

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX, BLDG 68-69
1511 PONTIAC AVENUE
CRANSTON, RI 02920

IN THE MATTER OF:	:	
	:	
Maurice Byarm,	:	DBR No.: 19GA003
	:	
Respondent.	:	
	:	

DECISION

I. INTRODUCTION

The above-entitled matter came for a hearing on April 26, 2019 pursuant to an Order to Show Cause Why Order Should not Issue Denying License, Notice of Hearing and Appointment of Hearing Officer (“Order”) issued on January 4, 2019 to Maurice Byarm (“Respondent”) by the Department of Business Regulation (“Department”). The Respondent did not appear at hearing. Pursuant to § 2.9 of the 230-RICR-100-00-2 *Rules of Procedure for Administrative Hearing* (“Rules”), service may be made by hand-delivery or first-class mail and service is complete upon mailing when sent to the last known address of the party. The Order was sent to the Respondent’s last known address by first class and certified mail.¹ Since the Respondent was adequately noticed of hearing, a hearing was held on April 26, 2019. Additionally, § 2.21 of the Rules provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record.

¹ Department’s Exhibit 18. The Order was sent by first class and certified mail and was in transit for the latter. Notice was given by email to Respondent and his manager. The first class mail was not returned to the Department.

II. JURISDICTION

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 41-5-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Rules.

III. ISSUE

Whether the Department's determination that Respondent should not be licensed to box pursuant to R.I. Gen. Laws § 41-5-1 *et seq.* should be upheld or overturned.

IV. MATERIAL FACTS AND TESTIMONY

Peter Timothy ("Timothy"), Pari-Mutuel Operations Specialist, testified on behalf of the Department. He testified that he regulates boxing and mixed martial arts including arranging and approving bouts. He testified that he received a bout sheet for a prospective boxing match scheduled for November 21, 2018 that included the Respondent's name as a boxer. He testified that he will receive fight facts for each individual listed for a fight and will compare the fights facts for the scheduled opponents to ensure a fair fight. He testified that he received a fight fact sheet for Respondent that indicated that he failed an eye examination in Pennsylvania on October 19, 2017 and was indefinitely suspended by Pennsylvania. Department's Exhibit Two (2). He testified that Respondent's last fight was February 19, 2018 in Kansas but prior to that his last fight had been six (6) years prior. He testified that he spoke with the Pennsylvania Boxing Commissioner about the Respondent who informed him that he had looked into the Respondent's eye condition and spoke to other states regarding their position on allowing the Respondent to box and the Pennsylvania Boxing Commissioner forwarded those documents to him. He testified that Pennsylvania's eye examination for Respondent in 2017 found that he had Keratoconus and should avoid trauma to the eye and also his visual acuity was too low to box as well. Department's Exhibit Four (4). He also testified that Maryland's eye examination of the

Respondent found he should wear protective eye gear if he was to box except that wearing protective eye gear is not allowed under the American Boxing Commission (“ABC”) rules followed by Rhode Island. Department’s Exhibit Five (5). He testified that Pennsylvania also consulted with New Jersey, Nevada, New York, and Connecticut all of which indicated that they would not allow the Respondent to box. See Department’s Exhibits Six (6), Seven (7), Eight (8), and Nine (9). He testified that California said it would allow him to fight. Department’s Exhibit 10. He testified that Department’s Exhibits Four (4) through 10 were forwarded to him by Pennsylvania. He testified that the Rhode Island doctor reviewed the various medical reports for the Respondent but never saw the Respondent and concluded that he could box. Department’s Exhibit Three (3). He testified that one of the Nevada ringside doctors told Pennsylvania that the Respondent should not be cleared to fight. Department’s Exhibit 12. He testified that Kansas allowed the Respondent to fight based on a doctor’s clearance indicating that the Respondent was cleared to fight as long as he accepted the risk associated with possible eye trauma. Department’s Exhibit 13.

Timothy testified that after a review of the information gathered, the Department determined that it would not license the Respondent and so notified the Respondent who requested a hearing. Department’s Exhibits 14 and 15. He testified that one of the injuries associated with the Respondent’s eye issue is globe rupture which is included in the ABC Ringside Handbook regarding ophthalmologic injuries in combat sports. See Department’s Exhibit 17. See also Department’s Exhibit 16 (Association of Ringside Physicians Ocular Practice Guidelines for Participation in Combative Sports). He testified that it was determined that the Respondent would be at great risk to permanent eye injury if he fought so that his license was denied.

V. RELEVANT STATUTES

R.I. Gen. Laws § 41-5-7.1(c) states as follows

(c) Every application for a license under § 41-5-7 by a person seeking to be licensed as a boxer shall be accompanied by the report of a physician duly licensed by the division. The report shall certify whether the applicant is fit to perform as a boxer and shall be based on a recently conducted complete examination of the applicant. The report shall contain a complete medical history of the applicant and the results of such tests conducted by or on behalf of the examining physician as the medical history of the applicant warrants or as are material to the physician's certification.

Section 1.5(B)(2) of the Boxing Regulation, 230-RICR-30-30-1, provides in part as follows:

B. Licenses-Competitors

1. No Person shall be a Competitor in a Boxing Event unless licensed by the Department at least twenty-four (24) hours prior to the starting time for the first Match or Exhibition (the "Competitor License"). The Competitor Application shall be complete in all respects and shall be in compliance with and include all the information required by R.I. Gen. Laws § 41-5-7.1 *et seq.*

2. Upon receipt of a Competitor Application, the Division shall review it pursuant to the same procedures outlined in § 1.4(A)(2) of this Part. As part of the review conducted pursuant to § 1.4(A)(2) of this Part, and in addition to the prohibitions contained in the Federal Act, no license shall be granted to a Professional Boxer who:

b. Fails, in the sole discretion of the Department to receive a satisfactory physician's certification.

VI. DISCUSSION

It was undisputed that the Respondent suffers from Keratoconus. It was undisputed that he did not provide a recent and timely physician's certificate regarding his fitness to perform that addressed his visual acuity and Keratoconus.

The Department requested that the undersigned make findings of facts on the basis of the Order, the exhibits, and the testimony and enter a default judgment against Respondent upholding the Department's prospective denial of Respondent's license.

Based on the foregoing, the undersigned makes the following findings of fact:

1. Pursuant to Section 2.21 of the Rules, the Respondent is declared to be in default for failing to appear at the hearing.

2. Pursuant to Section 2.21 of the Rules, the allegations in the Order are found to be true.

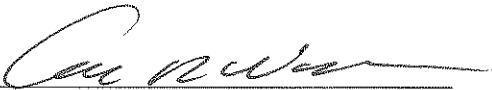
Based on the foregoing, the undersigned makes the following conclusions of law:

1. The Department's prospective denial of a license for the Respondent to box pursuant to R.I. Gen. Laws § 41-5-1 *et seq.* should be upheld.

On the basis of the foregoing, the undersigned makes the following recommendation:

1. The Department's prospective denial of a license for the Respondent to box pursuant to R.I. Gen. Laws § 41-5-1 *et seq.* should be upheld.

Dated: May 9, 2019



Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT
 REJECT
 MODIFY

Dated: 5/14/19


Elizabeth M. Fanner, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify that on this 14th day of May, 2019, that a copy of the within decision was sent by first class mail, postage prepaid and electronic delivery to Mr. Maurice Byarm, 4927 Bridgemont Lane, Spring, TX 77388 and by electronic delivery to Sara Tindall-Woodman, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue. Cranston, R.I.

