rd.
Street Address

Street Address Line 2

West Columbia
City

SC
State / Province

29172

Postal / Zip Code

Certification Type *

Class 1 LE

Date of Separation *

01-23-2019

Date

Separation Action *


Termination INVOLVING MISCONDUCT as defined in S.C. Code Section 23-23-150

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. DO NOT ATTACH, OR SUBMIT, ANY ADDITIONAL DOCUMENTS.

Please indicate the nature of the misconduct by selecting the appropriate choice 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) 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;
- Physical or psychological abuses of members of 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 property;
- Dangerous and/or unsafe practices involving firearms, weapons and/or vehicle which indicated either a willful or wanton disregard for the safety of persons;
- Misrepresentation of employment-related information;
- Willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State;
- Willfully making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction, or their staff members, whether under oath or not;
- Willfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State;
- The falsification of any application for certification and training based upon which the officer was admitted for training;
- Providing false information to the Criminal Justice Academy;
- Willful submission of false, misleading, incomplete, deceitful, or incorrect statements to the Criminal Justice Academy, or its representatives.

Employing Agency Head (Chief, Sheriff, Director) *



Clear

Date *

mm-dd-yyyy

Date

01/25/19

Name (Chief, Sheriff, Director) *

Leroy

First Name

Smith

Last Name

Official Title (Chief, Sheriff, Director) *

Agency Director

South Carolina Criminal Justice Academy

Certification-Compliance

PERSONNEL CHANGE IN STATUS REPORT NOTIFICATION OF SEPARATION DUE TO MISCONDUCT-PAGE 2

(For any separation involving misconduct as defined in S.C Code Section 23-23-150, completion of this form is REQUIRED)

Officer's Name *

Joseph

First Name

Middle Name

Ragsdale

Last Name

CJA ID *

XXXXXXXX

Employing Agency's Contact Person (for more information) *

	Angela		Thornton
Title	First Name	Middle Name	Last Name

Contact Telephone Number *

803	-	896-8734
Area Code		Phone Number

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.) **DO NOT TYPE "SEE ATTACHED " USE THIS FORM TO WRITE A DESCRIPTION OF THE ALLEGED MISCONDUCT.**

Type description of the alleged misconduct *

An investigation conducted by the South Carolina Department of Public Safety's Office of Professional Responsibility (OPR) sustained allegations that Mr. Ragsdale inappropriately used his position as a State Trooper when he involved himself in a shoplifting investigation, interfered with the Lexington County Sheriff's Department (LCSD) dispatch by inquiring about an active call for personal reasons, and provided untruthful information to a LCSD deputy.

On October 26, 2018, an employee at the Palmetto State Armory (PSA or Armory) detained an individual on suspicion of shoplifting and contacted the LCSD to respond to the scene. Shortly thereafter, Mr. Ragsdale received a phone call from a friend who was on site and advised Mr. Ragsdale of the circumstances. After the phone call Mr. Ragsdale traveled to the PSA. Although Mr. Ragsdale used his personal vehicle and wore civilian attire, he wore his Department issued firearm, badge, handcuffs and hand-held radio. Additionally, while on the way to PSA, he turned his radio to the LCSD channel and asked over the radio which officer was responding to the Armory. After learning that Lexington County Deputy Kevin Mitchum was responding on behalf of LCSD, Mr. Ragsdale provided his contact information to him and he contacted Mr. Ragsdale. During that conversation, Mr. Ragsdale admittedly advised Deputy Mitchum that the shoplifter was his "little brother" and that he would be traveling to PSA "to find out what's going on."

Mr. Ragsdale arrived at the Armory prior to Deputy Mitchum and immediately approached the Store Manager, telling him that he was "here for [his] fugitive." Then Mr. Ragsdale began walking with the Store Manager toward the back of the store where the suspect was being detained with the Assistant Store Manager. The Assistant Store Manager and the shoplifter identified Mr. Ragsdale as the "shoplifter's friend" before he reached the back of the store. When asked who Mr. Ragsdale worked for, he responded "I work with Lexington County." The employee replied that he thought Mr. Ragsdale was a State Trooper, and Mr. Ragsdale responded that he was a trooper but that he worked in Lexington County. The Store Manager then advised Mr. Ragsdale that he would not be able to see the shoplifter and that he needed to return to the front of the store.

Continue if needed:

Shortly thereafter, Deputy Mitchum arrived on the scene and met Mr. Ragsdale in the parking lot. Deputy Mitchum's body camera captured him specifically asking Mr. Ragsdale, "younger brother?" and Mr. Ragsdale responding affirmatively. Upon questioning, the shoplifter confirmed to Deputy Mitchum that Mr. Ragsdale was not related to him, but rather just a friend. Deputy Mitchum met Mr. Ragsdale outside and informed him that the shoplifter was going to be arrested and that the shoplifter was "not your brother, it's your friend." Mr. Ragsdale then admitted to Deputy Mitchum that they were "like brothers."

During Mr. Ragsdale's interview with the OPR, he advised that he intentionally wore his department issued gun, badge, hand-held radio, and handcuffs because he believed that if the PSA employees observed that he was a law enforcement officer, they would allow him to speak with the shoplifter. When describing how his actions may have been perceived by the employees at the PSA, he stated, "If they took it like I was interfering in their investigation, I understand why . . . I wasn't clear, didn't identify myself properly," and he stated that he could "see that they would've thought that I was trying to interfere." He also conceded that he advised Deputy Mitchum that the shoplifter was his brother and that he "should have been a little bit more clear that he wasn't [his] true blood brother."

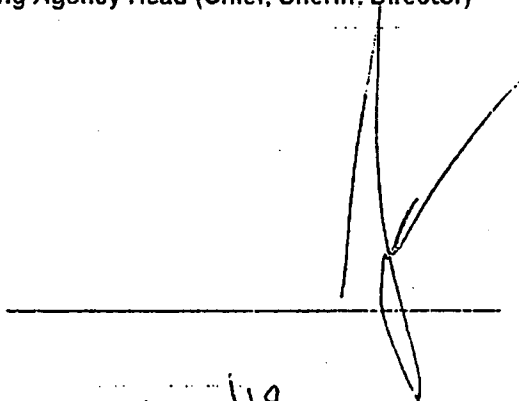
Mr. Ragsdale was untruthful with the Deputy and the Store Manager about his relationship with the shoplifter. Additionally, he inaccurately described his employer as Lexington County before the Store Manager questioned him further.

Criminal Charges Filed *

Yes NO

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. DO NOT ATTACH, OR SUBMIT, ANY ADDITIONAL DOCUMENTS.

