

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Steven Kenneth Adams,

Petitioner,

v

Department of Insurance and Financial Services,

Respondent.

**Enforcement Case No. 23-17412-L
Docket No. 24-009683**

ISSUED AND ENTERED

**on August 28, 2024
by Joseph A. Garcia
Special Deputy Director and General Counsel**

FINAL DECISION

I. INTRODUCTION

On July 2, 2024, Administrative Law Judge Thomas Halick (Judge Halick) issued a Proposal for Decision (PFD) concerning this licensure denial matter. In the PFD, Judge Halick recommended that the Director (Director) of the Department of Insurance and Financial Services (DIFS or Respondent) issue a final decision consistent with the Findings of Fact and Conclusions of Law as outlined in his PFD. The factual findings in the PFD are in accordance with the preponderance of the evidence, and the conclusions of law are supported by reasoned opinion. As set forth below, the PFD is adopted in full and made part of this Final Decision, and Petitioner's appeal of Respondent's Notice of License Denial is dismissed.

II. EXCEPTIONS

Pursuant to the PFD, the parties had until July 23, 2024, to file Exceptions. Petitioner Steven Kenneth Adams (Petitioner) did not file Exceptions to the PFD on or before July 23, 2024. Instead, Petitioner submitted a document on August 6, 2024, entitled "Proposal for Decision to Grant Respondent's Motion for Summary Disposition and to Grant Petitioner's Appeal" (hereinafter "Petitioner's Late Submission"). Petitioner's Late Submission is untimely and the arguments raised therein are therefore deemed waived. See *Attorney General v Pub Serv Comm'n*, 136 Mich App 52, 56; 355 NW2d 640 (1984).

III. FINDINGS OF FACT

Except as noted below, the Findings of Fact in the sections of the July 2, 2024 PFD labeled “Procedural History” and “Finding of Fact not [sic] in Dispute” are adopted in full and made part of this Final Decision:

1. On page 2 of the PFD, the content quoted from Exhibit 3, *Notice of License Denial and Opportunity for Hearing*, is changed from “Applicant has been convicted of a felony involving violence or threat of violence against an individual” to “Applicant has been convicted of a felony involving violence or threat of violence.”

IV. CONCLUSIONS OF LAW

The Conclusions of Law set forth in the sections of the July 2, 2024 PFD labeled “Statutes and Rules” and “Analysis” are also adopted in full, made part of this Final Decision, and restated herein as follows:

1. The Director is statutorily charged with the responsibility and authority to administer and implement the Insurance Code, MCL 500.100, *et seq.* (the Code).
2. Section 1205(1)(b) of the Code, MCL 500.1205(1)(b), states that the Director “shall not approve” an application for a resident insurance producer license unless the Director finds that the individual has not committed any act listed in Section 1239(1) of the Code, MCL 500.1239(1).
3. Section 1239(1)(e)(i) of the Code, MCL 500.1239(1)(e)(i), mandates that the Director “shall not issue” a resident insurance producer’s license to an individual having been convicted of a felony involving violence or threat of violence against an individual, including, but not limited to, domestic violence.
4. There is no genuine issue of material fact relevant to Respondent’s claim that Petitioner’s violent felony conviction renders him ineligible for issuance of a non-resident insurance producer license. Summary disposition is therefore appropriate. Cf. Mich Admin Code, R 792.10129; MCR 2.116(C)(10).
5. As is required by law, the Director denied Petitioner’s application for licensure.

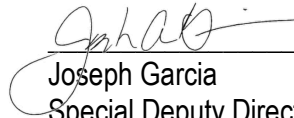
V. ORDER

Therefore, it is ORDERED that:

1. The PFD is adopted in full and made part of this Final Decision.
2. The Petitioner has failed to satisfy the minimum licensing requirements of Section 1205 of the Code, MCL 500.1205.
3. Petitioner is ineligible for issuance of a resident insurance producer license under Sections 1205(1)(b) and 1239(1)(e)(i) of the Code, MCL 500.1205(1)(b) and MCL 500.1239(1)(e)(i).

