

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before The  
State Of Wisconsin  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

In the Matter of the Disciplinary Proceedings  
Against LADERLE R. WILLIAMS, Respondent

FINAL DECISION AND ORDER

Order No. ~~ORDER 0002128~~

ORDER 0002128

Division of Legal Services and Compliance Case No. 10 RSG 009

The State of Wisconsin, Department of Safety and Professional Services, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Safety and Professional Services.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 8th day of November, 2012.

Michael J. Berndt  
Chief Legal Counsel

Department of Safety and Professional Services



Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of the Disciplinary Proceedings  
Against **LADERLE R. WILLIAMS**, Respondent

PROPOSED DECISION AND ORDER  
DHA Case No. SPS-12-0051

ORDER 0002128

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**Division of Legal Services and Compliance<sup>1</sup> Case No. 10 RSG 009**

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Laderle Williams  
P.O. Box 080313  
Milwaukee, WI 53208

Department of Safety and Professional Services, Division of Enforcement, by

Laura M. Varriale  
Department of Safety and Professional Services  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

Michael J. Berndt  
Chief Legal Counsel  
Department of Safety and Professional Services  
P.O. Box 8935  
Madison, WI 53708-8935

**PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Enforcement (the Division), filed a formal Complaint against Respondent Laderle Williams (Respondent), alleging that Respondent violated Wis. Stat §§

440.26(1)(a)2, 440.26(4m)(b) and 440.26(6)(a); and Wis. Admin. Code § SPS (then RL)2 34.01(1)(fm), 35.01(2), and 35.01(23), thereby subjecting his private security person license to disciplinary action pursuant to Wis. Stat. § 440.26 and Wis. Admin. Code § SPS 35.01(6)(a). Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09, and failed to appear at the prehearing telephonic conference held before the Division of Hearings and Appeals on August 16, 2012. At that prehearing conference, the Division moved for default judgment.

### **FINDINGS OF FACT**

#### **Facts Related to the Alleged Violation**

Findings of Fact 1-9 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Laderle R. Williams (D.O.B. August 18, 1973) is licensed in the State of Wisconsin as a private security person, having license number 108-31142, first issued on June 15, 2006 and current through August 31, 2012.
2. From September 1, 2008, through August 11, 2010, Respondent's private security person license was in expired status.
3. Respondent's most recent address on file with the Department is P.O. Box 080313, Milwaukee, WI 53208.
4. On August 13, 2009, Respondent was convicted of one count of Improper Use of Firearms or Weapons and one count of Possession of Marijuana, both offenses punishable by forfeiture, in Milwaukee County, Wisconsin Circuit Court.

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement. Because the Division was called the Division of Enforcement at the time of the actions described, it is referred to as such in the procedural history of this decision.

5. The convictions arose out of an April 2, 2009 arrest by the Milwaukee Police Department. Respondent told Milwaukee Police Department Officers that he was working for a private security agency as an armed guard and that he was on his way to work when the arrest occurred. He had a concealed firearm on his person and his car smelled of recently burned marijuana.

6. At the time of the arrest, Respondent's Private Security Permit was expired.

7. Respondent also did not possess a current firearms permit at the time of his arrest.

8. Respondent failed to report his convictions within 48 hours after the entry of the judgment of conviction.

9. On October 26, 2011, an employee of the Department wrote to Respondent at his address on file with the Department, requesting additional information about his August 13, 2009, convictions. Respondent never responded to the request for information.

#### **Facts Related to Default**

10. The Complaint and Notice of Hearing in this matter were served on Respondent on July 5, 2012, by both certified and regular mail, to both his address on record with the Department and another address found by a records search of Wisconsin Court records, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing stated that Respondent was required to file a written Answer to the Complaint within 20 days, and that if he failed to do so he would "be found to be in default, and a default judgment may be entered against [him] on the basis of the Complaint and other evidence. In addition, the Department may take disciplinary action against [him] and impose the costs of the investigation, prosecution and decision of this matter upon [him] without further notice or hearing."

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<sup>2</sup> For ease of reference, this decision will use the current "SPS" designation rather than the former "RL," although at the time of the alleged violations, the administrative code used the designation "RL."

11. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

12. Following expiration of the 20-day time period to file an Answer, the administrative law judge (ALJ) scheduled a telephone prehearing conference for August 16, 2012. Notice of the prehearing conference was sent to both parties and instructed Respondent to provide the ALJ with a telephone number at which he could be reached for the conference no later than August 13, 2012. The Notice further informed Respondent: **“A respondent’s failure to appear at a scheduled conference or hearing may result in default judgment being entered against the respondent.”**

13. Respondent failed to provide a telephone number for the prehearing conference. The Division did not have a telephone number for Respondent. Therefore, the ALJ could not contact Respondent for the prehearing conference.

