

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
16 DOJ 09017

Casey Alexander Tew Petitioner,  v.  NC Alarm Systems Licensing Board Respondent.	<b>PROPOSAL FOR DECISION</b>
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On November 29, 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 misdemeanor Breaking and Entering, misdemeanor Injury to Real Property and misdemeanor Simple Assault.

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 installation registration.
3. Respondent denied the alarm installation registration due to Petitioner's criminal

record which showed the following:

Convictions in Cumberland County, State of North Carolina, on July 10, 2015 for misdemeanor Breaking and Entering, misdemeanor injury to Real Property and misdemeanor Simple Assault.

4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.
5. By Notice of Hearing dated September 12, 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 November 29, 2016. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check was admitted into evidence as part of Respondent's Exhibit 1, his application.
7. Petitioner testified that these charges "wasn't as seemed." He and his girlfriend were having problems, but he thought they were "still working it out." He went by the apartment where they had been living and she had another male there. He "lost it," kicked in the door and assaulted the male. The police arrived and he was originally arrested and charged with First Degree Burglary, felony Injury to Real Property and Assault Inflicting Serious Injury. He was convicted of the lesser offenses above.
8. Petitioner does not deny the charges or dispute what occurred.
9. He and his girlfriend had been dating for three (3) years. It was an emotional situation for him and he testified that the offenses are "not the person I am."
10. He previously worked for his father's company installing swimming pools. Petitioner has worked for Taylor Control Systems - - as has his brother - - unlicensed for two (2) years. He confirmed that he has installed alarm systems themselves and not just "pulled wire." He, as well as his employer, knew he was working illegally.

#### 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

assault or an act of violence.

4. Under G.S. §§ 74D-6(2) & 74D-10(a)(4), conviction of any crime involving assault or 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 Cumberland County, State of North Carolina, on July 10, 2015 for misdemeanor Breaking and Entering, misdemeanor Injury to Real Property and misdemeanor Simple Assault.
6. Petitioner presented sufficient evidence to explain the factual basis for the charge but has not rebutted the presumption due to the recent nature of the offense and convictions.

Based on the foregoing, the undersigned makes the following:

#### DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be denied an alarm installation 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-40e.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record. N.C.G.S. § 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

This the 22nd day of December, 2016.

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Donald W Overby  
Administrative Law Judge