Employing Agency Head (Chief, Sheriff, Director) *



Clear

Date *

01/25/19

mm-dd-yyyy

Date

Name (Chief, Sheriff, Director) *

Leroy Smith

First Name

Middle Name

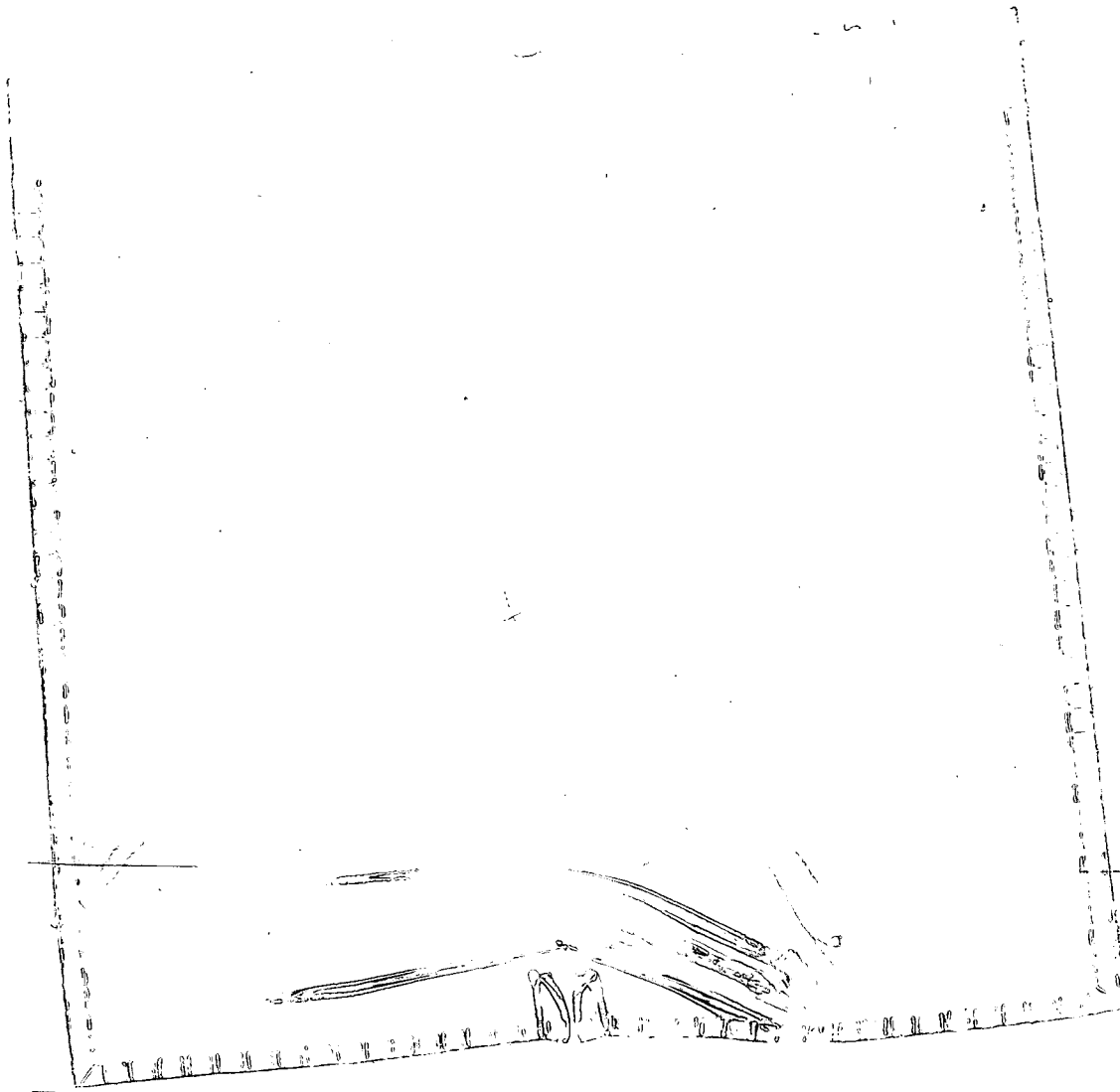
Last Name

Official Title (Chief, Sheriff, Director) *

Agency Director

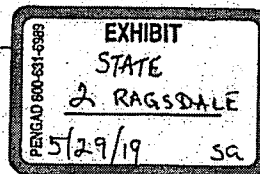
NOTE: A willful failure to report may subject the violator to a civil penalty as provided by law. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department. No allegation of law enforcement certification misconduct in an original personnel change in status form, amended form, or any other form more than thirty days after the officer's separation from an agency, unless extenuating circumstances exist, as determined by the Council."

**State's Exhibit #1-Thumb drive
Ragsdale Interview
Mitchum Interview**





South Carolina Department of Public Safety
Office of Professional Responsibility



however, the employees informed him that the shoplifter was Trooper Ragsdale's friend and not brother, which was confirmed to Deputy Mitchum by the shoplifter. Deputy Mitchum recalled that shortly after, he returned to Trooper Ragsdale and informed him that the shoplifter was going to be arrested and that the shoplifter (is) "not your brother, it's your friend." Deputy Mitchum stated that Trooper Ragsdale then admitted to him that they were "like brothers" and that they had grown up together. Deputy Mitchum indicated that he completed his investigation and took the shoplifter into custody.

INTERVIEW OF SUBJECT

Trooper J.L. Ragsdale, SCHP

On November 20, 2018, Investigator Bamberg obtained a sworn statement from Trooper Ragsdale. The following is a synopsis of his statement which contains paraphrasing:

Trooper Ragsdale stated that on October 26, 2018, he received a phone call from a friend who was at the Palmetto State Armory (PSA) advising him that the friend's brother had been accused of shoplifting and was being detained by employees at the store. Trooper Ragsdale stated that he was asked by the friend if he could travel to the PSA to see if Trooper Ragsdale could "figure out what's going on." Trooper Ragsdale stated that he got dressed in jeans and a t-shirt with his DPS issued gun, badge, handcuffs, and radio visible on his waist, and traveled to the PSA in his personal vehicle. Trooper Ragsdale indicated that while enroute to the PSA, he turned his handheld radio to the Lexington County Sheriff's Department (LCSD) channel and asked over the radio which officer was responding to the PSA. Trooper Ragsdale indicated that after providing his phone number, he was contacted by an officer, later determined to be Deputy Mitchum, and Trooper Ragsdale informed him that he would be traveling to the PSA "to find out what's going on." According to Trooper Ragsdale, he advised Deputy Mitchum that the shoplifter was his "little brother" and that he was not intending to interfere with Deputy Mitchum's investigation.

Trooper Ragsdale indicated that he arrived at the PSA before Deputy Mitchum and approached an employee, later determined to be Mr. Carmack, and asked "you have a shoplifter?" Trooper Ragsdale recalled that Mr. Carmack responded that he did; however, Trooper Ragsdale stated that they would not allow him into the area where the shoplifter was being held. According to Trooper Ragsdale, he advised the employees that he was not at the PSA to "take him (the shoplifter) into custody" but that Trooper Ragsdale "just wanted to know what's going on." Trooper Ragsdale indicated that shortly after, Deputy Mitchum arrived on scene. Trooper Ragsdale indicated that once Deputy Mitchum assessed the situation, he advised Trooper Ragsdale that the PSA had the shoplifter on video and that Deputy Mitchum would be taking him into custody. Trooper Ragsdale indicated that during this interaction, he clarified to Deputy Mitchum that the shoplifter was not his brother, but that he was like a brother. Trooper Ragsdale



South Carolina Department of Public Safety
Office of Professional Responsibility

stated that at approximately 1902 hours, he sent Deputy Mitchum a text message inquiring if it was possible that the shoplifter would be able to receive pre-trial intervention (PTI). According to Trooper Ragsdale, he had no further correspondence with Deputy Mitchum regarding the shoplifter and he did not attend the shoplifter's court hearing.

Trooper Ragsdale stated that he intentionally wore his SCDPS issued gun, badge, hand-held radio, and handcuffs because he believed that if the PSA employees observed that he was a law enforcement officer, they would allow Trooper Ragsdale to speak with the shoplifter. Trooper Ragsdale maintained that his intention in his appearance was not so that the PSA would release the shoplifter to Trooper Ragsdale. Trooper Ragsdale stated that he did not advise the PSA employees that he worked for the LCSD; only that the LCSD was on the way and that he had spoken to Deputy Mitchum; however, when describing how his actions could have been perceived by the PSA employees, Trooper Ragsdale acknowledged that "if they took it like I was interfering in their investigation I understand why ... I wasn't clear, didn't identify myself properly" and that he could "see that they would've thought that I was trying to interfere."

Trooper Ragsdale stated that he advised Deputy Mitchum that the shoplifter was his brother "out of habit ... that was my fault ... I should have been a little bit more clear that he wasn't my true blood brother." Trooper Ragsdale advised that by calling the shoplifter his little brother, he was not attempting to seek any lenience or favor in the actions taken by Deputy Mitchum. Trooper Ragsdale indicated that he had known the shoplifter for approximately 4-6 years, and that during that time he had always considered the shoplifter his brother. According to Trooper Ragsdale, he viewed the shoplifter as his "spiritual brother" and his "brother in Christ."

CONCLUSION

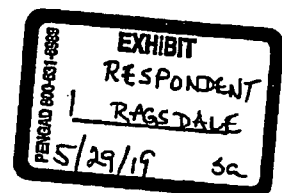
STATE OF SOUTH CAROLINA
South Carolina Law Enforcement Training Council

IN THE MATTER OF THE LAW) **AFFIDAVIT**
ENFORCEMENT CERTIFICATE OF)
Joseph Ragsdale) LETC Case Number: 2019-CJA-01-12
_____)

AFFIDAVIT OF NATHAN M. FARMER

PERSONALLY APPEARED before me, Nathan Farmer, who first being duly deposed, swears and says that:

1. I have known Joseph Ragsdale since 2012.
2. I attend Gethsemane Baptist Church, 300 Alliance Road, Lexington SC 29073 with my family, my family includes Joseph Ragsdale.
3. I met Joseph Ragsdale at the same time as my brother Joshua Farmer also met Joseph Ragsdale at Gethsemane Church.
4. Although I am not blood related to Joseph Ragsdale I consider him my brother and introduce him as my brother-in-all situations both public and private.
5. Joseph Ragsdale normally introduces me and my brothers as his brother(s) in all meetings and introductions, both public and private, although on the date of this incident I observed Joseph Ragsdale enter the Palmetto State Armory but did not hear him introduce me or my brothers as his brother(s).
6. I see Joseph Ragsdale at least four (4) times per week, attend church with him every Sunday and eat Sunday lunch with him.
7. I celebrate all family holidays and occasions with Joseph Ragsdale including birthdays, Christmas, Thanksgiving, weddings, graduations and multiple vacations every year.



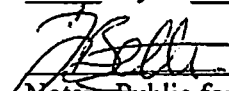
8. I entered the Armory before Joseph Ragsdale arrived and did not see him go to the rear of the premises where my brother was being held.
9. I observed the Lexington Deputy arrive and speak with Joseph Ragsdale.
10. Because of the close relationship that exists between my blood brothers and Joseph Ragsdale we are considered a "band of brothers."

FURTHER DEPONENT SAYETH NAUGHT.


Nathan Farmer

SWORN BEFORE ME THIS

28th day of May, 20 19


Notary Public for South Carolina
My Commission Expires: 4-7-25

STATE OF SOUTH CAROLINA
South Carolina Law Enforcement Training Council

IN THE MATTER OF THE LAW) AFFIDAVIT
ENFORCEMENT CERTIFICATE OF)
Joseph Ragsdale) LETC Case Number: 2019-CJA-01-12
_____)

AFFIDAVIT OF Joshua T. FARMER

PERSONALLY APPEARED before me, Joshua T. Farmer, who first being duly deposed,
swears and says that:

1. I have known Joseph Ragsdale since 2012.
2. I attend Gethsemane Baptist Church, 300 Alliance Road, Lexington SC 29073 with my family, my family includes Joseph Ragsdale.
3. I met Joseph Ragsdale at the same time as my brother Joshua Farmer also met Joseph Ragsdale at Gethsemane Church.
4. Although I am not blood related to Joseph Ragsdale I consider him my brother and introduce him as my brother in all situations both public and private.
5. Joseph Ragsdale normally introduces me and my brothers as his brother(s) in all meetings and introductions, both public and private, although on the date of this incident I observed Joseph Ragsdale enter the Palmetto State Armory but did not hear him introduce me or my brothers as his brother(s).
6. I see Joseph Ragsdale at least four (4) times per week, attend church with him every Sunday and eat Sunday lunch with him.
7. I celebrate all family holidays and occasions with Joseph Ragsdale including birthdays, Christmas, Thanksgiving, weddings, graduations and multiple vacations every year.

