

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
15 DOJ 06491

Randy Orlanda Williams SR. Petitioner,  v.  N C Private Protective Services Board Respondent. Respondent.	<b>PROPOSAL FOR DECISION</b>
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**THE ABOVE-ENTITLED MATTER** was heard before the undersigned Augustus B. Elkins II, Administrative Law Judge, in Raleigh, North Carolina. This case was heard pursuant to N.C.G.S. § 150B-40, designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 150B of the North Carolina General Statutes. The record was left open for the parties' submission of further materials, including but not limited to supporting briefs, memorandums of law and proposals. The record now closed with no further materials, this Proposal for Decision is now submitted.

#### 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 Solicit Crime Against Nature.

#### APPLICABLE STATUTES

Notice is taken of the following statutes applicable to this case: N.C.G.S. §74C-1, *et seq.*

**BASED UPON** careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge makes the following FINDINGS OF FACT. In making the FINDINGS OF FACT, the undersigned Administrative Law Judge has

weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including, but not limited to, the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case.

### **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. A conviction in Cumberland County, State of North Carolina, on May 1, 2007 for misdemeanor Solicit Crime Against Nature; and
  - b. A conviction in Durham County, State of North Carolina, on September 4, 2010 for misdemeanor Solicitation to Obtain Property by False Pretenses.
4. Petitioner requested a hearing on Respondent's denial of the unarmed guard registration application.
5. By Notice of Hearing dated September 14, 2015, Respondent advised Petitioner that a hearing on the denial of his unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on October 27, 2015. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check was admitted into evidence as part of Respondent's Exhibit 1, Petitioner's application.
7. Petitioner testified that in the Summer of 2006 he went to White Lake, NC with his children. He was separated at the time, so he dropped his children off in Fayetteville and was on his way to his home in Graham, NC. He stopped at a red light and while sitting at the light some ladies wearing suggestive clothing started flirting with him. One of the women started a conversation with him about sex for money and told him to meet her in a hotel across the street. He complied, but when he opened the hotel door he was arrested by the Cumberland County Sheriff's Department and charged with soliciting prostitution. He retained an attorney. The attorney recommended that he enter a guilty plea in exchange for a prayer for judgment. The court accepted his plea.

8. Regarding the second conviction he testified that he and his wife were separated. While together, his wife had a credit card set up to pay his cell phone bill every month. He would receive an automated call from AT&T to pay his cell phone bill. All he had to do was give the computer the credit card number over the phone and the money would be withdrawn from the credit card.
9. His wife took charges out against him for Identity Theft. He retained an attorney to represent him in court. His attorney tried to get the charges dismissed but was unsuccessful. A deal was reached and he pled guilty to a lesser charge. The court ordered him to pay \$500.00 in restitution. He is now divorced from his wife.
10. Petitioner worked for Allied Barton Security Services for four months. He was assigned to Crop Science in RTP where he controlled access and patrolled both the interior and exterior of the site to deter crime.
11. Petitioner offered two letters of character. The first was from William A. Stephens, Pastor of Southside Church of Christ, stating that he personally knows Petitioner and attesting to his spiritual growth (Petitioner's Exhibit 1) and the Second from his ex-wife, Gayle Carney, attesting to his support as a father to their children, calm demeanor and Christian faith (Petitioner's Exhibit 2.)

**BASED UPON** the foregoing FINDINGS OF FACT and upon the preponderance or greater weight of the evidence in the whole record, the Undersigned makes the following:

#### **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 pertaining to obtaining property by false pretenses is an offense involving moral turpitude and is, therefore, *prima facie* evidence that the applicant does not have good moral character or temperate habits. Under G.S. § 74C-8(d)(2), conviction of any crime involving an act pertaining to an unlawful sexual act is an offense involving moral turpitude and is, therefore, *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 Cumberland County, North Carolina for a misdemeanor Solicit Crime Against Nature and in Durham

County, North Carolina for misdemeanor Solicitation to Obtain Property by False Pretense.

5. Petitioner presented evidence sufficient to explain the factual basis for the charge and, based upon the letter of character from his employer, and has rebutted the presumption.

**BASED UPON** the foregoing Findings of Fact and Conclusions of Law the Undersigned makes the following:

**PROPOSAL FOR DECISION**

The Undersigned finds and holds that there is sufficient evidence in the record to properly and lawfully support the Conclusions of Law cited above. Based upon the foregoing Findings of Fact and Conclusions of Law, the Undersigned hereby proposes that Petitioner be granted an unarmed guard registration.

**NOTICE**

The agency making the final decision in this contested case 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. N.C.G.S. § 150B-40(e). The agency that will make the final decision in this contested case is the North Carolina Private Protective Services Board. A copy of the final agency decision or order shall be served upon each party personally or by certified mail addresses to the party at the latest address given by the party to the agency and a copy shall be furnished to any attorney of record. It is requested that the agency furnish a copy to the Office of Administrative Hearings.

**IT IS SO ORDERED.**

This the 26th day of January, 2016.

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Augustus B. Elkins II  
Administrative Law Judge