

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 18373

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PROPOSAL FOR DECISION

APPEARANCES

ISSUE

APPLICABLE STATUTES AND RULES

FINDINGS OF FACT

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2. In April of 2013, Petitioner applied to Respondent Board for an alarm installation registration.

3. Respondent denied Petitioner's alarm installation registration due to Petitioner's criminal record which showed the following:

A conviction in Guilford County, State of North Carolina, on October 8, 2012 for felony Elude Arresting in a Motor Vehicle, a conviction in Guilford County on November 27, 2012 for a misdemeanor Probation Violation, and then a second conviction in Forsyth County on July 30, 2012 for a misdemeanor Probation Violation.

4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.

5. By Notice of Hearing dated October 3, 2013, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on November 26, 2013.

6. Petitioner appeared at the hearing. Petitioner explained that in March 2012 he and 10 to 15 friends were riding their motorcycles from Greensboro to Winston-Salem on Interstate 40. They were having fun, but speeding westward on I-40 at speeds of 110 mph. Two police officers spotted them, and gave chase. He admitted he looked back, and saw the police officers, but decided to "stay with the pack." He finally decided to pull over, and one of the police officers pulled behind him. The police officer issued him a ticket for driving 110 MPH in a 65 mph zone.

7. At that time, Petitioner was on probation for a 2011 DWI conviction. He violated the conditions of his probation when he received the speeding ticket on the motorcycle.

8. Petitioner has worked for Secure One Inc. for 2½ years. He is a sales representative, and goes door-to-door selling security systems.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings, and both parties received proper Notice of Hearing of this case.

2. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a registration if it determines that the applicant has demonstrated intemperate habits or lacks good moral character.

3. Under G.S. §74C-8(d)(2), conviction of any felony is *prima facie* evidence that the applicant does not have good moral character or temperate habits.

4. At hearing, Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through conviction in Forsyth County, North Carolina for a felony elude arrest in a motor vehicle, and two (2) misdemeanor probation violations.

5. At hearing, Petitioner presented evidence sufficient to explain the factual basis for the charge, and rebut that presumption.

PROPOSAL FOR DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Respondent issue an alarm installation registration permit to Petitioner.

NOTICE AND ORDER

The North Carolina Alarms Systems Licensing Board 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 G.S. §150B-40(e).

The undersigned hereby orders that agency to serve a copy of its Final Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714.

This 13th day of January, 2014.

Melissa Owens Lassiter
Administrative Law Judge