8. I entered the Armory before Joseph Ragsdale arrived and did not see him go to the rear of the premises where my brother was being held.
9. I observed the Lexington Deputy arrive and speak with Joseph Ragsdale.
10. Because of the close relationship that exists between my blood brothers and Joseph Ragsdale we are considered a "*band of brothers.*"


FURTHER DEPONENT SAYETH NAUGHT.



Joshua T. Farmer

SWORN BEFORE ME THIS

28 day of May, 2019



Notary Public for South Carolina
My Commission Expires: 4-7-25

TRANSCRIBED AUDIO FILE

August 19, 2019 LETC Meeting

COMPUSCRIPTS, INC.
CLIENT FOCUSED. DEADLINE DRIVEN.

803.988.0086

888.988.0086

02:00

MALE SPEAKER: Joseph Ragsdale, 2019-CJA-01-01.

The Department of Public Safety alleged that Mr. Ragsdale willfully made false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, law enforcement agency, or a representative of a law enforcement agency, except as required by departmental policy or the laws of this state. The (INDISTINCT) officer recommended a finding of misconduct and that Mr. Ragsdale's certification be denied either permanently or for a specified period time or some other sanctions the Council deems appropriate. I believe that Mr. Ragsdale is represented by counsel.

MR. HICKS: Yeah, Ryan Hicks, and I'm actually here for Mr. O'Leary, who's still

--

MALE SPEAKER: Yep.

MR. HICKS: -- out on medical. Mr. O'Leary handled this. I believe you've obviously all seen the recommendation, seen the finding, seen Mr. O'Leary's motion in op. Obviously, we would ask that the Council take that into consideration and certainly consider something less than permanent revocation for Mr. Ragsdale so as to not end his law enforcement career.

CHIEF KEEL: Okay. All right. I'll entertain a motion.

DIRECTOR ADGER: I make a motion that we adopt the recommendation from the hearing officer.

CHIEF KEEL: Okay, we've got a motion to adopt the recommendation from the hearing officer; is that for permanent denial?

MALE SPEAKER: Yes, sir.

CHIEF KEEL: Permanent denial of certification? Do I have a second? I've got a motion. Do I have a second?

MALE SPEAKER: Chief, at what point can we discuss this?

CHIEF KEEL: I'd like to get a second on the motion.

CAPTAIN GALLAM: I'll second it to get it to a discussion.

CHIEF KEEL: All right. We've got a second. We've got a second. Okay. Any discussion?

MALE SPEAKER: I'll let -- is Mr. Ragsdale here?

MR. HICKS: He is, sir. Mr. Ragsdale is seated right here, sir.

MALE SPEAKER: Chief -- Chairman, is it all right if we hear from him?

CHIEF KEEL: Sure. Absolutely.

MALE SPEAKER: We'd like to hear you -- what you have to say about this situation.

MR. RAGSDALE: Sir, I'll be brief, sir. And first off, I want to thank you for your time. I hate that we have to meet on these terms. However, on that date, I was -- I received a phone call from a close friend. The three brothers, I've known them for many years. I've always called them my brothers. I've always introduced these young men as my brothers. We go to church together. We do practically everything together. I've never not called them my brothers, and to this point, I've always called them my brothers, even after this situation. I've always introduced them...

When this -- when I received the call of what was going on, I did call the deputy, and I did call him my little brother. But it was not to gain favor from the deputy because I did inform the deputy that he had a job to do. I wasn't there to interfere, which I didn't, and the deputy's testimony does state that. I was just there to -- on behalf of the family to find out what was going on. Nothing was told to the family, and I did tell -- inform the deputy that he was my little brother.

It was, like I said, not intentional. Never was I there to ask for any favors. And like I (INDISTINCT), when the deputy informed me what was going on and (INDISTINCT) the family, we said, Okay, and that was that.

Again, these three guys, they're brothers. I'll always call them my brothers. They're my brothers in Christ. They're my brothers, maybe not by blood, but they're my brothers. I love them more than family. I would do anything for them, and I was never there to intentionally lie to the deputy,

and when the deputy asked me, I was honest. So was my little brother Caleb (PHONETIC).

Again, it's a habit. I always called them that. I will never stop calling them that, no matter what. No one will stop me from calling them that. Like I said, we're not blood brothers, and we never will be, but to me, they are my brothers because I've done things for them and they've done things for me, mentally, physically, and spiritually.

MALE SPEAKER: Well, let me ask you this. This happened on -- were you actually on the scene when the incident occurred?

MR. RAGSDALE: No, sir, I was not.

MALE SPEAKER: So you made the phone call to the officer?

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: Well, what was your purpose of doing that?

MR. RAGSDALE: I was letting him know I was on my way down there to be with the family and to kind of figure out the -- what was going on because the family didn't know. They just told me that some gentlemen came and grabbed Caleb Farmer (PHONETIC).

MALE SPEAKER: So you were there more for support of --

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: -- the family.

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: And you're saying that you call him your brother, so there's a long-term relationship that's been going on for many years. I assume.

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: Okay.

MALE SPEAKER: Let me ask --

MALE SPEAKER: Sure.

MALE SPEAKER: -- for my understanding with this, this will be in his permanent file, correct? I mean, this will be in his permanent as far as when we talk about Giglio and stuff like that.

MALE SPEAKER: That is correct.

MALE SPEAKER: This will be permanently in that file, correct?

MALE SPEAKER: Yes, sir.

MALE SPEAKER: One other question. Your intention was not to interfere with the investigation. Your intention was to support somebody that had gotten in trouble; is that --

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: -- understanding?

MR. RAGSDALE: Yes, sir.

MALE SPEAKER: Okay.

CHIEF KEEL: Any further discussion?

MR. GORE: Sir. Can I --

MALE SPEAKER: Sure.

MR. GORE: (INDISTINCT) just to give you a little more information on that, Mr. Ragsdale was informed by the situation and came with his DPS badge and gun, handcuffs and radio visible to the scene. And he - and went into the store and said, I understand you've got a shoplifting suspect.

I think it's a little disingenuous to present himself as just there for support. He presented himself as a law enforcement officer in an attempt to influence the decision and called the deputy and said. Who's responding? What's going on? My brother got picked up. I think the intention was that he hoped that if his -- if the deputy understood that it was his brother, that might get him a little special treatment.

It was only until the deputy actually spoke to the suspect and came back out and said, Wait a second, he's not your brother, is he, that he came clean and said, Well, he's not, not really my brother. That's just what I call him. But I think that he clearly used the term "brother" as an intent -- as an attempt to curry favor.

And, in fact, it's also in the record that after the situation dissolved that afternoon, Mr. Ragsdale contacted the deputy and asked if Mr. Farmer might be able to get PTI. Again, this continuing, ongoing effort to involve himself in the investigation. He didn't need to wear his badge and his gun down there if he really was just there to support the family. And he was off-duty that day, so.

MR. HICKS: Just to be clear, though, he never met with the suspect while he was there, and Lexington County arrested that gentleman and took him off, so there's -- for Mr. Gore's sake, he thinks -- that's the key there. Mr. Gore thinks that he was there to influence, but there was no influence there. Lexington County arrested this gentleman and took him off. He never even met with him at Palmetto State during that period of time. I just want to be very clear on that.

CHIEF KEEL: Mr. Gore?

MR. GORE: I mean, I will say it's not just my opinion. It was the hearing officer's opinion. Mr. Ragsdale's conduct clearly demonstrated a contemporaneous mindset of misrepresentation and deputy -- and deception, which ultimately manifested itself in the false and misleading statements he made to Deputy Mitchum (PHONETIC).

I would also point out that under the new version of the Misconduct Statute, which passed last year, the false statements have been changed a little bit that it now reads that it's willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer. So no longer -- under the old standard, it was be just, it had to be false, a or b.

But now, when you get into the -- the Legislature saw fit to expand the statute: false, misleading, incomplete. I think under that standard, Mr. Ragsdale's statements clearly meet that standard because implying that someone is your brother when they're not is clearly false or misleading or incomplete.

CHIEF KEEL: Mr. Hicks, you got anything else?

SHERIFF FOSTER: May I ask a question?

CHIEF KEEL: Hold one second, Sheriff.

MR. HICKS: I don't have anything further.

CHIEF KEEL: Sheriff, go ahead.

SHERIFF FOSTER: Thank you. I ask this of the DPS representative and the defendant in the case. Did any direct comments ask for special treatment?

CHIEF KEEL: Mr. Gore?

MR. GORE: Sheriff Foster, this is Mark Gore from the Department. Mr. Ragsdale went into the -- well, let me back up. We're only concerned today with his statements that he made to the law enforcement officer because that's -- there is no -- misconduct is not defined as statements made to third parties who aren't law enforcement officers.

