

NORTH CAROLINA

OFFICE OF ADMINISTRATIVE HEARINGS

WAKE COUNTY

15 DOJ 3983

JOHN PAUL MELKI

Petitioner

v

**NC PRIVATE PROTECTIVE
SERVICES BOARD**

Respondent

**PROPOSED FINAL
DECISION**

This matter coming on to be heard and being heard August 25, 2015, and the Petitioner appeared pro se, and the Respondent was represented by attorney Mr. Jeffrey P. Gray, and based upon the evidence presented and the arguments of the parties, the undersigned makes the following findings of fact:

1. Petitioner is a citizen and resident of Lenoir County, North Carolina, and applied to Respondent for an armed guard permit.

2. Respondent Board is established pursuant to N.C. Gen. Stat. §74C-1, *et seq.*, and is charged with licensing and registering individuals engaged in the armed and unarmed security guard and patrol business.

3. Respondent denied the armed guard registration due to lack of good moral character and temperate habits as demonstrated by Petitioner’s criminal record.

4. Petitioner received a Prayer for Judgment Continuance for the charge of Assault on a Female in Lenoir County District Court on December 5, 2014.

5. No other disqualifying evidence was presented.

6. Petitioner was notified by letter on April 22, 2015 that his application was denied due to the conviction in Lenoir County.

7. Petitioner timely requested a hearing regarding the denial of this armed guard application.

8. Petitioner testified that he and Ms. Victoria Stroud were involved in an altercation that was investigated by law enforcement.

9. Petitioner informed Respondent that the two had an argument in which Ms. Stroud advanced towards him and Petitioner grabbed her and used force to take her to the ground.

10. Petitioner testified that this argument concerned financial matters and eventually involved a dispute regarding a cell phone.

11. Petitioner advised Respondent that police were called to the scene and he was arrested when they noticed redness around Ms. Stroud's neck.

12. Petitioner pled guilty during his first appearance and a PJC was entered.

13. Ms. Stroud testified that there was in fact an altercation between the two, but does not feel that she was harmed by the Petitioner.

14. Ms. Stroud indicated that the Petitioner was a good man who acted like the father to her daughter, even though he is not the biological father.

Based upon the foregoing findings of fact, the undersigned concludes as a matter of law:

1. The Office of Administrative Hearings has jurisdiction over the parties and the subject matter herein.

2. Under G.S. §74C-12(a)(25), Respondent may refuse to grant registration if it determines that an applicant has demonstrated intemperate habits or lacks good moral character.

3. Under G.S. §74C-8(d)(2), conviction of any crime involving acts of violence is prima facie evidence that an applicant lacks good moral character.

4. Assault on a female is a crime involving an act of violence.

5. While a Prayer for Judgment Continuance is not a conviction under criminal law, N.C. Gen. Stat. §74C-12(d) states that a conviction as used in this context "includes ... prayer for judgment continued[.]"

6. Respondent presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through the conviction of Assault on a Female.

7. Petitioner, however, presented sufficient evidence that this was an isolated event and that he is an honest, trustworthy, and hard-working individual.

8. Petitioner has proven by a preponderance of the evidence that he is of good moral character and temperate habits.

Based upon the foregoing findings of fact and conclusions of law, the undersigned hereby recommends that Petitioner be issued an armed 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 1st day of October, 2015.

Philip E. Berger, Jr.
Administrative Law Judge