

State Exhibit 3: Application for Licensure, 7/27/05
State Exhibit 4: Conviction of Sexual Abuse in the Third Degree, 3/12/93
State Exhibit 5: Conviction of Assault Causing Injury-Domestic Assault, 4/23/93
State Exhibit 6: Conviction of Assault Causing Injury-Assault with a Dangerous Weapon, 5/27/93
State Exhibit 7: Conviction of OWI-first offense, 11/3/99
State Exhibit 8: Conviction of Driving While Suspended, 4/12/00
State Exhibit 9: Conviction of Open Container, 5/5/03
State Exhibit 10: Charge of OWI-second offense; Conviction of Public Intoxication, 4/30/04
State Exhibit 11: Conviction of Contempt of District Court, 4/12/05
State Exhibit 12: Charge of Failure to Have Valid License, 5/25/05
State Exhibit 13: Charge of OWI-second offense; Not Guilty Verdict, 1/10/06
State Exhibit 14: Request for Appeal

Applicant Exhibit A: Resume; Letters of Recommendation (Tyrrell and Krog); Verification of Field Experiences Forms (3); Education Records from Kirkwood Community College; Baptismal Certificate; Certificate-Drug and Alcohol Awareness Program, 7/15/94; Certificate-Narcotics Anonymous, 7/11/94

FINDINGS OF FACT

1. On July 27, 2005, Jason Darin Figg (Applicant) filed an application for a license to practice as an interpreter for the hearing impaired. The Applicant answered "yes" to the question, "have you ever been convicted, found guilty or entered a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$500)?" The application instructions state that if an applicant answers

"yes" to this question, the applicant must attach a signed letter of explanation and provide the details of the incident, including the court or legal documents related to each incident. In an attached unsigned letter, the Applicant disclosed an OWI in 1999 and an arrest for 3rd Degree Abuse in 1992, for which he "served the penalty." The Applicant's signature on the application appears after the following statements:

I certify that I have carefully read the questions on this application and have answered them completely and truthfully. I declare under penalty of perjury that my answers, and all other statements or information submitted by me in this application process, are true and correct. If it is determined at any time that I have provided misleading or false information on or in support of this application, I understand that my application may be denied or that I may be subject to disciplinary action and criminal prosecution if I am already licensed.

(Testimony of Applicant; State Exhibit 3)

2. The Applicant did not submit any court/legal documents with his application. After receiving the application with the "yes" answer, the Board asked the Applicant to provide all court or legal documents relating to his convictions. On October 27, 2005, the Applicant provided the Board with a number of court documents, some of which revealed convictions that the Applicant had not previously disclosed with his application. In addition, the state discovered on-line court records for two additional recent convictions that the Applicant did not disclose in his letter of explanation and for which the Applicant did not provide any court documents.

a. In September 1992, the Applicant was charged in Johnson County District Court with 2nd Degree Sexual Abuse of a twelve-year-old female child and with Dissemination and Exhibition of Obscene Materials. On March 12, 1993, the Applicant was convicted of felony Sexual Abuse in the Third Degree, in violation of Iowa Code section 709.4(2)(b). The Applicant was sentenced to an indeterminate prison term of ten (10) years and was later paroled after serving five (5) years of the prison sentence. This is the "3rd degree abuse" disclosed by the

Applicant in his written attachment to his application.
(State Exhibits 1, 3, 4; Testimony of Applicant)

b. On November 10, 1992, the Applicant was charged with Domestic Abuse Assault/Injury. On April 23, 1993, the Applicant pled guilty to Assault Causing Injury-Domestic Assault, in violation of Iowa Code sections 708.1, 708.2(2), and 236.11, a serious misdemeanor. The Applicant was sentenced to a 15-day jail term, to run concurrently with the sentence he was already serving. The Applicant did not disclose this conviction on his application, but provided the court documents relating to this conviction when asked by the Board. (State Exhibits 1, 3, 5; Testimony of Applicant)

