

SUPERIOR COURT OF NEW JERSEY APPELLATE DIVISION

SAID A. SAID,

Petitioner/Appellant

v.

NEW JERSEY STATE POLICE,

Defendant/Respondent

:
: **ON APPEAL FROM A FINAL**
: **AGENCY DECISION ENTERED**
: **BY THE SUPERINTENDENT,**
: **NEW JERSEY STATE POLICE**
:
: **DOCKET NO. A-1620-23T2**
: **AGENCY NO. POL 13852-2018**
:
: **SAT BELOW:**
: **COL. PATRICK CALLAHAN**
: **(Agency Head)**
: **HON. SARAH CROWLEY, A.L.J.**
: **(Office of Administrative Law)**

APPELLANT'S BRIEF

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Dated December 4, 2024

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STATEMENT OF PROCEDURAL HISTORY

Prior to the facts relevant to this case, Petitioner Said A. Said applied for and was provided with a license to operate as a Bounty Hunter by the State of New Jersey. (233a).

Petitioner held a bounty hunter's license in NJ from April 1, 2014 until it expired on May 15, 2018. (233a).

Petitioner was also the holder of a Bail Bond license, and a Private Detective license. (234a). Petitioner's Bounty Hunter license permitted him to apprehend fugitives with active bench warrants, even when he did not write the original Bail Bond. (Ibid.).

On February 4th, 2018, Mr. Stanley Edwards was a fugitive with an active bench warrant. Mr. Edwards had been free on a \$50,000 bail written by Apple Bail Bonds prior to missing a court appearance in Bergen County. (Ibid.). Petitioner was involved in the apprehension of Mr. Edwards on February 4, 2018, in the City of Paterson, and returned him to the Bergen County Jail. (Ibid.).

Petitioner applied for a renewal of his bounty hunter's license on April 12, 2018, prior to its expiration. (Ibid.).

On July 19, 2018, Petitioner was charged with violations of both N.J.S.A. 45:19-36(b) (knowingly employ any person who has been convicted of a crime in the 1st-4th degree, offenses relating to controlled dangerous substances, or offenses where employment of the person is contrary to the

public interest) and 45:19-36.9(c)(employing a person without performing a requisite criminal history records background check or while knowing of a disqualifying crime or offense), relating to the February 4, 2018 apprehension of Mr. Edwards. (Ibid.).

Lieutenant Robert Cowden of the NJSP Detective Unit sent a letter dated August 21, 2018, notifying Petitioner that the NJSP would not renew his Bounty Hunter License because of Petitioner's alleged violations of the Bounty Hunter Licensing Act. (Ibid.).

Counsel for Petitioner sent a letter, dated August 27, 2018, to the Superintendent of the NJSP requesting a hearing, pursuant to N.J.A.C. 13:55B-6.3, to contest the decision not to renew his Bounty Hunter License. (Ibid.).

The Passaic County Prosecutor's Office downgraded the criminal charges to False Imprisonment, N.J.S.A. 2C:13-3, and remanded the matter to Paterson Municipal Court. On April 10, 2019, all of the criminal charges against Petitioner were dismissed by the Honorable Abdelmajeid Abdelhadi, J.M.C. (235a).

In January, 2020, Petitioner applied for the renewal of his Private Detective license. (Ibid.).

On May 15, 2020, Sgt. Anthony Mangelli of the State Police advised that the Private Detective license application would not be acted upon until the Bounty Hunter license hearing was decided. (Ibid.).

On April 26, 2023, an evidentiary hearing was conducted before the Honorable Sarah Crowley, A.L.J. (T).

On September 20, 2023, Judge Crowley filed an Initial Decision, recommending affirmance of Respondent's denial of Petitioner's licenses. (9a).

On October 6, 2023, Petitioner filed exceptions to the ALJ decision. (237a).

On December 18, 2023, Respondent filed the Final Agency Decision adopting Judge Crowley's decision, and denying Petitioner's application. (20a).

On February 1, 2024, Petitioner filed a Notice of Appeal. (1a).

STATEMENT OF FACTS

Petitioner Said Said has been in the fugitive recovery business since 1989. He has held a bounty hunter license, a bailbonds license, a private detective license, a SORA license, and a permit to carry a firearm. Before a bounty hunter license was required to apprehend fugitives, he did so for private bail bonds companies, and for law enforcement agencies. He has brought over 10,000 fugitives to justice, often at the request of law enforcement.

When the licensing requirements began in 2008, he applied for a bounty hunter license. He had a valid license in February, 2018. (26a). He had a

business related to that practice: Fugitive Warrant Enforcement. He also owned AAA One Stop bailbonds, and managed a private detective agency, XForce Investigations. (T 174:16).

According to Petitioner, Roberto Rivera was never his employee, but he was someone he sometimes paid for information. After bounty hunting became regulated in 2008/2009, Petitioner acknowledged that he continued to utilize Mr. Rivera for street intelligence. (T 177:10). But Mr. Rivera was not his employee, as he worked with several different agencies. (T 176:16, 178:6).

John Viruet was a licensed bondsman who owned John's Bail Bonds. He would sometimes bring bounty hunting work to Petitioner, and would sometimes share in the commission that Petitioner received for a successful arrest. But he was never an employee of Petitioner. (T 178:19 through 179:16).

Donald Conner is a licensed private investigator, and a fellow employee at X-Force. Petitioner was a supervisor at X-Force, and had reviewed all of Mr. Conner's documentation that he had been licensed by the State Police, which requires fingerprints and background checks for such a license. (T 180:1).

He was also aware that Mr. Conner had been approved to carry a firearm by a Superior Court of New Jersey, Essex County. In his letter of need, Mr.

