

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13DOJ03740

FRANK JOHN FONTANA JR., Petitioner, v. NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD, Respondent.	PROPOSAL FOR DECISION
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This contested case was heard before Beecher R. Gray, Administrative Law Judge, on August 2, 2013 in Raleigh, N.C. Petitioner Frank John Fontana, Jr. appeared and represented himself, pro se. Jeffrey P. Gray, Esq., appeared for Respondent.

EXHIBITS

Respondent's Exhibits ("R. Exs.") 1 and 2 were admitted into evidence. Petitioner testified but offered no other evidence.

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 was proper.
2. Petitioner applied to Respondent on September 27, 2012, for an Alarm Registrant Permit.
3. A criminal history record check revealed that Petitioner had been charged with felony assault causing serious bodily injury on May 14, 2011, in Guilford County, North Carolina. On December 6, 2011, Petitioner entered a guilty plea in Guilford District Court to the misdemeanor charge of simple assault.
4. Petitioner's assault charge resulted from a confrontation outside of a bar when a friend of his came outside of the bar and told Petitioner that he was being followed by two males, one of whom was upset because the friend had spoken to the male's girlfriend who was present in the bar. All individuals in this matter were drinking alcoholic beverages that evening. The two pursuing males approached Petitioner and his friend and struck the friend in the face. Petitioner began to run to escape the fighting. One of the pursuing males tackled him as he ran. The pursuing, tackling male broke his ankle in the process of tackling Petitioner when they landed on some object on the ground. The pursuing

male did not want to press charges against Petitioner, but the investigating female police officer pressed the felony assault charge because the pursuing male had a broken ankle.

5. Petitioner was an Eagle Scout in high school, served four (4) years in the 82nd Airborne Division, and received an honorable discharged from the U.S. Army.

Based upon the foregoing findings of fact, I make the following:

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Respondent's evidence in this contested case raises a presumption that Petitioner lacks good moral character, disqualifying him from registration as an Alarm Systems Registrant.
3. Petitioner's evidence in this contested case has served to rebut the presumption of lack of good moral character. Petitioner has demonstrated evidence of good moral character and is qualified for registration as an Alarm Systems Registrant.

PROPOSAL FOR DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, I find that Petitioner has demonstrated the good moral character required by Respondent's laws rules and is entitled to the Alarm Systems Registration sought.

NOTICE AND ORDER

The North Carolina Alarm Systems Licensing 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 12th day of September, 2013.

Beecher R. Gray
Administrative Law Judge