



PROCEDURAL HISTORY OF THE CASE

On or about March 26, 2018, Board staff received Respondent's Application for Registration as a Resident Trainee in Funeral Directing (hereinafter, the "Application"). Board staff reviewed the Application, including criminal record information supplied by Respondent and by the State Bureau of Investigation.

The Board's Disciplinary Committee reviewed Respondent's Application and recommended to the full Board that they deny Respondent's Application. On May 9, 2018, at its regularly scheduled Board meeting, the Board voted to accept the recommendation coming from the Board's Disciplinary Committee.

Board staff sent a denial letter to Respondent on May 17, 2018. The denial letter was served upon Respondent by Certified Mail on or about May 23, 2018. On or about June 15, 2018, Board staff received a request for a hearing from Respondent. On June 19, 2018, the Board issued a Notice of Hearing in case M18-0021. Respondent agreed to accept service of the Notice of Hearing electronically.

The hearing took place as scheduled on August 15, 2018, at the Board's offices at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605.

PETITIONER'S LIST OF EXHIBITS

1. Notice of Hearing and associated Proof of Service Electronically
2. Board Database Printouts for Trainee and Supervisor
3. Respondent's Application for Registration as Resident Trainee in Funeral Service
4. Electronic Notification to Respondent of Referral to Disciplinary Committee and Respondent's Letter to Disciplinary Committee Regarding Criminal History

5. Letter of Denial re Traineeship Application and Proof of Service
6. Request for Hearing
7. Certified Court Records

RESPONDENT'S LIST OF EXHIBITS

1. Folder of Character Reference Letters signed by Malcolm Ferrell, Bishop Harry L. Cohen, Darrick L. Horton, Angela Wilson, Overseer Glenn Douglas McNeill, and Anita L. Carter.

PETITIONER'S LIST OF WITNESSES

1. Amy D. Mauldin, Assistant Director

RESPONDENT'S LIST OF WITNESSES

1. Marcus D. Miller
2. Anthony B. Roberts

FINDINGS OF FACT

1. Respondent is a current applicant of the Board for resident traineeship in funeral service and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code.
2. On March 26, 2018, the Board received Respondent's Application for a resident traineeship in funeral service.
3. Application question #17 asks, "[H]ave you ever been convicted of any crime, either a misdemeanor or felony?" Respondent answered "yes."

4. On April 24, 2018, in a written statement addressed to the Board's Disciplinary Committee, Respondent admitted that in 2013, having committed sexual battery, he was required to register with the Sex Offender Registry for a period of thirty (30) years, and was required to serve thirty-six (36) months' probation.
5. Certified records from Rockingham County Court show that, under a plea arrangement, Respondent pled guilty on August 23, 2013, to misdemeanor sexual battery involving a minor.
6. On May 9, 2018, the Board staff denied Respondent's Application on the grounds that Respondent had been convicted of misdemeanor sexual battery and had failed to demonstrate good moral character.
7. On June 15, 2018, the Board received Respondent's request for a hearing.
8. On August 15, 2018, the Board held a hearing in this matter at which Respondent introduced evidence through exhibits and witness testimony that he has completed his criminal probation and reformed and rehabilitated his life.

#### CONCLUSIONS OF LAW

1. Respondent is subject to jurisdiction before the Board.
2. Respondent was properly served with process.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. Respondent has demonstrated sufficient evidence that he currently possesses good moral character, as required to be registered as a resident trainee pursuant to N.C. Gen. Stat. § 90-210.25(a)(4)a.

FINAL AGENCY DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board of Funeral Service hereby issues the following decision:

- I. The Application for Registration as a Resident Trainee in Funeral Directing of Respondent Marcus D. Miller is granted.
- II. This decision shall take effect upon service of this Final Agency Decision on the Respondent.
- III. Under N.C. Gen. Stat. § 150B-45(a)(2), Respondent has thirty (30) days from the date that he receives this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.

By order of the North Carolina Board of Funeral Service, this, the 28 day of September, 2018.

By:

  
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Matt Staton, Board President

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Agency Decision was served upon the following by email and by mailing a copy by U.S. Mail, Certified Mail, Return Receipt requested, postage prepaid, and addressed to the individual below as follows:

Marcus D. Miller  
1710 Moir Mill Rd.  
Reidsville, NC 27320  
marcusdashonmiller13@gmail.com

This, the 28 day of September, 2018.



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Catherine E. Lee  
General Counsel