Conner told the Essex County Prosecutor that he was engaged in work he received from bail bonds companies. (32a). On August 2, 2017, six months before the events at issue, Mr. Conner received approval of his carry permit from the Superior Court. (35a). The court granted Mr. Conner a permit to carry, so that he could engage in his work for bail bonds companies. (Ibid.). According to petitioner, the only work an investigator would receive from bail bonds companies would be fugitive recovery. (T 186:12).

Petitioner reasonably understood this Superior Court Order to justify permitting Mr. Conner to investigate fugitives. (T 187:2). He never directed Mr. Conner to arrest or handcuff anyone. (T 187:11).

In early February, 2018, Petitioner was contacted by John Viruet, who had been contacted by Apple Bail Bonds, who needed Stanley Edwards apprehended as a fugitive. Petitioner did not know whether Apple had a deal with Viruet to assign the bond to him, but testified that is a common practice among bail bonds companies. (T 189:21).

Petitioner understood from Mr. Viruet that Apple had also reached out to Roberto Rivera, who was working the investigation with Dayshawn Rodriguez, and also to Charles Ryan, a licensed bounty hunter. (T 192:1). Apparently, Apple did not care who brought in Mr. Edwards. Yet the State Police were so concerned about unlicensed bounty hunting that they did not investigate Apple

at all. (T 140:13). Detective Clay did not open an investigation on Apple, nor did he notify the Division of Banking and Insurance that Apple was utilizing unlicensed bounty hunters. (T 141:16).

While Petitioner and Mr. Conner gathered intelligence on Mr. Edwards' location, he noticed Mr. Rivera surveilling the property as well. (T 193:21). He had not spoken to Mr. Rivera at all about Mr. Edwards. (T 193:21). He was worried about Mr. Rivera "screw[ing] up" their investigation, so Petitioner called Mr. Viruet, who told him he would speak to Rivera. (T 194:1). Petitioner decided he would treat Mr. Rivera as a confidential informant ("CI") and pay him \$300 so that he would not have to worry about him interfering. (T 194:10). Mr. Viruet then came to the location unsolicited. (T 194:22).

Petitioner asked Mr. Conner to knock on the door to see if they had the right residence. After Mr. Conner confirmed with Ms. Edwards that Stanley Edwards was inside, Petitioner walked into the house and arrested him. (T 196:9). In the file provided to Petitioner, Apple had a Consent to Search that contained Ms. Edwards' apparent signature. (31a). After the arrest, Petitioner made sure that Ms. Edwards received her son's belongings. He then took standard photographs to document the arrest, brought Mr. Edwards to his office for paperwork, and then to the Bergen County jail without incident. (T 196:22).

After the arrest was complete, Petitioner paid Mr. Rivera the \$300, even though Mr. Rivera had not done anything useful, because he had promised that amount so that Rivera would not mess up the case by calling someone else in. (T 200:1). He did not pay Mr. Viruet anything. (T 201:13). Both had understood the situation as part of a barter of services arrangement, or repayment of a prior favor. (Ibid.).

After this incident, Petitioner applied for renewal of his bounty hunter license. That application was not acted upon initially. Before receiving a response, he was arrested on July 19, 2018, and charged with N.J.S.A. 45:19-36.9b (Hiring of Bounty Hunters with Criminal Convictions); and N.J.S.A. 45:19-36c (Failing to do proper Criminal History checks for employees).

On August 21, 2018, Respondent provided Petitioner with a letter denying the application, based upon his arrest on the above charges. (42a).

The criminal charges were downgraded to Paterson Municipal Court, and ultimately dismissed. (233a).

He subsequently applied for renewal of his Private Detective license, which was not acted upon, pending the outcome of this proceeding. (234a).

After numerous delays, the matter was heard in the Office of Administrative Law by the Honorable Sarah Crowley, A.L.J. Detective James Clay, Roberto Rivera, and Petitioner testified. (T).

In an Initial Decision, dated September 20, 2023, the facts found by Judge Crowley were limited to the following:

1. The petitioner was a licensed bounty hunter.
2. Petitioner was involved in the capture of Stanley Edwards on February 4, 2018.
3. Petitioner paid Roberto Rivera, an unlicensed BH for intelligence which was obtained through surveillance and other investigation in connection with the apprehension of Stanley Edwards.
4. Petitioner paid Roberto Rivera a cash fee for his assistance in connection with the arrest following the completion of the arrest and surrender of him to the authorities.

(13a).

Judge Crowley concluded that Respondent's denial of Petitioner's licenses should be affirmed, based upon "the retention of unlicensed individuals to perform bounty hunter work which demonstrated bad moral character." (16a). Judge Crowley acknowledged that "Rivera may not have been an 'employee' in a traditional employer-employee relationship," but that the work of "confidential informants", i.e. people who get paid for street intelligence, falls within "bounty hunter" work, requiring licensing. (15a to 16a).

Petitioner filed three exceptions: (1) that Judge Crowley erred in finding that Rivera had a criminal conviction at the time of the Edwards apprehension, as his conviction occurred after the fact, (see 15a, "Rivera had fourth degree

conviction”); (2) that Judge Crowley erred in finding that confidential informants fall squarely within “bounty hunting”; and (3) that Judge Crowley erred in finding that the use of Rivera demonstrated “bad moral character”, without considering any of the evidence of Petitioner’s good character. (237a).

Respondent filed a Final Agency Decision on December 18, 2023. (20a). In the decision, Respondent adopted Judge Crowley’s recommendation and findings. (22a).

This appeal follows.

