

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DOJ 03352

TERESA ANN ENGLISH,)
)
Petitioner,)
v.)
)
N.C. ALARM SYSTEMS)
LICENSING BOARD,)
)
Respondent.)
_____)

PROPOSAL FOR DECISION

On May 24, 2016, 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 an alarm registration based on Petitioner's lack of good moral character and temperate habits as evidenced by a conviction of felony Manufacture, Possess Other Substance Schedule I, II, III with Intent to Distribute in York, South Carolina.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case: N.C.G.S. §§ 74D-2; 74D-6; 74D-8; 74D-10; 14B NCAC 17 .0300., *et seq.*

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. § 74D-2, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems sales and installation 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 York County, State of South Carolina, on October 21, 1996 for felony Manufacture, Possess Other Substance Schedule I, II, III with Intent to Distribute

4. Petitioner requested a hearing on Respondent's denial of the alarm registration.
5. By Notice of Hearing dated April 4, 2016, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of her alarm installation registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on May 24, 2016. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check with convictions shown above, was admitted into evidence as part of Respondent's Exhibit 1, Petitioner's application.
7. Petitioner testified that she was living with her boyfriend at the time and they were dealing marijuana. Although she only knew the one person she bought from, this man was part of the "Tri-County Ring" which was the target of a law enforcement task force. When the ring was indicted, she was indicted as well. She took the blame and her boyfriend was not charged. She did not receive an active sentence but did spend two (2) weekends in jail for a probation violation.
8. She readily admitted that she sold marijuana for about one (1) year.
9. The undersigned takes judicial notice that marijuana is a Schedule VI controlled substance; Petitioner was convicted of a "Other Substance Schedule I, II, III." Petitioner reiterated she only sold marijuana and no other drugs. She did not know or understand the implications of the conviction.
10. Petitioner explained the differences in her last names, "Rose" and "English," that she was married in February, 2012 and immediately separated and divorced. She never changed her name.
11. She has grown children and Petitioner recently lost a grown son.
12. The criminal offense is now 20 years old. Petitioner is very ashamed of her past and regrets what she did. She has worked very hard to overcome her past and has a Paralegal degree from York Technical College in Rock Hill, South Carolina.
13. Petitioner submitted four (4) letters of character. In Ms. Whitmire's letter, "manager" refers to the Petitioner's position at a restaurant she managed. All spoke of her good character.
14. Petitioner will be monitoring stores via cameras for Inverify.US.

CONCLUSIONS OF LAW

1. The parties are properly 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 the sale or distribution of an illegal substance.
4. Under G.S. §§ 74D-6(2) & 74D-10(a)(4), conviction of any crime involving the sale or distribution of an illegal substance 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 York County, South Carolina, for felony Manufacture, Possess Other Substance Schedule I, II, III with Intent to Distribute.
6. Petitioner presented sufficient evidence to explain the factual basis for the charge, which is now 20 years ago, is very remorseful, has a clean criminal record since, submitted letters speaking of her good character, and has, therefore, 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 Alarm Systems Licensing 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 any written arguments to the agency pursuant to N.C. Gen. Stat. §150B-40E.

This the 21st day of June, 2016.

Donald W Overby
Administrative Law Judge