

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
20 DOJ 03866

Dylan Lee Singleton

Petitioner,

v.

NC Alarm Systems Licensing Board

Respondent.

PROPOSAL FOR DECISION

1. THIS MATTER is before the Office of Administrative Hearings (“OAH” or “Tribunal”) on the appeal of Petitioner Dylan Lee Singleton from the denial of his Burglar Alarm Registration (“Registration”) by Respondent North Carolina Alarm Systems Licensing Board (“the Board”).

2. Given the nature of Petitioner’s appeal, the issue before this Tribunal in this contested case is whether Petitioner’s Registration should be denied by the Board. Based on the evidence presented at hearing, and for the reasons set forth below, this Tribunal recommends the Board RENEW Petitioner’s Registration.

PROCEDURAL BACKGROUND

3. By Notice of Hearing dated 2 October 2020, and mailed via certified mail, the Board advised Petitioner that a hearing on the denial of his Registration would be held at the OAH in Raleigh, North Carolina on 17 November 2020.

4. On 17 November 2020, this Tribunal called this contested case for hearing. The Board appeared through counsel and Petitioner appeared pro se.

PROPOSED FINDINGS OF FACT

A. The Parties

5. 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 installation business.

6. Petitioner is an applicant to Respondent Board for renewal of his alarm installation registration.

B. The Board's Denial of Petitioner's Registration & Related Matters

7. On 3 April 2020, Petitioner applied for an alarm registration renewal. Petitioner has held a registration since 30 April 2018.

8. As part of the renewal process, the Board reviewed Petitioner's criminal history. Petitioner's criminal background check revealed that, on 4 September 2018, he was charged with violating subsection (b) of General Statute 14-27.25 – Statutory Rape of a Person Who is 15 years of Age or Younger – a Class C felony. It further revealed that, on 30 January 2019, Petitioner was convicted in Montgomery County, North Carolina on one (1) count of Assault on a Female in violation of subsection (c)(2) of General Statute 14-33. This latter offense is a Class A1 misdemeanor.

9. The Board, upon review, denied Petitioner's application pursuant to its policy that states that one or more convictions of a Class A-1 misdemeanor within the previous 10 years is grounds for denial.

10. Petitioner requested a hearing on the Board's denial of his Registration.

11. At hearing, the Board introduced Petitioner's Criminal History Record Check which reflected Petitioner's 30 January 2019 conviction. This document was admitted into evidence as part of the Board's Exhibit 1 – Petitioner's renewal application.

12. Paul Sherwin, Director of Respondent Board, testified Petitioner's alarm registration renewal was denied due to a lack of good moral character or temperate habits pursuant to subsection (3) of General Statute 74D-6 and in accordance with the Board's policy. The evidence underlying the Board's denial was Petitioner's 30 January 2019 conviction for misdemeanor assault.

13. On 25 August 2020, Director Sherwin interviewed Petitioner on the telephone about this conviction. Petitioner explained that he had been in an "on-again, off-again" relationship, which included consensual sex, with a young woman. Petitioner did not recall how long the relationship lasted or his age when it began but did state that, at the time of conviction, he was 18 years old and that the young woman was 15 years old. He claimed that the young woman's parents were aware of the relationship, that they approved of the relationship, and that the young woman's mother sought criminal charges against him after the "souring" of he and the young woman's relationship.

14. Director Sherwin testified that Petitioner further stated that his attorney encouraged him, and he agreed, to accept a plea deal that would drop the two counts of statutory rape in exchange for pleading guilty to one count of Assault on a Female. Petitioner is scheduled to remain on probation until January 2021.

15. Petitioner testified on his own behalf and corroborated Director Sherwin's testimony. During his testimony, Petitioner explained that charges leading to his conviction were based on the age difference between him and the young woman involved in the relationship. He further testified that he has had no probation violations since the incident.

16. Steven Lamar Singleton, Petitioner's father, testified as a character witness. He is the licensee and owner of Asheboro Alarm and Electric and testified to his son's good character and work ethic. He was aware of the events surrounding Petitioner's criminal charges and the plea of guilty and has supported him.