LEGAL ARGUMENT

- I. The Superintendent's decision to deny Petitioner's Bounty Hunter License was arbitrary, capricious, and unreasonable, because the credible evidence did not establish any indication of a violation of the statutes regulating bounty hunters during the apprehension of Stanley Edwards, and the Superintendent failed to consider Petitioner's exemplary record as a Bounty Hunter over the course of his career as it affected his "moral character." (Rulings at 9a and 20a).**

This Court should reverse Respondent's decision to deny Petitioner his Bounty Hunter license.

Petitioner recognizes that "appellate courts have 'a limited role' in the review of such decisions." In re Stallworth, 208 N.J. 182, 194 (2011) (quoting Henry v. Rahway St. Prison, 81 N.J. 571 (1980)). This Court does not "ordinarily overturn such a decision 'in the absence of a showing that it was arbitrary, capricious or unreasonable, or that it lacked fair support in the evidence.'" In re Carter, 191 N.J. 474, 482 (2007) (quoting Campbell v. Dep't of Civ. Serv., 39 N.J. 556, 562 (1963)).

In determining whether this standard is met,

the judicial role is generally restricted to three inquiries: (1) whether the agency's action violates express or implied legislative policies, that is, did the agency follow the law; (2) whether the record contains substantial evidence to support the findings on which the agency based its action; and (3) whether in applying the legislative policies to the facts, the agency clearly erred in reaching a conclusion that could not reasonably have been made on a showing of the relevant factors.

Mazza v. Board of Trustees, Police and Fire Retirement System,
143 N.J. 22 (1995).

Here, Respondent's decision violated these principles in all three respects. The agency's decision did not follow the law, as it did not follow the original reasons expressed in the Notice of Denial, violating Petitioner's right to Due Process. Second, the evidence did not support the agencies findings, as confidential informants are not "employees" of a bounty hunter within the meaning of the statute, and Respondent's own credible witness, Det. Clay, acknowledged that sometimes street intelligence is necessary to bounty hunting work. Third, the agency clearly erred by not acknowledging Petitioner's decades of honorable performance of his responsibilities as a bounty hunter and bail bondsman, including bringing approximately 10,000 fugitives to justice, in determining whether his "moral character" was impugned by a single incident of paying Roberto Rivera to stay out of his way.

A. Because Respondent expressly based the non-renewal on Petitioner's arrest, which then resulted in a dismissal, the Superintendent's decision to deny Petitioner's license based upon a \$300 payment to Roberto Rivera instead was arbitrary, capricious, and unreasonable.

The Bounty Hunter Act ("the Act") took effect in 2007. P.L. 2005, c. 376, eff. February 1, 2007. Prior to that date, there was no regulation of Bounty Hunters. The Act changed that, creating a regulatory system whereby

individuals could apply to the Superintendent of State Police for a Bounty Hunter license, which required an application process that included a criminal background check, character reference letters, and payment of a \$300 fee.

N.J.A.C. 13:55B-2.3. A “bounty hunter” is defined by statute as

any bail runner, bail recovery agent, bail enforcement agent, fugitive recovery agent or any other person who, for fee, hire or reward: makes any investigation or investigations as to the location or whereabouts of any person who has violated the provisions of N.J.S.2C:29-7 or has failed to appear in any court of law in this State or any other state, when so required by law, or has failed to answer any charge, subpoena or court ordered inquiry, when so required by law; engages in or assists in the apprehension, arrest, detention, confinement, surrender or securing of any such person; or keeps any such person under surveillance.

N.J.S.A. 45:19-29.

No person shall act as a bounty hunter without a license. N.J.S.A.

45:19-30. At the same time, licensed bounty hunters are permitted to employ assistants. N.J.S.A. 45:19-35. If the bounty hunter chooses to employ assistants, they must be subject to criminal background checks. N.J.S.A.

45:19-36. A bounty hunter who fails to perform a criminal background check on an employee is guilty of a Fourth Degree crime under N.J.S.A. 45:19-36c.

A bounty hunter who “knowingly” hires an employee with a criminal record is also guilty of a Fourth Degree crime. N.J.S.A. 45:19-36c.

Upon the denial of a Bounty Hunter license renewal, the Superintendent is required to state the reasons for the denial. N.J.A.C. 13:55B-6.3. The purpose of this requirement is presumably to put an applicant on notice of the reasons, so that they have the opportunity to meaningfully contest them. Here, Respondent provided Petitioner a letter dated August 21, 2018, which stated

You were arrested on July 19, 2018 by the *New Jersey State Police* for knowingly hiring unlicensed individuals who had criminal convictions which would preclude them from employment. Subsequently, you were charged with NJS 45:19-36.9b [*sic*]; the Hiring of Bounty Hunters with Criminal Convictions and 45:19-36c; Failing to do proper Criminal History checks for employees; both of which are crimes of the 4th Degree.

This letter shall serve as notification that the Superintendent has not renewed your Bounty Hunter License, effective immediately. The non-renewal of your Bounty Hunter License was based on the above-listed violations.

(42a) (*italics in original; underline added*).

Unequivocally, the letter based the non-renewal on Petitioner's arrest. It did not indicate any facts underlying the arrest, nor any facts learned during any investigation. That arrest has resulted in a dismissal, after the Passaic County Prosecutor downgraded the matter, and the Paterson Municipal Court determined that probable cause did not exist for the remanded charges. (233a). Accordingly, the stated reason for the non-renewal no longer exists. Respondent must be bound by the reasons given in their denial letter, lest

Respondent will be denied the Due Process guaranteed by N.J.A.C. 13:55B-6.3. As a result, the denial of Petitioner's Bounty Hunter and Private Detective licenses should have been vacated as soon as the charges were dismissed.

