

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF INSURANCE,)
)
) Petitioner,)
)
) vs.) No. 06-1010 DI
)
) OZELL SCOTT,)
)
) Respondent.)

DECISION

Ozell Scott is subject to discipline because he pled guilty to two felonies.

Procedure

On July 10, 2006, the Director of Insurance (“the Director”) filed a complaint seeking to discipline Scott. A copy of the complaint and our notice of complaint/notice of hearing were served on Scott, and the certified mail receipt was received by this Commission on July 17, 2006. On October 23, 2006, we convened a hearing. Jeremy J. Ray, with the Department of Insurance, represented the Director. Scott appeared and requested a continuance of the hearing. We granted the continuance and held the hearing on December 13, 2006. Ray again represented the Director. Neither Scott nor anyone representing him appeared. The Director filed a supplement to his Exhibit B on January 30, 2007, which is admitted into evidence. The matter became ready for our decision on February 1, 2007, the date the transcript was filed.

Findings of Fact

1. Scott is licensed as a bail bond agent. His license was issued on August 28, 2001, and will expire on August 28, 2007.
2. On March 22, 2006, in the Circuit Court of St. Louis County, Scott entered an Alford plea¹ to resisting arrest, a Class D felony (“Count II”) and pled guilty to unlawful use of a weapon, a Class D felony (“Count III”). On Count II, the court found Scott guilty and suspended the imposition of sentence. On Count III, the court found Scott guilty and sentenced him to three years in prison, but suspended the execution of sentence. On each count, the court placed him on probation for three years.

Conclusions of Law

We have jurisdiction to hear the Director’s complaint.² The Director has the burden of proving that Scott has committed an act for which the law allows discipline.³ The Director cites § 374.755.1(2), which authorizes discipline for:

[f]inal adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to the issuance of license date[.]

The Director offered certified court records from the Circuit Court of St. Louis County showing that Scott pled guilty to resisting arrest, a Class D felony under § 575.150:

1. A person commits the crime of resisting or interfering with arrest, detention, or stop if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the

¹For licensing purposes, an Alford plea is considered a guilty plea. *Watkins v. State Bd. of Reg’n for the Healing Arts*, 651 S.W.2d 582, 583 (Mo. App., W.D. 1983).

²Section 621.045. Statutory references are to the 2006 Supplement to the Revised Statutes of Missouri.

³*Missouri Real Estate Comm’n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer;

* * *

5. Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest, detention or stop by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony[.]

The court records also show that Scott pled guilty to unlawful use of a weapon, a Class D felony under § 571.030:

1. A person commits the crime of unlawful use of weapons if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use[.]

* * *

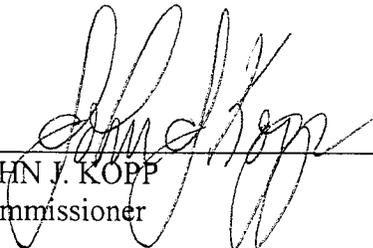
7. Unlawful use of weapons is a class D felony[].

One year ago, Scott pled guilty to two felonies. He is subject to discipline under § 374.755.1(2).

Summary

Scott is subject to discipline under § 374.755.1(2).

SO ORDERED on March 22, 2007.



JOHN J. KOPP
Commissioner