But to answer your question, when Mr. Ragsdale arrived at the Palmetto State Armory, he went in and asked, I'm here for the suspect. I'm here for the person you've arrested. They stopped him, so he waited outside for the deputy, the deputy came, and then they had the conversation, and I believe the deputy's testimony is that Mr. Ragsdale never asked for any special treatment, other than -- you can characterize it how you wish -- this comment later where he did ask about would PTI be available. I'm not sure if you would characterize that as special treatment or not. I'm just stating the facts.

SHERIFF FOSTER: And the second question is, What was the end result of the case, of the criminal case against the party he was asking about?

MR. GORE: I don't know.

MR. HICKS: Lexington County Sheriff's Office handled that, so I don't think any of us have any direct knowledge of what the outcome was there. It was a Lexington County case. A Lexington County deputy is who arrested him and took him away.

SHERIFF FOSTER: All right. It just goes to whether there was any special consideration given; that's all -- the reason I asked that question.

MALE SPEAKER: Any additional --

SHERIFF FOSTER: Thank you. No further questions.

CHIEF KEEL: Any additional questions, comments?

All right. We got a motion on the table to adopt the hearing officer's recommendation of permanent denial of certification. We've got a second.

Roll call vote:

FEMALE SPEAKER: Chief Keel?

CHIEF KEEL: Yes.

FEMALE SPEAKER: Director Boyles?

DIRECTOR BOYLES: Yes.

FEMALE SPEAKER: Director Adger?

DIRECTOR ADGER: Aye.

FEMALE SPEAKER: Sheriff Foster?

SHERIFF FOSTER: Aye.

FEMALE SPEAKER: Director Thomas?

DIRECTOR THOMAS: Aye.

FEMALE SPEAKER: Chief Taylor?

CHIEF TAYLOR: Aye.

FEMALE SPEAKER: Captain Gallam?

CAPTAIN GALLAM: Aye.

MALE SPEAKER: Next case.

12:51

(END OF AUDIO FILE)

CERTIFICATE OF TRANSCRIPTIONIST

I, Susan K. von Keller, do hereby certify:

That the foregoing video file entitled "August 19, 2019 LETC Meeting" was transcribed; that the foregoing transcript as typed is a true, accurate and complete record of the audio file to the best of my ability under the prevailing circumstances.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 5th day of November, 2019, at Columbia, Richland County, South Carolina.

Susan K. von Keller

Notary Public

State of South Carolina at Large

My Commission expires:

March 8, 2026

SOUTH CAROLINA
LAW ENFORCEMENT TRAINING COUNCIL
MEETING MINUTES
August 19, 2019
10:00 a.m.

A meeting of the South Carolina Law Enforcement Training Council (LETC) was held at the South Carolina Criminal Justice Academy on Monday, August 19, 2019. This meeting was advertised in accordance to the South Carolina Freedom of Information Act.

CALL TO ORDER

Agenda Item 1

Chief Mark Keel, Chair of the Law Enforcement Training Council, called the meeting to order at 10:03 a.m.

Members present at the meeting were Chief Mark A. Keel, State Law Enforcement Division (SLED) (Chair); Director Jerry Adger, S.C. Department of Probation, Parole and Pardon Services; Director Robert Boyles, S.C. Department of Natural Resources; Chief Tony Taylor, Williamston Police Department; and Captain Nick Gallam, Aiken County Detention Center.

Members present via conference call were Sheriff Lee Foster, Newberry County Sheriff's Office; and Director John Thomas, North Augusta Department of Public Safety.

Absent members were Attorney General Alan Wilson, Attorney General's Office; Director Leroy Smith, S.C. Department of Public Safety (Co-Chair); Director Bryan Stirling, S.C. Department of Corrections; Sheriff Barry Faile, Lancaster County Sheriff's Office. Attorney General Wilson and Director Smith were represented by proxies, Barry Bernstein and Chief Kenneth Phelps, respectively.

Guest attendees were Executive Director Ryan Alphin, S.C. Law Enforcement Officers' Association, S.C. Police Chiefs' Association; Attorney Marcus Gore, S.C. Dept. of Public Safety; Attorney Ryan Hicks; and Attorney Doug Barfield.

A full list of guest attendees may be obtained upon request.

SC Criminal Justice Academy attendees were Director Jackie Swindler; James Fennell, General Counsel; Florence McCants, Administrative Operations Manager; Lauren Fennell, Standards & Accreditation Manager; Debbie Bryant, Human Resources; Justin Miller, IT; and Christopher Brumlow, Investigator.

APPROVAL OF AGENDA

Agenda Item 2

Upon a motion made by Director Boyles and seconded by Director Adger, Council voted unanimously to adopt the agenda as presented.

APPROVAL FOR MEETING MINUTES

Agenda Item 3

1. A motion to approve the minutes of the July 24, 2019, meeting was made by Director Boyles and seconded by Director Adger. Council voted unanimously to accept the meeting minutes as recorded.

General Counsel – Certification Issues

Agenda Item 4

2. Misconduct Cases

Monica Cockfield: 2019-CJA-07-04 (City of Columbia Police Department)

Summary: Columbia Police Department alleged that Ms. Cockfield “willfully made false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by department policy or by the laws of South Carolina.” Hearing Officer recommended a finding of misconduct and her certification be denied either permanently, or a specific period of time, or some other sanction the LETC deems appropriate.

Director Adger made a motion to accept the recommendation of the Hearing Officer. Captain Gallam seconded the motion. Council voted unanimously to adopt the Hearing Officer’s recommendation to permanently deny Ms. Cockfield’s law enforcement certification.

Joseph Ragsdale: 2019-CJA-01-01 (SC Department of Public Safety)

Summary: The Department of Public Safety alleged that Mr. Ragsdale willfully made false, misleading, incomplete, deceitful, or incorrect statement to a law enforcement officer, a law enforcement agency, or a representative of a law enforcement agency, except as required by department policy or by the laws of South Carolina. The Hearing Officer recommended a finding of misconduct and Mr. Kimbrough’s certification be either permanently denied, or a specific period of time, or some other sanction the LETC deems appropriate.

Mr. Ragsdale was present to answer any questions that Council may have for him in regards to his case.

Attorney Ryan Hicks was in attendance to represent Mr. Ragsdale and requested that Council seek a less severe action than permanently denying Mr. Ragsdale's law enforcement certification.

Additionally, Attorney Marcus Gore was in attendance to represent the S.C. Department of Public Safety.

Director Adger made a motion to accept the Hearing Officer's recommendation. Captain Gallam seconded the motion.

Prior to the voting process, Council allowed Mr. Ragsdale to give his account of the details of the incident that led to his misconduct case. Council also heard additional information from Mr. Hicks and Mr. Gore.

After hearing additional information from Mr. Ragsdale, Mr. Hicks and Mr. Gore, Council voted unanimously to adopt the recommendation of the Hearing Officer to permanently deny Mr. Ragsdale's law enforcement certification.

Marquis Kimbrough: 2017-CJA-12-06 (Lancaster County Sheriff's Office)

Summary: The Lancaster County Sheriff's Office alleged that Mr. Kimbrough was dishonest/untruthful with respect to his employer. The Hearing Officer recommended a finding of misconduct and Mr. Kimbrough's certification be either permanently denied, or a specific period of time, or some other sanction the LETC deems appropriate.

Attorney Ryan Hicks was in attendance to represent Mr. Kimbrough. Mr. Hicks requested that Council reject the Hearing Officer's recommendation to permanently deny Mr. Kimbrough's law enforcement certification.

Attorney Doug Barfield was in attendance to represent Lancaster County Sheriff's Office. Mr. Barfield gave additional information to Council in regards to the incident that led to the allegations of misconduct against Mr. Kimbrough and asked that Council accept the Hearing Officer's recommendation to permanently deny Mr. Kimbrough's law enforcement certification.

Prior to the voting process, Council had questions for Mr. Hicks and Mr. Barfield to gain clarity of some of the information that had previously been provided.

Sheriff Foster made a motion to accept the Hearing Officer's recommendation. Director Adger seconded the motion. Council voted unanimously to adopt the Hearing Officer's recommendation to permanently deny Mr. Kimbrough's law enforcement certification.

Julian Bridges: 2018-CJA-12-11 (SC Department of Public Safety)

Summary: The Department of Public Safety alleged that Mr. Bridges willfully made false, misleading, incomplete, deceitful, or incorrect statement to a law enforcement officer, a law

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

LAW ENFORCEMENT TRAINING COUNCIL

In the Matter of the Issuance of Law)
Enforcement Officer Certification) Case No: 2019-CJA-01-12
to Joseph Ragsdale)
Petitioner.)
_____)

**MOTION IN OPPOSITION TO THE
HEARING OFFICERS RECOMMENDATION**

Joseph Ragsdale (hereinafter "Ragsdale"), by and through his undersigned counsel, and on the directive of the Hearing Officer for the Law Enforcement Training Council, hereby submits this Motion in Opposition to the Hearing Officer's Recommendation produced by the Honorable William C. Smith on July 1, 2019. The Recommendation as to permanent denial of certification should be denied. As authorized by statute, a probationary period should be imposed together with remedial training for the reasons that follow.

PROCEDURAL HISTORY

Ragsdale was hired by the South Carolina Highway Patrol ("SCHP") and was terminated January 23, 2019 after two and a half years of excellent service for alleged misconduct, as defined in S.C. Code Ann. §23-23-150(A)(3)(g), "willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State."

Trooper Ragsdale is a personal friend with Caleb Farmer and his brothers Nathan M.

