

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13DOJ12333

Jeffrey D Angell, Petitioner, v. North Carolina Alarm Systems Licensing Board, Respondent.	PROPOSAL FOR DECISION
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On August 2, 2013, Administrative Law Judge Beecher R. Gray 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 application for an alarm systems registration should be denied for a conviction of misdemeanor Assault on a Female.

APPLICABLE STATUTES AND RULES

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; N.C.G.S. §150B-2(4b); 12 NCAC 11 .0300.

FINDINGS OF FACT

1. Respondent Board is established under N.C. Gen. Stat. §74D-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm system business.
2. Petitioner applied to Respondent Board for an alarm system registration permit.

3. Respondent denied the alarm registration because of Petitioner's criminal record which showed the following:

A conviction in Yadkin County, North Carolina, on July 8, 2008, for misdemeanor Assault on a Female.

4. Petitioner requested a hearing on Respondent's denial of the alarm registration by letter dated February 21, 2013.
5. By Notice of Hearing dated May 8, 2013, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on July 25, 2013. Petitioner appeared on that date. His matter was continued by the presiding Administrative Law Judge and re-noticed for August 2, 2013. Petitioner appeared at the hearing.
6. Petitioner testified that in 2008 he lived in Yadkinville, N. C. and was the manager at Audio Unlimited in Jonesville, NC. A television was donated to the business, and his son did not have a TV, so he offered him the one that was donated to his shop. He stated that his son and wife came by at closing time, and he loaded the TV into the back of their car. He stated that his son's wife got out the car and started at cursing him for no reason. He stated that he backed away from her and did not touch her.
7. Petitioner stated that his son and wife drove away with the TV. Later, his son came back to the shop asking Petitioner if he had hit his wife. He told his son, "No, you were standing there watching the discussion." His son left, and a week later, he received a summons to appear in court. He stated that he retained an attorney to fight the charge. He went to court and was found guilty. He stated that he does not have a relationship with his son and wife because they moved to Florida.
8. Petitioner never has been arrested or charged with any other criminal offense.
9. Petitioner has worked for Modern Systems, Inc. for four months. He was hired as an installer.
10. Letters of recommendation from Jeff Matthews, Owner of Audio Unlimited and the Reverend Kenneth R. Gooden, Pastor of Petitioner's church, Union Grove Baptist, attesting to Petitioner's character were admitted into evidence without objection.

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 Yadkin County, North Carolina for Assault on a Female.
5. Petitioner presented evidence sufficient to explain the factual basis for the charge 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 Petitioner be issued an alarm registration.

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 9th day of October, 2013.

Beecher R. Gray
Administrative Law Judge