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11-19-2009

Geryl DeWayne Hill, PPS #604776 3160 Moriah
Trails #102 Memphis, Tennessee 38115,
Respondent

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**BEFORE THE COMMISSIONER OF THE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

PRIVATE PROTECTIVE SERVICES

**Geryl DeWayne Hill,
PPS #604776
3160 Moriah Trails #102
Memphis, Tennessee 38115
*Respondent***

DOCKET NO: 12.30-104006J

INITIAL ORDER

This matter came to be heard on November 19, 2009, before Lynn M. England, Administrative Judge assigned by the Secretary of State, sitting on behalf the Commissioner of the Department of Commerce and Insurance Division of Private Protective Services Commission (Division) in the Second Floor Conference Room, Andrew Johnson Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243. Andrew H. Simpson, Assistant General Counsel, Department of Commerce and Insurance, Office of Legal Counsel, represented the State. The Respondent, Geryl DeWayne Hill, was present and represented by Robert Vaughn of the Nashville Bar.

The subject of the proceeding was whether Respondent's conduct constituted grounds for discipline of his armed security guard license (#605776).

After consideration of the testimony of witnesses, the evidence presented, the arguments of counsel and the entire record, the following determination is made that Respondent Geryl DeWayne Hill shall pay \$500 in civil penalties for failure to provide timely written notice to the Commissioner of his arrest.

This determination is based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent Hill was licensed as an armed security guard (#6047776) on July 8, 2006.
2. Respondent Hill has been a licensed unarmed security guard since 2001 and a licensed armed security guard since 2005.
3. On July 8, 2006. Respondent Hill was charged with statutory rape.
4. Respondent Hill renewed his armed security guard license on January 31, 2007 and again in February 2009.
5. While Respondent Hill spoke by telephone to the Division about the arrest,¹ he failed to notify them in writing within thirty (30) days. However, he did notify them in writing with his license renewal on January 23, 2007.
6. On January 28, 2009, Respondent Hill pled guilty to Criminal Attempt – Statutory Rape, a Class A misdemeanor and was placed on probation for 11 months and 29 days. Probation conditions are to be completed by January 27, 2010.
7. All conditions of his probation were completed as of September 29, 2009.
8. Respondent Hill was not required to register as a sex offender.
9. Respondent Hill was issued a handgun carry permit in February 2009.²
10. Respondent Hill received his AA degree from Southwest Tennessee Community College in May 2008 and is currently attending the University of Mississippi.
11. Respondent Hill is currently working fulltime and attending college.
12. A Notice of Hearing and Charges were filed in this matter August 12, 2009.

¹ Exact date of phone call to agency is unknown because telephone calls are not necessarily noted in file.

² Respondent Hill was originally denied his handgun carry permit, but upon appeal the denial was overturned.

CONCLUSIONS OF LAW

1. The Department bears the burden of proof in this matter to show by a preponderance of the evidence that Grievant violated the *Private Protective Services statutes* set forth in the notice of charges. The Department also has the burden of proof to show that the proposed discipline is the appropriate discipline for any proven violation of such statutes.
2. As defined by the *Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies*, Rule 1360-4-1-.02(7), “preponderance of the evidence” means the greater weight of evidence, or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion.
3. A licensee shall notify the commissioner in writing within thirty (30) days of:
 - (3) Any occurrence that could reasonably be expected to affect the licensee’s right to a license under this chapter. Tenn. Code Ann. § 62-35-112.
4. A security officer/guard shall provide written notice to the commissioner or the commissioner’s designee...of any arrest and resulting conviction, except for minor traffic violations within thirty (30) days of such arrest or conviction. Tenn. Code Ann. § 62-35-120(b).
5. The commissioner may take disciplinary action against a licensee, registrant or applicant, deny an application for a license or registration or may suspend, revoke or refuse to issue or renew any certificate...upon finding that the holder or applicant has:
 - (1) Violated any provision of this chapter, or any rule promulgated hereunder;
 - (4) Been convicted by a court of competent jurisdiction of any such felony or a misdemeanor, if the commissioner finds that such conviction reflects unfavorable on the fitness for such license or registration card;
 - (5) Committed any act which would have been cause for refusal to issue such a license or registration card had it existed and had been known to the commissioner at the time of issuance;
 - (6) Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public. Tenn. Code Ann. §62-35-130(a).

ANALYSIS

Respondent Hill pled guilty to the offense of Criminal Attempt – Statutory Rape, a Class A misdemeanor, on January 29, 2009. He was placed on probation by the court for 11 months and 29 days. During that time he successfully completed all conditions of his probation. In fact, he completed them in September 2009, three months early. He was not placed on the sex abuse registry. He has attended community college, received his AA degree and is currently working fulltime as a security guard while pursuing his bachelor’s degree. Respondent Hill applied for a handgun carry permit in August 2008. After review of the circumstances, he received his handgun carry permit in February 2009. Respondent Hill admitted his failure to timely communicate his arrest in writing to the agency and that his telephone calls did not meet the letter of the statutory notice requirements.

The State has met its burden of proof in that Respondent Hill failed to communicate his arrest in writing within the requisite time frame of thirty (30) days.

It is ORDERD that Respondent Hill shall pay \$500.00 in civil penalties for his failure to provide timely written notice to the Commissioner of his arrest.

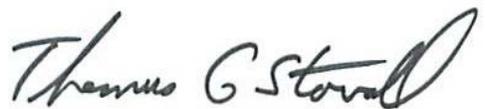
This Initial Order entered and effective this 26th day of February, 2010.

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Lynn M. England
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this

26th day of February, 2010.



Thomas G. Stovall, Director
Administrative Procedures Division