

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 13859

CHRISTOPHER T. PLACE)
)
) 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 July 23, 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 November 21, 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 revealed that on June 22, 2000, Petitioner had been convicted of the Class C Felony of Possess without a prescription. He worked out a plea deal and completed probation, drug rehab, and community service successfully.
5. By letter dated March 13, 2013, Respondent denied Petitioner’s application for alarm registration “For Cause” based on the above criminal convictions. (R. Ex. 2).
6. Petitioner is 34 years old and has completed high school and one year of college. He moved to North Carolina in 2006. He’s been married for 13 years and has two children. He was 21 at the time of his offense, fulfilled all sentence requirements, and has been law-abiding since June 2000. He works regularly, cares for his family, teaches Sunday School, and is a good role model for his children.

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 a crime involving moral turpitude and his lack of good moral character and temperate habits.
3. Petitioner presented evidence sufficient to rebut the prima facie evidence of lack of good moral character and temperate habits. The crime was committed more than thirteen (13) 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 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 N.C.G.S. §150B-40(e).

This the 2nd day of August, 2013.

Fred G. Morrison Jr.
Senior Administrative Law Judge