

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
14DOJ08154

<p>Allen Leslie Jackson Petitioner</p> <p>v.</p> <p>N C Private Protective Services Board Respondent</p>	<p><b>PROPOSAL FOR DECISION</b></p>
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On November 18, 2014, Administrative Law Judge Randolph Ward 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 unarmed guard registration based on Petitioner's lack of good moral character and temperate habits as evidenced by four (4) convictions of driving under the influence in the Commonwealth of Pennsylvania.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:  
N.C.G.S. §§ 74C-8(d)(2); 74C-9; 74C-11(a); 74C-12(a)(1), (9) & (30); 12 NCAC 7D § .0700.

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. §74C-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the armed and unarmed security guard and patrol business.
2. Petitioner applied to Respondent Board for an unarmed guard registration.
3. Respondent denied the unarmed guard registration due to Petitioner's criminal record

which showed the following:

A conviction in Allegheny County, Commonwealth of Pennsylvania, on October 27, 2010 for Driving While BAC .02 or Greater While License Suspended

A conviction in Allegheny County, Commonwealth of Pennsylvania, on October 27, 2010 for DUI: Highest RTE of ALC (BAC .16+); 2<sup>nd</sup> offense

A conviction in Allegheny County, Commonwealth of Pennsylvania, on October 27, 2010 for DUI: GEN IMP/INC of Driving Safely; 2<sup>nd</sup> offense

A conviction in Allegheny County, Commonwealth of Pennsylvania, on October 27, 2010 for DUI: GEN IMP/INC of Driving Safely; 1st offense

4. Petitioner requested a hearing on Respondent's denial of the unarmed guard registration.
5. By Notice of Hearing dated October 22, 2014, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on November 18, 2014. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check, which showed the above, was admitted into evidence as part of Respondent's Exhibit 1, Petitioner's application.
7. Petitioner testified that in 2010, he was living in Pittsburgh, PA. He stated that the incident at issue resulted from him feeling depressed over the loss of his grandmother. He had gone to a local bar to have a drink. He stated that he left the bar around 8:30 p.m. to drive home. He ran a stop sign and was pulled over by a police officer. The police officer transported him to the emergency room where blood was drawn. The court found him guilty of DUI.
8. Petitioner further testified that he actually only has two (2) DUI offenses, not three (3). On his Criminal History Record Check, one (1) offense is listed twice. The 1<sup>st</sup> offense (which was from 2003) was heard at the same time as the 2<sup>nd</sup> offense.
9. Petitioner played professional basketball for the Canada Ducks from 1994 to 2000 and had previously played college basketball for USC, but was "redshirted."
10. Petitioner's driver's license was suspended, but restored. He drove a truck for the City of Pittsburgh while living in Pennsylvania and had a Commercial Driver's License (CDL). He continues to have a CDL.
11. Petitioner has a 21-year old son.
12. Petitioner considers himself to be an outstanding person and feels that the DUI charges

do not reflect who he is.

13. Petitioner worked for On Guard Security at a mall in Charlotte, patrolling the area to deter crime.

#### 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 a registration 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 an act of multiple offenses of Driving While Impaired, crimes involving alcoholic beverages, 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 Allegheny County, Commonwealth of Pennsylvania for not less than two convictions of Driving While Impaired for offenses committed on separate occasions, years apart.

Based on the foregoing, the undersigned makes the following:

#### FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be denied an unarmed guard registration.

#### NOTICE AND ORDER

The North Carolina Private Protective Services 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 hereby is 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 30<sup>th</sup> day of December, 2014.

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J. Randolph Ward  
Administrative Law Judge