

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of

KIRK K. SMITH
License No. 5586

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FINAL ORDER

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the "Board") on February 19, 2013, pursuant to an Application to Reinstate a Pharmacist License submitted by Kirk K. Smith ("Smith"), and was heard by Board Members Gene Minton; Dr. J. Parker Chesson, Jr.; Carol Yates Day; E. Lazelle Marks; Robert McLaughlin, Jr., and William A. Mixon at the offices of the North Carolina Board of Pharmacy. D.J. O'Brien III represented the Board staff. Although Smith was provided with timely and sufficient notice of the hearing, he did not attend.

The Board received evidence offered without objection by the Board staff, which included Smith's Application to Reinstate a Pharmacist License with attached letters of explanation from Smith, and records from a criminal action against Smith in the United States District Court for the North District of Georgia, case number 88-44-03A (the "Felony Action"). Considering the evidence, the Board hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Between October 20, 1970, and March 1, 1972, Smith held license number 5586, issued by the Board. Smith did not renew his license for 1972, and his license has since been inactive.

3. On November 16, 1988, Smith was convicted following a jury trial in the Felony Action of conspiracy to violate the laws of the United States by failing to file currency transaction reports and conducting financial transactions with property which represents the proceeds of illegal drug transactions in violation of 18 U.S.C. § 371.

4. On November 16, 1989, Smith was sentenced in the Felony Action to 36 months imprisonment.

5. Smith's conviction in the Felony Action is a felony conviction in connection with the distribution of drugs.

6. On or about August 23, 2012, Smith submitted an Application to Reinstate a Pharmacist License to the Board.

7. This matter came on for hearing upon a request for a reinstatement hearing made by Smith on October 5, 2012. Smith was sent a timely and sufficient notice of the hearing by letter dated November 20, 2012. Smith received all required notice of this hearing, as evidenced by a U.S. mail return receipt card.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law:

1. The evidence demonstrated that Smith has been found guilty of a felony in connection with the distribution of drugs.

2. Pursuant to N.C. Gen. Stat. § 90-85.38(a)(2), the Board may refuse to renew a license to practice pharmacy if the licensee has been found guilty of a felony in connection with

the distribution of drugs. The Board finds and concludes that Smith has violated N.C. Gen. Stat. § 90-85.38(a)(2).

3. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the result set forth in this Final Order is appropriate.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that Kirk K. Smith's request to reinstate his license is hereby DENIED.

This the 14th day of February 2013.

NORTH CAROLINA BOARD OF PHARMACY

By:



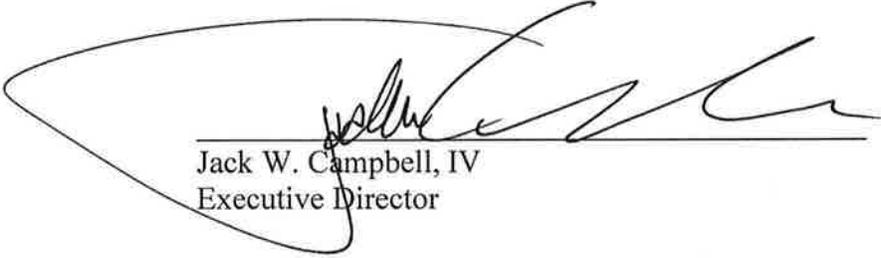
Jack W. Campbell, IV
Executive Director

CERTIFICATE OF SERVICE

I certify that, today, I served the foregoing Final Order on Petitioner by registered mail, return-receipt requested to:

Kirk K. Smith


February 26, 2013



Jack W. Campbell, IV
Executive Director