

IN THE MATTER OF

Complaint by The Police under s 74 of the Private Security Personnel and Private Investigators Act 2010 against **AYWIEL BOLDIT YOR**

HEARD virtually on 19 December 2022

APPEARANCES

Sergeant A Cappleman for NZ Police
A Boldit Yor – Certificate Holder

DECISION

[1] Police have filed a complaint against Aywiel Boldit Yor as he was sentenced to a term of imprisonment in Australia in 2017 after being convicted of indecent assault and was deported to New Zealand in 2018. Mr Boldit Yor also had two more historical New Zealand convictions.

[2] Mr Boldit Yor wrongly declared in his application for a COA that he had no convictions in New Zealand or overseas. Making a false statement in an application for a certificate of approval (COA) is a ground on which a compliant can be made and discretionary ground for cancelling Mr Boldit Yor's COA.

[3] Mr Boldit Yor accepts he was convicted of indecent assault and sentenced to a prison term in Australia. He however says he was wrongly convicted and was in the process of appealing the outcome but has not been able to afford the legal costs involved. He says he was confused about the questions in the application form for a COA as English is his second language and he disputes his Australian convictions.

[4] Following the hearing Mr Boldit Yor provided a supporting letter signed from several members of his community. They say that prior to going to Australia and since his return Mr Boldit Yor has been a respected, caring, and responsible community member. They are aware of Mr Boldit Yor's Australian convictions but believe his side of the story and his account that he is innocent.

[5] It is not the role of this Authority to review an Australian criminal conviction and sentence. However, I accept it is possible that Mr Boldit Yor was not guilty of the offences for which he has been convicted and his convictions were a result of his inability to afford or access good legal representation and his communication barriers. The fact however remains that Mr Boldit Yor was convicted and that he is on the sex offenders register in both New Zealand and Australia. In addition, there is no dispute that a false statement was made in Mr Boldit Yor's application for a COA.

[6] Regardless of how he felt about his Australian convictions Mr Boldit Yor should have declared them in his application. The police should also have raised their concerns about Mr Boldit Yor by way of objection at the time he applied for his COA. If they had done so it is likely that he would not have been granted his COA. It is only because Mr Boldit Yor made a false statement in his application that the police have been able to raise these matters now by way of a complaint.

[7] It is likely that Mr Boldit Yor's employer either completed his application for a COA for him or assisted him with completing it and Mr Boldit Yor did not at that time disclose his

convictions to them. However, there have been no issues of concern since Mr Boldit Yor obtained his COA and he has not come to police attention in any other way since he returned to New Zealand in 2018. His New Zealand convictions were driving related, over 20 years ago and largely irrelevant.

[8] Mr Boldit Yor has the support of his community and I accept he poses little risk to the wider community. Therefore, instead of cancellation of his COA I consider the appropriate penalty is a reprimand and to have conditions attached to his COA given that he is on an offender's register.

Summary and Orders

[9] Mr Boldit Yor made a false statement in his application for a COA when he stated he had no overseas convictions and no convictions in New Zealand. In the circumstances I consider it appropriate for Mr Boldit Yor to be reprimanded and for conditions to be placed on Mr Boldit Yor's certificate of approval.

[10] I therefore order:

- a) Mr Boldit Yor is formally reprimanded.
- b) The following condition is attached to Mr Boldit-Yor's certificate of approval until 12 September 2027 or until such time as Mr Boldit Yor's name is removed from the New Zealand sex offender's register if that occurs sooner:
 - Mr Boldit Yor cannot work in security at a school, children's playground or play area or at any other venue or event that caters primarily for children and young people under the age of 18.

DATED at Wellington this 21st day of December 2022



P A McConnell

Private Security Personnel Licensing Authority