

The South Carolina Court of Appeals

Russell C. Dean, Respondent,

v.

South Carolina Law Enforcement Division, Appellant.

Appellate Case No. 2011-192806

ORDER

This matter comes before the Court on Appellant's Motion to Withdraw Appeal. The parties have agreed to settle the pending appeal on the terms set forth below.

The appeal arises from an Order of the Honorable Shirley Robinson, Administrative Law Judge (ALJ), filed March 31, 2011, in which the ALJ reversed Appellant's denial of Respondent's 2009 renewal application for a Private Investigation Business License (PIBL), and ordered Appellant to approve Respondent's application. Specifically, the ALJ concluded the applicable statute gave Appellant discretion to deny a PIBL renewal application, but Appellant failed to exercise any discretion in denying Respondent's application. On appeal, Appellant contends the ALJ erred in finding it exercised no discretion in connection with Respondent's application.

The parties hereby agree that the ALJ's March 31, 2011, Order shall be vacated only to the extent it concludes Appellant failed to exercise any discretion in connection with Respondent's 2009 PIBL renewal application, specifically the last sentence of Paragraph 4 of the Conclusions of Law, page 4 of the Order. The parties further agree Respondent's consent to vacate that portion of the March 31, 2011, Order shall not constitute a concession that Appellant in fact exercised discretion, or that it appropriately exercised its discretion, in connection with Respondent's 2009 application. Further, Respondent's consent in this matter shall not be considered or construed to his detriment, in connection with any future PIBL renewal applications he may file with Appellant.

Based on the parties' agreement as set forth above, and their consent hereto, it is ordered that the ALJ March 31, 2011, Order is hereby vacated only to the extent it concludes Appellant failed to exercise any discretion in connection with Respondent's 2009 PIBL renewal application. It is further ordered that the pending appeal is hereby withdrawn.

Paul E. Thomas

_____, J.
FOR THE COURT

Columbia, South Carolina

cc:

Deborah R. J. Shupe

Elnora J. Dean

FILED

Dec. 20, 2012