14. Based on Respondent’s failure to file an Answer to the Complaint and failure to make himself available for the prehearing in this matter, the Division moved for default pursuant to Wis. Admin. Code §§ SPS 2.09(4) and 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

### **DISCUSSION AND CONCLUSIONS OF LAW**

#### **Default and Statutory and Administrative Code Violations**

Wisconsin Admin. Code § HA 1.07(3) provides, in relevant part:

##### **(3) FAILURE TO APPEAR.**

**(b)** If a respondent fails to appear, the administrative law judge may . . . take the allegations in an appeal as true as may be appropriate . . .

**(c)** For a telephone or video hearing or prehearing the administrative law judge may find a failure to appear grounds for default if any of the following conditions exist for more than ten minutes after the scheduled time for hearing or prehearing conference: (1) The failure to provide a telephone number to the division after it had been requested; (2) the failure to answer the telephone or videoconference line; . . . (4) the failure to be ready to proceed with the hearing or prehearing conference as scheduled.

Pursuant to Wis. Admin. Code § HA 1.07(3)(c), Respondent is in default for failing to provide a telephone number after it was requested and failing to be ready to proceed with the prehearing conference as scheduled.

Moreover, Wis. Admin. Code § SPS 2.09(4) states, "An answer to a complaint shall be filed within 20 days from the date of the service of the complaint." "If the respondent fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefore, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence." Wis. Admin. Code § SPS 2.14. Thus, Respondent has also defaulted in this proceeding pursuant to Wis. Admin. Code § SPS 2.14 by failing to file and serve an Answer to the Complaint as required by Wis. Admin. Code § SPS 2.09(4).

Accordingly, pursuant to Wis. Admin. Code §§ HA 1.07(3)(b) and SPS 2.14, Respondent has admitted to the allegations of the Complaint, which are incorporated into the Findings of Fact, above. It is therefore undisputed that Respondent failed to report his convictions, did not possess a current firearms permit issued by the Department at the time of his arrest, carried a concealed firearm while not on duty, failed to timely respond to the Department's request for additional information and failed to report his convictions to the Department within 48 hours.

Wisconsin Stat. § 440.26(1)(a)2. states that no person may "[a]ct as a private detective, investigator, special investigator or private security person" "unless he or she has a license or permit issued under [Wis. Stat. § 440.26]." Findings of fact 2, 5, and 6 establish that Respondent acted as a private security person after his license was expired and that he therefore violated Wis. Stat. § 440.26(1)(a)2.

In addition, Respondent violated Wis. Stat. § 440.26(6)(a) and Wis. Admin. Code § SPS

35.01(2). Wisconsin Stat. § 440.26(6)(a) provides, in relevant part:

. . . [T]he department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

1. Been convicted of a misdemeanor or found to have violated any state or local law that is punishable by a forfeiture, subject to ss. 111.321, 111.322 and 111.335.

2. Engaged in conduct reflecting adversely on his or her professional qualification.

...

4. Violated this section or any rule promulgated or order issued under this section.

Wisconsin Admin. Code § SPS 35.01(2) states:

The department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder upon proof that the credential holder or any owner of an agency has engaged in conduct reflecting adversely on professional qualification. Conduct reflecting adversely on professional qualification includes, but is not limited to any of the following:

...

- (2) Violating, or aiding or abetting the violation of, any law the circumstances of which substantially relate to the practice of a private detective or private security person. A credential holder who has been convicted of a felony, misdemeanor or ordinance violation, . . . shall send to the department within 48 hours after the judgment of conviction or the judgment finding that the person committed the violation, a copy of the complaint or other information which describes the nature of the crime or conviction and the judgment of conviction in order that the department may determine whether disciplinary action must or should be taken against credential holder.

Finding of fact numbers 4 and 5 establish that Respondent was convicted of one count of Improper Use of Firearms or Weapons and one count of Possession of Marijuana, the circumstances of which arose while he was on his way to his job as a private security person. The vehicle which Respondent was driving to his job that day smelled of recently burned marijuana and Respondent was armed at that time with a firearm, although he did not possess a current firearms permit. Such conduct substantially relates to the practice of private security



person and therefore is conduct reflecting adversely on Respondent's credential, in violation of Wis. Stat. § 440.26(6)(a)(2) and Wis. Admin. Code § SPS 35.01(2).<sup>3</sup>

Findings of fact numbers 4 and 8 demonstrate that Respondent also violated Wis. Admin. Code § SPS 35.01(2) by failing, within 48 hours after the judgment of conviction, to provide the Department with a copy of the complaint or other information which describes the nature of the crime or conviction and the judgment of conviction. This conduct also constitutes a violation of Wis. Stat. § 440.26(4m)(b), which provides: "A person who holds a license or permit issued under this section and who is convicted of a felony or misdemeanor, or is found to have committed a violation, in this state or elsewhere, shall notify the department in writing of the date, place and nature of the conviction or finding within 48 hours after the entry of the judgment of conviction or the judgment finding that the person committed the violation."

