

**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE
COMMISSIONER OF
INSURANCE**

IN THE MATTER OF:

**THE LICENSURE OF
LAFREDA VERNON**

Petitioner.

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**ORDER AND
FINAL AGENCY DECISION**

Docket Number: D-1883

This matter was heard on Wednesday, January 10, 2018, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. §58-2-55. The administrative hearing was held in the **Albemarle Building**, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance, Bail Bond Regulatory Division (hereinafter "Respondent"). Petitioner Lafreda Vernon (hereinafter, "Petitioner") was present and represented herself.

At the hearing, Keisha Burch, a Complaint Analyst with the Bail Bond Regulatory Division ("BBRD") of the Department, was called to testify by the Respondent.

The Respondent offered into evidence Respondent's Exhibits 1 – 10, which were admitted into evidence. Petitioner offered no exhibits.

After careful consideration of the evidence and arguments presented, and based on the record as a whole, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. §58-2-69(d).

2. Petitioner applied to the Department for a surety bondsman license on or about January 12, 2017 with an electronically signed application, after completing 12 hours of NC Bail Academy pre-licensing education.

3. On the surety bondsman license application (hereinafter, "license application"), Petitioner answered "no" to the application question which asked, "Have you ever been convicted, or are you currently charged with, committing a crime, whether or not adjudication was withhold?"

4. The routine background check conducted as part of the bail bonds license application process revealed that Petitioner had several prior criminal convictions in Buncombe County, NC, including the following:

- a. Eight (8) September 29, 2000 convictions for the misdemeanor of Worthless Check on Closed Account in file numbers 97 CR 062670, 97 CR 062671, 97 CR 064628, 97 CR 064629, and 97 CR 065593, 98 CR 051056, 98 CR 051057, and 98 CR 053827.
- b. A September 29, 2000 conviction for the misdemeanor of Larceny by Trick in 98 CR 050283.
- c. A September 29, 2000 conviction for the misdemeanor of Simple Worthless Check in 98 CR 053829.
- d. A December 19, 2002, conviction for the misdemeanor of fictitious or altered title, or registration, or plate in 02 CR 009118.
- e. A July 8, 2004 conviction for the misdemeanor of failure to return rental property in 03 CR 064884.
- f. A January 18, 2005 conviction for the misdemeanor of Simple Worthless Check in Buncombe Co. files 04 CR 054394.

5. Following receipt of Petitioner's license application, BBRD subsequently requested additional information from Petitioner concerning her prior criminal charges and convictions. BBRD timely received the requested information from Petitioner. After reviewing the information received from Petitioner, her bail bonds license application was initially denied on or about July 11, 2017.

6. A denial review meeting was subsequently requested by and scheduled with Petitioner, and this meeting was held on or about August 9, 2017. Petitioner attended the denial review meeting, along with representatives of BBRD including Keisha Burch and Steve Bryant.

7. On or about August 10, 2017, BBRD denied Petitioner's bail bonds license. Petitioner thereafter timely requested an administrative hearing to review the denial.

Testimony of Keisha Burch

8. Keisha Burch testified on behalf of BBRD. Ms. Burch is an employee of the Department with approximately 8 years of tenure, during which she has been

performing work relating to bail bonds licensure. Ms. Burch, in her current position as a Complaint Analyst, has responsibility for reviewing bail bonds license applications. Ms. Burch received information from Petitioner that was forwarded from Ms. Kela Graham, another employee of the Department whose job includes contacting license applicants when additional information was needed.

9. Ms. Burch testified concerning the general duties of surety bail bondsmen, and explained that they are responsible for keeping other people's collateral in the form of property and money. Such property may include vehicles, jewelry and other valuable items. Ms. Burch testified that surety bondsman deal primarily in cash transactions. Ms. Burch testified about the importance of financial responsibility by surety bondsman.

10. Ms. Burch testified that because of the responsibility involved in keeping other people's property and money as collateral, BBRD has concerns where an applicant has been convicted of crimes involving dishonesty or a breach of trust.

11. Ms. Burch noted that BBRD is not concerned with matters involving routine traffic violations. Ms. Burch stated, however, that BBRD had concerns with Petitioner's convictions for Worthless Check on a Closed Account, Larceny by Trick, Simple Worthless Check, Fictitious or Altered Title, Registration or Plate, and Failure to Return Rental Property, which are all crimes involving dishonesty or financial irresponsibility or disregard of other person's property.

12. Ms. Burch noted that BBRD generally is more concerned with crimes that are more recent, and she noted that Petitioner's convictions are relatively old in that they took place between 2000 and 2005. However, Ms. Burch expressed strong concern due to the large number of convictions, which included nine (9) convictions for Worthless Check on a Closed Account, two (2) convictions of Simple Worthless Check, one (1) conviction for Larceny by Trick, one (1) conviction of Fictitious or Altered Title, Registration, or Plate, and one (1) conviction for Failure to Return Rental Property.

13. Ms. Burch also noted BBRD's strong concern that Petitioner had affirmatively given a false answer on her license application regarding whether or not she had criminal convictions.

14. Ms. Burch stated that in light of Petitioner's failure to disclose her criminal convictions on her license application, and the large volume of criminal convictions involving crimes of dishonesty and financial irresponsibility, BBRD was not comfortable granting Petitioner a surety bond license.

Testimony of Petitioner

15. Petitioner testified concerning her work background. She formerly worked as a health aide providing care for an elderly man. She has also been a licensed hairdresser for approximately 26 years. Most recently, in the past few months, she has been working for a tax preparation service preparing taxes, for which she took 10 weeks of training. She has also worked in the storage business and retail jobs that required the handling of money and financial record-keeping. She testified that she had never been terminated from employment for mishandling money.

