

No. 2021-6637

**Official Order
of the
Texas Commissioner of Insurance**

Date: 01/05/2021

Subject Considered:

Texas Department of Insurance

v.

Jeremy Case Rodriguez

SOAH Docket No. 454-20-4254.C

General remarks and official action taken:

The subject of this order is the temporary general lines agent license with a life, accident, and health qualification held by Jeremy Case Rodriguez.

Background

After proper notice was given, the above styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the department revoke the temporary general lines agent license with a life, accident, and health qualification held by Jeremy Case Rodriguez. A copy of the proposal for decision is attached as Exhibit A.

Discussion of Applicable Law

Findings of Fact

The findings of fact contained in Exhibit A are adopted by the Texas Department of Insurance (TDI) and incorporated by reference into this order.

COMMISSIONER'S ORDER
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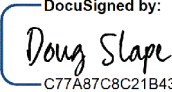
Conclusions of Law

The conclusions of law contained in Exhibit A are adopted by TDI and incorporated by reference into this order.

Order

It is ordered that the temporary general lines agent license with a life, accident, and health qualification held by Jeremy Case Rodriguez is revoked.

Commissioner of Insurance

DocuSigned by:
By: 
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Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:

DocuSigned by:

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Allison Eberhart, Deputy General Counsel

DocuSigned by:

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Justin Beam, Assistant General Counsel

SOAH DOCKET NO. 454-20-4254.C

TEXAS DEPARTMENT OF
INSURANCE
Petitioner

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BEFORE THE STATE OFFICE

v.

OF

JEREMY CASE RODRIGUEZ,
Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to revoke the temporary general lines agent license with life, accident and health qualification held by Jeremy Case Rodriguez following a conviction for injury to a child. The Administrative Law Judge (ALJ) finds that the Department should revoke Mr. Rodriguez’s license.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction were not disputed and are set forth in the Findings of Fact and Conclusions of Law below without further discussion here. On August 26, 2020, Steven M. Rivas, an ALJ with the State Office of Administrative Hearings (SOAH) convened a hearing on the merits by videoconference. Staff was represented by attorney Cassie Tigie. Mr. Rodriguez appeared and represented himself. The hearing adjourned that day, and the record closed on September 11, 2020, when the ALJ received a copy of the hearing transcript.

II. DISCUSSION

A. Applicable Law

The Department shall issue a temporary license immediately on receipt of a properly completed application executed by the applicant.¹ On March 24, 2020, the Department’s

¹ Tex. Ins. Code § 4001.153.

Commissioner issued Commissioner's Bulletin No. B-0008-20 in response to Governor Abbott's suspension of certain licensing requirements and fees to cope with the COVID-19 pandemic.² The bulletin provided a temporary waiver of testing, fingerprints, and additional fees associated with licensure, and stated the temporary licenses issued will remain active until further notice.³

The Department may discipline a license holder if the Department determines the license holder has been convicted of a felony.⁴ The Department has developed guidelines relating to matters it will consider in determining whether to grant a license if the applicant has been convicted of a crime. The Department considers injury to a child, a felony offense of under Texas Penal Code § 22.04, to be a crime of such serious nature that it is of prime importance in determining fitness for licensure.⁵

In determining the fitness to perform the duties and responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority must also consider the following factors:

1. the extent and nature of the person's past criminal activity;
2. the age of the person when the crime was committed;
3. the amount of time that has elapsed since the person's last criminal activity;
4. the conduct and work activity of the person before and after the criminal activity;
5. evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release;

² <https://www.tdi.texas.gov/bulletins/2020/B-0008-20.html>

³ *Id.*

⁴ Tex. Ins. Code § 4005.101(b)(8).

⁵ Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(e)(4)(B).

6. other evidence of the person's present fitness, including letters of recommendation from:
 - a. prosecutors, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - b. the sheriff or chief of police in the community where the person resides; and
 - c. any other persons in contact with the convicted person; and
7. proof furnished by the applicant that the applicant has:
 - a. maintained a record of steady employment;
 - b. supported the applicant's or license-holder's dependents;
 - c. otherwise maintained a record of good conduct; and
 - d. paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or holder has been convicted.⁶

Staff has the burden of proving its basis for revoking Mr. Rodriguez's license, while Mr. Rodriguez has the burden to prove he is fit to be licensed despite his criminal history.⁷

B. Evidence

On June 24, 2015, Mr. Rodriguez pled guilty to the offense of injury to a child, a second degree felony, in Cause No. 26838 in the [REDACTED] Walker County, Texas.⁸ The date of the offense was March 27, 2013. The court sentenced Mr. Rodriguez to 10 years' of confinement within the Texas Department of Criminal Justice (TDCJ), but that sentence was suspended and

⁶ Tex. Occ. Code § 53.023. The Department has adopted these factors in its rules. 28 Tex. Admin. Code § 1.502(h).