17. A letter from Ken Hughes, former co-owner of Asheboro Alarm and Electric, stated he has known Petitioner "since he was a kid." He worked with Petitioner for two years before his retirement and stated he is respectful, a leader, a hard worker, and respected by his coworkers. In his opinion Petitioner is doing a "tremendous job" of putting this event behind him and making up for his mistake. Mr. Hughes' letter was admitted into evidence as Petitioner's Exhibit 1.

PROPOSED CONCLUSIONS OF LAW

Based on the proposed Findings of Fact, this Tribunal makes the following proposed Conclusions of Law:

1. North Carolina Alarm Systems Licensing Act ("the Act"), N.C. Gen. Stat. § 74D-1 et. seq., requires any person engaging in an alarm systems business to be licensed in accordance with its provisions. N.C. Gen. Stat. § 74D-2(a).

2. The Act requires an applicant seeking licensure under its provisions meet various requirements, including demonstrating that they are “of good moral character and temperate habits” as determined by a background investigation conducted by the Board. N.C. Gen. Stat. § 74D-2(d).

3. Upon finding that the applicant meets the requirements for licensure or registration thereunder, the Board must “determine whether the applicant shall receive the license or registration applied for.” N.C. Gen. Stat. § 74D-6(3). Grounds for denial include a “lack of good moral character or temperate habits.” *Id.* The Board may also “suspend or revoke a license or registration” for similar grounds. *See* N.C. Gen. Stat. § 74D-10(a)(4) (allowing suspension or revocation if licensee or registrant has “[b]een convicted of any crime involving moral turpitude or any other crime involving violence or the illegal use, carrying, or possession of a dangerous weapon.”)

4. The terms “good moral character” and “temperate habits” are undefined in the Act. However, the Act does enumerate those acts that demonstrate the lack thereof:

The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or of any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection,

“conviction” means and includes the entry of a plea of guilty, plea of no contest, or a verdict rendered in open court by a judge or jury.

N.C. Gen. Stat. § 74D-6(3) (emphasis added).

5. The undisputed evidence in this contested case demonstrates Petitioner was convicted of a crime that gives rise to a presumption of temperate habits or lack of good moral character under the Act. See, ¶ 4 supra. The Board was therefore acting within its statutory authority in denying Petitioner’s Registration.

6. At hearing, Petitioner presented evidence of his character in rebuttal to the Board’s prima facie evidence. Additionally, in his post-hearing submission, Petitioner expresses his wish to “be a part of the Security Industry for the rest . . . of [his] career and . . . obtain [his] future goal of taking over ownership of Asheboro Alarm and Electric.” But, perhaps more importantly, he recognizes he made a mistake and takes ownership of his actions. Petitioner specifically expresses his “regrets [at] the mistakes [he] made in the past which have resulted in the present denial” and explains that he has “matured as a person” and “look[s] forward to putting [his] past mistakes behind [him].”

7. Considering the Petitioner’s evidence at hearing, this Tribunal concludes Petitioner has presented sufficient evidence to rebut the presumption arising from the prima facie evidence of his temperate habits or lack of good moral character.

PROPOSED FINAL DECISION

8. For the reasons set forth above, this Tribunal recommends the Board RENEW Petitioner's Registration.

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. N.C.G.S. § 150B-40(e).

The agency that will make the final decision in this contested case is the N.C Alarm Systems Licensing Board.

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 any attorney of record. N.C.G.S. § 150B-42(a).

SO ORDERED, this the 18th day of February, 2021.



Tenisha S Jacobs
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Dylan Lee Singleton
3388 US HWY 220 N
Seagrove NC 27341
Petitioner

Jeffrey P Gray
Bailey & Dixon, LLP
jgray@bdixon.com
Attorney For Respondent

This the 18th day of February, 2021.



Daniel Chunko
Paralegal
N. C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000