

FILED WITH THE CLERK OF THE CJS&T
COMMISSION THIS 10th DAY OF
May, 2016
BY [Signature]
DEPUTY CLERK

STATE OF FLORIDA
CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION

DAVID HALL,

Petitioner,

VS.

AGENCY CASE NO.: ECH-2015-3
DOAH CASE NO.: 15-6195

FLORIDA DEPARTMENT OF
LAW ENFORCEMENT,

Respondent.

_____ /

FINAL ORDER

This matter came before the Criminal Justice Standards and Training Commission (the Commission) at a public meeting held on May 5, 2016 in Jupiter, Florida. Petitioner filed with the Florida Department of Law Enforcement a challenge to question 115 that had been graded as incorrect contained in the Law Enforcement State Officer Certification Exam administered to him on June 30, 2015. In accordance with §§120.569 and 120.57(1), Florida Statutes, and, Rule 11B-30.013, Florida Administrative Code, a formal hearing of this matter was held on January 13, 2016 before Administrative Law Judge R. Bruce McKibben of the Division of Administrative Hearings. On February 11, 2016 ALJ McKibben filed a Recommended Order which was submitted to the Commission for consideration. Neither party filed exceptions to the Recommended Order.

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)(I), 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 however, the Commission must state with particularity its reasons therefore and must make a finding that its substituted conclusion of law or interpretation of rule is as or more reasonable than that which was rejected or modified. The Commission 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 De Groot 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).

II. Findings of Fact

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

III. Conclusions of Law

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

IV. Recommended Dispensation

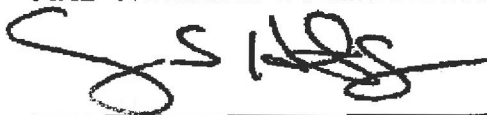
The administrative law judge's recommendation that the Commission enter a Final Order denying Petitioner's petition challenging question 115 is hereby accepted.

It is therefore ORDERED AND ADJUDGED that the Petitioner's petition challenging question 115 of the Law Enforcement State Officer Certification Exam administered on June 30, 2015 is hereby DENIED.

This Final Order will become effective fifteen days after filing with the Clerk of the Criminal Justice Standards and Training Commission.

SO ORDERED this 10th day of May, 2016.

CRIMINAL JUSTICE STANDARDS
AND TRAINING COMMISSION



DIRECTOR GREG HUTCHING
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.