Farmer and Joshua T. Farmer. The Farmers became friends with Ragsdale through their attendance at Golden State Baptist College, their church and considered themselves, "Brothers in Christ" and as family. This relationship evolved over the years and was extremely close, to the point that they referred to each other as brothers not only privately but also publically. It was the norm that Ragsdale referred to the Farmers as his brothers and visa versa. (See Exhibit B)

On 10/26/18 Ragsdale was contacted by one of the Farmers regarding an incident that occurred at Palmetto State Armory ("PSA"), Columbia. In the telephone call Ragsdale was advised that the youngest brother, Caleb, had been detained at the PSA for alleged shoplifting. Ragsdale, considered by the Farmers' as a family member, was asked to check into what was occurring since the other two brothers were not fully aware of what had transpired and were concerned for the youngest brother.

Ragsdale contacted the Lexington County Sheriff's Office ("LCSO") and inquired who was the responding officer. Dispatch advised that Deputy Mitchum ("Mitchum") would be attending and was provided with his contact number. In the conversation that ensued between Ragsdale and Mitchum the crux of the issue was that Ragsdale referred to the suspect in his every day fashion as "little brother." It is this statement that served as the charge of wilfully making false, deceitful statements to a law enforcement officer. However, at no time did Ragsdale lie or wilfully deceive. He was and is still a Brother in Christ to Caleb Farmer and as a matter of normal habit referred to him, without intent to deceive as his, "little brother." This comment was made in passing and as stated by Mitchum in OPR testimony (Exhibit A, page 31) Mitchum, *"thought he said he was his little brother, or something."* Ragsdale did not forcefully claim the suspect as his brother in any form, or follow up with comments to interfere with the investigation

or its outcome. The phrase, "little brother," in no way impacted the investigation by Mitchum or its' outcome.

Ragsdale after speaking with Mitchum by phone, proceeded to PSA and arrived prior to Mitchum. Ragsdale was in civilian clothes, and had with him his department issued hand gun, badge, hand held radio and handcuffs. He was not in a department uniform. Upon entering the PSA Ragsdale asked an Armory employee if they had a shop lifter, and asked if he could speak with the subject. At no time did he ever say that he was a member or representative of the LCSO nor that he was he there for the purpose of taking the prisoner into custody. Ragsdale advised the Armory staff that he had talked to the LCSO deputy who was assigned to the incident and he was on his way to the location. Ragsdale never identified the agency he was employed by. Within minutes Mitchum arrived and proceeded to speak to the PSA employees and went to a back area where the suspect was being held. Ragsdale did not accompany him nor did he see or talk with Caleb Farmer. Ragsdale never asked for special treatment or consideration for Caleb Farmer.

Following the meeting between Mitchum and the suspect, Mitchum spoke with Ragsdale and Joshua Farmer outside of PSA. Mitchum advised that he was arresting Caleb Farmer and Ragsdale in response stated that he understood, Mitchum had a job to do and never at any time interfered with the arrest. Mitchum advised Ragsdale that Caleb Farmer said he was not his brother but an extremely close friend. Ragsdale immediately clarified his relationship with the brothers and stated that he had always referred to them as his brothers, with the arrested subject being his younger brother. Farmer was transported to the Lexington County Detention Center and was processed.

Following that brief conversation Ragsdale left the location and immediately called his sergeant at the Highway Patrol, Sergeant Martin and informed him what had occurred.

Subsequently the other Farmer family members asked Ragsdale if he could send a message on their behalf to Mitchum stating essentially their thanks for his explanation, hated it has to be like this, but he [Caleb Farmer] made a mistake and he has to live with the decision. Ragsdale stated he did not want to interfere with the investigation and just asked that he be treated fairly.

A hearing was held in this matter on May 29, 2019 before Hearing Officer William C. Smith who issued a Recommendation on July 1, 2019 where he found the allegation was proven and recommended that the Law Enforcement Training Council ("LETC") permanently deny Ragsdale enforcement certification. The penalty is excessive to permanently deny Ragsdale law enforcement certification.

ARGUMENT

It is Ragsdales' position that the burden is on the State to prove that the evidence by the Department must be such that a reasonable person can conclude substantial evidence existed that Ragsdale was wilfully false and misleading. Blacks' Law Dictionary defines *wilful* as being an intentional and conscious act. The Department has failed to prove the mind set behind the words and that Ragsdale intentionally and therefore wilfully intended to deceive Mitchum. Ragsdale used the term "brother" out of mere habit with no intention to wilfully deceive law enforcement and when asked readily admitted the nature of his relationship with the Farmers. The Department has failed to provide evidence of Ragsdales' mind set and intention to deceive. The lack of intention to deceive should have been apparent to Mitchum from the beginning since Ragsdales' surname differs from Farmer. Given the difference in name they could not technically be biological brothers. It might then be argued that Ragsdale and Farmer could be Brothers in Law, however, that merely takes place through marriage of other family members and in this instance, being Brothers in Christ was a deep, heartfelt commitment and loyalty between Ragsdale and the

Farmers. When reviewed, the affidavits of Nathan and Joshua Farmer verify the extremely close relationship to Ragsdale and that they in fact view their relationship as brothers and publically present themselves as such. (Exhibit B)

The word brothers in this instance is similar to the use in such terms as "Band of Brothers" referred to in military companionship and "Brothers in Blue" for police officers companionship. The statement actually made by Ragsdale in his mind specifically refers to, "Brothers in Christ," because he met the Farmers at Church. In reality their relationship was so close that they treated each other as brothers. At no time was there any intent to deceive. Looking at the transcript you can see that Ragsdale never tried to persuade PSA staff or Mitchum to drop any charges, change the charge, release the suspect or to discuss the incident with the subject. Ragsdale never interfered in the process of law in anyway and it was admitted in testimony by Mitchum that there was no issue with Ragsdales presence. Ragsdales' excellent record with the patrol reflected only dedication to the Department. The fact that he appeared at PSA was the act of a loyal friend who was only enquiring into what had occurred, period. Ragsdale was not there at the time of the arrest nor did he know anything surrounding the arrest other than what he discovered at the scene through his brief talk to Mitchum. At no time did Ragsdale do anything other than respond to a location and enquire what had occurred.

The Hearing Officer's Recommendation is excessive where it recommends permanently denying Ragsdales' law enforcement certification under the statutory provisions given that there are further options open to the Council for officers with excellent service, such as Ragsdale. A review of §23-23-80(6) regarding the Training Councils powers and duties states that under provision (6) they, "*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.” Further in §23-23-150(G)(1), “the Council has issued a final agency decision that the person may be granted certification, be granted certification with probation, be granted certification with any additional requirements deemed just and proper by the council, or be granted certification with a public reprimand.”

Finally the Department has failed to show any negative impact caused by Ragsdales' actions or comments. Had Ragsdale never attended the scene the outcome would have been exactly the same. Farmer was arrested, transported to the Detention Center and charged.

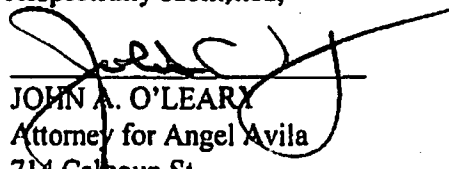
CONCLUSION

Based on the foregoing, it is requested that the LETC reject the hearing Officer's Recommendation to permanently deny Ragsdale's certification in law enforcement and instead impose a penalty that is consistent and proportional with the facts. Where the Recommendation by the Hearing Officer suggests permanent de-certification, this is excessive. It's unfortunate that the Highway Patrol allege misconduct as a result of Ragsdales' innocent comment and that he therefore should be barred from law enforcement permanently. To deny Ragsdale a career long sought and immensely enjoyed is not only wrong to Ragsdale but likewise to the community he successfully served. The use of the phrase “little brother” was made innocently and at no time was there any intent to deceive. The phrase had no impact on the investigation directly or indirectly. The Department has failed to prove the intent behind those words and thus failed to prove misconduct.

We ask that the LETC, not penalize the officer with permanent de-certification, but allow him to be employed elsewhere and to continue to serve his community. The purpose of the aforementioned statutory provisions of §23-23-80(6) and §23-23-150(G)(1) allows the LETC to modify and provide a punishment commensurate to the violation. Ragsdale did not intentionally

deceive. We ask that the LETC grant certification with a probationary period of two (2) years with additional training in ethics or other as the LETC deems necessary.

Respectfully submitted,



JOHN A. O'LEARY
Attorney for Angel Avila
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Columbia, SC 29201
Phone: (803) 779-5556

Columbia, South Carolina
August 1, 2019



South Carolina Department of Public Safety

Office of Professional Responsibility

Deputy Mitchum's Body Camera Video

Investigator Bamberg reviewed Deputy Mitchum's body-camera video, which was dated October 26, 2018. (The time-stamp displayed on the body-camera video appeared to be incorrect). Shortly after the video activated, Deputy Mitchum arrived at the PSA and was immediately greeted by an individual, later determined to be Trooper Ragsdale, in the parking lot. The first several seconds of their conversation was not picked up by audio; however, upon the audio activating, Deputy Mitchum could be heard asking Trooper Ragsdale, "younger brother?" and Trooper Ragsdale responded "Mhmm." Deputy Mitchum and Trooper Ragsdale then entered the PSA and were greeted by an employee, later determined to be Mr. Burkett, and they began walking toward the rear of the store. Mr. Burkett advised Deputy Mitchum that he would rather Trooper Ragsdale "not come back here," but Deputy Mitchum responded that the shoplifter was Trooper Ragsdale's family. Mr. Burkett advised Deputy Mitchum that he did not like the way that Trooper Ragsdale entered the PSA "acting like he was with you guys." Moments later, Deputy Mitchum entered the back area while Trooper Ragsdale waited in the front of the store.

