

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 04393

JEROME DOUGLAS MAYFIELD,)
)
Petitioner,)
v.)
)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
)
Respondent.)
_____)

PROPOSAL FOR DECISION

On February 26, 2013, Administrative Law Judge Gene Cella called this case for hearing in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

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

ISSUE

Whether Petitioner's armed guard registration should be suspended or revoked and his unarmed guard application denied based on Petitioner's lack of good moral character and temperate habits as evidenced by a conviction of misdemeanor Assault Inflicting Serious Injury and misdemeanor Assault with a Deadly Weapon.

Petitioner sought an administrative hearing on the Respondent's summary suspension of his armed guard registration, but not a subsequent denial of his unarmed guard application. Respondent consented in open court to allow both issues to be heard and a proposed Final Decision entered as to each.

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 held an armed guard registration from the Board.
3. Petitioner's armed guard registration was summarily suspended by the Board for the following criminal offenses:

Convictions in Wake County, State of North Carolina, on March 7, 2011 for misdemeanor Assault Inflicting Serious Bodily Injury and misdemeanor Assault with a Deadly Weapon.
4. Petitioner thereupon applied for an unarmed registration.
5. Respondent denied the unarmed guard application due to Petitioner's criminal record.
6. Petitioner requested a hearing on Respondent's summary suspension of his armed guard registration but not the denial of his unarmed guard application.
7. By Amended Notice of Hearing dated January 23, 2013, and mailed via certified mail, Respondent advised Petitioner that a hearing on the summary suspension of his armed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on February 26, 2013. Petitioner appeared at the hearing.
8. Petitioner admitted that in March 2011 he was convicted of Assault Inflicting Serious Bodily Injury and Assault with a Deadly Weapon. The incident happened on Saturday, February 12, 2011, after 10:00 p.m. in the parking lot of a friend, John Turner's home. A mutual friend, Rickey Gulley, came over to Mr. Turner's house and invited him (Mr. Mayfield) to come over to his house for a visit and a glass of wine. He accepted and went over to Mr. Gulley's house. Shortly after arriving he and Mr. Gulley got into an argument that quickly escalated. He got up to leave Mr. Gulley's house but when he reached the front porch, Mr. Gulley pleaded with him to come back in the house. He went back into Mr. Gulley's house and the discussion on the same subject erupted again and he immediately got up and left.
9. Mr. Gulley and he were discussing religion and politics when the argument broke out. Mr. Gulley was the aggressor in the confrontation.
10. He walked back over to Mr. Turner's house and was followed by Mr. Gulley. Shortly thereafter, he decided to leave Mr. Turner's house and go home. Mr. Turner walked with him to the parking lot and Mr. Gulley came towards him and they began

to argue again.

11. Mr. Gulley punched him in the mouth and they began to fight eventually landing and rolling on the ground. He said that when they both got on their feet Mr. Gulley ran away. He went home and Mr. Turner called later stating that the police were looking for him; he went to the police department and turned himself in. He spent two days in jail before he was bailed out by his wife. The Petitioner submitted a detailed written statement of the incident with his application for his unarmed registration.
12. He has worked for Security Consultant Group since January 2011. He works at the CEDC in Research Triangle Park where his job is to check IDs at a static post and patrol the 2nd and 3rd floors of the building.
13. Petitioner is pursuing a degree in Criminal Justice at ECPI University and submitted a letter attesting to his good character and academic abilities from the Department Head. He was a 4.0 GPA.
14. Petitioner is married and a father, with a child in college. The loss of his job devastated his family and him.
15. He is going to attempt a Motion for Appropriate Relief or an expunction of his criminal conviction. He wants to pursue a career in security and law enforcement and now knows first hand how this conviction is going to affect him in the future.
16. He did not have any incidents as a security guard with Security Consultant Group.

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 Wake County, North Carolina for two (2) misdemeanors involving an act of violence in violation of N.C.G.S. § 74C-8 (d) (2).
5. Petitioner presented evidence sufficient to explain the factual basis for the charges and has rebutted the presumption.

Based on the foregoing, the undersigned makes the following:

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that the summary suspension of Petitioner's armed guard registration be lifted and Petitioner's application for unarmed guard registration be approved renewed.

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. 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.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addresses to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record. N.C.G.S. § 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

This the _____ day of April, 2013.

Eugene Cella
Administrative Law Judge