

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14 DOJ 08582

<p>Kia Rena Graham Petitioner</p> <p>v.</p> <p>N C Private Protective Services Board Respondent</p>	<p>PROPOSED FINAL DECISION</p>
---	---------------------------------------

On December 16, 2014, Administrative Law Judge Donald Overby 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 a conviction of misdemeanor Simple Assault.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case: N.C.G.S. §§ 74C-3(a)(6); 74C-8; 74C-9; 74C-11; 74C-12; 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 Northhampton County, North Carolina on June 11, 2012 for misdemeanor Simple Assault.
4. Petitioner requested a hearing on Respondent's denial of the unarmed guard registration.
6. By Amended Notice of Hearing dated November 7, 2014 and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of the renewal her unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on December 16, 2014. Petitioner appeared at the hearing.
7. Petitioner testified that in 2012 she was living in Garysburg, NC and that her boyfriend had moved in with her. She stated that everything was going fine until Mother's Day when she and her boyfriend went to her boyfriend's mother's house where she fixed dinner for his mother. When they got back home her boyfriend started an argument. He started swinging at her so she protected herself. She said he left and moved out of her home.
8. She believed the incident was over until she received a summons to appear in court; her former boyfriend filed charges against her.
9. She did not obtain an attorney. She went to court with her mother and entered a guilty plea because her ex-boyfriend did have a cut on his hand resulting from the altercation. The court ordered her to pay \$150.00 in court costs. She was also placed on 12 months unsupervised probation and ordered to stay away from her ex-boyfriend.
10. Petitioner thought the case was "thrown out" (dismissed) when she paid the \$150.00 fine and did not think she had been convicted.
11. She worked for Weiser Security Service, Inc. for three months and was assigned to a warehouse where she patrolled 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 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 Northhampton County, North Carolina for a misdemeanor Simple Assault.
5. Petitioner presented insufficient direct evidence of character, however based on her age and lack of any other evidence of assaultive behavior, the Court finds she has rebutted the presumption.

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 issued an unarmed guard registration.

NOTICE AND ORDER

The NC Private Protective Services 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 N.C. Gen. Stat. § 150B-40(e).

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

This the 28th day of January, 2015.

Honorable Donald Overby
Administrative Law Judge