

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13DOJ14844

MARTISE LAMAR JONES PETITIONER, V. N C ALARM SYSTEMS LICENSING BOARD RESPONDENT.	PROPOSAL FOR DECISION
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On September 24, 2013, Administrative Law Judge J. Randall May 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 the Petitioner's application for an alarm systems registration permit 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; 12 NCAC 11 .0300.

FINDINGS OF FACT

1. Respondent Board is established pursuant to 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 due to Petitioner's criminal record which showed the following:
A conviction in Durham County, North Carolina, on April 15, 2008, for

misdemeanor Assault on a Female.

4. Petitioner requested a hearing on Respondent's denial of the alarm registration by letter received May 14, 2013.
5. By Notice of Hearing dated July 9, 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 September 24, 2013. Petitioner appeared at the hearing.
6. Petitioner testified that in 2007 he was living in Durham, NC with his girlfriend. She was having some domestic problems at her prior residence and asked if she could live with him. He was a full-time student and working two jobs. After she moved in with him he found that she was not contributing any money to the upkeep of the home. She was not working but just partying. He stated that he asked her to leave but she would not and the relationship became violent. They had several verbal altercations which lead to a physical confrontation. She hit him and he hit her back and she called the police. He stated that he did not know the extent of her injuries resulting from the fight.
7. After hitting her he left the residence and went to his mother's house. A couple of days later he went to the police department to turn himself in. The police told him that there was no warrant for his arrest at the time. About seven months later he was pulled over for a speeding ticket. The officer ran his information and a warrant for his arrest appeared. He was taken into custody at that time. A court appointed attorney was assigned to his case and he entered a guilty plea. The court sentenced him to one year probation and he was ordered to complete an anger management course.
8. The victim is the mother of his child and they have a good relationship today. They co-parent their child who just started kindergarten, and he pays child support although it is not court-ordered. Petitioner testified that he believes that the fact that he has maintained a positive relationship with the victim is a sign of his good character.
9. Petitioner has worked for Time Warner Cable since February 2013. He is an inbound sales agent. He works out of the office and does not go into citizens' homes. Prior to working for Time Warner he worked in retail sales and also in personal computer repair.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. § 74D6, 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. §74D-2(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 Durham County, North Carolina for Assault on a Female.
5. Petitioner presented evidence sufficient to explain the factual basis for the charge and his good character and has rebutted the presumption.

BASED ON THE FOREGOING, the undersigned makes the following:

PROPOSAL FOR 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 is hereby 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 30th day of October, 2013.

J. Randall May
Administrative Law Judge