c. On January 2, 1993, the Applicant was charged with Kidnapping in the First Degree and Stalking, based on an incident that occurred on December 23, 1992. On May 27, 1993, the Applicant was convicted of Assault Causing Injury, in violation of Iowa Code section 708.1 and 708.2(2), a serious misdemeanor. The Applicant was sentenced to a sixty-day jail term, to run concurrently with the sentence that he was already serving. The Applicant did not disclose this conviction on his application, but provided the court documents when asked by the Board. (State Exhibits 1, 3, 6; Testimony of Applicant)

d. On November 3, 1999, the Applicant was convicted of first offense Operating While Intoxicated (OWI). The Applicant disclosed this conviction on his application. (State Exhibits 1, 3, 7; Testimony of Applicant)

e. On April 12, 2000, the Applicant was convicted of Driving While Suspended. The Applicant did not disclose this conviction on his application, but provided the court documents when asked by the Board. (State Exhibits 1, 3, 8; Testimony of Applicant)

f. On May 5, 2003, the Applicant was convicted of Open Container. The Applicant did not disclose this conviction on his application, and he did not provide any court documents relating to this conviction when asked to do so

by the Board. (State Exhibits 1, 3, 9; Testimony of Applicant)

g. On January 16, 2004, the Applicant was charged with Operating While Intoxicated (OWI)-2nd Offense. On April 30, 2004, the Applicant entered a guilty plea to Public Intoxication and was required to complete the 48 Hour OWI Weekend Program and pay a \$100 fine. The Applicant did not disclose this conviction on his application but provided court documents when requested by the Board. (State Exhibits 1, 3, 10; Testimony of Applicant)

h. On April 12, 2004, the Applicant was convicted of contempt of district court and sentenced to a 3-day jail term. The Applicant did not disclose this conviction on his application and he did not provide any court documents relating to this conviction when asked to do so by the Board. (State Exhibits 1, 3, 11; Testimony of Applicant)

3. The Applicant was incarcerated from March 1993 until February 1998. On July 15, 1994, the Applicant was awarded a certificate for successfully completing a course entitled "Drug and Alcohol Awareness Program." On July 11, 1994, the Applicant was awarded a Certificate of Appreciation for his participation in Narcotics Anonymous. The Applicant reports that he voluntarily participated in a two-year sex offender treatment program while in prison, although he did not submit any verification of sex offender treatment. The Applicant also took numerous Bible correspondence courses while in prison, for which he earned a number of certificates. (Testimony of Applicant; Applicant Exhibit A)

4. While in prison, the Applicant began learning sign language from his cellmate, who is deaf. After his release in 1998, the Applicant worked full-time as a telemarketer and attended classes part-time at Kirkwood Community College. The Applicant attended Kirkwood Community College full-time from 2003-2005. The Applicant needs 12 additional credits to earn his Associate of Arts (AA) degree.

The Applicant completed a practicum in sign language interpreting during his last year at Kirkwood. The Applicant disclosed his sexual abuse conviction to his academic supervisor and requested placement in a practicum that did not involve K-12

students. The Applicant submitted verification forms for his field experiences, which show satisfactory performance. The Applicant also submitted typed letters of recommendation from a Kirkwood Community College adjunct professor and from the Coordinator of the Sign Language Interpreter Training Program. These evaluations and recommendations were given only limited weight because they were not signed. (Testimony of Applicant; Lemuel Good; Applicant Exhibit A)

CONCLUSIONS OF LAW

Effective July 1, 2005, the legislature established the Board of Interpreters For The Hearing Impaired Examiners and authorized the Board, in part, to act on matters concerning licensure and the process of applying for and granting a license to practice interpreting or transliterating for deaf, hard-of-hearing, and hearing individuals in the state of Iowa. Iowa Code sections 154E.1, 154E.2 (2005 Supp.). The legislature further provided that in addition to proficiency in voice-to-sign interpretation and sign-to-voice interpretation, an applicant shall demonstrate professional conduct, including integrity and proficiency in understanding and applying ethical behavior appropriate for a licensee. Iowa Code section 154E.3(3)(c)(2005 Supp.)

Iowa Code section 147.4 (2005) provides that a Board may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended.

