

**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
OFFICE OF THE SUPERINTENDENT**

| | | |
|-------------------------|---|------------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| DANIEL GALLEGOS, |) | CASE NO. PI-19-11-APP |
| |) | |
| Applicant. |) | |

**FINAL ORDER DENYING
SECURITY GUARD REGISTRATION**

THIS MATTER received a hearing on the merits on October 1, 2019, before Hearing Officer Jeff Burke, who recommended to the Superintendent that the Applicant’s Level One Security Guard Registration be denied. The Superintendent, having familiarized herself with the record of the proceedings, including the Hearing Officer’s Report, hereby issues the following:

FINDINGS OF FACT

The attached Hearing Officer’s Report is accepted and the Proposed Findings of Facts Numbers 1 through 6 are hereby adopted and incorporated by reference in this Order. Any other factual findings or recommendations in the Report, including those stated in the “Conclusion” and “Analysis and Discussion” are accepted. All exhibits referenced therein are accepted for the purposes stated in the Findings of Fact.

CONCLUSIONS OF LAW

The Applicant’s criminal background investigation shows a history of five arrest incidents between 2013 and 2018. All were verified during review of the Applicant’s background check and related testimony during the Hearing. The Hearing Officer noted that during the hearing, Applicant was unable to provide clear and complete testimony due to his inability to maintain composure on

several occasions, and expressing both verbal and non-verbal indication of anger and frustration while attempting to explain his criminal history. Applicant verbally stated that he is always being thrown out of his own house and is always working. Applicant's companion at the hearing had to be advised not to speak for the Applicant while he was attempting to testify. The Applicant's non-verbal behaviors include visibly crying, inability to clearly express the circumstances of each incident, clenching of fists, visibly clenching his jaws, visible arterial pulse along the carotid sheath on the right side of his neck, turning his head toward inanimate areas of the hearing room, and visibly perspiring on his forehead.

The Applicant's first criminal arrest incident took place in December 2013 for felony Aggravated Battery (Great Bodily Harm/Death of a Household Member), felony Child Abuse, and misdemeanor Battery on a Household Member. This case was dismissed "on the Rule" by the court, but an indictment by a Grand Jury caused the case to be processed again in 2014. The final disposition of the matter was a Nolle Prosequi entry by the District Attorney's office because the State was unable to proceed. The Applicant explained that he had gotten into an altercation with an ex-girlfriend and "socked her up," while her seventeen year-old sister was present. Applicant stated that no visible injuries were sustained on the alleged victim. This was one occasion, although Applicant admitted to hitting the ex-girlfriend again in a separate incident that he was arrested for in December 2013 that appears to have been transferred into the Grand Jury and/or District Court case assigned from the initial December incident. In July 2017, Applicant was arrested for misdemeanor Battery on a Household Member. The Applicant explained that he was arguing with his mother, with whom he lived at the time, but did not ever touch her or cause her injury. The Applicant explained that his volatile relationship between Applicant and his mother led to two other arrests, both in 2018. Applicant was arrested in February for Battery Upon a Peace Officer.

This case was later dismissed by entry of Nolle Prosequi. In this incident, Applicant explained that he disagreed with the Police Officer's decision to arrest him, and failed to comply with directions while being arrested. Applicant grabbed and pushed the Police Officer prior to being removed from his mother's home. Applicant was again arrested in September of 2018 for Battery on a Household Member as reported by his mother. This case was later dismissed by entry of Nolle Prosequi.

The Applicant provided written explanations and correspondences for his arrest history to the Department in response to the NCA, included in Exhibit 1, NM000027-NM000034. The Applicant neither included any details of, nor explained any responsibility on his part, for any of the incidents. There was no criminal activity identified for Applicant since the September 2018 incident. Applicant testified that he is a changed person because of his children, and since he became a Level One Security Guard in 2016.

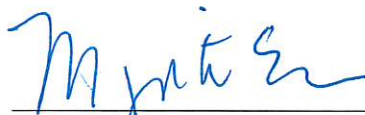
The Hearing Officer rendered an opinion that the Applicant, due to the evidence of his recent criminal activity, is not of good moral character and is not suitable to perform Level One Security Guard services within New Mexico.