In addition, finding of fact number 9 establishes a violation of Wis. Stat. § 440.26(6)(a) and Wis. Admin. Code § SPS 35.01(23), the latter of which states that it is conduct reflecting adversely on a private security person credential to fail "to cooperate in a timely manner with the department's investigation of a complaint filed against the credential holder."

Finally, findings of fact numbers 5-7 prove that Respondent violated Wis. Admin. Code § SPS 34.01(1)(fm), which states: "No owner or employee of an agency may carry on, about or near their person any firearm unless . . . [t]he owner or employee is on duty."

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<sup>3</sup> Respondent's convictions also establish a violation of Wis. Stat. § 440.26(6)(a)(1), which allows the Department to take disciplinary action where a private security person has "[b]een convicted of a misdemeanor . . . , subject to ss. 111.321, 111.322 and 111.335." Wisconsin Stat. § 111.335(1)(c) provides that "it is not employment discrimination because of conviction record to refuse to . . . license . . . or to bar or terminate from . . . licensing, any individual who: 1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity." However, the Division did not rely on Wis. Stat. § 440.26(6)(a)(1) in its Complaint, but instead relied on Wis. Admin. Code § SPS 35.01(2) and Wis. Stat. § 440.26(6)(a)(2).

As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 440.26 and Wis. Admin. Code § SPS 35.01.

### **Appropriate Discipline**

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends the issuance of a reprimand in this case. The Division further recommends a limitation on Respondent's license such that he cannot apply for or receive a firearms permit from the Department for a period of one year, with the limitation period being tolled for any period where Respondent's license is expired following the August 31, 2012, renewal date.

Based on the facts of this case, the factors set forth in *Aldrich*, and a prior Department decision, such discipline is warranted. In *In the Matter of Disciplinary Proceedings against Charles V. Hargrove* (Order 1531) (May 9, 2012), the Department, pursuant to a stipulation, concluded that Mr. Hargrove should receive a reprimand and pay the costs of the action for being convicted of the possession of THC, engaging in conduct which reflected adversely on his professional qualification by providing false information in his application for the credential, failing to notify the Department of the conviction, and failing to timely respond to a request of the Department. Although the Department did not limit Mr. Hargrove's license, Mr. Hargrove was not convicted of a weapons violation as was Respondent.

The reprimand and limitation recommended by the Division promote the rehabilitation of Respondent in that it provides notice of the violation so he will hopefully not commit the same offense again. It protects the public in that it provides notice to the public that Respondent has

possessed an unauthorized firearm and controlled substances in the past. Finally, it deters other licensees from engaging in similar misconduct, as it is a discipline reportable to the public.

### Costs

The Division requests that Respondent be ordered to pay the full costs of its investigation and of these proceedings. In *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI), the Chiropractic Examining Board stated:

The ALJ's recommendation and the ... Board's decision as to whether the full costs of the proceeding should be assessed against the credential holder..., is based on the consideration of several factors, including:

1. The number of counts charged, contested, and proven;
2. The nature and seriousness of the misconduct;
3. The level of discipline sought by the parties;
4. The respondent's cooperation with the disciplinary process;
5. Prior discipline, if any;
6. The fact that the Department of [Safety and Professional Services] is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct;
7. Any other relevant circumstances.

The respondent, by nature of her being in default has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. To the contrary, her conduct is of a serious nature. The factual allegations were deemed admitted and proven and there is no argument to apportion any counts that were unproven (being none), or that certain factual findings were investigated and litigated that were unnecessary. Given the fact that the Department of [Safety and Professional Services] is a "program revenue" agency, whose operating costs are funded by the revenue received for licensees, fairness here dictates imposing the costs of disciplining the respondent upon the respondent and not fellow members of the chiropractor profession who have not engaged in such conduct.

For many of the same reasons delineated in the *Buenzli-Fritz* decision, Respondent should be assessed the full amount of costs. The conduct is of a serious nature, Respondent did not participate in these proceedings, there is no argument that certain factual findings were investigated and litigated unnecessarily and, given the program revenue nature of the Department of Safety and Professional Services, fairness dictates imposing the costs of these disciplinary proceedings on Respondent, and not on fellow members of the profession who have not engaged in such conduct. If the Department assesses costs against Respondent, the amount of costs will be determined pursuant to Wis. Admin. Code § SPS 2.18.

**ORDER**

Accordingly, IT IS HEREBY ORDERED:

1. Respondent Laderle Williams is **REPRIMANDED** pursuant to Wis. Stat § 440.26 and Wis. Admin. Code § SPS 35.01.
2. Respondent shall not apply for a license or apply for or receive a firearms permit from the Department for a period of one year, with the limitation period being tolled for any period where Respondent's license is expired following the August 31, 2012, renewal date.
3. Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

**Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone: (608) 267-3817  
Fax: (608) 266-2264**

4. This Order is effective the date that the final decision is signed by the Department.

Dated at Madison, Wisconsin on October 8, 2012.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705  
Telephone: (608) 266-7709  
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By: \_\_\_\_\_

Jennifer E. Nashold  
Administrative Law Judge