

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14 DOJ 08744

JIMMY DARRELL HOLLAR,)
)
Petitioner,)
v.)
)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
)
Respondent.)
_____)

**PROPOSED
FINAL DECISION**

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 armed armored car guard registration based on Petitioner's lack of good moral character and temperate habits as evidenced by a conviction of misdemeanor Weapon on Educational Property.

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 armed armored car guard registration.
3. Respondent denied the armed armored car guard registration due to Petitioner's

criminal record which showed the following:

A conviction in Rowan County, North Carolina on September 6, 2011 for misdemeanor Weapon on Educational Property.

4. Petitioner requested a hearing on Respondent's denial of the armed armored car guard registration.
5. By Notice of Hearing dated November 10, 2014 and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of the armed armored car 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.
6. Petitioner testified that in 2011 his daughter was 17 years old and was dating an 18-year old man. He and his wife did not allow the young man to visit in their home. One day his daughter asked him to drive her to East Rowan High School to talk with her boyfriend. He reluctantly said "yes" and drove her to see her boyfriend.
7. While sitting in a parking lot on the campus of the school, a police officer came up to his car to ascertain their business on campus. It was the 4th of July and the school was closed. It was also about 10:00 to 10:45 p.m. As he was explaining to the officer why he was sitting in the parking lot, the officer spotted a .22 rifle lying on the back seat. Petitioner claimed he forgot the rifle was on the back seat and stated that the rifle was unloaded.
8. The officer confiscated the rifle and issued Petitioner a citation for having a Weapon on Educational Property. He retained an attorney and when he went to court he entered a guilty plea. The court sentenced him to 18 months supervised probation.
9. Since his conviction, Petitioner has received five (5) pistol purchase permits from the Sheriff of Rowan County. He is also an active member of his local volunteer fire department.
10. He submitted two (2) letters attesting to his good character; one from his pastor and a second from his counselor.
11. He has worked for Dunbar Armored, Inc. since June 2014, and was hired as an armored car driver.

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 the illegal use, carrying or possession of a weapon 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 Rowan County, North Carolina for a misdemeanor Weapon on Educational Property.
5. Petitioner presented sufficient evidence to explain the factual basis for the charge and 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 armed armored car 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.

Donald W. Overby
Administrative Law Judge

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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14 DOJ 08744

<p>Jimmy Darrell Hollar Petitioner</p> <p>v.</p> <p>N.C. Private Protective Services Board Respondent</p>	<p>ORDER AMENDING DECISION</p>
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Pursuant to 26 NCAC 3.0129, for the purpose of correcting a clerical error, IT IS HEREBY ORDERED that the above-captioned Decision, issued from this Office on January 28, 2015 is amended as follows:

Proposed Final Decision is amended to Proposal For Decision in the case caption.

This the 4th day of February, 2015.

Donald W. Overby
Administrative Law Judge