4. Respondent's Motion for Summary Disposition is GRANTED and Petitioner's appeal of Respondent's Notice of License Denial is dismissed with prejudice.

Anita G. Fox, Director
For the Director:



Joseph Garcia
Special Deputy Director and General Counsel

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

Docket No.: 24-009683

**STEVEN KENNETH ADAMS,
Petitioner**

Case No.: 23-17412-L

v

**Agency: Department of Insurance
and Financial Services**

**DEPARTMENT OF INSURANCE AND
FINANCIAL SERVICES,
Respondent**

Case Type: DIFS-Insurance

Filing Type: License Denial

**Issued and entered
this 2nd day of July 2024
by: Thomas A. Halick
Administrative Law Judge**

**PROPOSAL FOR DECISION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY DISPOSITION**

This contested case involves an Order Referring Petition for Hearing entered by the Special Deputy Director and General Counsel of the Department of Insurance and Financial Services (DIFS) on April 17, 2024, which ordered that a hearing be held on Respondent's Response to Applicant's Appeal of Licensing Denials, dated April 17, 2024. This matter arises under the Michigan Insurance Code (Code), MCL 500.100 *et seq.*

Procedural History

On March 22, 2023, Petitioner, Steven Kenneth Adams, submitted to DIFS an application to become licensed as a resident insurance producer.

On June 13, 2023, Respondent, DIFS, issued a Notice of License Denial and Opportunity for Hearing.

On April 17, 2024, DIFS referred this matter to the Michigan Office of Administrative Hearings and Rules for a contested case hearing.

On April 18, 2024, MOAHR issued a Corrected Notice of Telephone Hearing, scheduling a hearing for May 29, 2024.

On May 8, 2024, DIFS filed “Respondent’s Motion for Summary Disposition and Brief in Support of Motion (Oral Argument Requested) (Motion); along with a Motion for Oral Argument on Motion for Summary Disposition.

On May 20, 2024, this tribunal issued an Order Granting Petitioner’s Motion for Oral Argument Hearing on Motion for Summary Disposition, scheduling oral argument to be held on May 29, 2024, at 9:00 a.m., to be conducted by videoconference.

On May 29, 2024, the undersigned Administrative Law Judge (ALJ) convened the oral argument proceeding as scheduled at 9:00 a.m. Conrad Tatnall and William Peattie, appeared as counsel for DIFS. Petitioner Steven Kenneth Adams did not appear for the videoconference. At approximately 9:15 a.m., MOAHR contacted Mr. Adams by telephone, who stated that he had a more recent mailing address and had not received actual notice of the May 29, 2024 proceeding. Mr. Adams stated to MOAHR staff that he was unable to participate in the Oral Argument. The undersigned ALJ determined that the case file reflected discrepancies with Petitioner’s mailing address(es), which Petitioner had previously provided to DIFS and / or MOAHR.

On June 3, 2024, the undersigned issued an Order Following Motion Hearing, which summarized the matters discussed with DIFS’ counsel at the May 29, 2024, Oral Argument. The Order was served on all interested parties at their mailing address and email address. The undersigned determined that to ensure due process, that Respondent must re-file its Motion and serve it upon Mr. Adams at the new address that he provided to MOAHR, as necessary to provide him an opportunity to respond to the Motion. The undersigned determined that no oral argument would be held unless requested by a party. Neither party requested oral argument.

On June 10, 2024, DIFS re-filed its Motion, and served it upon Mr. Adams at his updated mailing address and his email address.

On June 26, 2024, the envelope that MOAHR sent to Mr. Adams, which contained the June 3, 2024 Order Following Motion Hearing, was returned to MOAHR as undeliverable to the address that Mr. Adams had provided to MOAHR.

The undersigned finds that DIFS and MOAHR have exercised due diligence in providing notice to Mr. Adams of the pending Motion.

This Order addresses Petitioner’s Motion for summary disposition.