Even assuming, *arguendo*, that Petitioner utilized "employees" to apprehend Mr. Edwards, there is no indication in evidence of how that violated any statute listed in the letter. Respondent did not submit any evidence suggesting that anyone with him on February 4, 2018 had a criminal record at that time, let alone any evidence supporting an inference that Petitioner was aware that someone had a prior conviction.

To the contrary, all of the individuals involved had various licenses with the State, albeit none were bounty hunter licenses. Mr. Viruet and Mr. Rivera were licensed bondsmen, for which a criminal record is a disqualifier under N.J.S.A. 17:22A-40. Mr. Conner was a licensed private detective with a permit to carry a firearm, which requires a background check under N.J.S.A. 45:19-11.

Petitioner would reasonably expect that such licensed individuals would have clean records, and would have undergone background checks. It would have been eminently reasonable for him to rely on those checks as part of a

belief that he was satisfying the requirements of the bounty hunter statute regarding background checks of employees.

Without any evidence that those criminal statutes were violated – because there was no evidence presented about any prior convictions of anyone involved with Stanley Edwards arrest on February Respondent’s reasons for the denial, as stated in the rejection letter, fail as a matter of law.

It was an arbitrary and capricious denial of Due Process to essentially ignore the reasons for the initial denial, and base the denial on an entirely new basis: a \$300 payment to Roberto Rivera, who was not licensed as a bounty hunter, based on an assessment that a “confidential informant” is an employee. That finding required an entirely different analysis than those contained in the August 21, 2018 letter, which focused on criminal records of employees. Nothing in the letter suggested that one could be suspended for simply providing remuneration to someone without a license.

This was a quintessential moving of the goalposts, after the criminal matter was dismissed. It was arbitrary, capricious, and unreasonable to do so.

B. The undisputed facts do not support findings of wrongdoing by Petitioner, as Roberto Rivera was not an “employee.”

That said, Petitioner was not using unlicensed employees for bounty hunting work. Rather, the credible evidence supports the conclusion that Petitioner did nothing wrong.

There has never been any indication that the manner of arrest was in any way beyond the scope of what a bounty hunter is permitted to do. Petitioner documented the arrest with a photograph, and Mr. Edwards was returned to law enforcement. He was never charged with trespassing, criminal mischief, assault, or any other offense suggesting that the manner of arrest was improper.

After the job was completed, according to Mr. Rivera, Petitioner gave them each cash out of his bounty hunter fee. As Petitioner testified, he saw it as a way to keep the peace with Mr. Rivera. There is no evidence he paid Mr. Viruet anything. Even if he had, however, there is no statutory provision prohibiting a licensed bounty hunter from being hired by an unlicensed non-employees who tip him off to wanted fugitives.

The credible evidence established that John Viruet, a licensed bondsman himself, was not Petitioner's employee, but rather someone who solicited Petitioner's (and other bounty hunter's) services. Frankly, if Mr. Viruet were Petitioner's employee, there would be no reason he would be soliciting Charles Ryan to apprehend Stanley Edwards.

Mr. Rivera was also not Petitioner's employee. In a wage-claim context, the Supreme Court has declared the test for determining the difference between an employee or an independent contractor. Hargrove v. Sleepy's, LLC, 220

N.J. 289 (2015). The Court held that the “ABC” test of N.J.S.A. 43:21-19, which is directed at unemployment claims, is appropriate:

Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) unless and until it is shown to the satisfaction of the division that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact;

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

N.J.S.A. 43:21-19(i)(6).

Using that same methodology, Mr. Rivera was certainly not an employee. Mr. Rivera testified¹ that he worked for Petitioner as an

¹ It is worth noting that Mr. Rivera was not at all credible. Mr. Rivera was working as a paid informant for the State Police at the time of the incident. (T 65:7). Yet he incredibly testified that he had no conversations with the State Police about receiving any consideration for his testimony, (T 60:4), and denied receiving a letter from the Municipal Prosecutor that was addressed to him. (T 61:6). He claimed he agreed to testify because it was “the right thing to do.” (T 65:18). His penchant for doing the right thing was impugned when he was convicted of distributing narcotics, and sentenced to probation, a mere week before his testimony to the Court. (T 67:10). Judge Crowley indicated that both Petitioner and Rivera (Respondent’s primary witness) were “not as credible” as Detective Clay (who did not have first-hand knowledge of any of the events of February 4, 2018), without specifying which part of Petitioner’s testimony was less than credible. Nevertheless, by acknowledging that Petitioner may not have had a traditional employer-employee relationship with Rivera, (15a), and focusing on the status of a “confidential informant”, Judge Crowley – and Respondent – seemed to accept the credibility of the portion of Petitioner’s testimony that asserted that Rivera was not under his regular employment.

investigator starting in 2000. Notably, bounty hunter licensing did not exist in 2000, and Mr. Rivera was not himself sure when it became required. (T 22:1). At some point, Mr. Rivera got his own bailbonds license. (T 21:21). He was not clear exactly when that was. (T 22:4). Rivera testified that he was not an investigator for Petitioner, but rather he was a bail bondsman himself. (T 24:20). After “a certain amount of years”, he started writing his own bonds for an insurance company. (T 25:2). He estimated that began after working with Petitioner for “maybe” 12 years. (T 25:7).

He acknowledged that bail bonds agents are permitted to apprehend fugitives when they wrote the bail. (T 49:23). Regarding fugitives whom he purportedly helped Petitioner apprehend, he never distinguished between fugitives that were apprehended before bounty hunters were licensed; fugitives from bonds that Petitioner or Rivera were allowed to apprehend as the writer of a bond; and those whom Petitioner was allowed to apprehend as a licensed bounty hunter. He also acknowledged working for other bondsmen, such as Apple, Aaron, and Hitton. (T 50:5).

