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BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

K. Westray

Kevin Westray, Legal Assistant

JUAN CARLOS ARCE,)
)
 Petitioner,)
)
 v.)
)
 GEORGIA DEPARTMENT OF)
 INSURANCE,)
)
 Respondent.)

DOCKET NO. OSAH-INS-DEN-
1412456-60-OAKLEY

Agency Ref. No. 11011862

INITIAL DECISION

A hearing was held in this matter on November 20, 2013, pursuant to the Petitioner's appeal of the Respondent's issuance of an Order of License Refusal. The Petitioner was present and was represented by Lisa Wells, Esq. The Respondent was represented by G. Stephen Parker, Esq.

Findings of Fact

1.

In March, 2013, the Petitioner submitted a Resident Insurance License Application to the Respondent on which he answered "Yes" to questions asking whether he had ever been convicted of a felony and had received first offender treatment. Exhibit R-1. The Petitioner's response was truthful. Exhibits R-2 and R-3.

2.

In September, 2003, the Petitioner entered a plea of guilty to the felony offenses of Statutory Rape and Child Molestation for which he was sentenced to ten (10) years, with twelve (12) months confinement in the Gwinnett County Correctional Institute. The Petitioner was required to pay a fine in the amount of One Thousand (\$1000.00) Dollars and directed to have no unsupervised contact with non-family females under sixteen (16) years of age. Exhibit R-2. The Petitioner was discharged pursuant to the terms of the First Offender Act in August, 2013. Exhibit R-3.

3.

The Petitioner was thirty-one (31) years old at the time of the incident leading to the Gwinnett County criminal charges. Testimony of Petitioner.

4.

From December, 2005, until June, 2012, the Petitioner was employed in a clerical capacity by Esquire Insurance Agencies. Testimony of Petitioner; see Exhibit R-1 and page 10.

5.

There is some evidence in the record to support a finding that the Petitioner's criminal record is not indicative of his character. See Exhibits P-1 through P-4.

Conclusions of Law

1.

The Petitioner failed to carry the burden of proof in this challenge to the denial of an application for licensure. Ga. Comp. R. & Regs. 616-1-2-.07(c).

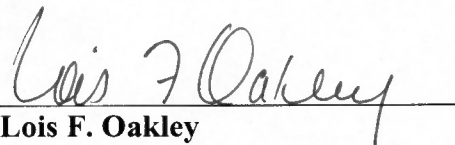
2.

The Respondent was authorized to refuse the issuance of a license to the Petitioner on the basis of his commission of felonies involving moral turpitude and his subsequent sentence pursuant to the terms of the First Offender Act. O.C.G.A. §33-23-21(16)(A).

Decision

For all the above and foregoing reasons, the Respondent's Order of License Refusal is **AFFIRMED**.

This 25th day of November, 2013.



Lois F. Oakley
Administrative Law Judge