Mr. Burkett advised Deputy Mitchum that Trooper Ragsdale had attempted to enter the back area prior to Deputy Mitchum's arrival and that he attempted to make another employee, later determined to be Mr. Carmack, believe that Trooper Ragsdale was "one of you guys." Deputy Mitchum then stated that Trooper Ragsdale had called him prior to Deputy Mitchum arriving and that he thought Trooper Ragsdale "said it was his little brother or something." At that time, Mr. Carmack relayed to Deputy Mitchum that Trooper Ragsdale had initially stated that he was "here to get" the shoplifter but later indicated that he just wanted to speak with the shoplifter. Deputy Mitchum again stated that he was "pretty sure" that Trooper Ragsdale informed him that the shoplifter was his brother; however, Mr. Burkett informed Deputy Mitchum that the shoplifter had advised Mr. Burkett that Trooper Ragsdale was just his friend. Moments later, Deputy Mitchum approached the shoplifter who confirmed to Deputy Mitchum that Trooper Ragsdale was his friend.

After a brief exchange with the shoplifter, Deputy Mitchum met with Trooper Ragsdale outside; however, the audio on his body camera was muted and not captured. After speaking with Trooper Ragsdale, Deputy Mitchum unmuted the audio and soon returned to the back area of the store. Deputy Mitchum then relayed to Mr. Burkett that he had spoken with Trooper Ragsdale outside and expressed to Trooper Ragsdale, "You called me and told me this was your brother," and that Trooper Ragsdale responded, "Well, it's like a brother." Deputy Mitchum then completed his investigation and arrested the shoplifter. No other interaction with Trooper Ragsdale was observed.

STATE OF SOUTH CAROLINA
South Carolina Law Enforcement Training Council

IN THE MATTER OF THE LAW) AFFIDAVIT
ENFORCEMENT CERTIFICATE OF)
Joseph Ragsdale) LETC Case Number: 2019-CJA-01-12
_____)

AFFIDAVIT OF NATHAN M. FARMER

PERSONALLY APPEARED before me, Nathan Farmer, who first being duly deposed, swears and says that:

1. I have known Joseph Ragsdale since 2012.
2. I attend Gethsemane Baptist Church, 300 Alliance Road, Lexington SC 29073 with my family, my family includes Joseph Ragsdale.
3. I met Joseph Ragsdale at the same time as my brother Joshua Farmer also met Joseph Ragsdale at Gethsemane Church.
4. Although I am not blood related to Joseph Ragsdale I consider him my brother and introduce him as my brother in all situations both public and private.
5. Joseph Ragsdale normally introduces me and my brothers as his brother(s) in all meetings and introductions, both public and private, although on the date of this incident I observed Joseph Ragsdale enter the Palmetto State Armory but did not hear him introduce me or my brothers as his brother(s).
6. I see Joseph Ragsdale at least four (4) times per week, attend church with him every Sunday and eat Sunday lunch with him.
7. I celebrate all family holidays and occasions with Joseph Ragsdale including birthdays, Christmas, Thanksgiving, weddings, graduations and multiple vacations every year.

8. I entered the Armory before Joseph Ragsdale arrived and did not see him go to the rear of the premises where my brother was being held.
9. I observed the Lexington Deputy arrive and speak with Joseph Ragsdale.
10. Because of the close relationship that exists between my blood brothers and Joseph Ragsdale we are considered a "band of brothers."

FURTHER DEPONENT SAYETH NAUGHT.



Nathan Farmer

SWORN BEFORE ME THIS

28th day of May, 2019



Notary Public for South Carolina

My Commission Expires: 4-7-25

STATE OF SOUTH CAROLINA
South Carolina Law Enforcement Training Council

IN THE MATTER OF THE LAW) **AFFIDAVIT**
ENFORCEMENT CERTIFICATE OF)
Joseph Ragsdale) **LETC Case Number: 2019-CJA-01-12**


AFFIDAVIT OF Joshua T. FARMER

PERSONALLY APPEARED before me, Joshua T. Farmer, who first being duly deposed,
swears and says that:

1. I have known Joseph Ragsdale since 2012.
2. I attend Gethsemane Baptist Church, 300 Alliance Road, Lexington SC 29073 with my family, my family includes Joseph Ragsdale.
3. I met Joseph Ragsdale at the same time as my brother Joshua Farmer also met Joseph Ragsdale at Gethsemane Church.
4. Although I am not blood related to Joseph Ragsdale I consider him my brother and introduce him as my brother in all situations both public and private.
5. Joseph Ragsdale normally introduces me and my brothers as his brother(s) in all meetings and introductions, both public and private, although on the date of this incident I observed Joseph Ragsdale enter the Palmetto State Armory but did not hear him introduce me or my brothers as his brother(s).
6. I see Joseph Ragsdale at least four (4) times per week, attend church with him every Sunday and eat Sunday lunch with him.
7. I celebrate all family holidays and occasions with Joseph Ragsdale including birthdays, Christmas, Thanksgiving, weddings, graduations and multiple vacations every year.

8. I entered the Armory before Joseph Ragsdale arrived and did not see him go to the rear of the premises where my brother was being held.
9. I observed the Lexington Deputy arrive and speak with Joseph Ragsdale.
10. Because of the close relationship that exists between my blood brothers and Joseph Ragsdale we are considered a "band of brothers."


FURTHER DEPONENT SAYETH NAUGHT.



Joshua T. Farmer

SWORN BEFORE ME THIS

28 day of May, 2019



Notary Public for South Carolina
My Commission Expires: 4-7-25

THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge

DOCKET NO: 19-ALJ-30-0344-AP

Joseph Ragsdale,

Appellant,

vs.

South Carolina Criminal Justice Academy,

Respondent.

BRIEF OF APPELLANT

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STATEMENT OF ISSUES

The issue(s) before the Administrative Law Court:

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

STATEMENT OF THE CASE

On January 25, 2019 the South Carolina Criminal Justice Academy's ("SCCJA") received a Personnel Change in Status ("PCS") Separation due to Misconduct for Joseph Ragsdale ("Appellant"), from the South Carolina Department of Public Safety ("SCDPS"). Appellant timely filed for a Contested Case hearing and a hearing was held on May 29, 2019 before the Honorable William C. Smith, appointed from the SCCJA as the Hearing Officer.

On August 19, 2019 the South Carolina Criminal Justice Academy's Law Enforcement Training Council ("Council") met and voted to accept the Hearing Officer's Recommendation ("Recommendation") dated July 1, 2019, that Appellant be permanently denied certification and eligibility for certification.

This is an appeal of the Final Agency Decision ("Decision") of the Council, dated September 15, 2019 to accept the Recommendation. Per the Statement of Issues the Appellant contends that the finding of misconduct is not supported by substantial evidence and that the sanction of denial of certification was excessive, not warranted by the evidence, and was arbitrary and capricious and an abuse of discretion

Appellant was hired by the South Carolina Highway Patrol ("SCHP") and was terminated January 23, 2019 after two and a half years of excellent service for alleged misconduct, as defined in S.C. Code Ann. §23-23-150(A)(3)(g), "*willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State.*"

STATEMENT OF FACTS

The Decision of the Council is not supported by substantial evidence, but rather is based on speculation, surmise, conjecture, and an improper inference, and therefore is erroneous. The Council adopted the Hearing Officer's Recommendation and found that Appellant engaged in misconduct (as defined in S.C.C.A. § 23-23-150(A)(3)(g)) by willfully providing false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer when he told Deputy Mitchum ("Mitchum") in a phone call that Caleb Farmer, who had been detained for shoplifting at the Palmetto State Armory ("PSA"), was "my little brother", or something to that effect. Caleb, and his family, were close friends of Appellant and Appellant considered him a "Brother in Christ" and often referred to him as his "little brother." Appellant later spoke with Mitchum and fully explained and clarified his relationship with Caleb and that Caleb was "like a brother." Appellant in no way interfered or intended to interfere in the police investigation of the alleged shoplifting incident.

Nevertheless, in support of its finding of misconduct, the Council relied on the fact that

after his telephone call with Mitchum about Caleb, Appellant went to the PSA in civilian clothes (although he had his department issued handgun, hand-held radio, and handcuffs) and asked to speak with Caleb. Appellant, however, did not see or talk to Caleb, but spoke to Mitchum about the matter and explained his relationship to Caleb. Again, Appellant at no time interfered with the investigation.

The Council found that Appellant's visit to the PSA, "*clearly evinced intention to misrepresent the role he played vis-à-vis the detained suspect [Caleb] to the staff of the Palmetto State Armory*", but, at the same time, the Council stated that such visit "*does not bear directly on the determination of misconduct.*" (Record on Appeal "ROA" pg 7-8). Despite the visit's conceded lack of significance on the determination of misconduct, the Council found that "*Appellant's conduct clearly demonstrates his deceptive mind set on October 26th particularly with respect to the false and misleading statements he made to Deputy Mitchum.*" (ROA pg 8). The Council therefore concluded that Appellant committed misconduct by referring to Caleb as his little brother when Appellant spoke to Mitchum by phone. The Council then imposed the sanction of denial of certification without considering the seriousness of the alleged misconduct or any mitigating circumstances.

