

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
15 DOJ 05831

<p>Tony Allen Thompson Petitioner,</p> <p>v.</p> <p>N C Alarm Systems Licensing Board Respondent.</p>	<p>PROPOSAL FOR DECISION</p>
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On September 29, 2015, Administrative Law Judge J. Randall May 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 alarm installation registration based on Petitioner's lack of good moral character and temperate habits as evidenced by a conviction of Assault and Battery on a Family Member in the Commonwealth of Virginia.

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; 14B NCAC 17 § .0303.

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 alarm registration.
3. Respondent denied the alarm registration due to Petitioner's criminal record, which showed the following:

A conviction in Roanoke County, Commonwealth of Virginia, on April 23, 2010 for misdemeanor Assault and Battery on a Family Member.

4. Petitioner requested a hearing on Respondent's denial of the alarm registration application.
5. By Notice of Hearing dated August 11, 2015, Respondent advised Petitioner that a hearing on the denial of his alarm registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609, on September 29, 2015. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check was admitted into evidence as part of Respondent's Exhibit 1.
7. Petitioner testified that he is from Roanoke, Virginia. One day he and his girlfriend got into an argument. The argument became heated and he punched some holes in the wall of his apartment. Neighbors heard the argument and called the police. The police arrived and separated them and took statements. He was arrested for assault.
8. When he went to court he did not retain an attorney, represented himself, and entered a not guilty plea. He told the Court that he did not hit his girlfriend, but did punch holes in the wall of his apartment. His girlfriend went to Court with him and she told the Court that nothing happened; he did not assault her. However, the police officer testified that Petitioner threw his girlfriend down on the bed.
9. The court found him guilty and directed him to take anger management classes. He was also placed on one year supervised probation and had to report to a probation officer once a month. He also had to pay court costs. He completed the classes after a year.
10. Petitioner stated that he did not use force against his girlfriend. It was just a misunderstanding. He also explained that in Virginia, if you "cohabit" you are considered "family members" for purposes of the statute.
11. Petitioner was 19 years old at the time; he is now 25. He has two children with the former girlfriend and they get along well and do a good job "co-parenting." She now lives in West Virginia.
12. Petitioner worked for Affinity Integrated Solutions, Inc. for one year installing alarms in residences and businesses in North Carolina.
13. Eric Bouvet, the owner of Affinity Integrated Solutions testified as a character witness. He hired Petitioner in September 2014 as an installation technician. He considers him to be that "special employee" who goes the extra mile for the

company and customers. Petitioner always met his and his customers' expectations.

14. Mr. Bouvet would like to keep Petitioner as an employee and "duplicate him."

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. § 74D-6(3), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has demonstrated intemperate habits or lacks good moral character.
3. Under G.S. § 74D-6(2), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has been convicted of a crime involving an act of violence.
4. Under G.S. §§ 74D-6(2) and 74D-10(a)(4), 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.
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through a conviction in Roanoke County, Virginia for misdemeanor Assault and Battery on a Family Member, a crime involving violence.
6. Petitioner presented sufficient evidence to explain the factual basis for the charge; presented a credible character witness; and has rebutted the presumption.

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 issued an alarm 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 is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6700.

This the 2nd day of December, 2015.

J Randall May
Administrative Law Judge

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Pursuant to 26 NCAC 3.0129, for the purpose of correcting a clerical error, IT IS HEREBY ORDERED that the Proposal for Decision, issued from this Office on December 2, 2015 is amended to correct the name of the agency that will make the final decision.

NOTICE

The Agency that will make the final decision in this contested case is the North Carolina Alarm Systems Licensing Board

This the 21st day of January, 2016.

J Randall May
Administrative Law Judge