Rivera was also someone who gathered a lot of information on the street, and used that information as currency, as there is a lot of competition in the bail bonds business. (T 50:19). In sum, when another agency was seeking a

fugitive, Mr. Rivera was under no obligation to side with Petitioner, and often acted as a competitor.

That was borne out by the events of February 2018. Mr. Rivera was working with Apple Bail Bonds. (T 26:8). Petitioner is not the owner of Apple, but Apple sometimes calls Petitioner for work. (T 26:17).

Mr. Rivera first claimed under oath that Petitioner called him about assisting with the arrest of Mr. Edwards. (T 27:19). He specifically recounted a phone call and a meeting where Petitioner brought him the case. (T 28:4). Mr. Rivera then alleged that he set up surveillance on Mr. Edward's mother's house. (T 29:13). He claimed that John Viruet called him to say that he had the case. (T 33:17). This would contradict Mr. Rivera's testimony that Petitioner had called Mr. Rivera about the case, because if that were true, Petitioner would have told him about Mr. Viruet, and Mr. Conner. This is further corroborated by Mr. Rivera's own testimony that he was told to be there by Mr. Viruet, NOT Petitioner, who "had the information, but for some reason he didn't want to give it to me." (T 37:16).

Mr. Rivera himself confirmed the falsity of his direct testimony, when he told Detective Clay that he was contacted by Jahara Samara of Apple Bail Bonds about Mr. Edwards. (49a). At first, Mr. Rivera denied that he even said that to Detective Clay, but when confronted with the statement, he agreed that

his testimony to the Court was not true. (T 53:24 to 54:22). Further, Mr. Rivera told Det. Clay that he called Petitioner, not the other way around. (T 55:3). On this point, he agreed that he had misstated the facts to the court. (T 55:9).

Mr. Rivera then described a scenario where he observed Mr. Viruet and Mr. Conner go into the house, and observe Mr. Viruet arrest Mr. Edwards. (T 42:15).

This detail was patently false as well, because it was contradicted by Mr. Edwards himself, who told police in no uncertain terms that Petitioner was the person who handcuffed him. (213a, 18:20, referenced at T 151:1; 213a 25:11, referenced at T 151:17).

Moreover, rather than working for Petitioner, Mr. Rivera was working for Apple Bail Bonds. (T 55:15). Apple had a right to apprehend Stanley Edwards. (T 55:24). As a result, Mr. Rivera, as a licensed bondsman working for Apple, may have had a right to apprehend Mr. Edwards himself. But he did not do so at the direction of Petitioner. To the contrary, Mr. Rivera was concerned that Petitioner would cut him out. (T 75:16). Mr. Rivera's animosity toward Petitioner came through in his final response: he "100%" thought Petition would apprehend Mr. Edwards without him if he could. (T

75:18). This would be quite the dysfunctional employer-employee relationship, if one had existed.

The most sensible explanation was always Petitioner's: that he brought Mr. Rivera into the fold because Rivera was there on his own, and they did not want Rivera to mess up the arrest. By no means was Mr. Rivera an employee of his.

Mr. Viruet was also not an employee of Petitioner. According to the instigator of this investigation, rival Bounty Hunter Charlie Ryan, who was seemingly disturbed by having competition for the apprehension of Mr. Edwards, John Viruet reached out to him for assistance. (T 80:7).

In other words, Mr. Viruet wanted to bring Mr. Edwards in, could not do it himself because he was not licensed, but sought whatever fee he could get for bringing in a licensed bounty hunter to do so. Mr. Ryan admitted that he had worked with Mr. Viruet in the past on bounty collections, indicating that this is a common practice in the bounty hunting world. More importantly, that communication confirms, without any reasonable dispute, that Mr. Viruet was not Petitioner's employee. It simply defies credulity that an employee of Petitioner would try to bring bounty hunting business to Petitioner's rival.

It cannot be reasonably be concluded that this arrangement caused any of them to be Petitioner's "employees". Apple approached Mr. Viruet and Mr.

Rivera. Those individuals separately approached licensed bounty hunters, Mr. Ryan and Petitioner, seeking compensation for bringing Apple the fugitive. Mr. Ryan turned down the offer, because he was already working the case. That became the reason that Petitioner was sought out. But there is no reasonable basis to interpret Petitioner's relationship with any of the individuals as employer-employee.

Petitioner paid nothing to Mr. Viruet. He paid \$300 to Mr. Rivera, which – according to Mr. Rivera – was for bringing Petitioner the case. If true, that would make it a finder's fee. According to Petitioner, it was to keep Mr. Rivera out of the way, i.e., a cost of doing business, by treating him like a confidential informant. Either way, it did not create an employer-employee relationship. Using the “ABC” test of N.J.S.A. 43:21-19(i)(6), Petitioner did not control Rivera in any way, Rivera did not perform services for Petitioner in the usual course of business, and Rivera was independently engaged in fugitive investigations outside of Petitioner's business. Therefore, a \$300 finder's fee did not constitute employment.

The only person who could be construed as an employee was Donald Conner. Petitioner was very candid about that. Mr. Connor was an employee of X-Force investigations, where Petitioner was his supervisor. He assisted Petitioner in gathering information about Mr. Edwards' whereabouts, but even

Detective Clay acknowledged that some amount of background investigation is permitted by employees. (T 160:24).

