

IN THE MATTER OF

An application to renew a certificate of approval by **ANZAC SIMI** under the Private Security Personnel and Private Investigators Act 2010 (the Act)

HEARD remotely on 4 October 2023 and 10 January 2024

APPEARANCES

Snr Constable D Leahy 4 October 2023 & 10 January 2024

Constable K Tawhai and Sergeant V Parker 10 January 2024

A Simi supported by B Martin 4 October 2023 only

DECISION

[1] Anzac Simi has applied to renew his certificate of approval (COA). He obtained his current COA on 26 July 2018 and has previously held a COA from February 2013 to February 2018. Mr Simi is one of two company officers of A & M Protection Services Limited which holds a company licence.

[2] Police oppose Mr Simi's application to renew his COA on character grounds and because he has historic disqualifying convictions. Police say the following events raise questions about Mr Simi's suitability to be a certificate holder and an officer of a company licence holder.

- On 2 May 2023 Mr Simi attended the Glendene Primary School after police were called to an incident involving one of his security guards and a guard from a company responsible for guarding the school. Mr Simi refused to identify himself to police and would not produce any identification when requested to by police. He told police not to speak to his security guard and insisted that the guard had done nothing wrong. He refused to give the name of the security company he and his guard worked for.
- On 21 April 2023 Mr Simi was trespassed from the Seventh-Day Adventist Church in Mt Eden. The circumstances which led to him being trespassed raise concerns about his suitability to work in security.
- Early morning on 8 September 2021 during the Auckland Covid-19 level 4 lockdown Mr Simi was stopped by police driving a vehicle. He refused to say who he was, provide his licence or his travel /exemption worker documentation. He was issued an infringement notice which he appealed and lost.

[3] Mr Simi denies he failed to cooperate with police on 2 May 2023 and 8 September 2021. He also denies he breached the PSPPI Act by refusing to provide his COA and refusing to advise the name of the security company he worked for. Mr Simi insisted he had an exemption certificate on 8 September 21 and says he only lost the appeal because he could not afford a lawyer. He also denies that he has been trespassed from the Seventh Day Adventist church.

[4] Mr Simi has disqualifying convictions and sentences under s 62(c) & (d) of the Act. Therefore, in accordance with s 53(5) of the Act I may only grant his application to renew his COA if I am satisfied that he is suitable to be a responsible security employee after considering the grounds on which he is disqualified and all other evidence relating to his character, circumstances, or background.

[5] In deciding whether Mr Simi is suitable to be a responsible security employee I need to resolve the factual dispute around the incidents police outlined in their objection and decide:

- Was Mr Simi uncooperative and aggressive when being questioned by police on 2 May 2023 and did he breach the Act in failing to wear or provide a copy of his security ID or advise the police of the company he was engaged by?
- Was Mr Simi uncooperative and rude to police when stopped on 8 September 2021 and did he have the required travel exemption?
- Has Mr Simi been trespassed from the Seventh-Day Adventist Church? Is so, was this because he failed to comply with their requirements regarding association with children during church events?

Background and application process:

[6] Mr Simi filed an application to renew his certificate of approval in July 2023. Police filed an objection to his application at the beginning of August 2023 outlining the concerns they had about Mr Simi and providing a copy of his criminal and traffic history.

[7] The police objection was sent to Mr Simi on 5 August under cover of a letter asking him to file a response to the police objection with supporting references by 21 August.

[8] On 7 August Mr Simi filed a very brief response but no supporting references. On 8 August the PSPLA responded to Mr Simi advising him he needed to provide a more detailed response and supporting references. He was also asked to address the following questions:

- Do you accept that you refused to identify yourself, provide your COA or the name of the security company you worked for when asked by police during the incident at Glendene Primary School?
- Were you trespassed from 35 Brentwood Ave, Mt Eden on 21 April 2023? If so, why were you trespassed if you have not set foot in the church since 2017?
- Who were you working for on 8 September 2021 and why were you checking on a property at the time?

[9] Mr Simi filed no further response. As Mr Simi has held two previous COAs and was the director of a security company, rather than deciding his application on the papers, I set it down for hearing.

[10] On 8 September 2023 Mr Simi was sent hearing directions and a notice of hearing for a 4 October 2023 MS Teams hearing. Those directions required Mr Simi to file a more detailed response to the police objection and supporting references by 14 September 2023. He was also directed to answer similar questions to those outlined in paragraph [8] and to provide a copy of the official pass from lockdown by 14 September 2023.

[11] Mr Simi did not file any of the information requested prior to the 4 October hearing. However, he attended the hearing and disputed all the information outlined in the police objection. Police accordingly asked for the hearing to be adjourned so that they could obtain witness statements in support of their objection and to have the police officers involved attend the hearing.

