

**STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

IN THE MATTER OF)
THE PERMIT OF:)
)
MICHAEL THOMAS SHANKS) **Applicant No. 3174790**
)

PROPOSED FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

I.
BACKGROUND OF THE CASE

The Applicant, Michael Thomas Shanks, Applicant number 3174790, (hereinafter referred to as "Applicant") is the Applicant for an Alcohol and Tobacco Commission ("ATC") employee permit. The Applicant filed his new application on October 2, 2018. Upon review of Applicant's record with the Indiana Bureau of Motor Vehicles, ATC staff determined that Applicant had two unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5. The dates of the convictions are as follows:

1. Conviction under cause number 34D031511CM000909 on May 17, 2016; and
2. Conviction under cause number 34D031611F6001115 on October 3, 2017.

Applicant was ordered to complete three hundred fifty-one (351) days of probation for cause number 34D031611F6001115. Applicant filed an appeal of the denial. An appeal hearing was originally scheduled February 7, 2019 and applicant requested an emergency continuance. The hearing was rescheduled for February 26, 2019 at 2:30 pm and the applicant failed to appear.

III.
EVIDENCE BEFORE THE ATC

1. The following individuals testified before the ATC in favor of the Applicant in this cause:

a. None.

IV.

FINDINGS OF FACT


1. The Applicant is the applicant for an Alcohol and Tobacco Commission employee permit. (ATC File).
2. The Applicant had two unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5 (conviction) in the past ten years. Exhibits 1 and 2.
3. Applicant was sentenced to complete three hundred fifty-one (351) days of probation for cause number 34D031611F6001115. Exhibit 2.
4. Applicant filed an appeal letter in which he stated that the conviction in 2017 was reduced to a charge of public intoxication. Exhibit 3.
5. The case chronologies from MyCase show:
 - a. 34D031511CM000909 – On May 17, 2016, applicant entered a guilty plea to count I – Operating a vehicle while intoxicated endangering a person under 9-30-5-2(a) & (b).
 - b. 34D031611F6001115 – On October 3, 2017, applicant entered a guilty plea to counts I and III. Counts I and III merged with Count I vacated and dismissed. Applicant was convicted of Count III - operating while intoxicated under 9-30-5-3(a)(1).
6. Any Finding of Fact may be considered a Conclusion of Law if the context so warrants.

V.
CONCLUSIONS OF LAW

1. At the time of the application, Applicant was prohibited from holding an employee permit under IC 7.1-3-18-9(g) because Applicant has two unrelated convictions for operating while intoxicated within the past ten (10) years and the Applicant completed probation for the second conviction on or about September 19, 2018.
2. Two years after the completion of probation will be approximately September 19, 2020.
3. The Alcohol and Tobacco Commission has not received any evidence that the conviction in either matter was reduced to a conviction for public intoxication.
4. The permit fee of forty-five dollars (\$45) shall be refunded to the applicant.
5. Any conclusion of law may be considered a finding of fact if the context so warrants.

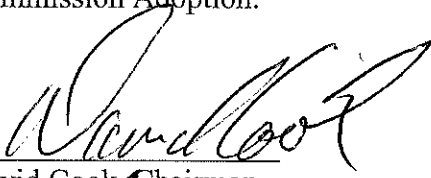
THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the denial of the application for applicant number 3174790 is in compliance with the law. The eligibility date for Applicant is approximately September 19, 2020. The forty-five dollar (\$45) application fee shall be refunded to the applicant.

DATED: 2/26/19



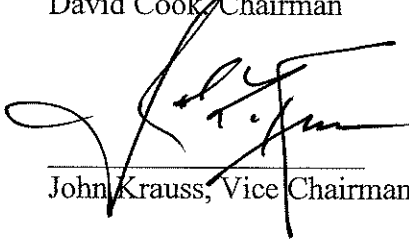
Jessica Allen, Hearing Judge

Commission Adoption:



David Cook, Chairman

Date: 4-2-19



John Krauss, Vice Chairman

Marjorie Maginn, Commissioner



Dale Grubb, Commissioner