

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 13379

MYRON TROY DAVIDSON,)
)
Petitioner,)
v.)
)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
)
Respondent.)
_____)

PROPOSAL FOR DECISION

On July 23, 2013, Senior Administrative Law Judge Fred G. Morrison Jr. called this case for hearing in Raleigh, North Carolina.

APPEARANCES

Petitioner was represented by attorney T. Jefferson Carmon, III, the CW Law Group, P.C., 3622 Lychka Parkway, Suite 5002, Durham, North Carolina 27707.

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

ISSUE

Whether Petitioner should be denied a private investigator license based on the lack of good moral character as evidenced by a conviction of misdemeanor possession of stolen goods, numerous convictions of traffic related offenses, and a lack of financial responsibility.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:
N.C.G.S. § 74C-2; 74C-3 (a)(8); 74C-9; 74C-12; 12 NCAC 7D § .0200; 12 NCAC 07D .0400.

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 applied to Respondent Board for a private investigator license.

3. Respondent denied the application due to Petitioner's various misdemeanor convictions, including eighteen (18) traffic related convictions as follows:

3/5/91 Speeding 64/45 Fine \$80.00
3/1/93 Speeding/Reckless Driving 84/55, Fine \$135.00
9/13/93 DWLR PJC Fine \$60.00
9/13/93 Fail to stop-steady red light, PJC Fine \$60.00
9/20/93 DWLR PJC, Fine \$60.00
11/10/93 Drive/no M/V reg, PJC, Fine \$60.00
8/15/95 Resisting Public Officer, Fine \$260.00
7/28/95 Speeding 44/35; Fine \$65.00
8/27/96 Fail to obey traffic officer (lesser offense), Fine \$100.00
11/1/96 Speeding, 61/40 Fine \$140.00
11/30/98 Speeding, 61/40 Fine \$80.00
9/6/00 Misdemeanor Probation Viol, Transfer to Unsup Prob/Reduce monies to \$600.00
10/13/01 Speeding, 53/35 Fine \$90.00
1/6/03 Speeding, 69/60 Fine \$160.00
9/8/06 Improper Equip (lesser offense) Fine \$135.00
10/2/06 Speeding 80/60 PJC, Fine \$110.00
1/29/10 Speeding 55/35 Fine \$130.00

4. Further, Petitioner had, at the time of his background investigation, a July 10, 1996 conviction of misdemeanor Simple Worthless Check (\$900.00); Fine \$60.00; Rest: \$1,500.00; supv prob 18 months, and \$11,341.00 in unpaid debts on his credit report.
5. A copy of his signed confession to the Charlotte Mecklenburg Police Department and his Transcript of Plea dated December 6, 2005, pleading guilty to misdemeanor Possession of Stolen Goods was admitted into evidence.
6. Based upon the background investigation of Petitioner, the Board denied his application by letter dated October 31, 2012. (Respondent's Exhibit 1.)
7. Petitioner requested a hearing on Respondent's denial of his application for a private investigator license.
8. By Notice of Hearing dated June 5, 2013, and mailed via certified mail, Respondent advised Petitioner, by and through his attorney that a hearing on the denial of his unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on July 23, 2013. Petitioner appeared at the hearing.
9. Petitioner testified that he was driving the car in 2003 when his girlfriend's son robbed a gas station convenience store using his gun. The son handed the Petitioner a roll of money after the robbery. Petitioner claimed that he was having a diabetic reaction during his confession to the police and that the confession was not an

accurate statement of what occurred. He was not aware that his girlfriend's son was going to rob the gas station. His handgun was missing and he did not know the son used it in the robbery. He said he thought the roll of money he was given by the son – and found in his possession when his car was stopped by the police --- was money from his bail bonding business. Petitioner was taken from the Mecklenburg County Detention Center to a hospital for treatment of his diabetic reaction.

10. Petitioner worked for a bail bonding company at the time and had told his employer that his handgun was missing.
11. Petitioner was originally charged with felony Robbery with a Dangerous Weapon. His trial resulted in a mistrial. He thereupon pled guilty to misdemeanor Possession of Stolen Goods. Petitioner has no felony convictions.
12. Petitioner explained that the majority of the unpaid debts were medically related as a result of a major surgery and his diabetic condition.
13. Petitioner explained some of his numerous traffic related convictions.
14. Petitioner now owns his own bail bonding business, possesses a bail bondsman license issued by the North Carolina Department of Insurance, and writes bond policies under Financial Casualty & Surety, Inc. and Safety National Casualty Corporation. He is also a process server for Firefly Legal, a process service company based in the State of Illinois.
15. Petitioner stated that he has an AA degree in Criminal Justice and is 3 credits away from obtaining a BA degree. He has been a volunteer fireman for almost a year and wants to be a fire investigator.
16. Letters of recommendation from Ordie Hazu McFarland, Jr. of Target Skip-Trace; Wallace L. Alston, President of One Choice Logistics, Inc.; Randy Mucha, Civil Process Supervisor, Firefly Legal; and Chief Ray Pack of Long Creek Volunteer Fire Department, attesting to Petitioner's integrity, professionalism and character were admitted into evidence as Petitioner's Exhibits 1 A-D.

CONCLUSIONS OF LAW

1. The parties are properly before the Office of Administrative Hearings.
2. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a private investigator license if it is determined that the applicant lacks good moral character or temperate habits.
3. Under G.S. § 74C-8(d)(2), conviction of any crime involving an act of larceny is prima facie evidence that the applicant does not have good moral character.

4. Under N.C.G.S. § 74C-12(a)(25) the conviction of numerous traffic related offenses of the kind committed by Petitioner could constitute a lack of good moral character.
5. Under N.C.G.S. § 74C-12(a)(32) a lack of financial responsibility is grounds to deny a private investigator license.
6. Petitioner presented evidence attempting to explain the factual basis for the convictions and submitted evidence of rehabilitation and good work habits.
7. Respondent Board presented evidence that Petitioner lacked good moral character through conviction in Mecklenburg County, North Carolina for misdemeanor Possession of Stolen Goods, numerous traffic related convictions and a conviction of Simple Worthless Check.

PROPOSED DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby proposes that while the Board has grounds to deny Petitioner's application, it should consider granting a probationary license with conditions satisfactory to the Board.

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 Private Protective Services Board is the agency that will make 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 G.S. §150B-40(e).

This the 13th day of September, 2013.

Fred G. Morrison Jr.
Senior Administrative Law Judge