⁷ Tex. Occ. Code § 53.023(a); 1 Tex. Admin. Code § 155.427.

⁸ TDI Ex. 4.

Mr. Rodriguez was placed on 10 years' of community supervision.⁹ Mr. Rodriguez was discharged from community supervision on June 23, 2018, but remains on parole until June 22, 2025.

On April 6, 2020, Jeremy Case Rodriguez applied for a temporary general lines agent license with a life, accident, and health qualification. On July 2, 2020, pursuant to legislative mandate outlined in the Commissioner's Bulletin No. B-0008-20, the Department issued license number 2537246 to Mr. Rodriguez.

At the hearing, Mr. Rodriguez did not deny that the incident occurred, but claimed it was an accident. According to a written statement dated April 13, 2020, Mr. Rodriguez stated that he accidentally broke his infant son's arm while trying to change the infant's clothes on March 27, 2013, while arguing with his girlfriend. Mr. Rodriguez further testified that although the offense was serious, it was not related to the business of insurance because it did not include any elements of theft, bribery, or embezzlement. He further contends that despite his criminal history, he is trustworthy and is fit to hold the license.

Mr. Rodriguez testified that he is currently employed in the food-service industry and has been so employed since 2013. According to Mr. Rodriguez's resume, he has been employed as a cook, a line cook, a sushi chef and presently as a chef at a restaurant in the Woodlands, Texas.¹⁰

The ALJ also made note of the following letters of recommendation:

- Lauren Hughes, a parole officer with the TDCJ's Parole Division, wrote that since being placed on parole in 2015, Mr. Rodriguez has not engaged in any further criminal activity. She also stated that Mr. Rodriguez has maintained a stable residence, has held two jobs, and has complied with all conditions of his parole.¹¹

⁹ TDI Ex. 4.

¹⁰ TDI Ex. 3 at 052.

¹¹ TDI Ex. 3 at 022.

- Paula Hall, an acquaintance, wrote in an email dated April 22, 2020, that Mr. Rodriguez has always been a hard worker during the six years that she has known him. Ms. Hall further described Mr. Rodriguez as professional, organized, honest, and loyal.¹²
- Erik T. Lins, Jr. wrote in a letter dated April 19, 2020, that he has known Mr. Rodriguez for two years as a co-worker and a neighbor. Mr. Lins stated that as a co-worker in the food service industry, Mr. Rodriguez displayed a strong work ethic, is dedicated, punctual, and organized. Mr. Lin further stated in his letter that he believes Mr. Rodriguez will bring a good work ethic and positive attitude to the insurance industry.¹³
- Lorrie Forca, an acquaintance, wrote in a letter dated April 19, 2020, that she has known Mr. Rodriguez for two years and that he has performed a wide array of tasks for Ms. Forca, including organizing her office and yardwork. She further described him as being respectful, articulate and driven to succeed.¹⁴
- Mike Vasu of Vasu Agency in Houston, Texas, wrote in a letter dated June 5, 2020, that “after our review,” Vasu Agency was willing to provide for sponsorship for Mr. Rodriguez’s license. He further urged the Department to approve his license.¹⁵

Lewis Weldon Wright IV is the liaison between the Agent and Adjuster Licensing Office and the Enforcement Division of the Department and has been with the Department for 13 years. Under normal circumstances, Mr. Wright would review nonstandard license applications and make a recommendation to deny or issue a license prior to a license being issued. However, in this case, Mr. Wright testified, he conducted a criminal background check of Mr. Rodriguez after the Department issued the license to Mr. Rodriguez pursuant to the Commissioner’s mandate, which required the Department to issue a temporary license to any person who applied for a temporary license without first undergoing the standard criminal background check. The Department’s recourse against a license holder who is subsequently deemed unfit for licensure is to revoke that person’s license, according to Mr. Wright.

¹² TDI Ex. 3 at 048.

¹³ TDI Ex. 3 at 049.

¹⁴ TDI Ex. 3 at 050.

¹⁵ TDI Ex. 3 at 040

Following Mr. Rodriguez's background check, the decision was made to revoke his temporary license based on his criminal history. Mr. Wright testified that under 28 Texas Administrative Code § 1.502(c), the Department considers it to be very important that a licensed individual is honest, trustworthy, and reliable. He stated that consistent with Texas Occupations Code § 53.023 and 28 Texas Administrative Code § 1.502, in determining an individual's fitness for licensure, certain crimes are considered to be of a more serious nature. Specifically, he stated, that under 28 Texas Administrative Code § 1.502(e)(4)(B), a felony offense under Texas Penal Code Chapter 22 such as § 22.04 injury to a child, is considered to be a serious offense and of prime importance in determining fitness for licensure.

