

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 08761

DOMESHIA ANTOINE PRIVETTE,)
)
 Petitioner,)
v.)
)
N.C. ALARM SYSTEMS LICENSING)
BOARD,)
)
 Respondent.)
_____)

PROPOSAL FOR DECISION

This contested case was heard before Senior Administrative Law Judge Fred G. Morrison Jr. on March 26, 2013, in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

Respondent was represented by attorney Jeffrey P. Gray.

WITNESSES

Petitioner - Petitioner testified on his own behalf.

Respondent - Alarm Systems Licensing Board Deputy Director Anthony Bonapart testified for Respondent Board.

ISSUE

Whether grounds exist for Respondent to deny Petitioner's application for an alarm systems registration permit based on Petitioner's conviction of crimes involving moral turpitude and a lack of good moral character or temperate habits.

BURDEN OF PROOF

Respondent has the burden of proving that 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.G.S. §§ 74D-2; 74D-6; 74D-8; 74D-10; 12 NCAC 11 .0300, *et seq.*

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. Respondent Board is established under N.C.G.S. § 74D-4, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems business.
3. By application dated September 17, 2012, Petitioner applied to Respondent Board for an Alarm Registrant Permit. (R. Ex. 1). On the application, Petitioner answered “yes” to the following question: “Have you ever pled guilty or been convicted of any crime (Felony or Misdemeanor)?”
4. A criminal record search (R. Ex. 2) revealed that on March 7, 2007, Petitioner had been convicted of seven (7) felony offenses involving possession, sale, distribution and delivery of cocaine. Petitioner committed these drug offenses in 2002 in Wake County to make money to support himself, his girlfriend and their baby. He worked out a plea deal and completed probation, drug rehab, and community service successfully. He did not receive an active prison sentence.
5. By letter dated November 5, 2012, Respondent denied Petitioner’s application for alarm registration “For Cause” based on the above criminal convictions. (R. Ex. 3).
6. Petitioner is a 33 year old native of Raleigh who graduated from Wake Forest-Rolesville High School in 1997. He attended North Carolina State University for one year and in 2010 received a BA Degree from Strayer University.
7. Since June 2012 Petitioner has been employed as a Customer Service Representative/Purchaser with Smith’s Addressing Machine Services, Inc. in Garner, NC. He performs his duties with little supervision and is able to handle multiple tasks at one time. He has excelled at all duties given him. His superior highly recommends Petitioner and describes him as being hardworking, top-performing, reliable, dedicated, eternally upbeat, and an asset for the foreseeable future.

CONCLUSIONS OF LAW

1. The parties are properly before the Office of Administrative Hearings. Conviction of a crime involving illegal possession, sale and distribution of drugs is prima facie evidence that the applicant lacks good moral character or temperate habits.

2. Respondent Board presented evidence of Petitioner's conviction of crimes involving moral turpitude and his lack of good moral character and temperate habits through the criminal convictions involving cocaine.
3. Petitioner presented evidence sufficient to explain the convictions and to rebut the prima facie evidence of lack of good moral character and temperate habits. The crimes were committed more than ten (10) years ago and Petitioner has presented evidence indicating maturity, rehabilitation and responsibility since then.

Based on the foregoing, the undersigned renders the following:

PROPOSAL FOR DECISION

It is proposed that the Board **REVERSE** its initial decision to deny Petitioner's application for alarm registration on the basis that Petitioner has rebutted the original presumption that he lacks good moral character or temperate habits.

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, NC 27699-6714, in accordance with G.S. §150B-40(e).

NOTICE

The North Carolina Alarm Systems Licensing Board is the agency that will the Final Decision in this 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.G.S. §150B-40(e).

This the 3rd day of April, 2013.

Fred G Morrison Jr.
Senior Administrative Law Judge

A copy of the foregoing was mailed to:

Domeshia Antoine Privette
1608 Cranston Road
Garner, NC 27529
PETITIONER

Jeffrey P. Gray
Bailey & Dixon, LLP
PO Box 1351
Raleigh, NC 27602
ATTORNEY FOR RESPONDENT

This the 3rd day of April, 2013.

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