

NORTH CAROLINA
WAKE COUNTY

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DOJ 00556

BRUCE CLYDE SHOE)
)
)
 Petitioner,)
)
 v.)
)
 N.C. PRIVATE PROTECTIVE)
 SERVICES BOARD,)
)
 Respondent.)

PROPOSAL FOR DECISION

This contested case was heard before the Honorable Administrative Law Judge Joe Webster on August 28, 2012 in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*

Respondent was represented by Jeffrey D. McKinney.

WITNESSES

Respondent – Private Protective Services Board Deputy Director Anthony Bonapart testified for Respondent Board

Petitioner – Petitioner testified on his own behalf. Darren Poe and Amanda Holland also testified on Petitioner’s behalf.

ISSUES

Whether grounds exist for Respondent to deny Petitioner’s application for an armed guard registration permit pursuant to N.C. Gen. Stat. § 74C-1 *et seq.* based on Petitioner’s lack of good moral character and temperate habits as evidenced by convictions for hit and run in Alamance County, North Carolina in 2010.

BURDEN OF PROOF

Respondent has the burden of proving that the Petitioner lacks good moral character or temperate habits. Petitioner may rebut Respondent’s showing.

**STATUTES AND RULES APPLICABLE
TO THE CONTESTED CASE**

Official notice is taken of the following statutes and rules applicable to this case:

N.C. Gen. Stat. §§ 74C-3(a)(6); 74C-8; 74C-9; 74C-11; 74C-12; 12 NCAC 7D § .0700.

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. § 74C-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems business.

2. On July 11, 2011, Petitioner's applied to Respondent Board for a new armed guard registration permit. Petitioner's application was introduced as Respondent's *Exhibit 1*. Exhibit 1 was admitted as part of the record.

3. Mr. Bonapart testified that Respondent Board conducts a criminal background check on all applicants. A Criminal Record Check for Petitioner in Alamance County was introduced as *Exhibit 2*. Exhibit 2 was admitted as part of the record. Exhibited 2 revealed the following criminal conviction for Petitioner:

Alamance, NC (12/10/10) (T) Hit/Run Fail to stop Prop Damage, Case Number
2010CR010715; Guilty

Alamance, NC (12/10/10) (T) Hit/Run Fail to stop Prop Damage, Case, Number
2010CR010716; Guilty

4. Mr. Bonapart testified that pursuant to Petitioner's criminal conviction, Petitioner's application for registration was denied. Respondent Board introduced as *Exhibit 3*, a "For Cause" denial letter dated October 21, 2011. Exhibit 3 was admitted as part of the record.

5. Petitioner then testified on his own behalf. Petitioner explained that at the time of the charges he was working as a police officer with the Burlington Police department. He stated that he was going through some personal and financial problems. He had lost his home and was separated from his wife. He was seeing a counselor and taking prescription medication at the time.

6. Petitioner testified that he went out for a drink at a local bar. He stated that he left the bar and drove home. While driving home he blacked out and rear-ended the car in front of him. He then backed up and hit the car behind him. He stated that he woke up the next morning with the police banging on his door. Petitioner admitted to pleading guilty to one Hit and Run charge but does not remember pleading guilty to two.

7. Petitioner testified that he resigned from the Burlington Police Department. He is now taking medication for depression. He does not drink anymore. Petitioner further testified that he is living with his ex-wife and his son in Charlotte, North Carolina.

8. Petitioner also introduced several letters from his friends and former work colleagues speaking highly of petitioner's character and work ethic. These letters were introduced as *Petitioner's Exhibits 1-3*. Petitioner's Exhibits 1-3 were admitted as part of the record.

9. Petitioner's long-time friend and former police officer Darren Poe testified on Petitioner's behalf. Mr. Poe explained that he has known Petitioner for 25 years. Mr. Poe spoke very highly of Petitioner's character and explained that he could think of no other instances that reflected negatively on Petitioner's character.

10. Petitioner's ex-wife, Amanda Holland, then testified on Petitioner's behalf. Ms. Holland testified that Petitioner was a good friend and a wonderful father to their 10 year old son. Ms. Holland testified that Petitioner was a great police officer and that he should be given a chance to use his skills now as an armed guard.

CONCLUSIONS OF LAW

1. Pursuant to N.C. Gen. Stat. § 74C-5, Respondent Board may refuse to issue an alarm systems registration permit for lack of good moral character or temperate habits.

2. Pursuant to N.C. Gen. Stat. § 74C-8(d), conviction by a State court for conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage; or a history of addiction to alcohol shall be prima facie evidence that petitioner does not have good moral character and temperate habits for purposes of N.C. Gen. Stat. § 74C-1, *et. seq.*

3. Respondent Board presented evidence that Petitioner lacked good moral character or temperate habits through Petitioner's criminal record.

4. Petitioner presented sufficient evidence to rebut the presumption that he lacks good moral character.

Based on the foregoing, the undersigned makes the following:

PROPOSAL FOR DECISION

The North Carolina Private Protective Services Board will make the final decision in this contested case. It is proposed that the Respondent Board **REVERSE** its denial of Petitioner's application for an armed guard registration permit.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714, in accordance with G.S. 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact and to present oral and written arguments to the agency pursuant to G.S. 150B-40(e).

The agency that will make the final decision in this contested case is the North Carolina Private Protective Services Board.

This the 26th day of September, 2012.

The Honorable Joe Webster
Administrative Law Judge