

**BEFORE THE DELAWARE STATE
FIRE PREVENTION COMMISSION**

IN RE:)
) **ORDER**
NICHOLAS R. REED)
)

An evidentiary hearing was held before the Delaware State Fire Prevention Commission (the “Commission”) on July 20, 2010, after due notice at the request of Nicholas R. Reed as a result of the Commission’s proposal to deny his application for certification as an Emergency Medical Technician-B in the State of Delaware due to concerns stemming from review of his criminal record evidencing conviction of a felony crime for which he is currently serving probation. Specifically, Mr. Reed’s criminal history record reflected a conviction for robbery in 2002.

Pursuant to 16 *Del. C.* § 6712(b)(2) the following provisions apply to an applicant for certification as an Emergency Medical Technician-B:

§6712(b)(2):

(2) Certification must be denied to an applicant convicted of the following crimes, except in extraordinary circumstances:

a. Any crime for which applicant is currently incarcerated, on work release, on probation, or on parole;

b. A crime in the following categories, unless at least 5 years have passed since the applicant's conviction or at least 5 years have passed since the applicant was released from custodial confinement, whichever occurs later:

1. A serious crime of violence against a person, such as assault with a dangerous weapon, aggravated assault, murder or attempted murder, manslaughter (other than involuntary manslaughter), kidnapping, robbery of any degree, or arson;

2. A crime involving a controlled substance or designer drug, including unlawful possession or distribution of, or intent to unlawfully possess or distribute, a controlled substance in Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

3. A serious crime involving property, such as arson, burglary, embezzlement or insurance fraud;

4. Any crime involving sexual misconduct.

A quorum of the Commission members deliberated and voted on the application. Nicholas R. Reed, after being advised of his right to counsel, elected to appear *pro se*. Elio Battista, Jr., Deputy Attorney General, advised the Commission.

SUMMARY OF THE EVIDENCE

As a preliminary matter, the notice of proceedings dated June 22, 2010 provided to Mr. Reed by the Commission pursuant to 29 *Del. C.* §10122 was admitted as Commission Exhibit 1. Mr. Reed's letter to the Commission dated June 17, 2010 requesting an appeal of the denial of certification was admitted as Commission Exhibit 2. The June 15, 2010 letter from the Director of the Delaware State Fire School to Mr. Reed informing him that as a result of his criminal background check he was not eligible for certification as an Emergency Medical Technician-B was admitted as Commission Exhibit 3. The results of Mr. Reed's criminal background check were admitted as Commission Exhibits 3 and 4.

Nicholas R. Reed was sworn and testified. Mr. Reed presented letters of recommendation from: David Neeld, past Chief of Yardley Makefield Fire Company and current member of Citizens' Hose Company; Robert W. Jones, instructor at the Delaware State Fire School and a captain for American Legion Ambulance Service; Isaac J. Hankins, Second Assistant Chief of Citizens' Hose Company; Brian C. Hill, Police Chief for Clayton, DE; Bruce Ennis, Delaware State Senator; and

Angelo Vuotto, Detective Bridgeport, PA Police Department. The letters of recommendation were admitted as Appellant's Exhibits 1 through 6.

Mr. Reed testified that the incident occurred over eight years ago and at the time, he was almost 20 years old and "was doing a lot of stuff I shouldn't have been doing." Mr. Reed testified that upon learning that a warrant had been issued for his arrest he contacted the authorities, turned himself in admitted to taking part in the robbery and stated "I'm just ready to put the past behind me, take responsibility for my actions, and move forward". Mr. Reed subsequently served five years in prison and is currently serving probation. Mr. Reed further testified that since his release from incarceration he is now married with two children and is a foster parent for a mentally challenged child. Mr. Reed testified that he is very active with the Citizens' Hose Company, a member of the American Legion Ambulance Company and a driver for the TransCare Ambulance Company.

Joshua Tate Coulbourne was sworn and testified on Mr. Reed's behalf. Mr. Coulbourne testified that he is the current Chief of the Citizens' Hose Company. Mr. Coulbourne testified that Mr. Reed was honest and forthright about his criminal conviction when applying for membership to the fire company and he has never had any problems with Mr. Reed on "scenes" or in the station and that he is very respectful and highly motivated. Mr. Coulbourne further testified that "I would like to give him a shot. People make mistakes", Mr. Reed has moved on, changed and is here to better himself and his family.

Allan Morris was sworn and testified on Mr. Reed's behalf. Mr. Morris testified that he is the current President of Citizens' Hose Company and that Mr. Reed is an extremely intelligent young man with a solid work ethic and commitment to serve the community and Citizens' Hose Company.

Anthony Payne was sworn and testified on Mr. Reed's behalf. Mr. Payne testified that he is

the past-President of Citizens' Hose Company and that he has seen Mr. Reed interact with his children and Mr. Reed "is a loving father, husband, excellent member of Citizens' Hose Company".

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission has considered the sworn testimony and the exhibits. The Commission found Mr. Reed and the witnesses to be credible and forthright when describing circumstances surrounding his criminal record and his subsequent rehabilitation. There have been no further convictions.

Pursuant to 16 *Del. C.* § 6712(b)(3) the Commission has the authority to grant a waiver for certification as follows:

(3) In extraordinary circumstances, certification granted pursuant to paragraph (2) of this subsection may be granted only if the applicant establishes by clear and convincing evidence that certification will not jeopardize public health and safety

The Commission finds by the affirmative vote of the undersigned members, after consideration of the above criteria that substantial evidence has been presented to support the granting of a waiver for certification.

ORDER

The Delaware State Fire Prevention Commission, having considered the appeal of Nicholas R. Reed for certification as an Emergency Medical Technician-B in the State of Delaware, by majority voted to approve a waiver and grant certification as an Emergency Medical Technician-B in the State of Delaware.

IT IS SO ORDERED this ____ day of _____, 2010.

**DELAWARE STATE FIRE
PREVENTION COMMISSION**

David J. Roberts, Vice Chairman

Willard Betts, Commissioner

Kenneth H. McMahon, Commissioner

Warren F. Jones, Commissioner

Date Mailed: _____