



MIKE CHANEY
Commissioner of Insurance
State Fire Marshal

MARK HAIRE
Deputy Commissioner of Insurance

RICKY DAVIS
State Chief Deputy Fire Marshal

MISSISSIPPI INSURANCE DEPARTMENT

501 N. WEST STREET, SUITE 1001
WOOLFOLK BUILDING
JACKSON, MISSISSIPPI 39201
www.mid.ms.gov

MAILING ADDRESS
Post Office Box 79
Jackson, Mississippi 39205-0079
TELEPHONE: (601) 359-3569
FAX: (601) 359-2474

STATE OF MISSISSIPPI OFFICE OF THE COMMISSIONER OF INSURANCE

IN THE MATTER OF BRENNEN CLARK DENIAL OF APPLICATION FOR CLASS C SYSTEM INSTALLER

ADMINISTRATIVE ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi (“Commissioner”), by and through his specially designated appointee (“Hearing Officer”), in the offices of the Commissioner, Suite 1001 (10th floor) Woolfolk Building, 501 North West Street, Jackson, Mississippi, on the **Tuesday, July 9, 2019, at 10:00 o’clock a.m.**, pursuant to the denial of the Mississippi Electronic Protection License Application for a Class C System Installer License that was submitted by you, **Brennen Clark** (hereinafter “**Respondent**” or “**you**”). This time and date was verbally agreed upon by all parties prior to setting the hearing.

The Commissioner, by and through the designated Hearing Officer, Michelle Partridge, Special Assistant Attorney General, having heard and considered all of the testimony and evidence produced by the parties herein, makes the following findings:

AUTHORITY

Miss. Code Ann. §73-69-11 outlines the requirements for a Class B, C, D, and H license under the Mississippi Electronic Protection Licensing Act.

Miss. Code Ann. §73-69-11(2)(c)(i) states that an application for a Class C license must be accompanied by “a statement by the applicant that he has not been convicted of a felony, received a first-time offender pardon for a felony, or entered a plea of guilty or nolo contendere to a felony charge. A felony that has been dismissed pursuant to the Mississippi Criminal Code or equivalent judicial dismissal shall not apply to this paragraph.”

Miss. Code Ann. §73-69-11(2)(c)(ii) explains that “a conviction or a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon shall not constitute an automatic disqualification as otherwise required pursuant to subparagraph (i) if ten (10) or more years have elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication or period of probation or parole.”

Miss. Code Ann. §73-69-11(2)(d) states that “The State Fire Marshal shall have the authority to conduct criminal history verification on a local, state or national level. Beginning on July 1, 2014, in order to assist the Office of the State Fire Marshal in determining an applicant’s suitability for a license under this chapter, an applicant shall submit a set of fingerprints with the submission of an application for license...”

NOTICE AND HEARING

1. A Notice of Hearing and Statement of Charges (“Notice”) was sent to the Respondent via certified mail, return receipt requested, on or about July 3, 2019, at the address he provided to MID and also by email. (Exhibit S-1)
2. Pursuant to said Notice, a hearing was scheduled for and was held on July 9, 2019, at 10:00 a.m.
3. The State called one witness:
 - a. Mississippi Deputy State Fire Marshall Bobby Malley
4. Respondent did not appear for the hearing.

FACTS

1. Uncontroverted testimony and evidence supplied at the hearing by the State’s witness, Deputy Bobby Malley, establish that on or about May 8, 2019, pursuant to the Mississippi Electronic Protection Act, **Respondent** submitted an application for licensure as a Class C System Installer to the Mississippi State Fire Marshall’s Office (“MSFMO”). (Exhibit S-2)
2. The evidence shows that Respondent **incorrectly** answered “**NO**” when was asked, “Has the applicant been convicted of a felony, entered a plea of guilty or nolo contendere to a felony charge, or received a first-time offender pardon?” (Exhibit S-2)
3. The evidence shows that on May 21, 2019 the MSFMO conducted a criminal history background check pursuant to Miss. Code Ann. §73-69-11(2)(d). This background check disclosed a possible disqualifying criminal event. (Exhibit S-3)
4. The evidence shows that on May 23, 2019 the MSFMO requested that the Respondent provide court documents and/or documentation of disposition of the possible disqualifying criminal event. (Exhibit S-4)
5. The evidence shows that Respondent provided a bill of information showing that on July 5, 2011 Respondent was charged with two counts of violating Miss. Code Ann. §97-17-41, felony Grand Larceny. (Exhibit S-6)
6. The evidence shows that Respondent also provided an order of sentence showing that on July 11, 2011 Respondent was sentenced to three (3) years of house arrest to be followed by five (5) years of supervised probation with time served in pretrial detainment credited against the sentence. (Exhibit S-5)
7. The criminal background document shows that Respondent was arrested for these crimes on or about October 14, 2010. (Exhibit S-3)
8. The exact date of completion of the Respondent’s sentence is not known. However, reading the above documents in a light most favorable to the Respondent, the earliest date possible that the sentence and probation could have been completed is October 14, 2018. (Exhibits S-3, S-5, and S-6)
9. The evidence shows that on or about June 4, 2019, the MSFMO notified Respondent in writing that his application had been denied as a result of a criminal background check. (Exhibit S-7)
10. The evidence shows that on or about June 14, 2019, Respondent made a written request for a hearing. (Exhibit S-8)

CONCLUSIONS OF LAW

Clear and Convincing evidence was presented at the hearing to show that Respondent does not meet the requirements to hold a Class C license under the Mississippi Electronic Protection Licensing Act as outlined in Miss. Code Ann. §73-69-11.

Evidence presented at the administrative hearing shows that Respondent does not meet the requirements of Miss. Code Ann. §73-69-11(2)(c)(ii) which states that “a conviction or a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon shall not constitute an automatic disqualification as otherwise required pursuant to subparagraph (i) if ten (10) or more years have elapsed between the date of

application and the successful completion or service of any sentence, deferred adjudication or period of probation or parole.”

The evidence shows that on July 11, 2011 Respondent was sentenced to three (3) years of house arrest to be followed by five (5) years of supervised probation with time served in pretrial detention credited against the sentence. Although the exact date of completion of the Respondent’s sentence is not known, when considering the evidence in a light most favorable to the Respondent, the earliest date possible that the sentence and probation could have been completed is October 14, 2018. Miss. Code Ann. §73-69-11(2)(c)(ii) requires that ten (10) or more years to have elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication or period of probation or parole. Is the present case it is not possible under any circumstance for Respondent to meet the statutory time limitations applicable to the criminal conviction in question.

ORDER

IT IS, THEREFORE, ORDERED that the State Fire Marshall’s **DENIAL** of Respondent’s Application for a Class C System Installer License be **UPHELD**.

SO ORDERED, this the 12th day of July, 2019.



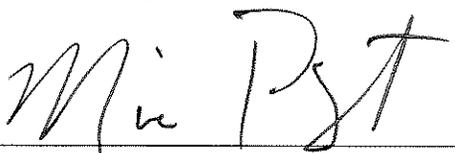
MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

Prepared by:



PHILLIPS STRICKLAND
SENIOR ATTORNEY

Submitted by:



MICHELLE PARTRIDGE
SPECIAL ASSISTANT ATTORNEY GENERAL AND HEARING OFFICER