[12] Following the hearing Mr Simi sent in a copy of the Covid-19 exemption certificate issued to him by his employer and some character references. The email string attached to the exemption document showed that the exemption certificate was pre-dated. Mr Simi did not ask his employer for the exemption certificate until after he was issued an infringement notice. His employer provided the exemption on 21 September 2021 pre- dated to 7 September 2021, the day before Mr Simi was stopped by police.

[13] On 5 December 2023 Police filed an updated objection with supporting statements or letters from Constable Tawhai, Secure Collections & Investigations Limited, Rosalie McFarlane and Sergeant Vicki Parker.

[14] On 14 December the PSPLA sent the further information received from police to Mr Simi together with a notice of hearing for 9am on Wednesday 10 January 2024. The notice of hearing directed Mr Simi to arrange for four of his character witnesses to attend the hearing to be questioned on their support letters. He was advised if they did not attend their evidence was unlikely to be accepted.

[15] Senior Constable Leahy, Constable Tawhai and Sergeant Parker attended the 10 January hearing. They gave evidence and were questioned by the Authority. Neither Mr Simi nor any of his witnesses attended the hearing.

[16] At 2:18pm on 10 January Mr Simi emailed apologising for not attending. He said that he had missed it and asked for the hearing to be rescheduled. I refused to reschedule the hearing as Mr Simi had not asked for an adjournment in advance and had not arranged for his witnesses to attend as requested. Mr Simi was sent a summary of the additional oral evidence given at the hearing and advised that he could file a written response to the additional police evidence by 15 January 2024.

[17] That timeframe was later extended until 9am on 18 January 2024 after Mr Simi advised he wanted to see his lawyer who was not reopening until 15 January 2024. Despite being sent a reminder to do so Mr Simi has not filed any further submissions or evidence.

The 2 May 23 Event at Glendene Primary School

[18] Early in the morning of 2 May 2023 police were called to Glendene Primary School by the school's security guard who advised that a person alleged to be at the school to watch film crew trucks was being difficult and refused to identify himself.

[19] When police arrived the security guard told police who he was but incorrectly stated that he did not need to give information to other security guards and that he had called his boss who was on his way to the school. A short time later his boss arrived.

[20] The boss refused to provide his name or company name to police and refused to talk to them. The police identified the boss was Mr Simi from his vehicle registration number. I accept Constable Tawhai's evidence that Mr Simi was uncooperative, obstructive, and demonstrated an anti-police attitude throughout this encounter.

[21] By refusing to produce his security ID or COA and by refusing to provide the name of the company he was working for Mr Simi contravened s 66 of the Act.

8 September 2021 event

[22] At 3:10am on 8 September 2021 Mr Simi was stopped by police to ascertain the legitimacy of his travel. Mr Simi refused to provide his details, licence, COA, essential travel documentation or any other information requested by police. Mr Simi said he was a security guard and therefore an essential worker. He insisted that he did not have to provide his licence and he had not broken the law.

[23] I accept Sergeant Parker's evidence that Mr Simi was uncooperative and obstructive and refused to answer the questions or provide the information he was lawfully required to provide. I also accept Sergeant Parker's evidence that Mr Simi was the rudest and least co-operative person she had dealt with while traffic policing.

[24] Sergeant Parker has been a police officer for 20 years and had been assigned to traffic policing for five years. She explained that it was only because of Mr Simi's continued lack of cooperation and refusal to answer questions that he was issued with an infringement notice. If he had cooperated, he would only have been given a warning. She also advised that a stop which usually takes around 5 minutes took 15 minutes because of Mr Simi's behaviour and obstruction.

[25] In his brief response prior to hearing Mr Simi stated: "I had an official Pass for the time of the lockdown because I was doing security patrol at the time". He also stated at the hearing that he had an official pass at the time he was stopped but accepted he did not produce it. Mr Simi's evidence was at best misleading. Mr Simi did not have a pass at the time as he did not ask his employer for one until 20 September 2021. He received the exemption on 21 September 2021, but it was predated to 7 September 2021.

[26] Mr Simi not only refused to provide the information he was required to under s 23 of the Covid-19 Public Health Response Act but if he was working in security, he contravened ss 66 and 67 of the Act by failing to wear his security ID in a visible place and failing to provide his COA and other details on request. A reasonable person would consider Mr Simi's rudeness and obstructive attitude towards police while working as a security guard to be disgraceful, wilful, or reckless. His behaviour therefore amounts to misconduct as defined in s 4 of the Act.

