



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:

Morgan Anthney Winn
Applicant.

Case No. 12-1203618C

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On February 5, 2013, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue the insurance producer license of Morgan Anthney Winn. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Morgan Anthney Winn ("Winn") is an individual residing in Missouri.
2. On or about October 12, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Winn's electronic Resident Individual Producer License Application ("Application").
3. In his Application, Winn listed his residential, business, and mailing addresses as 5528 South 140th Road, Morrisville, Missouri 65710.
4. In the section of each of the Applications headed "Background Questions," Background Question No. 1 asks: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"
5. Winn answered "Yes" to Background Question No. 1.
6. Winn provided documentation relating to the crime, judgment, or conviction referred to by his answer to Background Question No. 1 along with a letter dated October 22, 2012, explaining the facts and circumstances that led to his convictions and requesting the approval of his license application.
7. A Charge Sheet, filed on March 4, 2010, with the Department of the Air Force, Headquarters Eighteenth Air Force (AMC), Scott Air Force Base, Illinois, against Winn charged him with two counts of violating the Uniform Code of Military Justice ("UCMJ"), Article 134, and one count of transferring obscene material to a minor, in violation of 18 USC § 1470. *U.S. v. SrA Morgan A. Winn*, Case No. General Court Marshal Order ("GCMO") No. 6, 18 AF, Scott

AFB IL, 10 November 2010. The Charge Sheet charged, in pertinent part, as follows:

Specification 1: In that SENIOR AIRMAN MORGAN ANTHNEY WINN, ... did, within the continental United States, between on or about 1 July 2007 and on or about 30 September 2007, wrongfully commit an indecent act ... by electronically sending ... digital photos of his genitals, which she did, in fact, receive and view.

Specification 2: In that SENIOR AIRMAN MORGAN ANTHNEY WINN, ... did, within the continental United States, between on or about 1 July 2007 and on or about 30 September 2007, through an electronic communication to the electronic mail account of ..., willfully and wrongfully expose in an indecent manner to public view his genitals.

Specification 3: In that SENIOR AIRMAN MORGAN ANTHNEY WINN, ... did, within the continental United States, between on or about 1 July 2007 and on or about 30 September 2007, use means of interstate commerce to knowingly transfer obscene material to a person known ... to have not yet attained the age of 16 years, to wit: by sending via electronic means over the internet digital photos of his genitals to ... a girl under sixteen years of age, in violation of 18 U.S.C. § 1470.

8. Title 18 U.S.C. § 1470, states as follows:

Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.

9. Title 18 U.S.C. § 3559, state, in pertinent part, as follows:

(a) Classification. – An offense that is not specifically classified by a letter grade in the section defining it, is classified if the maximum term of imprisonment authorized is –

* * *

(3) less than twenty-five years but ten or more years, as a Class C felony;

(4) less than ten years but five or more years, as a Class D felony[.]

10. After a trial, the court found Winn guilty on all counts on August 4, 2010 and sentenced him to "bad conduct discharge, confinement for 12 months, total forfeitures, and reduction to the grade of E-1." *U.S. v. SrA Morgan A. Winn*, Case No. GCMO No. 6, 18 AF, Scott AFB IL, 10 November 2010.

CONCLUSIONS OF LAW

11. Section 375.141 provides, in part:

1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

* * *

(6) Having been convicted of a felony or crime involving moral turpitude[.]

12. A crime involving "moral turpitude" is a crime involving "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything 'done contrary to justice, honesty, modesty, and good morals'." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985).

13. The court in *Brehe v. Mo. Dept. of Elementary & Secondary Education*, which involved an attempt to discipline a teacher's certificate under § 168.071, RSMo, for committing a crime involving moral turpitude, referred to three categories of crimes, drawn from 21 Am.Jur.2d. Criminal Law § 22 (1998):

- (1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);
- (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude" ("category 2" crimes); and
- (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily ("category 3" crimes).

See Brehe v. Mo. Dept. of Elementary & Secondary Education, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007).

14. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude. They require only a showing of a conviction or guilty plea. *Id.*

15. The principal purpose of § 375.141 RSMo is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

CAUSE FOR ORDER REFUSING TO ISSUE INDIVIDUAL PRODUCER LICENSE

16. The Director may refuse to issue an insurance producer license to Winn pursuant to § 375.141.1(6) because the crime of wrongfully committing an indecent act, in violation of

UCMJ, Article 134, is a felony.

17. The Director may refuse to issue an insurance producer license to Winn pursuant to § 375.141.1(6) because the crime of willfully and wrongfully exposing in an indecent manner, in violation of UCMJ, Article 134, is a felony.

18. The Director may refuse to issue an insurance producer license to Winn pursuant to § 375.141.1(6) because the crime of transferring obscene material to a minor, in violation of UCMJ, Article 134 and 18 U.S.C § 1470, is a felony.

19. Winn may be refused an insurance producer license pursuant to § 375.141.1(6) RSMo, in that the acts constituting the offenses of wrongfully committing an indecent act and willfully and wrongfully exposing in an indecent manner, in violation of UCMJ, Article 134, respectively, and transferring obscene material to a minor, in violation of UCMJ, Article 134 and 18 U.S.C § 1470, are contrary to justice, honesty and good morals, and the offenses are therefore crimes of moral turpitude.

20. Therefore, in applying his discretion, the Director has considered all of the facts and circumstances surrounding Winn's Application for an insurance producer license and, for all of the reasons given in this Order, exercises his discretion in refusing to issue Winn's insurance producer license.

21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license application of MORGAN ANTHNEY WINN is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 13TH DAY OF FEBRUARY, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:


You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within (30) days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2013, a copy of the foregoing notice and order was served upon Morgan Anthney Winn in this matter by U.S. mail, postage pre-paid and by certified mail at the following address:

Morgan Anthney Winn
5528 South 140th Road
Morrisville, Missouri 65710

Certified Mail # 7009 3410 0001 9255 6150


Kathryn Randolph
Missouri Department of Insurance,
Financial Institutions and Professional Registration
P.O. Box 690
Jefferson City, Missouri 65102
Telephone: (573) 751-2619