

IN THE MATTER OF

An application for a Certificate of Approval filed by **DF** under The Private Security Personnel and Private Investigators Act 2010 (PSPPI Act)

HEARD virtually on 13 October and 7 November 2023

DECISION

[1] Police object to Mr DF's application because their intelligence links him to the Rebels MC Gang and because he has a disqualifying sentence. They consider this makes Mr DF unsuitable to be a certificate holder. Mr DF denies he has any association with the Rebels MC and that he has any disqualifying convictions or sentences. He says he is well thought of by his employer and within his community and is therefore suitable to be granted a certificate of approval.

[2] The issues I therefore need to decide are:

- Does Mr DF have any disqualifying convictions or sentences?
- Is Mr DF an associate of the Rebels MC?
- Is Mr DF suitable to be granted a certificate?

Does Mr DF have any disqualifying convictions or sentences?

[3] Police say Mr DF was convicted for driving with excess breath alcohol in September 2020 and was disqualified from driving which is grounds for disqualification under s 62(e) of the PSPPI Act. However, s 62(e) only applies if Mr DF was disqualified from driving under s 65 of the Land Transport Act. A person can only be disqualified from driving under s 65 of the Land Transport Act on their second and subsequent convictions for drink driving and it is usually reflected by an indefinite disqualification from driving.

[4] Mr DF only has one drink driving conviction for which he received 7 months disqualification from driving. This is not a sentence imposed under s 65 of the Land Transport Act, therefore s 62(e) of the PSPPI Act does not apply to him. Mr DF's only other convictions are for careless driving, speeding, and driving while his licence was suspended. None of these are grounds for disqualification under s 62 of the PSPPI Act or are sufficient to raise questions as to Mr DF's suitability to be a security worker.

Is Mr DF an associate of the Rebels MC?

[5] Police say they have intelligence from August 2021 linking Mr DF with the Rebels MC. They say someone with close gang associations is not suitable to be a certificate holder on character grounds. Mr DF denies he has any gang involvement, and says he has no friends who are part of any gang. He acknowledges his brother has association with the Rebels but that is not something he supports.

[6] Police provided a photograph of the person who identified as Mr DF that was taken at a Rebels gathering in 2021. That photograph did not match the photographs we had on file of Mr DF. In addition, we compared the photograph the police provided to Mr DF during the video hearing. I do not consider Mr DF is the person in the photograph. I also note that when I shared the photograph on screen Mr DF immediately identified it as being his brother.

[7] Unfortunately, police were unable to attend either hearing so were unable to make their own comparisons. They also expressed concerns about Mr DF's brother being associated with the Rebels. I accordingly provided the opportunity for police to file further written submissions, but they have not done so.

[8] Police have failed to establish that Mr DF has any close association with the Rebels that impact on his suitability to be a certificate holder. I do not consider Mr DF brother's association with the Rebels is in the circumstances sufficiently close to reflect on Mr DF's suitability to work as a security guard.

Is Mr DF suitable to be granted a certificate?

[9] As no grounds for disqualification apply to Mr DF, s 53(3) of the PSPPI Act says I must grant his application unless the evidence as to his character circumstances or background shows he is not suitable to be a responsible certificate holder.

[10] Other than the allegations regarding gang association there is no evidence that calls into question Mr DF's suitability to be a certificate holder. To the contrary Mr DF's referees who include his former basketball coach and employer, speak highly of his character, reliability, and trustworthiness. Mr DF's employer say that he is an exemplary individual who consistently acts responsibly and professionally. They say he has a strong work ethic and demonstrates a commitment to safety protocols and adherence to industry standards.

[11] Based on the evidence before me I am satisfied that Mr DF is suitable to be a responsible security employee. Mr DF's application for a certificate of approval is granted provided he completes the required training and files his record of achievement by the time his second temporary certificate expires in February 2024.

DATED at Wellington this 23rd day of November 2023



P A McConnell

Private Security Personnel Licensing Authority