

STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
16 SOS 04164

<p>TAMRA ROCHA BRADSHAW PETITIONER,</p> <p>v.</p> <p>DEPARTMENT OF THE SECRETARY OF STATE (NOTARY) RESPONDENT.</p>	<p><b>FINAL DECISION ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT</b></p>
--	--

THIS MATTER is before J. Randall May, Administrative Law Judge, upon Respondent's Motion for Summary Judgment and the Judge, having considered the motion, the legal memorandum filed by Respondent's counsel and the Affidavit of Ozie Stallworth, hereby finds that the Respondent's Motion should be granted.

**UNDISPUTED FACTS OF RECORD**

1. On December 28, 2015, Respondent received Petitioner's application for appointment as a North Carolina Notary Public. Petitioner answered "Yes" to the questions in application paragraph 14 which ask: "Have you ever been convicted by any court of a felony or misdemeanor?"

2. Petitioner provided information to the Respondent indicating that on June 15, 2009, she was found guilty of driving while her license was revoked. She was placed on supervised probation for 6 months and was released therefrom on December 10, 2009.

3. Respondent denied Petitioner's application pursuant to N.C. Gen. Stat. § 10B-5(d)(2).

4. N.C. Gen. Stat. § 10B-5(d)(2) states:

(d) The Secretary may deny an application for commission or recommission if any of the following apply to an applicant:

(2) The applicant's conviction or plea of admission or nolo contendere to a felony or any crime involving dishonesty or moral turpitude. In no case may a commission be issued to an applicant within 10 years after release from prison, probation, or parole, whichever is later.

5. In its Motion, the Respondent's takes the position that N.C. Gen. Stat. §10B-5(d)(2) mandates that the Secretary deny Petitioner's application because Petitioner was released from probation fewer than 10 years before her application was submitted.

6. Respondent filed its Motion for Summary Judgment on June 3, 2016.

7. On June 7, 2016, the undersigned Judge filed and served upon the parties a Request for Response to Motion in which the Petitioner was ordered to respond to Respondent's Motion for Summary Judgment on or before June 17, 2016 if Petitioner desired objections to the motion to be considered before a ruling on the Motion.

8. Petitioner did not respond to the Respondent's Motion.

BASED on the foregoing Findings of Fact, the undersigned makes the following:

### **CONCLUSIONS OF LAW**

1. The Office of Administrative Hearings has jurisdiction of the subject matter and parties herein under N.C. Gen. Stat. §§ 150B and 10B.

2. There are no genuine issues of material fact in dispute.

3. Respondent properly denied Petitioner's application for a North Carolina Notary Public Commission under N.C. Gen. Stat. § 10B-5(d)(2) based on Petitioner's release from probation within 10 years of her application for a commission.

4. Based upon the foregoing, it appears that summary judgment should be granted in favor of the Respondent.

### **FINAL DECISION**

Respondent's Motion for Summary Judgment is GRANTED. Therefore, Respondent's denial of Petitioner's application for a North Carolina Notary Public commission is AFFIRMED.

### **NOTICE**

**This is a Final Decision** issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of N.C.G.S. § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.**

In conformity with the Office of Administrative Hearings' rule, 26 N.C.A.C. 03.0102, and the Rules of Civil Procedure, N.C.G.S. §1A-1, **this Final Decision was served upon the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C.G.S. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C.G.S. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 1st day of July, 2016.

---

J Randall May  
Administrative Law Judge