

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DOJ 06059

LAWRENCE W. SITGRAVES,)
Petitioner,)
v.)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
Respondent.)
_____)

PROPOSAL FOR DECISION

On July 24, 2012, the Administrative Law Judge Donald Overby called this case for hearing in Raleigh, North Carolina.

APPEARANCES

Petitioner appears *pro se*.

Respondent was represented by attorney Jeffrey P. Gray, Bailey & Dixon, LLP, P.O. Box 1351, Raleigh, North Carolina 27602.

ISSUE

Whether Petitioner should be denied an unarmed guard registration based on Petitioner's lack of good moral character and temperate habits as evidenced by a conviction of misdemeanor Criminal Domestic Violence, 1st Offense in the State of South Carolina.

APPLICABLE STATUTES AND RULES

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; 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 armed and unarmed security guard and patrol business.
2. Petitioner applied to Respondent Board for an unarmed guard registration.
3. Respondent denied the unarmed guard registration due to Petitioner's criminal record which showed the following:

A conviction in the State of South Carolina on September 18, 2007, for misdemeanor Domestic

4. Petitioner testified that in April 2, 2007, his wife and he were having an argument over her not paying attention to him while he talked to her. He popped her on the thigh with a curtain rod to get her attention. She called the police. He was arrested and charged with Criminal Domestic Violence, 1st Offense, posted bond, and was released. No Domestic Violence Protective Order was issued. She suffered no permanent physical injury. He and his wife are still together and have been married for 34 years.
5. Petitioner admitted that he was wrong, has accepted responsibility for his actions, and has completely complied with the sanctions of the criminal court. Petitioner is fifty seven years old and there is no evidence of any other criminal violations.
6. Petitioner testified that he has worked for Allied Barton Security since March 2011. He is assigned to the city financial call center in Ft. Mill, South Carolina where he controls entry and exit and monitors security cameras. He has never worked in North Carolina and does not know why his employer made application for him to obtain a North Carolina unarmed guard registration.
7. Petitioner presented sufficient evidence to overcome the presumption that he lacks good moral character.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a registration if it is determined that the applicant has demonstrated intemperate habits or lacks good moral character.
3. Under G.S. §74C-8(d)(2), conviction of any crime involving an act of violence is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
4. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through conviction in the State of South Carolina for misdemeanor Criminal Domestic Violence, 1st Offense.
5. Petitioner presented evidence sufficient to explain the factual basis for the charge. Petitioner presented sufficient evidence to overcome the presumption that he lacks good moral character.

Based on the foregoing, the undersigned makes the following:

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be issued an unarmed guard registration and be placed on one (1) year probation.

NOTICE AND ORDER

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 N.C.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.

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, NC 27699-6714, in accordance with G.S. §150B-36(b).

This the 13th day of September, 2012.

Honorable Donald W. Overby
Administrative Law Judge