

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

No. 24A-063-INS

4 Anne Hagler

**CERTIFICATION OF DECISION
OF ADMINISTRATIVE
LAW JUDGE**

5
6
7 Petitioner

8
9 Pursuant to the licensee's timely request, the Office of Administrative Hearings hereby
10 certifies the recommended decision in this matter as the final agency decision pursuant to A.R.S.
11 § 41-1092.08(I).

12 Done this day, October 9, 2024.

13
14 /s/ Tammy L. Eigenheer
15 Assistant Presiding Administrative Law Judge

16
17 Copy mailed/e-mailed/faxed to:

18
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 24A-063-INS

Anne Hagler

ADMINISTRATIVE LAW JUDGE
DECISION

Petitioner

HEARING: September 18, 2024

APPEARANCES: Petitioner Anne Hager appeared on her own behalf. Assistant Attorney General Lynette Evans appeared on behalf of the Arizona Department of Insurance and Financial Institutions.

ADMINISTRATIVE LAW JUDGE: Adam D. Stone

EXHIBITS ADMITTED INTO EVIDENCE: Department Exhibits 1-10 were admitted, and Petitioner's Exhibit A was admitted into evidence.

FINDINGS OF FACT

1. On May 10, 2024, Anne Hagler (Petitioner), submitted an application to the Arizona Department of Insurance (Department) for an Arizona resident insurance producer license through the National Insurance Producer Registry (Application).¹

2. In the Application, under the "Background Questions" section, Petitioner responded "Yes" to Question 1B, which asked:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).²

3. Question 1C also required applicant to attach a written statement summarizing the details of each incident; a copy of the charging document; and a copy of the official document, which demonstrated the resolution of the charges or any final judgment.³ Petitioner complied with this requirement.

¹ See Department's Exhibit 1.

² Id. at Bates 002.

³ See id.

1 4. On or about July 1, 2024, the Department, through Aqueelah Greenwood,
2 Licensing Supervisor, sent a License Denial Letter⁴ to Petitioner. The letter stated, in
3 pertinent part:

4 Pursuant to Arizona Revised Statutes §§ 20-295 A. (6) without
5 limitation, your application for an insurance license is hereby denied.
6 **20-295 A 6. Having been convicted of a felony. . .**⁵

7 5. Petitioner filed an appeal regarding the denial,⁶ and the matter was referred
8 to the Office of Administrative Hearings for an evidentiary hearing.

9 6. The hearing took place on September 18, 2024.

10 7. At hearing, the Department presented the testimony of Wendy Greenwood.

11 8. Ms. Greenwood was the Department's Investigator in this matter. She
12 testified that she reviewed the information provided by Petitioner concerning a Judgment
13 of Conviction entered on April 23, 2015 against Petitioner.⁷

14 9. Ms. Greenwood testified as to the underlying facts surrounding the
15 conviction, namely:

16 a. In August 2008, Petitioner was charged with a co-defendant (Gabriel
17 Wayne Yates) of Conspiracy to Commit Murder, Murder and First
18 Degree Kidnapping, in Clark County Nevada.⁸ The crime involved the
19 strangulation of a 17 year-old girl, the removal of her teeth and tattoos,
20 and the dumping of her body in a shallow grave in the desert.⁹

21 b. In June 2021, Petitioner's case was severed from Mr. Yates' and in
22 February 2015, the State filed an Amended Information charging
23 Petitioner with Voluntary Manslaughter with a use of Deadly Weapon.¹⁰

24 c. On February 27, 2015, Petitioner pleaded guilty to the Amended
25 Information pursuant to *Alford v. North Carolina* 200 U.S. 25 (1970).¹¹

26
27 ⁴ See Department's Exhibit 7.

28 ⁵ *Id.*

29 ⁶ See Department's Exhibit 8.

30 ⁷ See Department's Exhibit 5.

⁸ See Department's Exhibit 2.

⁹ *Id.*

¹⁰ See Department's Exhibit 3.

¹¹ *Id.*

1 d. On April 22, 2015, the court adjudged Petitioner guilty and sentenced
2 her to imprisonment for a total aggregated sentence of 240 months
3 maximum with a minimum of 96 months, with 2,449 days credit for time
4 served.¹²

5 e. On March 14, 2019, Petitioner was paroled from the Nevada Department
6 of Corrections, and on July 22, 2019, Petitioner was honorably
7 discharged from parole.¹³

8 10. Ms. Greenwood testified that in her time as a Department reviewer, the
9 crime committed by Petitioner was the most egregious one she had come across.

10 11. Ms. Greenwood testified that the Department was concerned with the
11 inconsistent information provided by Petitioner, not only at the time of the incident, but in
12 her statements included with the Application.

13 12. In addition, Ms. Greenwood testified that she believed that at some moment
14 of privacy Petitioner should have contacted the police or taken some alternative action in
15 the situation.

16 13. Further, Ms. Greenwood testified that while Petitioner was a licensed
17 cosmetologist in Arizona, she believed that Petitioner obtained the same through
18 reciprocity of her license in Nevada. However, Ms. Greenwood did not investigate into
19 the license any further.

20 14. Finally, Ms. Greenwood testified that Arizona does not have a mechanism
21 for a provisional license to be granted.

22 15. Petitioner testified on her own behalf. She testified that she was not taking
23 away from the seriousness of the crime, but that she was asking for a license to live up
24 to her full potential or at least closer to it. Petitioner also testified that she wished that she
25 had the courage to leave Mr. Yates sooner and that she had the courage to do so.

26 16. In addition, Petitioner testified that while she was imprisoned, she obtained
27 her GED, high school diploma, as well as attended cosmetology school. Petitioner also
28 testified that she attended counseling, and believed that she learned some of the lessons
29 that she needed to learn and was on a path to learning more.

