

TEXAS PRIVATE SECURITY BOARD

**SPECIALLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,
FEBRUARY 25, 2014**

**TEXAS DEPARTMENT OF PUBLIC SAFETY
5805 NORTH LAMAR, BLDG A
EMERGENCY MANAGEMENT CONFERENCE ROOM
AUSTIN, TX 78752**

BOARD MEMBERS PRESENT:

Honorable John Chism, Chairman
Honorable Howard Johnsen, Vice-Chairman
Honorable Charles Crenshaw
Honorable Wade Hayden

BOARD MEMBERS NOT PRESENT:

Honorable Mark Smith, Secretary
Honorable Albert Black
Honorable Brian England

STAFF PRESENT:

RenEarl Bowie, Assistant Director, Regulatory Services Division;
Steve Moninger, Senior Staff Attorney, Office of Regulatory Counsel, Legal Operations;
Jay Alexander, Major, Regulatory Crimes Service

MINUTES

These minutes are a summary record of the Board's public meeting.

The board meeting was called to order at 9:04 a.m.

Chairman Chism welcomed everyone to the meeting and asked that all cell phones and pagers be turned off or set to vibrate for the duration of the meeting.

**Agenda Item I: Administrative Hearing on Licensing and Disciplinary Contested Case
(reset from previous meeting)**

Valerina Walters presented this case to the Board.

Carlos Bermudez- Docket No. 405-13-5109

Mr. Bermudez was present to address the Board on this case via video conference. He did not have counsel present, but did have Mr. Miguel Areval as a witness on his behalf. Ms. Walter stated Mr. Bermudez's application as a non-commissioned security officer was denied based on

his 3 felony conviction for Burglary of a Habitation. She also stated he was present during the October 30, 2013 meeting and had his case heard before the board. Because the vote at that meeting resulted in a tie vote, Mr. Bermudez was set to have his case heard again at the January 28, 2014 meeting but due to inclement weather and miscommunication he was unable to be heard by the board. It was for this reason his case was being presented to the board again.

Mr. Bermudez thanked the board for the opportunity to address them via video conference in Houston. He apologized for his behavior from when he was young and stated he has tried to make the best of his life and help people and the community. He stated that he did wrong and can't correct the past, but does want to make up for his mistakes. He wants to pay back his mistakes from when he was 18 years old. He added he has been trying to get licensed for a year and is trying to concentrate on establishing a career, and not just a job. He stated he is 40 years old and has been working as a doorman for 7 years. During this time he has been studying and learning the state rules and regulations regarding private security. He also told the board that he has even gotten some letters of recommendation from law enforcement officers. He stated his wife is a commissioned security officer, but she can't put in the hours that he can because they have 3 children. He explained that their 9 year old child has problems with their lungs and goes to the doctor 3 times a week, so his wife can't work as much as he potentially can. He stated this is not about him, but about his family who needs him to look out for them. He takes care of his wife and children. He continued saying he wants to prove to people that he can change. When he was young, he stated, he didn't speak any English. His mother passed away when he was 12 and living in Puerto Rico. He explained that no one wanted to take responsibility for him, except his sister. His sister was living in the United States in Houston and agreed to take him in. He stated his sister was a nurse who had a drug problem and eventually lost her nursing license when he was 17 years old. He stated he couldn't take all of the stress of the household and her drug problem, so he went out on his own. He made friends with people who gave him a home. These people were already in gangs and into criminal activities. He stated these people kept telling him to go along with them and what they were doing or they would throw him out. He was just trying to get along and survive. He explained that his job was to break into the houses, make sure no one was home, and go back to the car. He stated he got into trouble and is sorry, but doesn't know how to make up for what he did. He stated he knows right from wrong, has applied for his non-commissioned security officer license, and is not a risk anymore. He asked the board to please have mercy and allow him to have a career he can retire from.

Vice-chairman Johnsen stated he had reread the synopsis of his case and it states that in 2005 he was working as a welder. He asked how long he had done that line of work. Mr. Bermudez stated he had worked for 4 or 5 years. He explained that they were beginning to hire people with illegal papers and bringing in family members to replace the current workers. He stated he asked to be off work for 2 weeks to take care of family business and his boss fired him, replacing him with someone hired at a lower pay. Mr. Johnsen asked what he did for work from 2005 to 2013. Mr. Bermudez replied that he was doing security. He stated he was doing bouncer work and helped in an apartment complex. He went on to say he tried welding again but couldn't do the job; couldn't deal with the pressure associated with that job. Mr. Johnsen asked if he was correct in understanding Mr. Bermudez did not have any steady employment for 8 years, and why didn't he try consistently to get welding jobs? Mr. Bermudez stated that in that industry when someone

has a criminal record they can't get work with a good company, only with companies that hire illegal immigrants. He said this causes trouble and he doesn't want to be in any trouble.

Chairman Chism asked Mr. Bermudez's witness, Mr. Areval, if he wished to address the board. Mr. Areval addressed the board stating he had been in the private security industry for 20 years. He stated he was very happy to be there to support Mr. Bermudez, has known him for 3 years, and asked the board to give him a chance. He stated he works with him and Mr. Bermudez wants to wear the uniform of a non-commissioned officer. He went on to say that Mr. Bermudez is a good man, evidenced by the way he talks to people and communicates with them.

Board member Hayden stated that he has been impressed with Mr. Bermudez's accomplishments. He stated that in his youth he made mistakes, but has become a sincere and honest man. The problem he had with this case, he said, is that there are laws and consequences that must be followed. Although it has been 20 years ago, these circumstances are still part of the consequences to those actions. He went on to say that some rules, under Chapter 53, were changed and would cause him to have to vote against giving him a license. He explained the factors set forth in Chapter 53 that the board was to consider:

1. The extent and nature of the person's past criminal activity.
He stated this was serious and there were 3 separate counts of burglary.
2. The age of the person when the crime was committed.
He stated he felt the ALJ was wrong in their assessment, considering him a youth at the time because he was 20 years old and should have known better at that age.
3. The amount of time that has elapsed since the person's last criminal activity.
He stated this was in his favor as it had been 15 years.
4. The conduct and work activity of the person before and after the criminal activity.
He stated that before the occurrence there was no work history and after the history of work is that of welding and bouncer.
5. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release.
He stated that he commended him for his efforts. He learned English, he worked hard to receive his GED, he started and has been raising a family.
6. Other evidence of the person's fitness, including letters of recommendation from prosecutors and law enforcement and correctional officer who prosecuted, arrested, or had custodial responsibility for the person; the sheriff or chief of police in the community where the person resides; and any other person in contact with the convicted person.
He stated that the judge had no evidence of any letters of recommendation.
7. The nature and seriousness of the crime.
He stated these were very serious crimes.
8. The relationship of the crime to the purposes for requiring a license to engage in the occupation.
He stated there was a close relationship to the crime of burglary and work of security.
9. The extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved.
He stated licensure as a noncommissioned security officer would provide opportunities for him to repeat his crimes.

10. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

He stated the Board has determined that the crime of burglary of a habitation is directly related to the duties and responsibilities of the job.

He finished by stating that while Mr. Bermudez won him over with his rehabilitative efforts and work history, those two factors do not outweigh the other 8.

Board member Hayden made a motion to overturn SOAH's decision and deny Mr. Bermudez's application for licensure as a non-commissioned security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Agenda Item II: Adjournment

Chairman Chism introduced this agenda item. Board member Hayden made a motion for adjournment. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion. At 9:43am, the February 25, 2014 meeting of the Private Security Board was adjourned.