

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



**Before The
State Of Wisconsin
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

In the Matter of a Petition for an Administrative
Injunction involving Elijah R. Allen
Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0008070**

Division of Legal Services and Compliance Case No. 19 UNL 072

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 5th day of August, 2022.

Aloysius Rohmeyer
Chief Legal Counsel
Department of Safety and Professional Services



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of a Petition for an Administrative
Injunction involving Elijah R. Allen,
Respondent

DHA Case No. SPS-22-0013
DLSC Case No. 19 UNL 072 (RAL)

PROPOSED DECISION AND ORDER

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

Elijah R. Allen
9318 W. Allyn St.
Milwaukee, WI 53224

Wisconsin Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by

Attorney Megan Reed
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

PROCEDURAL HISTORY

This proceeding was initiated on March 3, 2022, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Petition for an Administrative Injunction against Elijah R. Allen (Respondent) alleging that he engaged in the practice of private security without the necessary credentials in violation of Wis. Stat. § 440.26(1). Administrative Law Judge Angela Chaput Foy (ALJ) was assigned to the matter.

The Division served the Respondent with a copy of the Notice of Hearing and Petition for an Administrative Injunction on March 3, 2022 by sending them to his last known address via regular and certified mail, pursuant to Wis. Admin. Code § SPS 3.07(1).

The Respondent failed to file an answer within 20 days from the date of service, as required by Wis. Admin. Code § SPS 3.08 (4).

Following the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for April 7, 2021. Notice of the conference was sent to both parties. The Respondent failed to appear for the prehearing conference.

On April 7, 2022, the Division moved for default based on the Respondent's failure to file an answer and failure to appear at the prehearing conference, pursuant to Wis. Admin. Code §§ SPS 3.13 and HA 1.07(3)(c).

On April 14, 2022, the ALJ issued a Notice of Default and Order against the Respondent and ordered the Division to file a recommended Proposed Decision and Order by May 16, 2022.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Facts 1-11 are set forth in the Division's Petition for an Administrative Injunction against the Respondent filed in this matter.

1. Respondent Elijah R. Allen (Birth Year 1994) of Milwaukee, Wisconsin, is not and has never been permitted as a private security person in the state of Wisconsin.

2. On July 8, 2019, the Department received a complaint from the Milwaukee Police Department alleging that Respondent was involved in a physical altercation while acting as an unpermitted private security person. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 19 UNL 072 for investigation.

3. According to the police report describing the incident (Milwaukee Police Department Case Number 191830087), on July 1, 2019, Respondent was involved in a physical altercation with an individual in front of a store (L.D.) in Milwaukee, Wisconsin.

4. According to the police report, Respondent grabbed the individual by the throat and forced her backwards into the store window. Video of the incident showed Respondent repeatedly engaging and antagonizing the individual and pushing the individual backward until she fell and struck her head on the ground. Respondent was aggressive, loud, uncooperative, and combative towards police officers and citizens at the scene. Respondent was armed with a firearm and clad in protective body armor. Police determined that Respondent was working at L.D. as a private security person.

5. On January 14, 2021, the owner of L.D. told the Department that Respondent had been employed as a private security person by a private detective agency (C.P.S.).

6. On February 9, 2021, the owner of C.P.S. told the Department that C.P.S. had provided security for L.D. and stated that he was "pretty sure" that Respondent had been one of his employees.

7. Throughout the investigation, the Department made numerous requests that Respondent provide a written response to the complaint. The Department has not received a written response.

8. Pursuant to Wis. Stat. § 440.26(1m), a “private security person” means any private police, guard, or any person who stands watch for security purposes.

9. Pursuant to Wis. Stat. § 440.26(1)(a)2., a license or permit is required to act as a private security person.

10. The conduct described in paragraphs 1-6 above constitutes acting as an unpermitted private security person, contrary to Wis. Stat. § 440.26(1).

11. Pursuant to Wis. Stat. § 440.21, the Department is authorized to enforce laws requiring a credential.

Facts Related to Default

12. On March 3, 2022, the Division served the Petition for Administrative Injunction and Notice of Hearing on the Respondent at his last known address by both certified and regular mail, pursuant to Wis. Admin. Code § SPS 3.07(1).

13. The Respondent failed to file an answer to the Petition for Administrative Injunction.

14. Following the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for April 7, 2022, at 10:00 a.m. The ALJ mailed the notice of the prehearing conference to the Respondent at his last known address by regular mail, ordering him to contact the ALJ no later than April 6, 2022, to provide his current telephone number.