Attached to Respondent's Motion are the following exhibits:

- | | |
|----------------------|--|
| Respondent Exhibit 1 | Amended Judgment of Sentence Commitment to Corrections Department, 10 th Judicial Circuit Court, Case No. 89-003189-FC-5, signed by Circuit Court Judge Leopold P. Borrello on June 21, 1990. |
| Respondent Exhibit 2 | Individual License Application submitted to DIFS by Steven Kenneth Adams on or about March 22, 2023. |
| Respondent Exhibit 3 | Notice of License Denial, dated June 13, 2023. |
| Respondent Exhibit 4 | Applicant's Petition for Contested Case Hearing to Appeal Agency Denial of Application for Insurance Producer License, signed by Petitioner on July 27, 2023, with attachments. |

Petitioner did not file a response to the Motion or submit any exhibits.

Issue and Applicable Law

The issue is whether Respondent's Motion for Summary Disposition dated May 8, 2024 (and June 10, 2024) should be granted.

Summary Disposition

The MOAHR administrative hearing rules permit a party to file a motion for summary disposition. Mich Admin Code, R 792.10129. Where the ALJ does not have final decision authority, the ALJ may issue a proposal for decision granting summary disposition. R 792.10129(3). "If the motion for summary disposition is denied, or if the decision on the motion does not dispose of the entire action, then the action shall proceed to a hearing." R 792.10129(4).

Although this is an administrative proceeding, the parties' motions for summary disposition closely resemble a motion brought under Michigan Court Rule (MCR) 2.116(C)(10). Under MCR 2.116(C)(10), the moving party must identify the matters that have no disputed factual issues and has the initial burden of supporting its position with documentary evidence. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996).

The party opposing the motion must then establish by evidentiary materials that a genuine issue of disputed fact exists. *Id.* at 362-363. After considering the documentary evidence submitted in the light most favorable to the nonmoving party, the court

determines whether a genuine issue of material fact exists to warrant a trial. *Walsh v Taylor*, 263 Mich App 618, 621; 689 NW2d 506 (2004).

“A genuine issue of material fact exists when the record, giving the benefit of any reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds could differ.” *Pace v Edel-Harrelson*, 309 Mich App 256, 264; 870 NW2d 745 (2015).

Statutes and Rules

MCL 500.1205 provides, in relevant part:

Sec. 1205. (1) A person applying for a resident insurance producer license shall file with the director the uniform application required by the director and shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. *The director shall not approve an application for a resident insurer producer license unless the director finds that the individual meets all of the following conditions:*

* * *

(b) *Has not committed any act listed in section 1239(1).*

[Emphasis added].

MCL 500.1239, indicates the following, in relevant part:

Sec. 1239. (1) In addition to any other powers under this act, the director may place on probation, suspend or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the director shall not issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

* * *

(e) Regardless of the date of conviction, having been convicted of a felony involving any of the following:

(i) Violence or threat of violence against an individual, including, but not limited to, domestic violence.

* * *

Finding of Fact not in Dispute

1. On March 22, 2023, Petitioner submitted an application to DIFS for a resident insurance producer license. In response to the question that asks, “Convicted or charged with a felony,” Petitioner marked “Yes.” [Resp. Exh. 2 - Individual Licensee Application, System ID No. 1202772].
2. On May 8, 1990, Petitioner was convicted of felony assault with intent to murder and felony possession of a firearm while committing a felony, in Saginaw County, Michigan, by the Michigan Tenth Judicial Circuit Court, Case No. 89-003189-FC-5. [Resp. Exh. 1].
3. On June 13, 2023, DIFS Office of Insurance Licensing, Investigations, and Audits Director Michele Riddering issued a Notice of License Denial and Opportunity for Hearing, informing Petitioner that his application for licensure was denied. [Resp. Exh. 3 - Notice of License Denial and Opportunity for Hearing].
4. Petitioner timely requested a hearing on this matter, stating that he has provided “documentation showing that he has successfully completed [parole] or other court requirements.” [Resp. Exh. 4 - Applicant’s Petition for Contested Case Hearing to Appeal Agency Denial of Application for Insurance Producer License].

Analysis

Respondent moves for dismissal of Petitioner’s appeal and requests a Proposal for Decision Granting Respondent’s Motion for Summary Disposition based on there being no genuine issue of material fact. The undersigned ALJ finds that there are no genuine issues of material fact and that DIFS is entitled to judgment as a matter of law.

