



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

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Criminal Justice Services Board (CJSB) Executive Committee

December 17, 2020 at 11:00 a.m.

NOTE: This meeting was held by electronic means, via ZOOM meeting software, in response to the Governor's Declaration of a State of Emergency due to Novel Coronavirus (COVID-19)

Members Present

Chief James Williams, Chair
Mr. David Johnson
Jagdish Katyal
The Hon. Bryan Porter, Vice-Chair
LTC Tracy Russillo for Colonel Gary Settle
Chief Kelvin Wright

Members Absent

Chief Craig Branch
Sheriff Vanessa Crawford

I. Call to Order

Chairman James Williams called the meeting of the Executive Committee of the Criminal Justice Services Board to order at 11:05 a.m. A quorum was present.

II. Call to Order and Approval of Minutes

Mr. Brian Porter made the motion, seconded by Mr. Jagdish Katyal, to accept the minutes of the August 27, 2020, meeting of the Board. The motion passed unanimously.

III. Officer Decertification Hearings – Steve W. Smith

The Chairman called on Ms. Cathie Hutchins, Senior Assistant Attorney General, to present the facts resulting in Mr. Smith's decertification as a law-enforcement officer. Mr. Smith was decertified for allegedly allowing another officer, Jeffrey Spicer, to complete online training for him, thus failing "to comply with or maintain compliance with mandated training requirements" which is grounds for decertification pursuant to Va. Code §15.2-1707.

Mr. Smith was represented before the Executive Committee by counsel, Terry Kilgore. Mr. Kilgore asked that the Executive Committee reconsider Mr. Smith's case, noting that Va. Code §15.2-1708 provides that notice of an officer's decertification is to be served in person or by certified mail within 10 days of the date of decertification, which was September 29, 2020. Although timely mailed, the certified letter was delivered to Mr. Smith on October 19, 2020.

Mr. Smith stated that he was required to take the training online and, due to his lack of knowledge regarding computers, he received assistance from Mr. Spicer to log into the training. Mr. Smith stated that he completed his own training.

Special Agent Marcus McClanahan from Virginia State Police noted that Mr. Spicer was investigated, and ultimately convicted, for various offenses, including receiving money to complete training for other officers. Upon questioning by the Executive Committee, Special Agent McClanahan stated that there was no evidence that Mr. Spicer completed the training for Mr. Smith.

Delegate Kilgore asked that the letters sent on behalf of Mr. Smith be included in the record of the hearing.

Mr. Porter made a motion, seconded by Mr. Johnson, that the Executive Committee meet in closed session for the purpose of discussing the decertification of Mr. Smith with legal counsel. The motion passed unanimously.

Once the Executive Committee had concluded its closed session, Mr. Porter made a motion, seconded by Mr. Johnson, that the Executive Committee re-open the meeting to the public. The motion passed unanimously. All members of the Executive Committee certified that only matters involving legal advice from counsel were discussed during the closed session.

Mr. Porter made a motion, seconded by Mr. Johnson, to reinstate Mr. Smith as a law-enforcement officer. The motion passed, with Mr. Johnson, Mr. Katyal, Mr. Porter, LTC Russillo, and Chief Wright voting in favor and Chief Williams voting against.

IV. Officer Decertification Hearing - Christopher Davidson

The Chairman called on Ms. Cathie Hutchins, Senior Assistant Attorney General, to present the facts resulting in Mr. Davidson's decertification as a law-enforcement officer. Mr. Davidson was decertified for allegedly allowing another officer, Mr. Spicer, to complete online training for him, thus failing "to comply with or maintain compliance with mandated training requirements" which is grounds for decertification pursuant to Va. Code §15.2-1707.

Mr. Davidson was represented before the Executive Committee by counsel, Terry Kilgore. Mr. Kilgore asked that the Executive Committee reconsider Mr. Davidson's case, noting that Va. Code §15.2-1708 provides that notice of an officer's decertification is to be served in person or by certified mail within 10 days of the date of decertification, which was September 29, 2020. Although timely mailed, the certified letter was delivered to Mr. Davidson on October 19, 2020.

Mr. Davidson stated that he was short six training hours in 2011 and was told to make them up online. Not being proficient on computers, he asked Mr. Spicer to assist him, but it was stated that Mr. Spicer only helped Mr. Davidson log in and out of the computer. In 2013, Mr. Davidson stated that Mr. Spicer was in the room when he was told to complete online training. Mr. Davidson stated that he left to go to court and when he came back, Mr. Spicer told him he started his in-service training but failed the first test and Mr. Davidson had to go back online and retake the test. Mr. Davidson stated that he did not pay Mr. Spicer.

Special Agent McClanahan was interviewed by Virginia State Police on November 11, 2017. Special Agent McClanahan stated that Mr. Davidson told him that Mr. Spicer completed six hours of his training in 2011 and took two or three classes for him in 2013, but that he did not pay Mr. Spicer. Mr. Davidson did not say anything during the interview about Mr. Spicer failing a test.

Delegate Kilgore asked that the letters sent on behalf of Mr. Davidson be included in the documentation.

Mr. Johnson made a motion, seconded by Mr. Porter, that the Executive Committee meet in closed session for the purpose of discussing the decertification of Mr. Davidson with legal counsel. The motion passed unanimously.

Once the Executive Committee had concluded its closed session, Mr. Johnson made a motion, seconded by Mr. Katyal, that the Executive Committee re-open the meeting to the public. The motion passed unanimously. All members of the Executive Committee certified that only matters involving legal advice from counsel were discussed during the closed session.

Mr. Johnson made a motion, seconded by Chief Wright, to uphold the decertification of Mr. Davidson. The motion passed unanimously.

V. Officer Decertification Hearing - Terry Sivert

The Chairman called on Ms. Cathie Hutchins, Senior Assistant Attorney General, to present the facts resulting in Mr. Sivert's decertification as a law-enforcement officer. Mr. Sivert was decertified for allegedly allowing another officer, Mr. Spicer, to complete online training for him, thus failing "to comply with or maintain compliance with mandated training requirements" which is grounds for decertification pursuant to Va. Code §15.2-1707.

Mr. Sivert was represented before the Executive Committee by counsel, Terry Kilgore. Mr. Kilgore asked that the Executive Committee reconsider Mr. Sivert's case, noting that Va. Code §15.2-1708 provides that notice of an officer's decertification is to be served in person or by certified mail within 10 days of the date of decertification, which was September 29, 2020. Although timely mailed, the certified letter was delivered to Mr. Sivert on October 19, 2020.

Mr. Sivert admitted that Mr. Spicer took two classes in 2012. He could not recall if he paid Mr. Spicer. Special Agent McClanahan noted that Mr. Sivert was interviewed by Virginia State Police on November 28, 2017, he stated that Mr. Spicer helped him with two classes in 2012 and was unsure if he paid Mr. Spicer.

Delegate Kilgore asked that the letters sent on behalf of Mr. Sivert be included in the record of the hearing.

Mr. Johnson made a motion, seconded by Mr. Porter, that the Executive Committee meet in closed session for the purpose of discussing the decertification of Mr. Sivert with legal counsel. The motion passed unanimously.

Once the Executive Committee had concluded its closed session, Mr. Porter made a motion, seconded by Chief Wright, that the Executive Committee re-open the meeting to the public. The motion passed unanimously. All members of the Executive Committee certified that only matters involving legal advice from counsel were discussed during the closed session.

Chief Wright made a motion, seconded by LTC Russillo, to uphold the decertification of Mr. Sivert. The motion passed unanimously.

VI. Public Comment

There was no public comment.

VII. Adjournment

The meeting adjourned at 1:00 p.m.