

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

FEB - 4 2009

IN RE: The Application of TOYIA COLSTON for a)
Bail Bond License in the State of Oklahoma.) Case No. 08-1575-DEN
)

INSURANCE COMMISSIONER
OKLAHOMA

ADMINISTRATIVE ORDER

ON the 11th day of December, 2008 the above captioned case came on for hearing and was concluded on the same date. The Insurance Commissioner, Kim Holland, was represented by her attorney, John Mahoney. Applicant Toyia Colston (hereafter Applicant) was present, having been mailed a copy of the Notice of Hearing and Order to Show Cause and Amended Notice of Hearing and Order to Show Cause by certified mail with return receipt requested to Applicant's address as provided by Applicant to the Insurance Commissioner pursuant to the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§1301-1340, and the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§250-323.

The Hearing Examiner, having been fully advised in the premises, finds by clear and convincing evidence as follows:

JURISDICTION AND AUTHORITY

1. The Insurance Commissioner has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§1301-1340.

FINDINGS OF FACT

1. On or about November 25, 2008, the Oklahoma Insurance Commissioner, through her attorney, caused to be mailed a *Notice of Hearing and Order to Show Cause* to Applicant.

2. The *Notice of Hearing and Order to Show Cause* contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting the proceedings for December 11, 2008 at 9:30 p.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street,

Suite 28, Oklahoma City, Oklahoma 73107.

3. That on or about December 2, 2008, Petitioner, through her attorney, caused to be mailed an *Amended Notice of Hearing and Order to Show Cause* to Applicant.

4. That the *Amended Notice of Hearing and Order to Show Cause* each contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting the proceedings for December 11, 2008 at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

5. Applicant waived her right to have counsel present to represent her.

6. The Insurance Commissioner appointed Leslie L. Conner, Jr. to hear the case as the independent Hearing Examiner and he entered these findings and conclusions.

7. The Hearing was recorded electronically by employees of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

8. The following exhibits were introduced and admitted without objection:

Petitioner's Exhibit A: Application of Toyia Colston for a bail bond license dated October 21, 2008.

Petitioner's Exhibit B: Oklahoma County Court docket sheet for ML-2005-2977, In Re: the marriage of Toyia Shanae Robinson and Michael Tyrone Colston.

Petitioner's Exhibit C: Robert Noll's denial letter dated October 21, 2008.

Petitioner's Exhibit D: Oklahoma County Court docket sheet for CF-2004-4881, State v. Kendall Mario Colston and Michael Tyrone Colston.

Petitioner's E: Oklahoma County Court docket sheet for CF-1997-6715,
State v. Michael Colston.

Respondent's R-1: Print out from Oklahoma Insurance Department's website regarding "Becoming a Bondsman" with interlineations made by Applicant.

Respondent's R-2: Letter from the Oklahoma Bondsman's Association dated February 1, 2008 regarding pre-licensing education.

Respondent's R-3: Print out from Oklahoma Bondsman's Association website regarding licensing requirements.

6. Applicant cited 1980 OK AG 307, Question submitted. The Hearing Examiner was aware of the contents of the opinion and took notice.

7. Applicant was sworn and testified under oath.

8. The Hearing Examiner heard testimony and entered the following findings of fact:

a. Applicant submitted an application on October 21, 2008 to the Oklahoma Insurance Department's Bail Bond Division. On the application, Applicant disclosed that she was married to Michael Colston and that he had pled guilty to a felony.

b. Applicant's spouse did have two felony convictions in Oklahoma County, both involving moral turpitude. Upon this information, her license application was denied.

c. Applicant requested a hearing as was her right pursuant to OKLA. STAT. tit. 59, § 1311.

d. Testimony was presented to the Hearing Examiner that the Applicant and her husband share expenses of residence and raising their children.

e. Testimony was presented to the Hearing Examiner that Applicant's spouse would

not be involved in the bail bond business.

f. Toyia Colston's application for a bail bond license is denied under authority of OKLA. STAT. tit. 59, § 1315(A).

CONCLUSIONS OF LAW

1. These proceedings were conducted pursuant to the applicable provisions of the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§ 250-323, as amended, and the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§ 1301-1340 as amended.

2. The Commissioner has jurisdiction to conduct this hearing as Toyia Colston applied for a bail bond license pursuant to OKLA. STAT. tit. 59, §§ 1301-1340, as amended.

3. The Applicant was provided lawful service and adequate notice of the time and place of the hearing and was sufficiently advised of the allegations against her as required by OKLA. STAT. tit. 75, § 309, as amended and OKLA. STAT. tit. 59, § 1311, as amended.

4. The Independent Hearing Examiner was properly and legally appointed pursuant to OKLA. STAT. tit. 59, § 1311.1(B).

5. Neither party requested a stenographic record of the proceedings. Therefore, one was not made. However, an electronic recording of the proceedings was made by an employee of the Oklahoma Insurance Department's office.

6. The interpretation of OKLA. STAT. tit. 59, § 1315(A)(1) applies. It is not vague as to the meaning of who shall not directly or indirectly receive a benefit from the transaction of a bail bond. The legislature has acted and stated their cause and they enacted the statute into law in the State of Oklahoma.

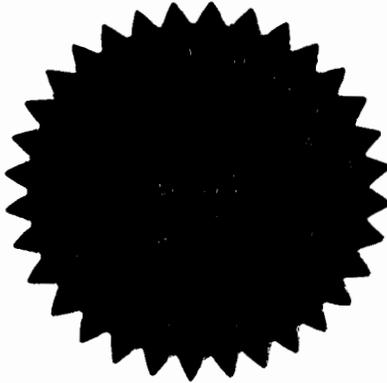
7. Applicant's spouse would benefit both directly or indirectly from any bail bond

transaction Applicant could make if she were granted a bail bond license. Therefore, Applicant is prohibited from being a bail bondsman.

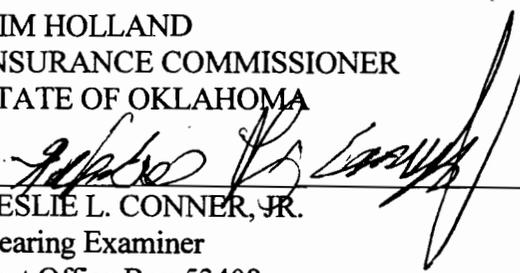
ORDER

IT IS THEREFORE ORDERED that State's denial of Applicant's application for a bail bond license in the State of Oklahoma is upheld.

WITNESS My Hand and Official Seal this 4 day of Feb, 2009.

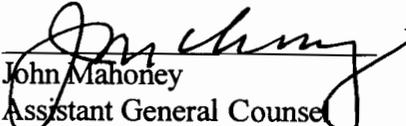


KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA



LESLIE L. CONNER, JR.
Hearing Examiner
Post Office Box 53408
Oklahoma City, Oklahoma 73152-3408
(405) 521-2746

Approved as to Form:



John Mahoney
Assistant General Counsel

Toyia Colston
Respondent

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Administrative Order was mailed postage prepaid with return receipt requested on this 5 day of Feb., 2009, to:

Toyia Colston
4808 Shadynook Way
Spencer, Oklahoma 73084

and that a copy was delivered by electronic mail to:

Robert H. Noll, Director
Bail Bond Division