

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Application of

FELIX A. UGBODE

DECISION

For a License as a Watch, Guard or
Patrol Agency

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on June 29, 1999.

The applicant, having been advised of his right to be represented by an attorney, chose to represent himself.

The Division of Licensing Services (hereinafter "DLS") was represented by License Investigator III Richard Drew.

ISSUE

The issue before the tribunal is whether the applicant has sufficient experience to qualify for a license as a watch, guard or patrol agency.

FINDINGS OF FACT

1) By application received on December 14, 1998 the applicant applied for a license as a watch, guard or patrol agency as qualifying officer of Pulson Patrol & Security Guard Systems Inc. (State's Ex. 2). He bases his application on experience working as a security guard for several licensed watch, guard, or patrol agencies. DLS concedes that he has 87½ weeks of qualifying experience gained in employ with Burns Security and Sophisticated Security.

2) In addition to the conceded experience, the applicant also worked full time as a security guard in the employ of City Security from January to December, 1990 (State's Ex. 3).

2) By letter dated February 26, 1999 the applicant was advised by DLS that it proposed to deny his application for failure to satisfactorily prove that he had 2 years of qualifying experience, and advised him that he could request an administrative review. By request form dated March 15, 1999 the applicant requested an administrative review. By letter dated April 14, 1999 the applicant was advised that after such a review DLS continued to propose to deny his application, and that he could request an administrative hearing, which he did by letter dated April 21, 1999. Accordingly, the matter having been referred to this tribunal on May 21, 1999 notice of hearing was served on the applicant by mail (State's Ex. 1).

OPINION

I- As the person who requested the hearing, the burden is on the applicant to prove, by substantial evidence, that he has acquired the required experience. State Administrative Procedure Act (SAPA), §306[1]. Substantial evidence is that which a reasonable mind could accept as supporting a conclusion or ultimate fact. *Gray v Adduci*, 73 N.Y.2d 741, 536 N.Y.S.2d 40 (1988). "The question...is whether a conclusion or ultimate fact may be extracted reasonably--probatively and logically." *City of Utica Board of Water Supply v New York State Health Department*, 96 A.D.2d 710, 465 N.Y.S.2d 365, 366 (1983)(citations omitted).

II- Every applicant for a license as watch, guard or patrol agency must establish the he or she has been regularly employed, for a period of not less than two years, performing such duties or providing such services as described as those performed or furnished by a watch, guard or patrol agency in General Business Law (GBL) §71[2] as a sheriff, police officer in a city or county police department, or employee of an agency of the state, county or United States government, or licensed private investigator or watch, guard or patrol agency, or has had an equivalent position and experience. GBL §72[1].

The applicant was employed full time as a security guard by several watch, guard or patrol agencies for a period in excess of two years. Although DLS did not find the documentary evidence submitted by him to be sufficient, his sworn testimony, which appeared honest and credible to the tribunal, when considered with that evidence, supports his claim of sufficient experience.

CONCLUSIONS OF LAW

The applicant has established by substantial evidence that he has more than the two years of experience required to qualify for licensure as a watch, guard or patrol agency, and his application should be granted. GBL §72[1]; SAPA §306[1].

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT the application of Felix A. Ugboode for a license as a watch, guard or patrol is granted.

Roger Schneier
Administrative Law Judge

Dated: June 29, 1999