ARGUMENT

1. THE FINDING OF MISCONDUCT IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

Pursuant to S.C.C.A. § 1-23-600(D), the Administrative Law Court ("the ALC" or "the

Court") has jurisdiction to hear this appeal of the Final Agency Decision of the South Carolina Law Enforcement Training Council ("Council"). The standard of judicial review is set forth in S.C.C.A. § 1-23-380(5), as follows:

(5) 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.

Under this standard, the reviewing court can reverse or modify the decision if the appellant's rights have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

Hutson v. South Carolina State Ports Authority, 399 S.C. 381, 387, 732 S.E.2d 500, 503 (2012).

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). "Substantial evidence is not a mere scintilla of evidence viewed from one side, but such evidence, when the whole record is considered, as would allow reasonable minds to reach the conclusion the [agency] reached."

Hutson v. South Carolina State Ports Authority, 399 S.C. 381, 387, 732 S.E.2d 500, 503 (2012) (quoting *Shealy v. Aiken County*, 341 S.C. 448, 455, 535 S.E.2d 438, 442 (2000)). Speculation or surmise does not constitute substantial evidence. See *Hutson v. South Carolina State Ports Authority; Kiawah Property Owner's Group v. Public Service Comm'n of South Carolina*, 338 S.C. 92, 525 S.E.2d 863 (1999).

In this case, the Council's decision is not supported by substantial evidence, but is based on mere speculation or surmise. Even though Appellant explained why he referred to Caleb as his brother and it was clear that he did not intend to mislead Mitchum or interfere in the investigation of the alleged shoplifting, the Council, nevertheless, concluded that Appellant did, in fact, intend to mislead Mitchum. To support this conclusion, the Council relied on Appellant's visit to the PSA after he made the statement at issue to Mitchum. Such reliance is clearly misplaced and does not support the inference the Council makes.

Appellant's subsequent visit to the PSA in no way suggests that he intended to mislead Mitchum by his earlier statement. Appellant's visit was not improper – he merely wanted to speak to his friend, not interfere in the investigation. Appellant was dressed in civilian clothes and identified himself in hopes of talking to his friend. Appellant's so-called "display" of his badge and other police gear was not intended, "*to misrepresent the role he played vis-à-vis the detained suspect to the staff of the Palmetto State Attorney*," as erroneously found by the Council (ROA pg 7-8). There simply is no basis for such finding and it is based on mere speculation. The Council then uses this speculation to jump to the conclusion that Appellant's conduct "*clearly demonstrates his deceptive mind set on October 26th particularly with respect to the false and misleading statements he made to Deputy Mitchum.*" (ROA pg 8) Such reasoning is fallacious

and is nothing more than piling inference upon inference, with each inference based upon mere speculation. *"The existence of a fact or facts cannot rest in speculation, surmise or conjecture."* *Holland v. Georgia Hardwood Lumber Co.*, 214 S.C. 195, 205, 51 S.E.2d 744, 749 (1949); see *Gastineau v. Murphy*, 331 S.C. 565, 569 n. 2, 503 S.E.2d 712, 714 n. 2 (1998).

The Council conceded that Appellant's visit to the PSA, *"does not bear directly on the determination of misconduct in this matter,"* (ROA pg 8) it, nevertheless, relies on the visit to reach an unsupported inference that Appellant willfully misrepresented his relationship with Caleb. This inference is without supports and contradicted by the entirety of the record evidence. See *Deonta L. Brinston, Appellant*, No. 14-ALJ-30-0540-AP, 2015 WL 1530383 (Mar. 18, 2015) (Council relied upon improper conclusions in making decision to permanently deny Appellant law enforcement certification; Council's decision was tainted by abuse of discretion and was not supported by substantial evidence; accordingly, decision reversed). Therefore, the Council's finding of misconduct is not supported by substantial evidence, is affected by an error of law, and is clearly erroneous.

2. THE SANCTION OF DENIAL OF CERTIFICATION WAS EXCESSIVE, NOT WARRANTED BY THE EVIDENCE, AND WAS ARBITRARY AND CAPRICIOUS AND AN ABUSE OF DISCRETION

It is recognized that S.C.C.A. § 23-23-80(6) and Regulation 37-025(A)(7) allow the Council to deny certification when the officer is dishonest or untruthful to a law enforcement officer. However, in considering whether to deny certification, Regulation 37-025(B) allows the Council to consider the seriousness and, *"any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct."* Thus, even if misconduct is found, permanent denial of certification by the Council is not required. See S.C.C.A. § 23-23-80(6)

(Council authorized to "provide for suspension, revocation, or restriction of certification, in accordance with regulations promulgated by the council."); S.C.C.A. § 23-23-150(D) and (G) (setting forth other sanctions that may be imposed where misconduct alleged, such as certification with probation).

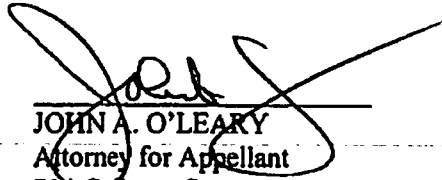
Here, even if misconduct is found, it cannot be considered serious, and the record is replete with mitigating circumstances. Appellant fully explained and clarified his statement to Mitchum about his relationship to Caleb and what he meant when he said something to the effect that Caleb was his little brother. The conversation with Mitchum occurred prior to Appellant arriving at PSA. It seems clear that even when Appellant made such statement, it should not be taken literally and was not said with intent to mislead Mitchum. The evidence also shows that Appellant never interfered in the investigation or intended to do so. Accordingly, the alleged misconduct did not warrant the harshest sanction of permanent denial of certification. *See John Elkin, Appellant*, No. 15-ALJ-30-0246-AP, 2015 WL 9256531 (Dec. 10, 2015) (reversing final decision to permanently deny certification as law enforcement officer; although appellant admittedly lied to his employer, the evidence in the record as a whole showed appellant's one incident of misconduct was dwarfed by ample evidence presented in his favor that Court could not in good conscience reach same conclusion as the Academy and the Council; thus, decision to deny certification reversed). The Council in this case did not even consider the mitigating circumstances in this case in making its decision.

Therefore, in light of the foregoing, the sanction imposed was excessive, not supported by substantial evidence, and arbitrary and capricious. Accordingly, such excessive sanction should be reversed.

CONCLUSION

For all the foregoing reasons, the Council's Decision and finding of misconduct should be reversed and/or modified. The Council's Decision to impose a permanent denial of certification is excessive and not supported by substantial evidence. We ask that it be reversed and/or modified. We request that the Court reinstate Appellant's certification with or without a probationary period of two years with additional training in ethics or other as the Court deems necessary.

Respectfully submitted,



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12th December, 2019

**THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

The Honorable S. Phillip Lenski, Administrative Law Judge

DOCKET NO: 19-ALJ-30-0344-AP

Joseph Ragsdale, Appellant,

vs.

South Carolina Criminal Justice Academy, Respondent.

REPLY BRIEF

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STATEMENT OF ISSUES

Issues raised by Respondent's Brief, here addressed:

- I. There is no substantial evidence in the Record to support the LETC's Final Agency Decision that Appellant committed law enforcement certification misconduct because he provided false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer
- II. The LETC was not required to consider mitigating circumstances

STATEMENT OF THE CASE

On January 25, 2019 the South Carolina Criminal Justice Academy's ("SCCJA") received a Personnel Change in Status ("PCS") Separation due to Misconduct for Joseph Ragsdale ("Appellant"), from the South Carolina Department of Public Safety ("SCDPS"). Appellant timely filed for a Contested Case hearing and a hearing was held on May 29, 2019 before the Honorable William C. Smith, appointed from the SCCJA as the Hearing Officer.

On August 19, 2019 the South Carolina Criminal Justice Academy's Law Enforcement Training Council ("Council") met and voted to accept the Hearing Officer's Recommendation ("Recommendation") dated July 1, 2019; that Appellant be permanently denied certification and eligibility for certification.

This is an appeal of the Final Agency Decision ("Decision") of the Council, dated September 15, 2019 to accept the Recommendation. Per the Statement of Issues the Appellant

contends that the finding of misconduct is not supported by substantial evidence and that the sanction of denial of certification was excessive, not warranted by the evidence, and was arbitrary and capricious and an abuse of discretion.

Appellant was hired by the South Carolina Highway Patrol ("SCHP") and was terminated January 23, 2019 after two and a half years of excellent service for alleged misconduct, as defined in S.C. Code Ann. §23-23-150(A)(3)(g), "*willfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State.*"

STATEMENT OF FACTS

The Decision of the Council is not supported by substantial evidence, but rather is based on speculation, surmise, conjecture, and an improper inference, and therefore is erroneous. The Council adopted the Hearing Officer's Recommendation and found that Appellant engaged in misconduct (as defined in S.C.C.A. § 23-23-150(A)(3)(g)) by willfully providing false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer when he told Deputy Mitchum ("Mitchum") in a phone call that Caleb Farmer ("Caleb"), who had been detained for shoplifting at the Palmetto State Armory ("PSA"), was "my little brother", or something to that effect. Caleb, and his family, were close friends of Appellant and Appellant considered him a "Brother in Christ" and often referred to him as his "little brother." Appellant later spoke with Mitchum and fully explained and clarified his relationship with Caleb and that Caleb was "like a brother." Appellant in no way interfered or intended to interfere in the police investigation of the alleged shoplifting incident.

2.

Nevertheless, in support of its finding of misconduct, the Council relied on the fact that after his telephone call with Mitchum about Caleb, Appellant went to the PSA in civilian clothes (although he had his department issued handgun, hand-held radio, and handcuffs) and asked to speak with Caleb. Appellant, however, did not see or talk to Caleb, but spoke to Mitchum about the matter and explained his relationship to Caleb. Again, Appellant at no time interfered with the investigation.

