

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ALVIN J. GOINGS,)
)
 Petitioner,)
)
 vs.) CASE NO. 80-2062S
)
 SECRETARY OF STATE, DIVISION OF)
 LICENSING,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, this cause was heard by Linda M. Rigot, the assigned Hearing Officer of the Division of Administrative Hearings, on November 26, 1980, in Miami, Florida.

The Petitioner, Alvin J. Goings, represented himself, and W. J. Gladwin, Jr., Esquire, Tallahassee, Florida, appeared on behalf of the Respondent, Secretary of State, Division of Licensing.

Petitioner timely requested a hearing on the Respondent's denial of his application for both a Class "F" Unarmed Security Guard License and a Class "G" Armed Security Guard License. Respondent based its denial upon three statutory grounds. The issue to be determined is whether Petitioner's application for licensure should be approved.

The Petitioner testified on his own behalf and presented the testimony of his parents, Ralph Goings and Ruby Goings. Respondent introduced into evidence a copy of Petitioner's application for licensure, a copy of a report of the Florida Department of Law Enforcement, and certified copies of various court documents.

FINDINGS OF FACT

1. Question numbered 13 of Respondent's application for licensure form reads as follows: "Have you ever been arrested[?] If yes, list any and all arrests and dispositions. This may or may not be grounds for denial." In response to this question, Petitioner advised that he had never been arrested.

2. Petitioner was arrested in 1972 for burglary of a building and grand larceny; in 1973 for possession of marijuana; again in 1973 for trespassing and possession of dangerous drugs; twice more in 1973 for probation violations; in 1974 for buying, receiving and concealing stolen property; twice in 1975 for buying, receiving and concealing stolen property; in 1975 for possession of heroin; in 1976 for burglary, possession of burglary tools, possession of stolen property, and breaking and entering automobiles; and in 1977 for probation violations. Adjudication was withheld on the 1972 charges, and Petitioner was Placed on five years' probation. A number of the other charges were dismissed. However, Petitioner was convicted of the trespassing and possession of dangerous

drugs in 1973; of buying, receiving and concealing stolen property in 1975; of possession of burglary tools and breaking and entering automobiles in 1976; and of probation violation in 1977.

3. Since his last conviction, Petitioner has married and now has a family. Petitioner and his parents believe that Petitioner's new family indicate that he is rehabilitated and is now of good moral character in spite of the fact that Petitioner admits he knowingly gave false information in response to Question numbered 13 on his application for licensure.

CONCLUSIONS OF LAW

4. In determining whether to license an applicant as an armed or unarmed security guard, Respondent is charged with the responsibility of ascertaining if the applicant is of good moral character. Section 493.006(1)(b) [now codified as 493.306(1)(b)], Florida Statutes. As defined in that statute, good moral character is a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation. The Respondent is authorized to refuse to license an applicant for lack of good moral character only if there is a substantial connection between the lack of good moral character of the applicant and the business for which the license is sought. Section 493.006(2)(b)1. [now codified as 493.306(2)(b)1.], Florida Statutes. Petitioner's history of arrests, convictions, violations of probation conditions, and his intentional falsification of his application for licensure clearly indicate Petitioner's lack of good moral character as defined in the licensing statute. The "substantial connection" between his lack of good moral character and the business for which he seeks licensure is obvious in that Petitioner wishes to be a security guard and his convictions constitute violations of personal and property security. His would-be occupation is the antithesis of conduct constituting burglary of a building, grand larceny, trespassing, possession of burglary tools, breaking and entering automobiles, and of buying, receiving and concealing stolen property. Clearly, Respondent properly denied Petitioner's application for licensure on this statutory basis.

5. Section 493.017(1)(c) [now codified as 493.319(1)(c), Florida Statutes, permits Respondent to deny licensure to an applicant who, regardless of adjudication, has been found guilty of the commission of a crime which directly relates to the business for which the license is held. For the reasons discussed above, Respondent properly denied Petitioner's application for licensure on this second statutory basis.

6. The third ground upon which Respondent denied Petitioner's application for licensure involves the commission of fraud or willful misrepresentation in application for or in obtaining a license. Section 493.017(1)(a) [now codified as 493.319(1)(a)], Florida Statutes. Since Petitioner admits he provided false information in answer to Question numbered 13 on the application form, no further discussion of this statutory ground for denial is necessary.

7. The undersigned is not persuaded by Petitioner's position at the hearing in this cause that his criminal record constitutes mistakes made in his past and that he is entitled to begin life anew. While it has been three years since the Petitioner's last conviction, and while the passage of time may well indicate a reformed intent to abide by and respect the laws of the state, Petitioner has failed to demonstrate rehabilitation when he continues to rely upon dishonesty when he deems it appropriate.

RECOMMENDATION

Based upon the foregoing findings of fact and conclusions of law, it is, therefore,

RECOMMENDED THAT:

A final order be entered denying Petitioner's application for licensure as both an armed and unarmed security guard.

RECOMMENDED this 7th day of January, 1981, in Tallahassee, Florida.

LINDA M. RIGOT
Hearing Officer
Division of Administrative Hearings
Room 101, Collins Building
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(904) 488-9675

Filed with the Clerk of the
Division of Administrative Hearings
this 7th day of January, 1981.

COPIES FURNISHED:

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