

**IN THE MATTER OF APPEAL BY LARRY C. BLACK TO CATOOSA COUNTY  
BOARD OF COMMISSIONERS**

**Hearing date: May 22, 2013**

**Procedural and Factual History:**

On January 1, 2013, Gary Sisk took office as Sheriff of Catoosa County, Georgia. On January 1, 2013, Sheriff Sisk, by General Order of the Sheriff, continued the merit system and employment policies established under the prior administration of Sheriff Phil Summers.

Larry C. Black was an employee of the Sheriff's Department prior to January 1, 2013 and was therefore covered under the merit system. Some time shortly before January 1, 2013, Mr. Black, who had previously stated he would not work for Sheriff Sisk, notified Sheriff Sisk that he desired to continue his employment with the Sheriff's Department.

On or about January 2, 2013, Sheriff Sisk notified Mr. Black that he would not be sworn as a deputy but would be assigned to unsworn position as a crime analyst and would work in the Sheriff's Department Headquarters. Mr. Black was notified that he would retain the same rank and salary as he enjoyed in his prior position, but he would not be assigned a car or a weapon as his assignment as a crime analyst did not require travel on county business or permit arresting authority.

Mr. Black filed a grievance with his supervisor protesting his assignment as a crime analyst which said grievance was denied. On January 3, 2013, Mr. Black filed a Notice of Appeal from the denial of the grievance. In the Notice of Appeal, Mr. Black complained that in his prior assignment he had the use of a vehicle and was not provided a vehicle in his present assignment. Mr. Black also contends that because his assignment is not a sworn position, Mr. Black does not meet the definition of a "peace officer" under O.C.G.A. § 47-17-1(5). Therefore, he is not eligible for membership in the Peace Officials Annuity and Benefit Fund. The Peace Officials Annuity and Benefit Fund is not mandatory and is not funded or administered by the County. The Notice of Appeal was denied by the Sheriff on February 20, 2013. The Sheriff's denial was based on Section 11-7 subsection 2 of the merit system, which states that a grievance cannot be based on a work assignment and that Mr. Black was attempting to dictate to the Sheriff the position to which he would be assigned.

On February 27, 2013, Mr. Black filed a Notice of Further Appeal. Because the denial of the January 3, 2013 Notice of Appeal was made by the highest authority, the Sheriff, no further appeals could be considered in the Sheriff's Department. The Notice of Further Appeal was treated as an appeal to the Board of Commissioners pursuant to Section 11-3 of merit system.

Under the merit system, Mr. Black had a right to appear before the Board of Commissioners and the right to elect to be heard in either executive session or open session. Mr. Black elected to be heard in open session.

As the merit system was originally enacted by Sheriff Summers, the decision of the Board of Commissioners was binding on the Sheriff and the employee. By amendment to the merit system dated November 28, 2011, the decision of the Board of Commissioners became advisory only and not binding on the Sheriff due to his position as a constitutional officer of State of Georgia.

**Decision of the Board of Commissioners:**

The Board of Commissioners has considered the evidence received at the hearing and considered the argument of counsel regarding the issues in the appeal. Sheriff Sisk presented the only testimony at the hearing as Mr. Black elected not to testify. The complaints of Mr. Black were the loss of "status" in his present position, the loss of the use of a county vehicle and the inability to participate in Peace Officials Annuity and Benefit Fund. The merit system does not address loss of status due to an assignment. Any vehicle provided is based on the assignment of the employee and not a "perk" of employment with the Sheriff's Department. The Peace Officials Annuity Fund is not administered by the Sheriff or controlled by the Sheriff.

After consideration of testimony of Sheriff Sisk, the Board of Commissioners does not believe it is appropriate for it to mandate position assignments, even if the merit system allowed the Board of Commissioners to overturn the Sheriff's decisions, which it no longer does. Those decisions are best left to the duly elected Sheriff of Catoosa County. The voters elected the Sheriff Sisk to make position assignments within the Sheriff's Department which best serve and protect the safety and welfare of the citizens of Catoosa County. The Sheriff has made an assignment of Mr. Black to a position which the Sheriff, in his discretion, believes to be in the best interest of the Sheriff's Department and the public generally. The Board of Commissioners will not "second guess" his decision.

It is the decision of the Board of Commissioners that the appeal of Larry C. Black be denied and that the action of the Sheriff as stated in his decision of February 20, 2013 be affirmed.

**[SIGNATURES ON THE FOLLOWING PAGE]**

This \_\_\_\_\_ day of May, 2013

**CATOOSA COUNTY BOARD OF  
COMMISSIONERS**

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Keith Greene, Chairman

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Jeff Long, Commissioner, District One

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Robert R. Winters, Commissioner, District Two

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Jim Cutler, Commissioner, District Three

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DeWayne Hill, Commissioner, District Four

ATTEST

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Melissa Hannah, County Clerk