The Council found that Appellant's visit to the PSA, "*clearly evinced intention to misrepresent the role he played vis-à-vis the detained suspect [Caleb] to the staff of the Palmetto State Armory*", but, at the same time, the Council stated that such visit "*does not bear directly on the determination of misconduct.*" (Record on Appeal "ROA" pg 7-8). Despite the visit's conceded lack of significance on the determination of misconduct, the Council found that "*Appellant's conduct clearly demonstrates his deceptive mind set on October 26th particularly with respect to the false and misleading statements he made to Deputy Mitchum*". (ROA pg 8). The Council therefore concluded that Appellant committed misconduct by referring to Caleb as his little brother when Appellant spoke to Mitchum by phone. The Council then imposed the sanction of denial of certification without considering the seriousness of the alleged misconduct or any mitigating circumstances.

ARGUMENT

In Respondent's Brief it is clearly set forth that the charge in this case rested solely upon the charge of misconduct as set forth in §23-23-150(A)(3)(g). The statute defines misconduct as, "*wilfully making false, misleading, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency or representative of the agency, except when required by*

department policy or the laws of this state." The sole allegation of misconduct came from a phone conversation prior to Mitchum arriving at the location at which the suspect, Caleb was being held. In that brief conversation, Ragsdale referred to Caleb as like his little brother. The sole allegation against Ragsdale is based upon the statement made prior to the Deputy's arrival at the scene of the shoplifting incident. The statement made to Mitchum was found to be in violation of that statutory provision. The fact of the matter is that the Respondent emphasizes in his Brief that Ragsdale had advised Mitchum that the shoplifter was his little brother (pg. 8 Respondent). The facts clearly show in all documents submitted to the LETC that this statement over a phone, prior to his arrival at the location, was the sole basis for the termination. However, the Opinion and ruling by the LETC, takes the simple statement made by phone conversation and adds to it subsequent events that had nothing to do with the statement made between Ragsdale and Mitchum.

Mitchum, upon arrival at PSA, spoke with the suspect Caleb. Ragsdale was at no time physically present during the interview, apprehension, detention, nor transportation of Caleb. The fact that Ragsdale was at that location and had visible his law enforcement badge and radio, had nothing to do with the original statement made previously by Ragsdale to Mitchum. It was clear in reviewing all of the facts surrounding this case, that the suspect, Caleb, was in an extremely close relationship with Ragsdale and his family as evidenced in Affidavits submitted. PLEASE REFERENCE THE ROA The statement as to Caleb being *like a brother* had absolutely nothing to do with the underlying charge for which Caleb had been arrested by security at the PSA. The identification of Caleb as his "brother" was merely a colloquial term used and had

absolutely nothing to do with the charges to which he was being held. The Recommendation by the Hearing Officer to the LETC was deceiving in the sense that the sole issue of misconduct was whether there was a lie, deliberate or otherwise, under the statute cited above.

Mitchum clearly had to have been aware of the fact that Caleb's surname was not consistent with Ragsdale's surname. The term "brother" was in no way involved in Mitchum's investigation of an incident that occurred long before Mitchum arrived and had absolutely no impact on Mitchum's actions of taking into custody the suspect. Mitchum's job was simply to take into custody and transport the suspect to the jail. Whether the term brother, sister, cousin, or another was used had absolutely no impact upon the underlying facts surrounding the arrest nor it's ultimate outcome in court.

The Opinion is deceiving in that the Brief of Respondent on page 8 PLEASE REFERENCE PAGE IN THE ROA references the, "*display of his badge and other police gear for the sole purpose of misrepresenting the role he played as a relationship to the detained suspect at the PSA.*" The Brief submitted by the Respondent takes an innocent term that had absolutely nothing to do with the underlying facts of the crime committed and imply that, even though the statement was made prior to the arrival of the officer, that somehow how the Appellant since he had his police badge had something to do with the misrepresentation of the word "brother." The use of that term "brother" by Ragsdale was insignificant and innocent as the word "sister," it had absolutely nothing to do with the underlying offense or it's outcome. It is clear in all of the evidence that. Ragsdale did not meet with or discuss the matter with Caleb and

only briefly talked to Mitchum when Mitchum approached Ragsdale after Mitchum had spoken to Caleb and questioned the brother's relationship. At no time did Ragsdale intend to mislead, deceive, Mitchum by his responses.

In a statement covered by the statute REFERENCE STATUTE referencing comments made to a law enforcement officer, it is critical that the person making the statement have an improper motive with the intent to deliberately deceive, mislead, misrepresent, or as otherwise stated in the statute. The fact that, in a phone conversation prior to his arrival, Ragsdale used the colloquial term "brother" to Mitchum does not evidence intent to deceive. Whether Caleb was a brother had nothing to do with the underlying crime for which he had been detained or Ragsdale's intention when he called him brother. Ragsdale did not try to affect Mitchum's actions or decisions regarding Caleb. The intent of the subject charged is critical. In all cases such as this, the subject accused must have intent to mislead. There is no way the term brother would have any impact or mislead a person in a phone conversation.

The tragedy in this case is that Ragsdale has had an extremely close personal relationship, with the subject arrested, Caleb, and his family. The end result of Ragsdale's friendship and response to a request to attempt to find the underlying facts as to Caleb's arrest has resulted in a total loss of Ragsdale's career that he had performed over the previous two and a half years. The decision of the LETC is excessive since Ragsdale is effectively precluded from the career which had worked so hard to achieve.

In today's society, friendship, loyalty, and integrity are critical. Ragsdale, by his actions that day, violated several rules of the Department, but in no way did he engage in misconduct by

the statement made to Mitchum and the use of the word "brother." In the Respondent's Brief it was implied that it was bad and improper to have his badge and weapon visible. PLEASE REFERENCE PAGE IN THE ROA In no way, did Ragsdale violate Department policy as to off-duty weapons. If there was a violation of Department policy by his mere presence at the scene then this matter should have been dealt with by the Department administratively. The last several years of the South Carolina Highway Patrol have resulted in literally tens of Troopers losing employment in law enforcement as a result of the excessive abuse by the administration. This is confirmed by the fact that, within the last thirty days, there has been a formal announcement as to a change in the administration of the Department due to the downswing in applicants and with an increase in resignations and terminations from the Patrol. The Respondent's Brief emphasizes that Ragsdale is guilty of misconduct and deceit by the simple fact that he appeared at the PSA after the brief call. The phone conversation is the sole subject of why Ragsdale has been permanently denied his certification. The call is the basis of the charge, not the appearance at the PSA location.

It is unfortunate and tragic that law enforcement would lose a dedicated employee based upon a colloquial term that had absolutely nothing to do with the integrity of the investigation by the Deputy. To hold otherwise sets forth a standard that is not in conformity with the statute. The statement made was simply an innocent portrayal of a relationship that Ragsdale felt with Caleb and his family. In discussing the matter with my client, he has insisted that he has always considered Caleb and his other family members to be brothers and that feeling and relationship continues to this day in spite of the terrible decision imposed for that feeling.

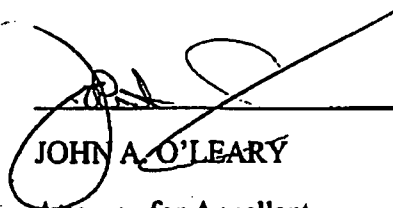
Further, in reviewing the Respondent's Brief he concludes on page 19 PLEASE REFERENCE PAGE IN THE ROA that should the Court find error that the Respondent would request that the case be remanded for a new contested case hearing to be in compliance with the Court's final order. This conclusion set forth by the State on its face recognizes the underlying unfairness and over-extension in the determination by the LETC and the Recommendation set forth by the Hearing Officer.

CONCLUSION

Based on the foregoing the LETC was in error for accepting the Hearing Officer's Recommendation to permanently deny Ragsdale's certification. The sole issue in this case refers to a simple word, "brother" made in the earlier phone conversation between Ragsdale and Mitchum. The reference and analogy to the intent by referencing his authorized, civilian clothes is unfair and improper. The statement that was made phone in no way had a part to play with reference to the clothes he was wearing at the time of the phone call. It is impossible to imagine the unfairness of attempting to take the clothes and authorized equipment he has a law enforcement officer and imply that, because of those items, Ragsdale must have had the intent to deceive plus by use of the word "brother". The Respondent and the State retroactively imply that the word "brother" had to be devious, misleading, deceitful, and incorrect. The provision set forth in the guidelines of the SCCJA, the LETC and in the SC Statutes were never intended to be to clothing to prove the intent.

Wherefore, we ask that this Court grant relief to Ragsdale and remand to the LETC to modify the determination as to a permanent de-certification or to order as set forth by the State, a new contested case hearing be scheduled.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "JOHN A. O'LEARY", is written over a horizontal line. The signature is stylized and somewhat cursive.

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January 13, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski

Appellant Case No. 2020-000345
Case No. 2019-ALJ-30-0344-AP

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SC Court of Appeals

Joseph Ragsdale.....Appellant

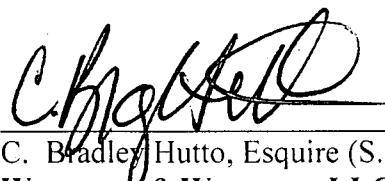
v.

South Carolina Criminal Justice Academy Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

July 20, 2020



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