

IN THE MATTER OF

The Private Security Personnel and
Private Investigators Act 2010

AND

IN THE MATTER OF

Complaint by The Police under s 74 of
the Act against **JACOB CUMMINGS**

HEARD by telephone 12 January 2021

ATTENDANCES

R Bourne for NZ Police
J Cummings – Certificate holder

DECISION

[1] On 16 December 2020 I cancelled Jacob Cummings' certificate of approval after he failed to attend the hearing scheduled on a Police complaint. Mr Cummings subsequently advised that he did not receive notice of the hearing until after the hearing had been held as he had been away. He accordingly requested that I convene a new hearing and review my decision of 16 December 2020. In the circumstances I accepted this was appropriate.

[2] The Police filed a complaint after Mr Cummings was convicted of assault and sentenced to 80 hours community work, 6 months supervision and ordered to pay reparation. Mr Cummings was also convicted of assault in 2017. In addition the Police advise that Mr Cummings have come to their attention on other occasions after getting into fights or arguments when drinking.

[3] Both the assault convictions are grounds for disqualification under s 62 of the Act and mandatory grounds for disqualification. Therefore I am required to cancel Mr Cummings certificate if I am satisfied that because of his disqualifying convictions he is not suitable hold a certificate.

[4] Mr Cummings agrees that he has two assault convictions. However, he advises the first conviction was a result of him trying to defend himself from an attack by his former partner. The more recent conviction occurred just over a year ago after Mr Cummings punched his former girlfriend's new partner. Mr Cummings advises he was intoxicated at the time and that the other incidents referred to by the Police also occurred when he was intoxicated.

[5] Following his March 2020 conviction Mr Cummings advises he attended counselling, modified his drinking behaviour and learnt more about his trigger points. Since then he has not been involved in any further incidents. Mr Cummings also advises that he never drinks while working and that no issues have arisen while he has been working as a security guard. This is confirmed by Mr Cummings former and present employers as well as a work colleague who is an area manager for another security company.

[6] All Mr Cummings referees say he is a conscientious, reliable and professional security employee. They also say he is trustworthy, has strong conflict resolution skills and has demonstrated the ability to defuse potentially volatile situations. The Police also confirm that Mr Cummings has assisted them to diffuse or control difficult situations while he has been working as a security guard. They are however concerned about his decision making and ability to control his temper particularly when he has been drinking alcohol.

[7] Mr Cummings offending, and other inappropriate behaviour, happened when Mr Cummings was under emotional stress and mainly when his decision making was affected by being intoxicated. None of it happened while he was working or at the end of his working day.

[8] I accept that Mr Cummings has learnt from his mistakes and has either been alcohol free or only a moderate drinker since his last offence. In addition his employers have no concerns about his work and he has proven himself to be a conscientious and reliable security employee.

[9] Based on all the evidence before me I am satisfied that Mr Cummings is suitable to be a certificate holder, despite his disqualifying convictions, provided he continues to keep his drinking under control.

[10] I therefore make the following orders:

- a) The decision dated 16 December 2020 is set aside and Mr Cummings certificate of approval is reinstated effective immediately.
- b) Mr Cummings COA is reinstated on the condition that he is not to be involved in any further alcohol fuelled incidents that come to the attention of the Police until his COA expires on 21 April 2022. If any further such incidents occur the Police can apply to immediately suspend Mr Cummings COA.

DATED at Wellington this 13th day of January 2021

The seal is circular with a blue border containing the text "THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY". Inside the border is a central emblem featuring a crown at the top, two lions holding a shield, and a central shield with a cross and four quadrants.

P A McConnell
Private Security Personnel Licensing Authority