Mr. Conner had a private detective license, which permits him to conduct investigations into the whereabouts of “any individual.” N.J.S.A. 45:19-9a(2). More importantly, Petitioner was very much aware that Mr. Conner had received a permit to carry a firearm for the express purpose of doing investigations for bail bonds companies. (35a). In other words, not only had Mr. Conner been very transparent with a Superior Court judge that he was doing investigations into fugitives, but the judge let him carry a firearm for that purpose. This indicates an awareness by the Superior Court that some of those investigations are more than just clerical work, but street investigations as well. It was more than reasonable for Petitioner to conclude that Mr. Conner was approved to engage in that line of work. As a result, Mr. Conner’s presence on February 4, 2018 did not detract from Petitioner’s character and fitness to engage in bounty hunting.

In the end, both Respondent and the OAL treated Rivera as a confidential informant for purposes of their analyses, and determined that a person who gets paid for information is an employee within the meaning of the Bounty Hunter Act. That ignores the evidence in the record, which established that Petitioner did not direct Rivera to do a single thing, nor receive any

information from him. To the contrary, Rivera testified that Petitioner did not tell him to be there, and refused to share information with him. (T 37:16). Rivera tried to bring him the case, but also tried to bring it to Charlie Ryan. The suggestion that this was an employee relationship is preposterous, and defies not only the ABC test, but common sense.

But even if Rivera was a “confidential informant” in any respect, who was paid for street intelligence, that would not violate the Act. The OAL decision stated,

The work of confidential informants falls squarely within the definition of BH work, and due to the nature of this type of work, licensing is required to engage in this type of work. Moreover, due to the nature of this type of work, individuals with criminal convictions are not permitted to engage in this work.

(16a)

This defies reality. By its nature, bounty hunting requires looking for people fleeing justice. If a fugitive is in hiding, there is a high likelihood that people who know about their whereabouts are in the same world as them. The idea that one can only gather location information from unimpeachable sources with clean records is not realistic, nor desirable. If fugitives are to be caught, it is usually unsavory people who will help catch them. Ergo, if the public wants fugitives to be caught, bounty hunters must be able to utilize those unsavory people for information. Yet for people to cooperate with a bounty

hunter, there must be something in it for them: a finder's fee. None of this makes the street informant an "employee." It is simply real life.

To negate any of these realities would result in fugitives remaining on the loose. Surely the legislature did not intend such an outcome with the passage of the Bounty Hunter Act.

C. Respondent's finding of Petitioner's "moral character" did not account for contrary information in the record.

As noted in Petitioner's exceptions to the OAL decision, (238a), even if payment of an information is a technical violation of the Bounty Hunter statute, that is not a reflection of moral character. At most, it was a misunderstanding of the law. The ALJ did not take into account a more complete picture of Petitioner's character, specifically, the 10,000 fugitives he assisted with over a 25 year career as a bounty hunter and bail bondsman, as he testified to. There was no dispute over that testimony.

There was no suggestion that Petitioner's actions on February 4, 2018, were a willful violation of the Bounty Hunter Act, as even Rivera's testimony established that he was the one who tried to get Petitioner involved in the Edwards apprehension, not the other way around, and that Petitioner would not share the file with him. These are not the actions of someone purposely flouting the law.

There was also no suggestion that Petitioner's actions caused harm to any person. Stanley Edwards was peaceably apprehended by Petitioner, who

returned another fugitive to face justice. That does not reflect on his “moral character” in the slightest.

As a result, Respondent’s decision was not supported by the law, was not supported by the evidence, and was not supported by any public policy. Accordingly, it was arbitrary, capricious, and unreasonable, and must be reversed.

CONCLUSION

For the foregoing reasons, this Court should reverse the Final Agency Decision of the Superintendent of the State Police.

Yours very truly,
BENEDICT ALTMAN AND NETTL, LLC



PHILIP NETTL

Dated: December 4, 2024

SAID A. SAID,	:	SUPERIOR COURT OF NEW JERSEY
	:	APPELLATE DIVISION
Petitioner-Appellant,	:	
	:	DOCKET NO. A-001620-23T2
v.	:	
	:	<u>Civil Action</u>
NEW JERSEY STATE POLICE,	:	
	:	
Defendant-Respondent.	:	ON APPEAL FROM A FINAL
	:	AGENCY DECISION FROM THE
	:	SUPERINTENDENT OF THE NEW
	:	JERSEY STATE POLICE
	:	
	:	

**BRIEF AND OF DEFENDANT-RESPONDENT, NEW JERSEY STATE
POLICE
SUBMITTED: [March 17, 2025]**

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PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS¹

Petitioner-Appellant, Said A. Said, appeals a December 18, 2023 final agency decision of the Superintendent of the New Jersey State Police (NJSP) that denied renewal of Said's bounty-hunter license. (Pa20-Pa26). This decision adopted the September 20, 2023 Initial Decision of the administrative law judge (ALJ), which found that NJSP had properly denied renewal because Said had "demonstrated bad moral character, incompetence, or untrustworthiness" by employing unlicensed persons to perform bounty-hunter work. (Pa9-Pa19). The relevant facts related to this appeal are as follows.

5. Initiation of State Police Investigation.

On February 20, 2018, Detective James Clay of the NJSP Private Detective Unit received a complaint that several persons were performing unlicensed bounty hunter work. (Pa46-Pa48). The complainant specifically identified John Viruet as one such individual. (Pa46). The complainant reported Viruet had contacted him to request assistance apprehending Stanley Edwards and one other fugitive. Ibid. That same complainant indicated that two different persons—Said and Roberto Rivera—were assisting Viruet in performing his unlicensed bounty hunting. Ibid.

¹ Because the procedural history and counterstatement of facts are closely related, they are combined for efficiency and the court's convenience.