30 ¹² See Department's Exhibit 5.

¹³ See Department's Exhibit 6.

1 17. Petitioner also testified that once she had been released from prison, she
2 had not stopped working even through the COVID-19 pandemic. She testified that she
3 first started working as a maid in a hotel but then was quickly promoted to Night Auditor.
4 From there, she moved to a sister hotel where she became a Front Desk Manager. Next,
5 Petitioner became the General Manager of La Bamba restaurant. Finally, Petitioner
6 started in her role as a Customer Service Representative and Office Manager of Stickler
7 Webb Insurance in the Sun City West office location.

8 18. Petitioner testified that in all positions she had been entrusted with people's
9 sensitive information, like credit cards, driver's licenses and bank account information.
10 She testified that there had not been one incident with her handling the same.

11 19. Finally, Petitioner testified that she enjoyed helping people and wanted to
12 obtain a license to further better herself, and that she did not want to be judged on her
13 past, but rather who she is now.

14 20. Brent Webb testified that he and Mr. Stickler initially met Petitioner while
15 she was working at the hotel. About a year later, Mr. Webb and his wife saw Petitioner
16 while she was working at La Bamba and Petitioner greeted him by name, which
17 impressed not only Mr. Webb, but his wife as well. Mr. Webb then testified that he offered
18 Petitioner a job even after Petitioner disclosed her past.

19 21. Further Mr. Webb testified that Petitioner is the Office Manager for the Sun
20 City West location, and has access to sensitive client information, as well as the Amazon
21 business account. Mr. Webb testified that there has not been one problem while
22 Petitioner has been employed at the office. In fact, Mr. Webb recounted a story where
23 Petitioner was assisting a client off-hours on a Saturday with a car rental issue.

24 22. Finally, Mr. Webb testified that he had no reservations in putting his license
25 on the line for Petitioner.

26 23. Ken Stickler's testimony echoed much of Mr. Webb's, however he testified
27 that he had never advocated for an employee before like he has for Petitioner. Mr. Stickler
28 also testified that he found Petitioner to be trustworthy, honest and of high integrity.

CONCLUSIONS OF LAW

29 1. Petitioner bears the burden of persuasion. See Arizona Revised Statutes
30 (A.R.S.) § 41-1092.07(G)(1).

1 2. The standard of proof on all issues in this matter is that of a preponderance
2 of the evidence. Arizona Administrative Code § R2-19-119.

3 3. A preponderance of the evidence is:

4 The greater weight of the evidence, not necessarily established by the
5 greater number of witnesses testifying to a fact but by evidence that
6 has the most convincing force; superior evidentiary weight that,
7 though not sufficient to free the mind wholly from all reasonable doubt,
8 is still sufficient to incline a fair and impartial mind to one side of the
9 issue rather than the other.

10 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

11 4. A.R.S. § 20-295(A)(6) provides:

12 A. The director may deny, suspend for not more than twelve months,
13 revoke or refuse to renew an insurance producer's license or may
14 impose a civil penalty in accordance with subsection F of this
15 section or any combination of actions for any one or more of the
16 following causes:

17 6. Having been convicted of a felony.

18 5. After reviewing all of the testimony as well as the exhibits in this matter, it is
19 clear that Petitioner acknowledged the mistakes of her past, while working hard to ensure
20 a better future. The tribunal is beyond impressed that Petitioner has been employed
21 continuously since her release from incarceration and has not been involved in any further
22 criminal matters, or employment issues for that matter. Given her roles handling sensitive
23 financial and identifying information for the past five years without incident is most
24 impressive and something the Department should value. In addition, Petitioner took her
25 punishment, and used that time while incarcerated to better herself, and had successfully
26 avoided recidivism, which is all one can hope for in the situation. What it proved, at least
27 in Petitioner's case, was that the justice system worked, but more importantly Petitioner
28 worked hard as well.

29 6. Finally, the tribunal notes that the statute gives the Director of the Department
30 discretion to deny a license. It is not a must. If anything, after hearing Petitioner's testimony
and the testimony of Mr. Webb and Mr. Stickler, the Director in this case should use its
discretion to grant Petitioner a license, as Petitioner, in the tribunal's eyes, has complied

1 with all of the requirements of the justice system, and has done nothing but attempt to better
2 herself and help others upon her release from incarceration.

3 7. Therefore, based upon the above Petitioner demonstrated by a
4 preponderance of the evidence that the Department's decision to deny her application
5 should be overturned, and as such Petitioner's appeal should be granted.

6 **ORDER**

7 **IT IS ORDERED** that Anne Hagler's appeal is granted.

8
9 ***Pursuant to A.R.S. § 41-1092.08(I), the licensee may accept the***
10 ***Administrative Law Judge Decision by advising the Office of Administrative***
11 ***Hearings in writing not more than ten (10) days after receiving the decision. If the***
12 ***licensee accepts the Administrative Law Judge Decision, the decision shall be***
13 ***certified as the final decision by the Office of Administrative Hearings.***

14 ***In the event of certification of the Administrative Law Judge Decision by the***
15 ***Director of the Office of Administrative Hearings, the effective date of the Order will***
16 ***be forty (40) days from the date of that certification.***

17 Done this day, October 4, 2024.

18 /s/ Adam D. Stone
19 Administrative Law Judge

20 Transmitted by either mail, e-mail, or facsimile to:

21 Barbara D. Richardson,
22 Department of Insurance and Financial Institutions - Insurance

23 Anne Hagler
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25 Lynette Evans, Esq.
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27 By: OAH Staff
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