

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DOJ 01697

Dustin Lee Chavis,
Petitioner,

vs.

N. C. Private Protective Services Board,
Respondent.

)
)
)
)
)
)
)

PROPOSAL FOR DECISION

This contested case was heard before Administrative Law Judge Beecher R. Gray on May 1, 2012, in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

Respondent was represented by attorney M. Denise Stanford.

WITNESSES

Petitioner – Petitioner testified on his own behalf.

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

ISSUE

Whether grounds exist for Respondent to deny Petitioner's application for an armed registration for committing an unlawful assault or for lack of good moral character.

BURDEN OF PROOF

Respondent has the burden of proving that Petitioner committed an unlawful assault and lacks good moral character. 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.G.S. §§ 74C-3(a)(6); 74C-8; 74C-9; 74C-11; 74C-12; 74C-13; 12 NCAC 7D § .0800.

FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing and each stipulated on the record that notice of hearing was proper.
2. Respondent Board is established under N.C. Gen. Stat. §74C-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the private protective services profession, including armed security guards.
3. Petitioner applied to Respondent Board for an armed security guard registration in October 2010, which was approved. A copy of Petitioner's application was introduced as Respondent's Exhibit 2.
4. On his application, Petitioner disclosed that he had a criminal record, which included a conviction of assault with a deadly weapon, 04 CR 008838.
5. Respondent granted the armed registration to Petitioner.
6. Petitioner applied to Respondent Board to renew his armed security guard registration in December 2011, which was denied. A copy of Petitioner's renewal application was introduced as Exhibit 3.
7. On his renewal application, Petitioner again disclosed that he had a criminal record, which included a conviction of assault with a deadly weapon, 04 CR 008838.
8. Deputy Director Bonapart testified that Petitioner told him that the conviction arose out of a domestic dispute between Petitioner and his then-fiancée. During the dispute, Petitioner pulled out a pocket knife. He then came to his senses and dropped the knife, striking his fiancée across the left side of her face, causing a cut.
9. Petitioner testified that Deputy Director Bonapart's testimony was true. He explained that he was young at the time and pled guilty to the charge without the benefit of counsel. Petitioner also testified that this occurred eight years ago, and he now is 27 years old, married, and a father.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. §74C-12(a)(9), Respondent Board may refuse to grant a registration if it is determined that the applicant has committed an unlawful assault.
3. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a registration if it is determined that the applicant lacks good moral character.

4. Respondent Board presented evidence of Petitioner's commission of an unlawful assault and lack of good moral character through the conviction of assault with a deadly weapon.
5. Petitioner presented evidence sufficient to rebut the commission of an unlawful assault and lack of good moral character.
6. Petitioner's evidence demonstrated a good pattern of behavior since this incident.

Based on the foregoing findings of fact and conclusions of law, 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 Board **REVERSE** its initial decision to deny Petitioner's application for armed security guard registration and grant the armed security guard registration.

NOTICE AND ORDER

The North Carolina Private Protective Services Board is the agency that will make the Final Decision in this contested case. As the final decision-maker, that agency 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 N.C. Gen. Stat. § 150B-40(e).

It hereby is 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.

This the 1st day of June, 2012.

Beecher R. Gray
Administrative Law Judge