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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

KEITH ANDERSON
Plaintiff

Case No: CV-18-896690

Judge: BRENDAN J SHEEHAN

CERTIFICATE OF QUALIFICATION FOR
EMPLOYMENT
Defendant

JOURNAL ENTRY

96 DISP.OTHER - FINAL

OPINION AND JUDGMENT ENTRY. O.S.J.

COURT COST ASSESSED TO THE PLAINTIFF(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

Judge Signature

Date

CLERK OF COURTS
CUYAHOGA COUNTY

2018 AUG -9 P 5:00

FILED

Throughout his incarceration, Petitioner enrolled in and successfully completed numerous programs aimed at rehabilitation and reintegration. Upon his release from prison, Petitioner attended Vatterot College and completed its program for HVAC training with a 4.0 grade point average and perfect attendance. Petitioner has found it difficult to obtain permanent employment due to his criminal record and states that he is precluded from licensure as a contractor and an instructor pursuant to O.A.C. 4101:16-4-03, 05, 4101:16-3-05, 4101:16-1-12, 14, 3701-34-03 and R.C. 3319.30. Additionally, Petitioner reports that employers seek to avoid any liabilities they may incur in hiring someone with Petitioner's record.

To obtain a CQE, Petitioner must establish by a preponderance of the evidence that granting the petition will materially assist him in obtaining employment or occupational licensing, that he has a substantial need for the relief requested in order to live a law-abiding life and that granting the petition would not pose an unreasonable risk to the safety of the public or any individual. R.C. 2953.25.

If a CQE is granted:

(1) In a judicial or administrative proceeding alleging negligence or other fault, a certificate of qualification for employment issued to an individual under this section may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the certificate of qualification for employment was issued if the person knew of the certificate at the time of the alleged negligence or other fault.

(2) In any proceeding on a claim against an employer for negligent hiring, a certificate of qualification for employment issued to an individual under this section shall provide immunity for the employer as to the claim if the employer knew of the certificate at the time of the alleged negligence.

(3) If an employer hires an individual who has been issued a certificate of qualification for employment under this section, if the individual, after being hired, subsequently demonstrates

dangerousness or is convicted of or pleads guilty to a felony, and if the employer retains the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea, the employer may be held liable in a civil action that is based on or relates to the retention of the individual as an employee only if it is proved by a preponderance of the evidence that the person having hiring and firing responsibility for the employer had actual knowledge that the employee was dangerous or had been convicted of or pleaded guilty to the felony and was willful in retaining the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea of which the person has actual knowledge.

R.C. 2953.25 (G).

In the five years that this Court has reviewed CQE Petitions, the current case presents one of the most serious criminal records for consideration. Petitioner established by a preponderance of evidence that a CQE would materially assist him in obtaining employment as an HVAC technician or occupational licensing as an HVAC contractor or vocational instructor and that he has a substantial need for the relief requested in order to live a law-abiding life. The weight of his criminal past comes to bear in the final consideration for the Court: will granting the petition pose an unreasonable risk to the safety of the public or any individual?

The Court finds that allowing Petitioner to pursue gainful career opportunities does not pose an unreasonable risk to the safety of the public or any individual. Petitioner is clearly older, wiser and more sober than when he committed his crimes 37 years ago. He served the sentence imposed on him by law as punishment for his crimes.

The question of what becomes of individuals who complete their terms of incarceration is not new. Almost eighty years ago, President Franklin D. Roosevelt observed:

After the necessarily strict routine of prison life, it is difficult for a discharged prisoner to stand on his own feet in the swift-running currents of a free man's world. Often, if he has been in prison very

long, he will have lost the habit of making his own decisions. He usually faces tremendous difficulties in finding a job. In many cases his prison record cuts him off from the friendship of law-abiding people. These circumstances tend to push a man back to a life of crime, unless we make it our business to help him overcome them. And when I say "we," I do not mean just those of us in the Government or those of us who have a great social interest in the problem. I mean all of the average citizens in every community in the whole of the United States.

Franklin D. Roosevelt, Address at the National Parole Conference, White House, Washington, D.C., April 17, 1939.

A CQE is but one step in addressing the ongoing obstacles to reintegration into free society. CQEs allow the government and the private sector to address one of those obstacles together. Petitioner has demonstrated exemplary efforts for an extended period of time to prepare himself to become a productive member of society. When questioned by the Court, he accepted responsibility for his actions without deflecting or minimizing his culpability. His efforts at becoming an independent and productive citizen should be recognized and encouraged.

Accordingly, upon consideration of the Petition, and after reviewing the report from the probation department, the court hereby finds:

The Petitioner has suffered a collateral sanction that is related to employment or occupational licensing as a result of the Petitioner's conviction or guilty plea to an offense, and that sanction applies by operation of law in this state; and

The Petitioner has established by a preponderance of the evidence that: granting the Petition will materially assist the individual in obtaining employment or occupational licensing; and

The individual has a substantial need for the relief requested in order to live a law-abiding life; and

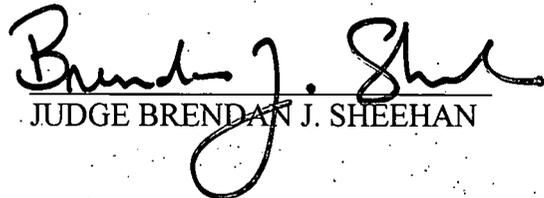
Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

Therefore, it is hereby ordered, adjudged and decreed that the Petition for Certificate of Qualification for Employment is hereby granted. The purpose for this Certificate is to assist the petitioner in obtaining employment or an occupational license. The Certificate of Qualification for Employment grants Petitioner relief pursuant to R.C. § 2953.25. The certificate does not grant relief from the collateral sanctions as specified in R.C. § 2953.25(C) (5)(a)-(g).

It is further ordered that the Clerk shall notify the Department of Rehabilitation and Corrections that a Certificate of Qualification for Employment shall be issued to the Petitioner. The Clerk is further ordered to provide written notice to the Petitioner.

IT IS SO ORDERED.

Dated: 8/9/18


JUDGE BRENDAN J. SHEEHAN