

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DOJ 03834

ARTHUR JOSEPH PIWCIO,)	
)	
Petitioner,)	
v.)	PROPOSAL FOR DECISION
)	
N.C. ALARM SYSTEMS)	
LICENSING BOARD,)	
)	
Respondent.)	
_____)	

On June 28, 2016, the undersigned 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 misdemeanor Assault on a Female.

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 Cabarrus County, State of North Carolina, on January 31, 2008 for misdemeanor Assault on a Female.
4. Petitioner requested a hearing on Respondent's denial of the alarm registration.
5. By Notice of Hearing dated April 15, 2016, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on June 28, 2016. Petitioner appeared at the hearing.
6. Petitioner testified that on the night in question his wife and he were having an argument. She is very hot tempered and as the argument progressed she began removing items from the second floor of their home as if she were moving out. As she was bringing a computer down the stairs he grabbed her arm and she dropped the computer. This further upset his wife and she left the house and went to the neighbors' house. The neighbors called the police.
7. The police arrested Petitioner, and when his wife realized he was being taken to jail she tried to withdraw the charge. She tried again in court and the Assistant District Attorney refused.
8. Petitioner did not realize he must have plead or been found guilty, and he only knew he had received a Prayer for Judgment. He was told by the Court that at the end of six months "it would be adjudicated and would go away." He was not represented by an attorney.
9. Petitioner's wife, Qurania Piwcio, testified on his behalf. She said she is Greek and admittedly hot tempered; she gets very upset during any disagreement.
10. She verified Petitioner's version of the events and testified she was crying when she arrived at the neighbors. She told the police what happened.
11. She testified it was "nothing physical; he just tried to stop me." They had two young children in the house at the time.
12. Mrs. Piwcio testified that her husband is not abusive and they are still married.
13. She testified that Petitioner is a good husband, father and man.

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) & 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 intemperate habits.
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through a conviction in Cabarrus County, North Carolina for misdemeanor Assault on a Female.
6. Petitioner has presented sufficient evidence to explain the factual basis for the charge and based upon his wife verifying the facts and testifying to his good character, 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 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 any oral or written arguments to the agency pursuant to N.C. Gen. Stat. §150B-40.

This the 4th day of August, 2016.

Donald W Overby
Administrative Law Judge