15. The Respondent failed to contact the ALJ by April 6, 2022.

16. On April 7, 2022, the Respondent failed to appear at the prehearing conference. The Division moved for default based on the Respondent’s failure to file an answer and failure to appear at the prehearing conference pursuant to Wis. Admin. Code §§ SPS 3.13 and HA 1.07(3)(c).

17. On April 14, 2022, the ALJ issued a Notice of Default and Order against the Respondent and ordered the Division to file a recommended proposed decision and order by May 16, 2022.

18. The Division timely filed its recommended Proposed Decision and Order.

DISCUSSION AND CONCLUSIONS OF LAW

Jurisdictional Authority

The Department has authority to conduct investigations, hold hearings, and make findings as to whether a person has engaged in the practice without a credential required under

chapters 440 to 480, Wis. Stats. If the Department determines that a person has engaged in a practice without a credential, the Department may issue a special order enjoining the person from the continuation of the practice. Wis. Stat. § 440.21(1) and (2).

The Division of Hearings and Appeals has authority to issue this proposed decision and order pursuant to Wis. Stat. § 227.43(1m) and Wis. Admin. Code § SPS 3.09.

Default

The Division properly served the Petition for Administrative Injunction and Notice of Hearing on the Respondent by mailing copies to him at his last known address. Wis. Stat. § 440.11(2). Service is complete upon mailing. Wis. Admin. Code § SPS 3.07(1). “If the respondent fails to answer as required by s. SPS 3.08 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the department may make findings and enter an order on the basis of the petition and other evidence.” Wis. Admin. Code § SPS 3.13; *see also* Wis. Admin. Code § HA 1.07(3)(b) (“If a respondent fails to appear, the administrative law judge may...take the allegations in an appeal as true as may be appropriate....”).

The Division of Hearings and Appeals properly served the Respondent with its notices pursuant to Wis. Admin. Code § HA 1.03 (The division may serve decisions, orders, notices and other documents by first class mail.).

Here, the Respondent failed to file an answer to the Petition for Administrative Injunction within 20 days from the date of service, in violation of Wis. Admin. Code § SPS 3.08(4). The Respondent also failed to appear and participate in the prehearing telephone conference on April 7, 2022. Therefore, the Respondent is in default, and findings and an order may be entered based on the Petition.

Unlicensed Practice

No person may act as a private security person without a license or permit issued by the Department. Wis. Stat. § 440.26(1)(a)2. A “private security person” means any private police, guard, or person who stands watch for security purposes. Wis. Stat. § 440.26(1m).¹

The facts as stated in the Petition for Administrative Injunction are undisputed. On July 8, 2019, while the Respondent was working as a private security person without a credential, he was involved in a physical altercation and the police arrived to investigate. The police found that the Respondent was armed with a firearm and clad in protective body armor. The Police determined that the Respondent was working at the store as a private security person. The Division interviewed the owner of the business, who stated that the Respondent was employed as a private security agency that he had hired to protect his business.

¹ There are exemptions to the credentialing requirements, set out in Wis Stat. § 440.26(5), which include if an individual is employed directly by a commercial establishment. The facts as set forth in the Petition show that the Respondent was not exempt from the credentialing requirement as he was not directly employed by a commercial establishment.

Therefore, pursuant to Wis. Stat. § 440.21(2) and Wis. Admin. Code Ch. SPS 3, a special order enjoining the Respondent from continuing to act as a private security person until he is properly licensed in the state of Wisconsin is reasonable and warranted.

SPECIAL ORDER FOR ADMINISTRATIVE INJUNCTION

For the reasons set forth above, IT IS ORDERED that the Respondent, Elijah R. Allen, is hereby enjoined and prohibited from acting as a private security person in the state of Wisconsin in a capacity in which a credential is required until he is properly licensed by the Wisconsin Department of Safety and Professional Services. If the Department determines that there is probable cause to believe that the Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.


IT IS FURTHER ORDERED that the Respondent shall provide a copy of this Special Order for Administrative Injunction with any application submitted by the Respondent for a credential issued by the Department.

IT IS FURTHER ORDERED that in the event that the Respondent violates this Special Order, the Respondent may be required to forfeit not more than \$10,000 for each offense, pursuant to Wis. Stat. § 440.21(4)(a). Each day of the continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover such forfeiture.

IT IS FURTHER ORDERED that the terms of the Special Order are effective the date it is signed by the Department.

Dated at Madison, Wisconsin on June 16, 2022.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705
Tel. (608) 266-7709
Fax: (608) 264-9885
Email: Angela.ChaputFoy@wisconsin.gov

By: 
Angela Chaput Foy
Administrative Law Judge