DIFS has supported its Motion with documentary evidence¹ demonstrating that Mr. Adams was convicted of a felony involving “violence or threat of violence against an individual . . .” within the meaning of MCL 500.1239(1)(e)(i). [Resp. Exh. 1].

Per MCR 2.116(G)(4):

When a motion under subrule (C)(10) is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his or her pleading, but must, by affidavits or as otherwise provided in this rule, set forth specific facts showing that there is a genuine issue for trial. If the adverse party

¹ See MCR 2.116(G)(3)(b) (Affidavits, depositions, admissions, or other documentary evidence in support of the grounds asserted in the motion are required . . . (b) when judgment is sought based on subrule (C)(10)).

does not so respond, judgment, if appropriate, shall be entered against him or her.

Here, Petitioner has not responded to the Motion or otherwise presented affidavits or documentary evidence to demonstrate the existence of a genuine issue of fact that would need to be determined after a contested case hearing. As stated above, there is no genuine issue of material fact that Petitioner was convicted of two felonies (assault with intent to murder² and possession of a firearm while committing a felony³). [Resp. Exh. 1]. These crimes clearly involve an element of “violence against an individual.” [MCL 500.1239(1)(e)].

Under section 1239 of the Code, the Director of DIFS has no discretion to grant a license based on Petitioner’s criminal history, notwithstanding that the conviction occurred in 1990 and Petitioner has been released from prison and discharged from parole. Under these circumstances, the Director “shall refuse to issue a license under section 1205” [*Id.*].

The undersigned notes that, for certain felonies, the Director may issue a license if the felony conviction occurred more than 10 years before the application is filed. [See, MCL 500.1239(1)(d)]. However, the Director is prohibited from granting a license to an individual who has ever been convicted of a violent felony, such as in this case. This is true whether or not Petitioner has been rehabilitated and currently possesses good moral character.

Based on this Proposal for Decision, the contested case hearing originally scheduled in this matter for May 29, 2024, which was converted to an oral argument proceeding, will not be rescheduled.

PROPOSED DECISION

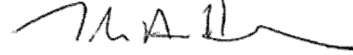
The undersigned Administrative Law Judge proposes that the Director of the Department of Insurance and Financial Services issue a Final Order as follows:

1. That the denial of Petitioner’s application for a resident insurance producer license be **AFFIRMED**.

² See MCL 750.83.

³ See MCL 750.227b

2. That Respondent's Motion for Summary Disposition be **GRANTED**.



Thomas A. Halick
Administrative Law Judge

Exceptions

The parties may file Exceptions to this Proposal for Decision within twenty-one (21) days after it is issued and entered. An opposing party may file a Response to Exceptions within fourteen (14) days after initial Exceptions are filed (see computation of filing time at Mich Admin Code, [R 792.10104](#)). For any Exceptions and Responses to Exceptions, a party must:

- 1) State the **case name and docket number** as shown on the first page of this Proposal for Decision;
- 2) File with the Michigan Office of Administrative Hearings and Rules-General Adjudication, by **e-mail (preferred)**: MOAHR-GA@michigan.gov; **fax**: 517-763-0148; **regular mail**: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195; or **overnight carrier delivery (UPS, FedEx, DHL)**: MOAHR-GA, c/o Department of Licensing and Regulatory Affairs, Mail Services, 2407 N. Grand River Avenue, Lansing, Michigan 48906; and
- 3) **Serve a copy on all parties** to the proceeding at the email/regular mail addresses shown on the attached Proof of Service.

Notice to Agency to Provide MOAHR with Subsequent Agency or Court Orders

The state agency that is a party to this matter, and/or referred this matter to MOAHR, shall serve MOAHR with any subsequent orders entered as a result of this ALJ's decision or proposed decision, including but not limited to the agency's final order, order to remand the matter to MOAHR for further proceedings, or order on appeal, as soon as practicable following entry of the order to:

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: MOAHR-GA@michigan.gov; or **by regular mail** to: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195.

See: Mich Admin Code, R 792.10120(2)(i).