

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
15 DOJ 00520

BILLY-DEE GREENWOOD,)
)
Petitioner,)
v.)
)
N.C. PRIVATE PROTECTIVE)
SERVICES BOARD,)
)
Respondent.)
_____)

PROPOSAL FOR DECISION

On March 26, 2015, Administrative Law Judge Donald W. 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 a Private Investigator license based on his unfavorable employment history.

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, among other things, of licensing and registering individuals engaged in the armed and unarmed security guard and patrol business and licensing private investigators.
2. Petitioner applied to Respondent Board for a Private Investigator license.

3. Respondent denied the application due to Petitioner's employment history with the Raleigh Police Department and conduct thereafter.
4. Petitioner requested a hearing on Respondent's denial of a Private Investigator license.
5. By Notice of Rescheduled Hearing dated March 11, 2015, the undersigned Administrative Law Judge notified Petitioner that a hearing on the denial of his Private Investigator license application would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on March 26, 2015. Petitioner appeared at the hearing.
6. Petitioner had previously applied to the Board for a Private Investigator license in 2013. This was Petitioner's second time applying to the Board. The first application was denied for the identical reason as this application.
7. Investigator Melvin Turner was again assigned to conduct the background investigation of Petitioner for purposes of licensure.
8. Investigator Turner testified that he had also conducted the previous investigation of Petitioner and interviewed him by telephone for this application. Petitioner advised him that there were no issues to discuss regarding his criminal history or credit history that had arisen since his first application. Petitioner advised him that he had been working for Champion Sports and Entertainment in Chapel Hill since June 20, 2013, and conducted security risk assessments for the business.
9. Prior to that, Petitioner had served as a contract Field Advisor in Afghanistan for DynCorp International and had also attended American Military University for his Masters in Intelligence Operations.
10. The remaining information utilized by Investigator Turner in his investigation consisted of information that he had verified in April, 2013 when conducting the investigation for Petitioner's previous application.
11. Petitioner had worked as a Detective/Investigator for the Raleigh Police Department from October 2003 to July 2010. He conducted all law enforcement functions including participating in a FBI Task Force in the Career Criminal Unit. He resigned from his position at the Raleigh Police Department to begin employment with the Drug Enforcement Administration (DEA). After Petitioner had resigned from the Raleigh Police Department, an issue arose within the Department in reference to missing evidence that initially had occurred in May 2010.
12. Petitioner's partner at the time, Detective Heckman, had signed out evidence for a federal case to be tried in Greenville, North Carolina. The evidence in question was not withdrawn in Petitioner's name but he ended up taking custody of it.

13. This case was part of the FBI Task Force that Petitioner participated in. During the pendency of the case, the federal judge had placed the evidence in the secure custody of Petitioner. After the case was finalized, Petitioner was to transport the evidence back to Raleigh and return it to the evidence unit of the Raleigh Police Department. Petitioner claimed that during that period he moved all of possessions into a storage unit and departed for Quantico, Virginia to attend his DEA Special Agent training.
14. Petitioner was initially contacted by supervisors at the Raleigh Police Department and he denied any knowledge of the whereabouts of the evidence. The Raleigh Police Department contacted the DEA and the Petitioner was interviewed regarding the evidence. Petitioner gave permission for his storage unit to be searched and requested that a friend be present during the search. The missing evidence was located.
15. Since Petitioner was no longer employed with the Raleigh Police Department, the Department could take no disciplinary action against him. The Drug Enforcement Administration gave him the option to resign, but he did not; he was fired from the DEA over the evidence issue with the Raleigh Police Department.
16. The missing evidence in this incidence consisted of 55 grams of cocaine, a Tyson Tiger .38 caliber revolver, ammunition, 5 grams of marijuana, \$97.00 in currency, a cell phone, and miscellaneous wrappings. The whereabouts of the evidence between May 18, 2010, when the Petitioner was released by the court and ordered to retain the evidence until the case was completed, and the Petitioner's resignation from the Raleigh Police Department on July 16, 2010, was not known.
17. Further, the records of the evidence custodian for the Raleigh Police Department indicate that proper procedure was not followed in that the Petitioner did not process through the evidence custodian and did not obtain the evidence custodian's initials as required.
18. On October 27, 2010, an Evidence Specialist with the Raleigh Police Department had notified her supervisor that evidence signed out by Detective Heckman on May 17, 2010 for the federal case was missing and not in the Raleigh Police Department's evidence repository. A criminal investigation was then initiated by the Internal Affairs Division but it was later amended to be an administrative investigation, but only after involvement of the DEA who had advised Petitioner that he would not be prosecuted criminally if he would assist the Department in locating the missing evidence.
19. It was the opinion of the investigating officers in the Internal Affairs Division that the Petitioner was "evasive during the entire investigation." All missing evidence was ultimately located in Petitioner's storage unit and returned to the Raleigh Police Department's evidence repository.

20. Numerous violations of internal policies of the Raleigh Police Department were sustained against Petitioner although he was no longer an employee.
21. Petitioner testified that he must have forgotten that he had the evidence. The evidence had been placed in a black “tactical-type” duffle bag which had been issued by the Raleigh Police Department. Although Department issued, the Petitioner did not turn it in along with his other equipment. The duffle bag had been in the trunk of his car and had apparently been moved to the storage unit.
22. Petitioner testified that even if he had properly checked his equipment back in that there would have been no indication of him having outstanding evidence because the evidence had initially been released to the custody of his partner, Detective Hickman.
23. Petitioner also testified that he was not evasive in any manner during the investigation. The officer who initially contacted him was not particularly concerned about the evidence and he stated that he “truthfully did not know where it might be.” He claimed that he packed everything in the storage unit very hurriedly because he had a short period of time between his resignation from the Raleigh Police Department and the start of classes at Quantico. It was only after the evidence was located in his storage unit that Petitioner was able to surmise what had occurred.
24. Petitioner’s emphasis of the fact that he was not evasive and that somehow the Raleigh Police Department had conducted a flawed investigation and that somehow the Raleigh Police Department was at fault is an attempt by the Petitioner to deflect responsibility away from himself. Such deflection is to no avail and fails to acknowledge the given fact that the Petitioner had possession and control of the missing evidence and only further confirms that Petitioner refuses to accept responsibility for the missing evidence which was in his possession.
25. Petitioner also testified that he did not resign from the DEA when requested.

CONCLUSIONS OF LAW

1. The parties are properly before the Office of Administrative Hearings.
2. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a license if it is determined that the applicant lacks good moral character.
3. Respondent Board presented evidence that Petitioner lacked good moral character through an unfavorable employment history, including a failure to account for evidence in a criminal case and dismissal from the Drug Enforcement Administration as a Special Agent.

4. Petitioner presented insufficient evidence to explain the factual basis for the events leading up to the loss or misplacing of the evidence from the federal criminal court case, nor adequately explain how such could occur. Petitioner was not credible. Therefore, Petitioner has failed to rebut the presumption that he lacks good moral character.

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 a Private Investigator license.

NOTICE AND ORDER

The North Carolina 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 the North Carolina Private Protective Services Board 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 2nd day of June, 2015.

Honorable Donald W. Overby
Administrative Law Judge