On the same date, Clay initiated an investigation into the complaint. (Pa46). Clay conducted a database search and determined that Said was a licensed bounty hunter and that neither Viruet nor Rivera similarly were licensed. Ibid. Clay also performed a criminal history search for Edwards, the fugitive Viruet had asked the complainant to assist in apprehending. Ibid. He discovered that Said had apprehended Edwards on February 4, 2018, and later turned him over to authorities at Bergen County Jail. Ibid. Clay later conducted separate interviews with numerous individuals aware of Edward's apprehension, including Said, Rivera, Edwards, Dayshawn Rodriguez, and Patricia Edwards, Stanley Edwards's mother. (Pa68-Pa232). Clay ascertained the following information through his investigation and interviews.

Edwards was primarily residing in his mother's home in Paterson, New Jersey, while on bail for a drug possession charge to which he had agreed to plead guilty. (Pa215-Pa216). A judge later issued a warrant for Edward's arrest and revoked Edwards's bail because Edwards failed to appear for a sentencing hearing. (Pa217-Pa219).

A representative from Apple Bail Bonds contacted Rivera about Edwards, providing Rivera with a picture of Edwards and a copy of Edwards's bail-forfeiture notice. (Pa171-Pa172). Rivera worked regularly with Said and contacted Said "to work the case" as to Edwards. (Pa172-Pa173). Said

requested Rivera's assistance in apprehending Edwards. (Pa175). Rivera confirmed for Clay that he had "played an active part" in Edwards's apprehension and that Said, Viruet, and Donald Connor also participated. (Pa181-Pa182).

According to Rivera, the four began surveilling Edwards's mother's home (Pa183-Pa186)—Rivera in his vehicle, Viruet and Connor together in a minivan, and Said in a third vehicle. (Pa183-Pa184). The men communicated with each other on their phones during that surveillance. (Pa185). On February 4, 2018, the men observed a man, whom Viruet and Connor recognized as Edwards, exiting a car and entering Edwards's mother's home. (Pa184). According to Rivera, the four decided to "hit" the home and apprehend Edwards, with Viruet and Connor going to the door, Rivera taking a position at the back of the house, and Said taking a position at the front. (Pa186).

Patricia Edwards told Clay she had opened the door in response to knocking. (Pa135-Pa137). At that time, she saw several men with guns and radios who failed to identify themselves, inquired about Edwards's whereabouts, and then entered her home without permission to search for Edwards. (Pa135-Pa137). She identified Rivera as one of the persons who had entered her home that day. (Pa139).

Rivera told Clay that Viruet and Connor had been the ones who knocked

on the door and seized Edwards, after which Said and Rivera had entered the home through the front door. (Pa188-Pa190). In his interview, Edwards positively identified Rivera, Said, and Viruet as being in his mother's home on February 4, 2018. (Pa222-Pa224). After Said handcuffed and searched Edwards (Pa225), Edwards was placed in Rivera's car, and Rivera drove Edwards to Said's office for processing. (Pa190-Pa191). Said, Viruet, and Connor later drove Edwards to the Bergen County Jail. (Pa229-Pa230). Said paid Rivera \$300 in cash for Rivera's role in Edward's apprehension. (Pa199).

Clay also interviewed Said by phone. (Pa205). Said asserted that he had never hired Rivera or Viruet as his employees; he claimed that they were merely licensed bail bondsmen whom he used to investigate "any work that comes from the insurance company." (Pa206).

2. Institution of Criminal Proceedings & NJSP Letter of Nonrenewal.

In light of the information developed through Clay's investigation, on July 19, 2018, Said was charged with statutory violations of N.J.S.A. 45:19-36(b) and N.J.S.A. 45:19-36(c). (Pa234). The following month, on August 21, 2018, NJSP Lieutenant Robert Cowden sent Said a letter, advising that the Superintendent of the NJSP would not renew Said's bounty hunter license given Said's violation of administrative regulations concerning bounty hunter licensure, specifically the prohibition against hiring unlicensed to perform

bounty-hunter work. (Pa42-Pa43). The letter noted that the applicable regulations, and more particularly N.J.A.C. 13:55B-2.7(a), permit the NJSP to deny a renewal request if, among other things: (1) the applicant had violated the Bounty Hunter Licensing Act; (2) the applicant had failed to comply with the applicable New Jersey regulations pertaining to bounty hunting; (3) the applicant had “demonstrated bad moral character, incompetence, or untrustworthiness”; or (4) if good cause exists, based on the interests of public safety. Ibid. The letter noted Said’s arrest for violation of legal prohibitions against “knowingly hiring unlicensed individuals who had criminal convictions which would preclude them from employment,” the hiring of bounty hunters with criminal convictions, and for failing to do proper criminal history checks for employees (Pa42), and advised Said that his license was not renewed “based on the above listed violations.” (Pa43).

On August 27, 2018, Said requested an administrative hearing, pursuant to N.J.A.C. 13:55B-6.3, to contest the nonrenewal. (Pa234-Pa235).

3. Initial ALJ Decision

On April 26, 2023, an administrative law judge (ALJ) conducted an administrative hearing in Said v. New Jersey State Police, POL-13842-18. (1T 4:1-225:9). The ALJ heard the testimony of NJSP Detective Clay, Roberto Rivera, and Said. Ibid. The ALJ also considered other evidence the parties

submitted, including the recorded statements that Clay had taken. Ibid.

