

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14DOJ01403

DOMINQUE RAY PITTMAN PETITIONER, V. N C ALARM SYSTEMS LICENSING BOARD RESPONDENT.	PROPOSAL FOR DECISION
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On Tuesday, March 25, 2014, 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 Petitioner should be denied an alarm systems registration permit based on Petitioner's lack of good moral character and temperate habits as evidenced by convictions of misdemeanor Public Disturbance, misdemeanor Larceny, and two (2) misdemeanor Probation Violations.

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; 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 systems installation business.
2. Petitioner applied to Respondent Board for an alarm systems registration permit.
3. Respondent denied the alarm systems registration permit due to Petitioner's criminal

record which showed the following:

A conviction in Wake County, State of North Carolina on July 7, 2010, for misdemeanor Public Disturbance.

A conviction in Wake County, State of North Carolina on August 19, 2010, for misdemeanor Larceny.

A conviction in Wake County, State of North Carolina on May 17, 2011, for misdemeanor Probation Violation.

A conviction in Wake County, State of North Carolina on December 18, 2012, for misdemeanor Probation Violation.

4. Petitioner requested a hearing on Respondent's denial of his alarm systems registration permit.
5. By Notice of Hearing dated February 20, 2014, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm systems registration permit would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on March 25, 2014. Petitioner appeared at the hearing.
6. Petitioner testified that during the incident in 2010, he was still in high school. One day while riding the school bus, he accidentally sat on a schoolmates' notebook. They started arguing and a fight ensued. He stated that because they were fighting in a confined space, other kids got hit. Both of them got charged with Public Disturbance. He did not go to court. The entire incident has handled by the school resource officer and he does not know how the Prayer for Judgment got entered.
7. Regarding the larceny conviction, he worked at Walmart at the time. One day the cash drawer where he was working came up short – approximately \$700.00. An internal investigation was conducted and it was determined that he took the money. The police were called and took him into custody. He spent two weeks in jail. He appeared in court and entered a guilty plea. The court ordered him to pay \$1,200.00 restitution and he was placed on probation for two years.
8. He admitted that he took the money.
9. Petitioner has fulfilled the terms of his probation except paying all of the restitution; he only paid a portion.
10. He related that he could not find a job and could not pay the \$1,200.00 ordered by the court. His inability to pay resulted in the court charging him with misdemeanor Probation Violation in 2011 and 2012.

11. Petitioner has obtained his Certified Nursing Assistant (CNA) certification but has been unable to find employment in that field due to his criminal convictions.
12. He has worked for Safe Streets USA for seven months. He is an assistant support agent. He answers customer questions and inputs data into the company computer system. He works in the call center in Garner, NC. He does not go into the homes of citizens.

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 an alarm systems registration permit 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 a larceny and/or an act of violence is *prima facie* evidence that the applicant does not have good moral character or intemperate habits.
4. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through convictions in Wake County, North Carolina for Public Disturbance and Larceny.
5. Petitioner presented evidence sufficient to explain the factual basis for the charge and has rebutted the presumption.

PROPOSAL FOR DECISION

BASED UPON the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be issued an alarm systems registration permit.

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 25th day of April, 2014.

J. Randall May
Administrative Law Judge