

I.

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo.

2. On or about July 2, 2014, Johnson applied for a Missouri cosmetology student license to enroll at Eclips School of Cosmetology, 100 Outlet Drive, Sikeston, Missouri.

3. On his application Johnson answered “yes” to the question “In the last ten (10) years have you been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, whether or not sentence was imposed?”

4. With his July 2, 2014 application, Johnson provided an explanation of his criminal history. In his explanation, Johnson stated that he has “[multiple] convictions, all of which [he] pled guilty to.” He indicated that his criminal history is “part of [his] past” and that he would like an opportunity to “correct” his past by being allowed to attend cosmetology school. He characterized the “child endangerment conviction as being the “most shameful” of his convictions. He described the incident as one where he was driving with his son and without a driver’s license; and he was stopped by the police. He stated that he got out of the car with his son, but “put [his son] down, so [he] could get away.” He stated that he “was charged with child endangerment” because the police alleged that the “ground was [too] hot” and because he allegedly “kicked” his son as he was running away. In his written statement Johnson denied both allegations, but noted that he “took the charges with a plea deal.” He stated that he pled guilty to

the April 25, 2001 charge of possession of up to 35 grams of marijuana. He acknowledged that he “got pulled over and had the drug on [him].” He noted that he pled guilty to the possession of a controlled substance charge on October 31, 2001. He stated he “got caught with it” and received “a six year sentence.” He stated that on June 26, 2003, he pled guilty to a charge of possession with intent to distribute. He acknowledged that he “got caught with two pounds of marijuana in [his] yard [while] on house arrest, and received six years.” He stated that on July 13, 2006, he pled guilty to a possession with intent to distribute charge. He noted that he “got caught” and “received seven years.” He stated that he pled guilty to a charge of possession with the intent to distribute on March 18, 2010. He noted that he was found in possession of “cocaine, ecstasy, and marijuana,” and “received eleven years” on his conviction.

5. A review of Johnson’s Missouri criminal history reveals:
 - a. On or about April 25, 2001, Johnson pled guilty to the class A misdemeanor of *Possession Of Up To 35 Grams Marijuana*, in the Circuit Court of Ste. Genevieve County, Missouri, case number 01CR611802. The Court sentenced Johnson to a fine of \$240.50.
 - b. On or about October 31, 2001, Johnson pled guilty to the class C felony of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana*, in the Circuit Court of Scott County, Missouri, case number 33R050101078-01. The Court sentenced Johnson to six years’ incarceration within the Department of Corrections, released after one hundred thirty five days shock incarceration, and placed under five years supervised probation. The Court revoked Johnson’s probation on April 30, 2003.

- c. On or about December 12, 2001, Johnson pled guilty to the class C felony of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana*, in the Circuit Court of Scott County, Missouri, case number 33R050100662-01. The Court sentenced Johnson to six years' incarceration within the Department of Corrections, released after five hundred seventy-nine days of shock incarceration, and placed on five years' supervised probation. The Court revoked Johnson's probation on April 30, 2003.
- d. On or about December 29, 2001, Johnson pled guilty to the class D felony of *Endangering Welfare Of Child, 1st Degree*, in the Circuit Court of Scott County, Missouri, case number 33R05000114801. The Court sentenced Johnson to four years' incarceration, released after one hundred ten days of shock incarceration, and placed under five years' supervised probation. The Court revoked Johnson's probation on April 30, 2003.
- e. On or about June 26, 2003, Johnson pled guilty to the class B felony of *Dist/Del/Manf/Produce Or Attempt To Or Possess W/Intent To Dist/Del/Manf/Produce A Controlled Substance*, in the Circuit Court of Scott County, Missouri, case number 03CR744071-01. The Court sentenced Johnson to six years' incarceration within the Department of Corrections, sentence to run concurrently to cases 33R05000148-01, 33R050100662-01 and 33R050101078-01.
- f. On or about July 13, 2006, Johnson pled guilty to the class B felony of *Dist/Del/Manf/Produce Or Attempt To Or Possess W/Intent To Dist/Del/Manf/Produce A Controlled Substance*, in the Circuit Court of Scott County,

Missouri, case number 05G4-CR02206-01. The Court sentenced Johnson to seven years' incarceration within the Department of Corrections to run concurrent with existing parole case.

- g. On or about March 18, 2010, Johnson pled guilty to the class B felony of *Dist/Del/Manf/Produce Or Attempt To Or Possess W/Intent To Dist/Del/Manf/Produce A Controlled Substance*, in the Circuit Court of Mississippi County, Missouri, case number 09S0-CR01319-02. The Court sentenced Johnson to eleven years' incarceration within the Department of Corrections to run concurrent with existing parole case. Johnson was given credit for jail time served in this case.

II.

CONCLUSIONS OF LAW

6. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo, which provides:

The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

7. The Board has cause to deny or refuse Johnson's application for a cosmetology student license pursuant to § 329.140.2, RSMo, which provides:

The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

8. As a result of Johnson's pleas of guilty as detailed in paragraphs 5a through 5g above, the Board has cause to deny or refuse Johnson's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

9. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

10. The Board issues this Order in lieu of denial of Johnson's application for a cosmetology student license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

11. Based on the foregoing, Antonio Johnson is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which he is enrolled in barber school and receiving training hours, not to exceed five (5) years from the effective date of this Order. During the aforementioned probation, Antonio Johnson shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

12. During the aforementioned probation, Antonio Johnson, shall be entitled to enroll as a cosmetology student subject to the following terms and conditions:

- A. During the disciplinary period, Applicant shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.
- B. During the disciplinary period, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers. Applicant shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Applicant shall timely renew Applicant's student license granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.
- D. During the probationary period, Applicant shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- E. During the disciplinary period, Applicant shall appear in person for interviews with the Board or its designee upon request.
- F. Applicant shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before January 1, 2015.
- G. If, at any time during the probationary period, Applicant changes Applicant's address from the state of Missouri, or ceases to maintain Applicant's student license current or active under the provisions of Chapter 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- H. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any

required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.

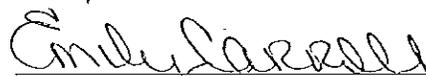
- I. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.
- J. Any failure by Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

13. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Applicant of the terms and conditions of this Order, Chapter 329, RSMo, or the regulations promulgated thereunder.

14. The Board will maintain this Order as an open, public record of the Board as provided in Chapters 329, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 1st DAY OF October 2014.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily Carroll, Executive Director