Iowa Code section 147.55 provides in relevant part:

147.55 Grounds.

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring a license
- ...
3. ...engaging in unethical conduct...
4. Habitual intoxication...
5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of

conviction or plea of guilty shall be conclusive evidence.

...

See Iowa Code section 272C.10(1),(3),(4), and (5) for identical provisions.

The preponderance of the evidence in this record supports the Board's Preliminary Notice of Intent To Deny License. The application submitted by the Applicant was misleading and fraudulent, in violation of Iowa Code sections 147.55(1) and 272C.10(1), because it failed to disclose several convictions. An applicant's criminal record is material to the licensing decision. The application clearly required the Applicant to disclose all convictions, other than minor traffic violations, **and** to provide a signed letter of explanation and court or legal documents relating to each conviction. The Applicant had eight separate convictions. His attached letter of explanation disclosed only two convictions, a 1999 OWI and a "3rd degree abuse" in 1992. The Applicant did not initially provide any legal/court documents with his application. When specifically asked to supplement his application by providing all legal/court documents, the Applicant's submission revealed four additional convictions, including two serious misdemeanor assaults. However, the Applicant never disclosed his 2003 conviction for open container or his 2005 conviction for contempt of court.

The Applicant provided an unsatisfactory explanation for his incomplete disclosures on his application. The Applicant claims that in filling out the application, he focused on his most serious conviction, the sexual abuse, and just "lumped" the three convictions in 1993 together since they occurred in the same general time period. However, the court documents reveal that these were three entirely separate offenses involving physical assaults, all of which raise serious public safety concerns and also raise legitimate concerns about the Applicant's integrity, character and judgment. The application clearly required separate and complete disclosure of all three convictions from 1993.

In addition, while the Applicant disclosed one 1999 OWI conviction, he did not initially disclose his second arrest for OWI in 2004 and his subsequent conviction for public intoxication, nor did he ever reveal his 2003 conviction for

open container. The Applicant's pattern of alcohol-related convictions raises significant concern that he suffers from habitual intoxication, which is grounds to deny the license under Iowa Code sections 147.55(4) and 272C.10(4)(2005). While the Applicant denies that his ongoing use of alcohol is problematic, his record of alcohol-related convictions indicates an alcohol problem. Moreover, it is apparent that he has not taken personal responsibility for his actions but lays blame on law enforcement for his OWI arrests. While the Applicant submitted documentation of his participation in alcohol and drug programs while in prison, all of his alcohol related convictions occurred after his release from prison. The Applicant completed a 48 Hour OWI Weekend Program in August 2005 but has not provided any other documentation or verification that he does not have an active alcohol addiction or that he has been involved in a chemical dependency treatment program.

The Applicant has been convicted of a felony that affects his ability to practice within the profession, in violation of Iowa Code sections 147.55(5) and 272C.10(5). A felony conviction for Sexual Abuse in the Third Degree raises serious questions about an applicant's judgment, character, decision-making, and ability to provide interpreter services in a safe and ethical manner. Allowing licensure of a person with this type of felony could have a negative impact on the public's trust of licensed interpreters for the hearing impaired. While the Applicant maintains that he has successfully completed a sex offender treatment program, he was unable to provide any documentation of treatment. Moreover, there is no guarantee that the Applicant would not encounter minors or other vulnerable individuals while working as a licensed interpreter.

The Applicant's eight criminal convictions in a period of thirteen years show a pattern of disrespect for the law. While the Applicant attempted to explain this record to the Board, he never expressed remorse and never acknowledged that he had hurt anyone by his illegal actions. The Applicant emphasized his spiritual conversion and his baptism in September 2003, but he has had two additional convictions since that time, including a conviction for contempt of court. The Applicant has not taken personal responsibility for his own actions and continues to blame others for the consequences of his own behavior. The record amply supports the Board's initial decision to deny the application.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for a license to practice as an interpreter for the hearing impaired, filed by Jason Darin Figg, is hereby DENIED.

This findings of fact, conclusions of law, decision and order is approved by the board on March 28, 2006.

Any appeal to the district court from disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court. 645 IAC 11.25(1). The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court. 645 IAC 11.23.