Issues with the Seventh Day Adventist Church and the Trespass notice

[27] Mr Simi was a member of the Seventh Day Adventist Church. The church allows people who have been convicted of sexual crimes against children to attend church events provided they sign and abide by a fellowship agreement. These agreements, among other things, set limitations for contact with children at church events.

[28] In 1998 Mr Simi was sentenced to 8 years imprisonment after being convicted of serious sexual offending against children. The church accepted Mr Simi back into the congregation in 2006 after he entered into a fellowship agreement. There were breaches of the agreement in 2012 and further complaints about Mr Simi's behaviour in 2013 and 2014.

[29] These resulted in Mr Simi being excluded from the local church in 2015 until he signed a new fellowship agreement. Although he refused to sign a new fellowship agreement Mr Simi started to attend a church group. He was issued with a further exclusion notice which he again breached.

[30] In February 2023 Mr Simi attended two Adventist children's events without the required permission. When he was approached at one of these events and advised he should not be there, Mr Simi responded aggressively and challenged the ability of the church to do anything. After seeking legal advice, the Adventist church served Mr Simi with a trespass order.

[31] At the first hearing Mr Simi denied he has ever been served with a trespass order by the church. However, I am satisfied that Jordan Quintal served Mr Simi with the trespass notice on 21 April 2023 at his residence in Massey by placing it at his feet after he refused to accept it. Mr Simi then kicked the documents out of the door and advised Mr Quintal he was trespassing.

[32] Mr Simi's interactions with the Adventist Church are relevant to the police opposition for several reasons. Firstly, his attitude to the church's leadership and his interactions with a fellow licenced security worker attempting to serve documents were obstructive and disrespectful. This supports the other evidence about Mr Simi's antagonism towards authority and his obstructive attitude to other security personnel and police.

[33] His actions also show a disregard for reasonable measures put in place following his criminal convictions to protect both himself and young people with whom he comes into contact. In addition, he gave misleading evidence to the Authority about ongoing contact with the church and lied about not being served with a trespass notice.

Is Mr Simi suitable to be a responsible security employee?

[34] Mr Simi has demonstrated an unwillingness to cooperate with police and others in authority. In doing so he has contravened the requirements of the Private Security Personnel and Private Investigators Act and other legal obligations. Security workers are frequently required to work cooperatively with police and police need to be able to rely on them to comply with their reasonable demands and requests.

[35] During the incidents at Glendene Primary School and when stopped by police during the Auckland Level 4 lockdown Mr Simi contravened s 66 of the Act by refusing to provide the information requested. In relation to the Glendene incident Mr Simi not only set a very poor example for his employee but had given him wrong advice about the requirements to provide information when asked by others.

[36] Mr Simi has also contravened the Act in his role as director of A & M Protection Services Limited. Despite having held a company licence for over six years A & M Protection Services has never filed an annual return. Failure to do so is an offence under the Act and can result in the automatic suspension of the company licence.

[37] Contravening the Act amounts to misconduct as defined in s 4 of the Act. In addition, I consider a reasonable person would consider Mr Simi's conduct, in relation to the 3 May 23 and 8 September 21 incidents to be disgraceful, wilful, or reckless and this also amounts to misconduct. Misconduct is a discretionary ground for the cancellation of a COA.

[38] If Mr Simi had advised these were isolated incidents, accepted he had acted inappropriately, and had learnt from his mistakes I may have been prepared to accept that he was still suitable to be a responsible security worker. However, he has continued to say he has done nothing wrong, lied about what has happened and insisted it was the police or other security worker that had acted inappropriately.

[39] I therefore conclude that if Mr Simi's COA were to be renewed, he is likely to continue to contravene the Act in similar ways to what he has in the past. I also consider that it is more likely than not that he will again fail to cooperate with the lawful and reasonable demands of police while working in a security role. Such conduct has the potential to put himself, his fellow workers, police, and members of the public at risk.

[40] In reaching this conclusion I acknowledge that Mr Simi filed several references which paint a different picture of Mr Simi to that presented at both hearings. Mr Simi was asked to arrange for four of the letter writers to attend the second hearing as police questioned the reliability of the information provided. Mr Simi did not arrange for any of his referees to attend the second hearing. Bernie Martin who wrote one of the references however attended the first hearing and I have therefore accepted his letter into evidence.

[41] After considering the grounds on which Mr Simi is disqualified together with the other evidence relating to his character, circumstances, and background, I am not satisfied that Mr Simi is suitable to be a responsible employee in the classes for which he has applied. Mr Simi's application to renew his certificate of approval is accordingly declined.

DATED at Wellington this 26th day of January 2024


P A McConnell
Private Security Personnel Licensing Authority

