

**BEFORE THE DELAWARE STATE
FIRE PREVENTION COMMISSION**

IN RE:)
) **ORDER**
ROBERT W. ROTH)
)

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 Robert W. Roth 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 crime for which he is currently serving probation. Specifically, Mr. Roth’s criminal history record reflected a conviction for menacing in May of 2010.

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. Robert W. Roth, after being advised of his right to counsel, elected to appear *pro se*. Elio Battista, Jr., Deputy Attorney General, advised the Commission. Prior to the introduction of evidence or the testimony of witnesses, Commissioner Willard Betts recused himself from the proceedings.

SUMMARY OF THE EVIDENCE

As a preliminary matter, the notice of proceedings dated July 7, 2010 provided to Mr. Roth by the Commission pursuant to 29 *Del. C.* §10122 was admitted as Commission Exhibit 1. Mr. Roth's e-mail to the Director of the Delaware State Fire School dated July 7, 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. Roth 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 February 2, 2010 letter from the Director of the Delaware State Fire School to Mr. Roth requesting additional information regarding information which was obtained during Mr. Roth's criminal background investigation was admitted as Commission Exhibit 4. The results of Mr. Reed's criminal background check were admitted as Commission Exhibits 5, 6, 7 and 8.

Robert W. Roth was sworn and testified. Mr. Roth introduced a certificate of award of an Air

Force Commendation Medal for saving the lives of five people while on military leave. The certificate of award was admitted as Applicant's Exhibit 1. Mr. Roth also introduced a certificate of award of an Air Force Achievement Medal for providing medical and security assistance for approximately 8,600 Cuban migrant in Panama. The certificate of award was admitted as Applicant's Exhibit 2.

Mr. Roth testified that he is currently in divorce proceedings from his wife. While attempting to reconcile with his wife, an individual whom his wife had recently terminated a relationship with "showed up wanting to state his case to gain her back". Mr. Roth testified that he told this individual to leave the premises as soon as possible but he refused. As Mr. Roth's wife went to speak to the individual "[h]e opened the door [of his truck] abruptly" and grabbed his wife's arm. Mr. Roth at the time was carrying a concealed pistol which he pointed at the individual and instructed him to get away from his wife. The individual subsequently complied and left the premises. The police were called and Mr. Roth pled guilty to a misdemeanor charge of menacing.

Mr. Roth testified that he had served in the Air Force for approximately 20 years and is a retired veteran. Mr. Roth testified that prior to joining the Air Force he was a firefighter in Long Island, New York for the Nassau County Fire Company. Mr. Roth stated that he had made a mistake and "thought what I was doing was protecting somebody in my family". Mr. Roth testified that "I'm just looking for an opportunity to prove once more I'm a decent person in this community and that I want to do the right thing for everybody".

William C. Glanden was sworn and testified. Mr. Glanden testified that he is mayor of the town of Frederica, Delaware, a member the Frederica Volunteer Fire Company and an ambulance captain. Mr. Glanden testified that he has known Mr. Roth ever since he joined the fire company and

that “[t]here is just about nothing that he wouldn’t do for the company”. Mr. Glanden further testified that Mr. Roth is an asset to the fire company, demonstrates that he wants to help the community and is “a good person all around”.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission has considered the sworn testimony and the exhibits. The Commission found Mr. Roth and the witness 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 Robert W. Roth 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

Kenneth H. McMahon, Commissioner

Warren F. Jones, Commissioner

Date Mailed: _____