16. Petitioner testified about her educational background. Although she unsuccessfully attempted college right after high school, she was enrolled in college online currently and was taking criminal justice courses with the goal of getting a Bachelor's degree. She also had successfully taken a 10 week tax preparation course. She has done other work training programs through Goodwill Industries.

17. Petitioner testified that she wanted to go into the surety bail bonds business in order to help people. Also, she has six children, two of whom are grown, and she wants to set a good example for her children.

18. Petitioner testified concerning her misdemeanor convictions in Buncombe County. She stated that she was in her early twenties when they occurred, and that she takes responsibilities for her actions. She also stated that she was in a domestic violence situation and had a young child at the time, and that this situation contributed to her committing the crimes. Petitioner stated that no protective order or criminal charges ever resulted against the perpetrator of the domestic violence, although the police were called several times. Petitioner said that she had a witness to this time period who Petitioner had hoped would testify, but that witness had recently died.

19. Petitioner stated in regards to the Worthless Check on a Closed Account convictions that she did not know that the account was closed at the time, and that she wrote the checks in part due to the domestic violence situation that she was in.

20. Petitioner stated in regards the Larceny by Trick conviction, that she was with her boyfriend and he tried to steal jewelry and ran out, and she got stuck with the charges because she was left behind.

21. Petitioner stated in regards to the fictitious title or plates conviction that Petitioner had been using a car loaned or given to her by her pastor at the time, and that the pastor had let the insurance lapse unbeknownst to her, and that this situation led to that conviction.

22. Petitioner noted that in regards to her 2004 conviction for failure to return rental property, she had failed to make a payment to Rent-a-Center on a rented T.V. and furniture, which caused them to repossess the furniture. She said when they came to repossess the items, they would not take the furniture even though it was in good condition, and she could not pay for the furniture.

23. Petitioner testified in regards to the 2005 Simple Worthless Check conviction that she went to the store to buy food and did not realize that she did not have enough money in her accounts.

24. Petitioner testified that she was represented by state-appointed legal counsel for her previous criminal charges and convictions.

25. Petitioner testified that her crimes were in her youth, and that it would be dishonest to herself to let her past take over her life now. She stated that were she to become licensed, she had employment and supervision lined up through We Spring Bail Bonds.

26. Petitioner testified regarding her answer of "No" to the license application question regarding whether she had previous criminal convictions. Petitioner stated that she thinks she answered it "yes" but accidentally hit the "no" box while scrolling. Petitioner also said she thinks she misread the question due to the fact that she was hurrying to complete the form, and she was focused on the part of the question that asked about whether she had current charges. Petitioner acknowledged that she knew the fingerprint check would be used to look up her history of criminal convictions.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter pursuant to N. C. Gen. Stat. §§ 58-71-80, 150B-38 and 150-40, as well as 11 N.C.A.C. 10401 *et seq.* and other applicable statutes and regulations.

2. Pursuant to N.C. Gen. Stat. § 58-71-80(a)(6), the Commissioner may deny issuance of a surety bondsman license for conviction of a crime involving dishonesty, breach of trust, or moral turpitude. Petitioner's criminal convictions, which include nine (9) convictions for Worthless Check on a Closed Account, two (2) convictions of Simple Worthless Check, one (1) conviction for Larceny by Trick, one (1) conviction of Fictitious or Altered Title, Registration, or Plate, and one (1) conviction for Failure to Return Rental Property constitute convictions for crimes involving dishonesty and breach of trust. These are also crimes involving financial

irresponsibility. Although Petitioner's criminal convictions are not recent, they are numerous.

3. Petitioner's answer of "no" to the license application question asking whether she had previous criminal convictions was a material misstatement in violation of N.C. Gen. Stat. § 58-71-80(a)(3), for which her license may be denied. Petitioner offered conflicting explanations of why she answered "no" to this question on the license application, stating that she both accidentally clicked on the wrong box and that she misread the question. Petitioner admitted completing the application in a hurry. It is unclear whether Petitioner answered this question incorrectly due to intentional misrepresentation on her part, or because she accidentally hit the wrong box, or because she did not carefully read the question, but even in the light most favorable to her it is apparent that Petitioner was in the very least careless when completing her license application.

4. The bail bonds industry is one in which surety bondsman must take care and be accurate in their record-keeping, and where surety bondsman are responsible for handling large volumes of cash and the safeguarding of other people's property. Petitioner's extensive criminal history with convictions involving dishonesty, breach of trust, and financial irresponsibility, coupled with her false answer on her license application that was made due to either carelessness or intentional misstatement indicate that Petitioner may pose a risk to the public should she be issued a bail bonds license.

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that the Bail Bond Regulatory Division denial of Petitioner's application for a surety bail bonds license be UPHELD, and that no license shall be issued to her.

APPEAL RIGHTS

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the County where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was

filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with the 11 NCAC 01 .0413 and N.C. Gen. Stat. § 1A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

This the 20th day of March, 2018.



JOHN Hoomani, Hearing Officer
N.C. Department of Insurance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via **Certified U.S. Mail, return receipt requested**; and via **First Class U.S. Mail** to the licensee at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier, addressed as follows:

**Ms. Lafreda Vernon
623 Gore Drive
Rockingham, NC 28379**

Pro Se Respondent

Certified Mail Tracking Number: 70170530000073197589

**Rebecca E. Lem
Assistant Attorney General
N.C. Department of Justice – Insurance Section
P.O. Box 629
Raleigh, NC 27602**

Attorney for Petitioner

This 20th day of March, 2018.

[Redacted]
Mary Faulkner
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