

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

RAFAEL PUIG,)
)
)
 Petitioner,)
) Case No. 04-0688
 vs.)
)
 DEPARTMENT OF FINANCIAL)
 SERVICES,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, a final hearing was conducted on May 10, 2004, by video between Miami and Tallahassee, Florida, before Administrative Law Judge Claude B. Arrington of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: No Appearance

For Respondent: Ladasiah Jackson, Esquire
Department of Financial Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0333

STATEMENT OF THE ISSUE

Whether Petitioner is entitled to licensure as a Temporary Limited Surety/Bail Bond Agent.

PRELIMINARY STATEMENT

Petitioner's application for licensure as a Temporary Limited Surety/Bail Bond Agent was denied by Respondent based on Petitioner's plea of nolo contendere to two felonies in 1996 and his plea of guilty to a felony in 1999. The matter was referred to the Division of Administrative Hearings (DOAH), and this proceeding followed.¹ By Notice of Hearing entered March 15, 2004, the final hearing was set for May 10, 2004, by video teleconference between Miami and Tallahassee, Florida. The Notice of Hearing was mailed to Petitioner at his last known address.

Petitioner made no appearance at the final hearing. Respondent offered no testimony, but it presented 12 sequentially numbered exhibits, each of which was admitted into evidence.

No transcript of the proceedings was filed. Respondent filed a Proposed Recommended Order, which has been duly-considered by the undersigned in the preparation of this Recommended Order. Petitioner did not file a proposed recommended order.

All statutory references in this Recommended Order are to Florida Statutes (2004).

FINDINGS OF FACT

1. On February 7, 2002, Petitioner applied to Respondent for licensure as a Temporary Limited Surety/Bail Bond Agent.

2. Respondent is the agency of the State of Florida responsible for licensure of Temporary Limited Surety/Bail Bond Agents.

3. In processing Petitioner's application, Respondent conducted a routine investigation of his criminal history which revealed the facts set forth in paragraphs four and five of this Recommended Order.

4. On July 15, 1996, Petitioner entered a plea of nolo contendere to two third degree felony offenses (both felonies were Resisting an Officer with Violence) and one first degree misdemeanor offense (Battery). Adjudication of guilt was withheld on all counts and Petitioner was placed on probation, which he successfully completed.

5. On July 20, 1999, Petitioner entered a plea of guilty to a third degree felony offense (Possession of Cocaine). Adjudication of guilt was withheld and Petitioner was placed on probation, which was subsequently extended. Petitioner successfully completed the extended term of probation.

6. Respondent denied Petitioner's application based on his criminal history.

CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes.

8. As set forth in Respondent's Proposed Recommended Order, Petitioner's plea of nolo contendere to two felonies in 1996 and his plea of guilty to a felony in 1999 constitute grounds for the denial of his application for licensure pursuant to Sections 648.27(2); 648.34(2); 648.355(1)(c); and 648.45(2), Florida Statutes.

9. As the applicant, Petitioner has the burden of proving his entitlement to licensure. See, Florida Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981) and Department of Banking and Finance v. Osborne Sterne and Company, 670 So. 2d 932 (Fla. 1996). Petitioner has failed to meet his burden in this proceeding.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Respondent enter a final order denying Petitioner's application for licensure.

DONE AND ENTERED this 25th day of May, 2004, in
Tallahassee, Leon County, Florida.

S

CLAUDE B. ARRINGTON
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 25th day of May 2004.

ENDNOTE

^{1/} This matter was initially referred to DOAH in 2002 and assigned DOAH Case 02-4815. Respondent subsequently filed a Motion to Relinquish Jurisdiction so that Petitioner could attempt to get his felony pleas set aside in Circuit Court. On February 20, 2003, the presiding Administrative Law Judge in DOAH Case 02-4815 entered an order which closed that file and relinquished jurisdiction of the matter to Respondent with leave to file a motion to reopen the case if settlement could not be attained. On February 26, 2004, Respondent moved to reopen the matter. Respondent's motion was granted, and the matter was assigned DOAH Case 04-0688.

COPIES FURNISHED:

Honorable Tom Gallagher
Chief Financial Officer
Department of Financial Services
The Capitol, Plaza Level 11
Tallahassee, Florida 32399-0300

Mark Casteel, General Counsel
Department of Financial Services
The Capitol, Plaza Level 11
Tallahassee, Florida 32399-0300

Ladasiah Jackson, Esquire
Department of Financial Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0333

Rafael Puig
1437 Northwest 13th Terrace
Miami, Florida 33125

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.