FINAL ORDER

IT IS THEREFORE ORDERED that Applicant Daniel Gallegos' Level One Security Guard Registration be DENIED.

SO ORDERED.

Date: 11/14/19



Marguerite Salazar, Superintendent

NOTICE OF RIGHTS

Following a hearing, a person aggrieved by the adverse final order of the Superintendent may appeal to the District Court pursuant to the provisions of NMSA 1978, Sections 12-8-16 and 39-3-1.1.

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2019, I mailed a true and correct copy of the foregoing, *Final Order Denying Security Guard Registration* to the following party at the address listed below.

Daniel Gallegos
4201 Bryn Mawr Dr NE
Albuquerque, NM 87107


Hearing Clerk

70181130000157341938
Certified Mail Number

**BEFORE THE PRIVATE INVESTIGATIONS ADVISORY BOARD
OF THE REGULATION & LICENSING DEPARTMENT**

| | | |
|--------------------------|---|------------------------------|
| IN THE MATTER OF: |) | CASE NO. PI-19-11-APP |
| DANIEL GALLEGOS |) | |
| |) | |
| APPLICANT. |) | |
| |) | |

NOTICE OF CONTEMPLATED ACTION

1. **Daniel Gallegos** is an applicant for Security Guard Registration as a Level One as provided in the Private Investigations Act (Act), NMSA 1978, Sections 61-27B-1 *et seq.*, and is therefore subject to the jurisdiction of the Regulation and Licensing Department (Department) and of the Uniform Licensing Act (ULA), NMSA 1978, Section 61-1-3.

2. **Applicant Gallegos** is hereby notified that the Board has before it sufficient evidence, that Applicant has failed to satisfy the requirements for registration which, unless rebutted or satisfactorily explained at a formal hearing, will justify the Department in denying the application or taking other disciplinary action as permitted under the Act and Section 61-1-4 of the ULA.

3. **Applicant Gallegos** has failed to satisfy the Board that he is of good moral character, a requirement for registration pursuant to NMSA 1978 Section 61-27B-16(B)(2). A background investigation of **Applicant Gallegos** revealed that:

On December 19, 2013, Applicant Gallegos was arrested for Aggravated Battery-GBH/HHM; Child Abuse and Intentional Battery. On March 4, 2014, Applicant Gallegos was arrested for Aggravated Battery-DW/HHM, False Imprisonment, Battery-HHM and Interference with Communications. On July 22, 2017, Applicant Gallegos was arrested for Battery-HHM. On February 8, 2018, Applicant Gallegos was arrested for Battery upon a Peace Officer. On September 28, 2018, Applicant Gallegos was arrested for Battery-HHM.

4. **Applicant Gallegos** bears the burden of satisfying the Department that Applicant meets the requirements for registration requirements.

5. **Unless Applicant Gallegos within 20 days after service of this Notice of Contemplated Action mails a letter Certified, Return Receipt Requested, addressed to the Private Investigations Advisory Board, at P.O. Box 25101, Santa Fe, New Mexico 87504 and containing a request for a hearing, the Department shall take the contemplated action by default.**

6. The ULA in Section 61-1-8 affords an applicant entitled to a hearing the following rights:

A. A person entitled to be heard under the Uniform Licensing Act shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or hearing officer.

B. Upon written request to another party, any party is entitled to:

- (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
- (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No such request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

**REGULATION & LICENSING
DEPARTMENT**

Date: 7/8/19

By: _____


**LAWRENCE MOQUINO
BOARD ADMINSTRATOR
PRIVATE INVESTIGATIONS
ADVISORY BOARD**

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Notice of Contemplated Action was mailed to **Daniel Gallegos** at 4201 Bryn Mawr Drive, N.E., Albuquerque, NM 87107 on this 8th day of July 2019, and emailed to Rebecca Branch at rbranch@nmag.gov.



Kathleen Roybal

Certified Mail Return Receipt Tracking Number: 7011 3500 0002 1599 8054