

4-25-01

AT

FILED WITH THE CLERK OF THE CJS&T COMMISSION THIS <u>22</u> DAY OF <u>May</u> , 20 <u>01</u> BY <u>Brenda S. Presnell</u> DEPUTY CLERK
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STATE OF FLORIDA
CRIMINAL JUSTICE STANDARDS AND TRAINING
COMMISSION

CRIMINAL JUSTICE STANDARDS
AND TRAINING COMMISSION
Petitioner,

DIVISION OF
ADMINISTRATIVE
HEARINGS

-vs-

CASE NUMBER: 11337

DOAH NUMBER: 99-2824 *OC*

RICHARD D. BEACH,
Certificate No.: 51168
Respondent.

FINAL ORDER

This matter came before the Criminal Justice Standards and Training Commission (the Commission) at a public meeting on May 3, 2001, in Daytona Beach, Florida. It was alleged by Administrative Complaint that the Respondent had violated specified sections of Chapter 943, Florida Statutes, and Chapter 11B-27, Florida Administrative Code. In accordance with §§120.569 and 120.57(1), Florida Statutes, a formal hearing was held on this matter, and a Recommended Order was submitted by an administrative law judge from the Division of Administrative Hearings to the Commission for consideration.

The Commission has reviewed the entire record of the formal hearing, has heard the arguments of the parties and is otherwise fully advised in the matter. The Commission's findings are set forth below.

I. Standards for Review

Under §120.57(1)(L), Florida Statutes, the Commission may reject or modify the administrative law judge's conclusions of law and interpretations of the Commission's administrative rules in the Recommended Order. The Commission, however, may not reject or

modify the administrative law judge's findings of fact unless the Commission determines from a review of the entire record, and states with particularity in this Final Order, that 1) those findings of fact were not based on competent substantial evidence or 2) the proceedings on which the findings of fact were based did not comply with essential requirements of the law.

The Florida Supreme Court, in DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1957), defined "competent substantial evidence" to be evidence that is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached."

Additionally, the Commission may not reweigh the evidence, resolve conflicts in the evidence, judge the credibility of witnesses or otherwise interpret the evidence anew simply to fit its desired conclusion. Heifetz v. Department of Business Regulation, 475 So.2d 1277 (Fla. 1st DCA 1985).

Nor may the Commission reduce or increase the recommended penalty in the Recommended Order without first reviewing the complete record and without stating with particularity its reasons therefor in the Final Order. §120.57(1)(j), Florida Statutes.

II. Findings of Fact

The administrative law judge's findings of fact in paragraphs 1 through 17 of the Recommended Order are approved, adopted and incorporated herein by reference.

III. Conclusions of Law

The administrative law judge's conclusions of law in paragraphs 18 through 32 of the Recommended Order are approved, adopted and incorporated herein by reference.

IV. Recommended Penalty

The Commission accepts law judge's recommendation that the Commission issue a final

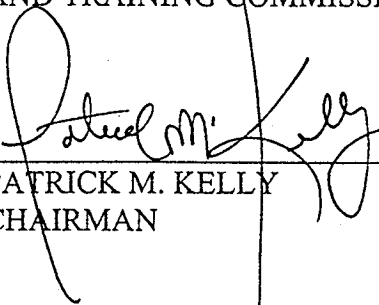
order revoking the Respondent's certification. Based upon the facts as established in this proceeding:

It is therefore ORDERED AND ADJUDGED that the Respondent's above referenced correctional officer certification is REVOKED.

This Final Order will become effective upon the filing with the Clerk of the Department of Law Enforcement.

SO ORDERED this 22 day of May, 2001.

CRIMINAL JUSTICE STANDARDS
AND TRAINING COMMISSION



PATRICK M. KELLY
CHAIRMAN

NOTICE

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, FLORIDA STATUTES, BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE CLERK OF THE DEPARTMENT OF LAW ENFORCEMENT, P.O. BOX 1489, TALLAHASSEE, FLORIDA 32302-1489, AND BY FILING A SECOND COPY OF THE NOTICE OF APPEAL WITH THE APPROPRIATE DISTRICT COURT OF APPEAL IN ACCORDANCE WITH RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE. SUCH NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.