

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DOJ 00235

<p>Porsha Denise Patterson Petitioner,</p> <p>v.</p> <p>NC Private Protective Services Board Respondent.</p>	<p>PROPOSAL FOR DECISION</p>
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This contested case was heard before the Honorable Administrative Law Judge Philip Berger, Jr. on Tuesday, February 23, 2016 in Raleigh, North Carolina.

APPEARANCES & WITNESSES

Petitioner appeared *pro se* and testified on her own behalf.

Respondent was represented by Jeffrey D. McKinney. Don Foster, Deputy Director, testified for Respondent Board.

ISSUE

Whether grounds exist for Respondent to deny Petitioner's application for an unarmed guard registration permit pursuant to N.C. Gen. Stat. § 74C-1 *et seq.* based on Petitioner's lack of good moral character and temperate habits as evidenced by Petitioner's criminal record.

BURDEN OF PROOF

Respondent has the burden of proving that the Petitioner lacks good moral character or temperate habits. Petitioner may rebut Respondent's showing.

STATUTES AND RULES APPLICABLE TO THE CONTESTED CASE

Official notice is taken of the following statutes and rules applicable to this case:

N.C. Gen. Stat. §§ 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 guard business.
2. On July 28, 2016, Petitioner's applied to Respondent Board for a new unarmed guard permit. Petitioner's application was introduced as Respondent's ***Exhibit 1***. Exhibit 1 was admitted as part of the record.
3. Included in Exhibit 1 was a criminal record check. The criminal record check revealed the following convictions:

(M) Petit Larceny – GC 11008428-00 12/31/11 Chesapeake, VA Guilty
4. Mr. Foster testified that pursuant to Petitioner's criminal conviction, Petitioner's application for registration was denied. Respondent Board introduced as ***Exhibit 2***, a "For Cause" denial letter dated December 7, 2015. Exhibit 2 was admitted as part of the record.
5. Respondent also introduced a hand-written letter from Petitioner requesting an appeal of the Respondent Board's denial as ***Exhibit 3***.
6. Petitioner then testified on her own behalf. Petitioner admitted to pleading guilty to the criminal conviction on her record.

CONCLUSIONS OF LAW

1. The parties are properly before the Office of Administrative Hearings. Respondent is an "occupational licensing agency" pursuant to N.C. Gen. Stat. § 150B-2(4b).
2. Pursuant to N.C. Gen. Stat. § 74C-5, Respondent Board may refuse to issue or renew an unarmed guard permit for lack of good moral character or temperate habits.
3. Under N.C. Gen. Stat. § 74C-8(d)(2), conviction of any crime involving a larceny is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
4. Respondent Board presented sufficient evidence that Petitioner lacks good moral character through her criminal record.
5. Petitioner did not present sufficient evidence to rebut the presumption that she lacks good moral character.

Based on the foregoing, the undersigned makes the following:

PROPOSAL FOR DECISION

The North Carolina Private Protective Services Board will make the final decision in this contested case. It is proposed that the Respondent Board **UPHOLD** its denial of Petitioner's application for an unarmed guard registration permit.

ORDER

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. 27699-6714, in accordance with G.S. 150B-36(b).

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 pursuant to G.S. 150B-40(e).

This the 17th day of May, 2016.

Philip E Berger Jr.
Administrative Law Judge