

NORTH CAROLINA
WAKE COUNTY

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DOJ 8195

REGINALD E. JAMES,)
)
Petitioner,)
)
v.)
)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
)
Respondent.)
)

PROPOSAL FOR DECISION

This contested case was heard before Fred G. Morrison Jr., Senior Administrative Law Judge, on October 23, 2012, in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

Respondent was represented by Jeffrey D. McKinney.

WITNESSES

Respondent – Anthony Bonapart, Deputy Director, testified for Respondent Board.

Petitioner – Petitioner testified on his own behalf.

ISSUE

Whether grounds exist for Respondent to deny Petitioner’s application for an unarmed 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 Petitioner’s criminal record.

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 armed and unarmed guard business.
2. On March 7, 2012, Petitioner applied to Respondent Board for a new unarmed guard permit. Petitioner's application was introduced as Respondent's *Exhibit 1*. Exhibit 1 was admitted as part of the record.
3. Included in Exhibit 1 was a criminal record check. The criminal record check revealed the following convictions:
 - Harnett County 4/20/92 (F) PWID Cocaine; Guilty
 - Harnett County 4/20/92 (F) Conspiracy to Sell Cocaine; Guilty
 - Harnett County 6/25/02 (F) Forgery of Instrument; Guilty
 - Harnett County 6/25/02 (F) Uttering Forged Instrument; Guilty
4. Mr. Bonapart testified that pursuant to Petitioner's criminal conviction, Petitioner's application for registration was denied. Respondent Board introduced as *Exhibit 2*, a "For Cause" denial letter dated May 31, 2012. Exhibit 2 was admitted as part of the record.
5. Petitioner then testified on his own behalf. Petitioner admitted to the criminal convictions on his record. Petitioner explained that he never served prison time, just probation. Petitioner explained that he takes full responsibility for his convictions and that he cannot blame anyone but himself.
6. Petitioner testified that he is taking courses online through Liberty University, where he has recently received one degree and on-course to receive another degree within a year. Petitioner also testified that he goes to church every Sunday and that he volunteers around his neighborhood and for the Dunn Police Athletic/Activities League.
7. Petitioner also introduced several documents evidencing his transcripts and other certificates. These documents were introduced as *Petitioner's Exhibits*. Petitioner's Exhibits were admitted as part of the record. Courses completed have helped improve his character.

CONCLUSIONS OF LAW

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

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

3. Petitioner has presented sufficient evidence to rebut the presumption that he lacks good moral character. Two of the convictions were 20 years ago; two were 10 years ago. Petitioner has studied and worked to successfully improve his moral character since these shortcomings.

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 unarmed 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 20th day of December, 2012.

Fred G. Morrison Jr.
Senior Administrative Law Judge

A copy of the foregoing was mailed to:

Reginald Earl James
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Angier, NC 27501
PETITIONER

Jeffrey P. Gray
Jeffrey D. McKinney
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ATTORNEYS FOR RESPONDENT

This the _____ day of December, 2012.

Office of Administrative Hearings
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