He further noted that while there is no evidence of further criminal activity, Mr. Rodriguez is not completely discharged from the court and remains on parole until 2025. Mr. Wright further noted that although Mr. Rodriguez has maintained a record of good conduct and has maintained steady employment, the mitigating evidence did not outweigh the seriousness of his offense. He further testified that the people who submitted positive letters of reference for Mr. Rodriguez did not seem to know about his criminal history.

C. Analysis

Staff presented sufficient evidence that Mr. Rodriguez's temporary license should be revoked. The question is whether Mr. Rodriguez offered sufficient mitigating evidence to demonstrate he is fit to be licensed despite his criminal history. After considering the factors listed in Texas Occupations Code § 53.023, the ALJ finds Mr. Rodriguez did not prove he is currently fit for licensure.

Although there is no evidence that Mr. Rodriguez engaged in any other criminal activity, the Department considers the felony offense of injury to a child to be of prime importance when determining fitness for licensure. Hence, there is no question that Mr. Rodriguez's offense was serious. There is no evidence of Mr. Rodriguez's age at the time he committed the offense, but seven years have elapsed since it occurred. Mr. Rodriguez has a record of good conduct and has been steadily employed since 2013. The letter from his parole officer indicated that Mr. Rodriguez has been and continues to be fully compliant with the terms of his parole, including the payment of any fees. The other letters of recommendation for Mr. Rodriguez also demonstrate his strong work ethic and professionalism in a work environment.

However, Mr. Rodriguez has not been fully discharged from the court and remains on parole until 2025. For this reason, it is not clear if the possibility of incarceration impacts his record of good conduct or if his good conduct is the result of being fully rehabilitated to make better decisions. The positive attributes noted herein will serve Mr. Rodriguez well going forward. But, at this time, he has not demonstrated a fitness for licensure and the Department should revoke his temporary license.

III. FINDINGS OF FACT

1. On June 24, 2015, Jeremy Case Rodriguez pled guilty to the offense of injury to a child, a second degree felony, in Cause No. 26838 in the [REDACTED] of Walker County, Texas. The court sentenced Mr. Rodriguez to 10 years' of confinement, but that sentence was suspended and the court placed Mr. Rodriguez on 10 years' of community supervision.
2. Mr. Rodriguez was discharged from community supervision on June 23, 2018.
3. On March 24, 2020, the Commissioner of the Texas Department of Insurance (Department) issued Commissioner's Bulletin No. B-0008-20 in response to Governor Abbott's suspension of certain licensing requirements and fees to cope with the COVID-19 pandemic. The bulletin provided a temporary waiver of testing, fingerprints, and additional fees associated with licensure, and stated the temporary licenses issued will remain active until further notice.

4. The Commissioner's Bulletin further stipulated that the Department shall issue a temporary license immediately on receipt of a properly completed application executed by the applicant.
5. On April 6, 2020, Jeremy Case Rodriguez applied for a temporary general lines agent license with a life, accident, and health qualification.
6. On July 2, 2020, pursuant to the Commissioner's Bulletin, the Department issued license number 2537246 to Mr. Rodriguez.
7. After the Department issued the license to Mr. Rodriguez, Lewis Weldon Wright IV, the liaison between the Agent and Adjuster Licensing Office and the Enforcement Division of the Department, conducted a criminal background check of Mr. Rodriguez and discovered Mr. Rodriguez's felony conviction.
8. On July 17, 2020, the Department's staff filed a notice of hearing to revoke Mr. Rodriguez's temporary license.
9. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted, or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
10. On August 26, 2020, Steven M. Rivas, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH) convened a hearing on the merits by videoconference. Staff was represented by attorney Cassie Tigue. Mr. Rodriguez appeared and represented himself. The hearing adjourned that day, and the record closed on September 11, 2020, when the ALJ received a copy of the hearing transcript.
11. The felony offense of injury to a child is serious.
12. There is no evidence that Mr. Rodriguez has any further criminal history.
13. Seven years have elapsed since Mr. Rodriguez committed the offense.
14. Mr. Rodriguez has a record of good conduct and steady employment since 2013.
15. Mr. Rodriguez is not completely discharged from the court and remains on parole until 2025.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Mr. Rodriguez received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. The Department may discipline a license holder if the Department determines the license holder has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(8).
5. The Department considers injury to a child, a felony offense of under Texas Penal Code § 22.04, to be a crime of such serious nature that it is of prime importance in determining fitness for licensure. Tex. Occ. Code § 53.022, 28 Tex. Admin. Code § 1.502(e)(4)(B).
6. In determining whether to revoke a license based on the license holder's criminal history, the Department will consider the factors in Texas Occupations Code §§ 53.022 and 53.023. 28 Tex. Admin. Code § 1.502(h).
7. The Department should revoke Mr. Rodriguez's temporary license because a preponderance of the evidence fails to establish his fitness to be licensed in light of his felony conviction

SIGNED November 3, 2020.



**STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**