

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
14 DOJ 05704

MICHAEL RYAN DAVIS,

Petitioner,

v.

N.C. ALARM SYSTEMS  
LICENSING BOARD,

Respondent.

**PROPOSAL  
FOR DECISION**

On August 26, 2014, Administrative Law Judge Craig Croom called this case for hearing in Raleigh, North Carolina.

**APPEARANCES**

For Petitioner: Michael Ryan Davis, appearing *pro se*  
910 Fryebridge Road  
Clemmons, NC 27012

For Respondent: Jeffrey P. Gray  
Bailey & Dixon, LLP  
P.O. Box 1351  
Raleigh, NC 27602

**ISSUE**

Whether Petitioner should be denied an alarm installation registration based on Petitioner's lack of good moral character and temperate habits as evidenced by convictions of misdemeanor Possession of Drug Paraphernalia and misdemeanor Possession of Marijuana?

**APPLICABLE STATUTES AND RULES**

Official notice is taken of the following statutes and rules applicable to this case:  
N.C. Gen. Stat. §§ 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-2, *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 installation registration.
3. Respondent denied the alarm installation registration due to Petitioner's criminal record which showed the following:

Convictions in Guilford County, State of North Carolina,  
on May 7, 2014, for misdemeanor Possession of  
Marijuana and misdemeanor Possession of Drug  
Paraphernalia.
4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.
5. By Amended Notice of Hearing dated August 14, 2014, 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 August 26, 2014. Petitioner appeared at the hearing.
6. Anthony Bonapart, Deputy Director of Respondent Board, testified that Petitioner checked "yes" to question 1 on his application form which asks, "Have you ever pled guilty or been convicted of any crime (felony or misdemeanor?)" As required, Petitioner submitted a written explanation, except it was for a misdemeanor Possession of Drug Paraphernalia conviction in 2007. This conviction did not appear on his Criminal History Record Check.
7. Petitioner's initial application was dated and signed December 18, 2013, but he had to submit a corrected application and numerous additional documents because of deficiencies. His application was completed on June 20, 2014.
8. Petitioner explained the convictions which were not reported in his application. In January 2014, Petitioner and two friends were to attend a concert at the Greensboro Coliseum featuring a rap group named "JV" They went to eat prior to attending the concert at the Darrell's restaurant in Greensboro. He was the designated driver. After eating dinner, they proceeded to the concert. He and his friends were smoking marijuana. When he drove into the coliseum parking lot the attendant must have smelled the marijuana coming from the car because when he pulled into a parking spot an undercover police officer approached his car and directed him to step out of the vehicle. The police officer told him he smelled marijuana emanating from the vehicle. He directed all parties to exit the vehicle, then initiated a search. The police officer found marijuana and Petitioner was charged with possession; the officer found half of a joint. Petitioner admitted that he and his friend had smoked the joint together. He was arrested and taken downtown for processing. In May 2014, the court found him guilty of both marijuana and paraphernalia possession.

9. Petitioner stated that he has worked for Carolina Alarm, Inc. since December, 2013, as a technician learning how to install alarm systems in homes and commercial establishments. Since that time, he has been basically unemployed, working part-time as a landscaper.
10. Petitioner admitted that he still smokes marijuana, and as a recovering alcoholic it helps him not crave alcohol.
11. Petitioner also admitted that he did not update his application with the new May (2014) convictions.

### **CONCLUSIONS OF LAW**

1. The parties properly are before the Office of Administrative Hearings.
2. Pursuant to N.C. Gen. Stat. § 74D-6(3), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has demonstrated intemperate habits or lacks good moral character.
3. Pursuant to N.C. Gen. Stat. § 74D-6(2), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has been convicted of a crime involving the illegal use or possession of a controlled substance.
4. Pursuant to N.C. Gen. Stat. §§ 74D-6(2) & 74D-10(a)(4), conviction of any crime involving the illegal use or possession of a controlled substance is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through convictions in Guilford County, North Carolina for misdemeanor Possession of Marijuana and misdemeanor Possession of Drug Paraphernalia.
6. Petitioner explained the factual basis for the charge but has failed to rebutt 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 denied an alarm installation registration.

### **NOTICE AND ORDER**

The agency making the final decision in this contested case 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. N.C. Gen. Stat. § 150B-40(e). The agency that will make the final decision in this contested case is the Alarm Systems Licensing Board.

This the 24<sup>th</sup> day of October, 2014.

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Honorable Craig Croom  
Administrative Law Judge