Said testified at the hearing that he pays confidential informants for “street intelligence” about fugitives to assist in the fugitives’ apprehension. (1T 174:3-:14). From that premise, he contended that he could not be liable for violating a legal requirement to do background checks on an employee involved in bounty hunter work or, more particularly, for any assistance Said received as to Edwards from Rivera, whom Said claimed he paid for services as a “confidential informant” after Edward’s arrest. (Pa10). Said contended that when he had learned that Rivera was involved in Edwards’s bail forfeiture, he offered to pay Rivera “for intel” and also to ensure that Rivera would “stay out of his way,” which Said claimed was his “normal practice.” (Pa11). Although Rivera was present at Edwards’s apprehension, Said contended that Rivera was not performing “bounty work” at that time because Said arrested and cuffed Edwards. Ibid. Instead, Said claimed that Rivera was present to “make sure the arrest was made so that [Rivera] could get [his] fee for information about the fugitive’s location.” Ibid.

Rivera testified at the hearing that he considered Said his “boss” and that he worked for Said in locating fugitives. (Pa11). He stated that he worked for Said in 2018 and confirmed his involvement in Edward’s apprehension. Ibid. More particularly, Said had initially contacted Rivera to determine if Rivera had

“intel” about Edwards’s location. Ibid. Rivera did have some information, which he shared, and he thereafter participated in surveillance of Edwards’s mother’s home for several days, was present in Edwards’s home at the time of the arrest, and helped transport Edwards after the arrest. Ibid. Rivera conceded that Said would not have paid him if Said had not arrested Edwards. Ibid.

Clay also testified before the ALJ about the information he had developed in his investigation, including that Said had involved Rivera and Viruet in the Edwards apprehension and arrest, even though neither was licensed as a bounty hunter. (Pa11-Pa12).

On September 20, 2023, the ALJ issued her initial decision affirming the Superintendent’s nonrenewal of Said’s bounty hunter license. (Pa9-Pa19). In reaching that decision, the ALJ noted that she had found Clay’s testimony “sincere and credible” but that the testimony from Said and Rivera “was not as credible and not consistent with the facts, the other reports, and the timeline in this matter.” (Pa13). The ALJ made factual findings that Said “paid Roberto Rivera, an unlicensed [bounty hunter] for intelligence which was obtained through surveillance and other investigation in connection with the apprehension of Stanley Edwards.” Ibid. The ALJ also found that Said “paid Roberto Rivera a cash fee for his assistance in connection with the arrest [of Stanley Edwards] following the competition of the arrest and surrender of him

to the authorities.” Ibid.

Based on those factual findings, the ALJ concluded that the NJSP had appropriately denied Said’s renewal request. (Pa16). In doing so, the ALJ rejected Said’s contentions that: (1) the dismissal of his criminal charges precluded the denial of his renewal request; and (2) Rivera was not Said’s “employee” for purposes of the applicable bounty-hunter statutes and regulations. (Pa9-Pa16).

The ALJ found that the core issue presented was “whether the conduct of the individual or individuals that provided information and assistance to” Said in connection with Edwards’s arrest “were engaged in [bounty-hunter] work for” Said that was “in violation of the [bounty-hunter] statute.” (Pa14). Based on the facts she had found and the applicable law, the ALJ concluded that Said had unlawfully engaged Rivera, who was not licensed to do so, to perform bounty-hunter work. (Pa14-Pa16). In doing so, she noted that N.J.S.A. 45:19-29 defines a “bounty hunter” in relevant part as a person “who, for fee, hire or reward: makes any investigation or investigations as to the location or whereabouts” of persons who had failed to make a required court appearance. (Pa15).

Because the facts showed that Said had paid Rivera to do activities for him that clearly fell within the plain statutory definition of “bounty hunting”—including investigating Edwards’s whereabouts, conducting surveillance to

locate Edwards, and being present for Edwards's arrest—the ALJ concluded that Said had violated the applicable laws and affirmed, stating that “decision of the [NJSP] to deny the renewal of the bounty hunter license on the grounds of retention of unlicensed individuals to perform bounty hunter work which demonstrated bad moral character was proper.” (Pa16).

4. Final Agency Decision.

On December 18, 2023, the Superintendent issued a final agency decision that adopted the ALJ's initial decision. (Pa20-Pa25). The final decision concluded that the record “clearly support[ed]” the finding that Said had employed unlicensed persons to perform bounty-hunter work and found that the ALJ had properly evaluated the documentary evidence and witness testimony (which included the ALJ's right to make determinations about witness credibility). (Pa23). The final decision noted that Said had clearly engaged and paid Rivera to do work that qualified as “bounty hunter” services under N.J.S.A. 45:19-29, which justified the ALJ's conclusion that he had exhibited “bad moral conduct.” (Pa23-Pa24).

The final decision also noted that nonrenewal was justified because: N.J.A.C. 13:55B-2.7(a)(4) permits nonrenewal if an applicant “is alleged to have violated one of the provisions of . . . the Bounty Hunter Licensing Act”; N.J.A.C. 13:55B-2.7(a)(5) permits nonrenewal if an applicant has “failed to

comply with any of the rules in this chapter”; and N.J.A.C. 13:55B-2.7(a)(8) authorizes nonrenewal when “good cause exists . . . in the interest of public safety,” and the facts here justified nonrenewal on those bases. (Pa24) (alteration in third quote in the original).

This appeal followed. (Pa1-Pa4).

ARGUMENT

POINT I

THE NEW JERSEY STATE POLICE SUPERINTENDENT PROPERLY EXERCISED HIS STATUTORY AUTHORITY IN DENYING THE RENEWAL OF SAID’S BOUNTY HUNTER LICENSE.

This court should affirm the decision denying renewal of Said’s bounty-hunter license because NJSP did not act arbitrarily or capriciously in denying Said’s renewal request in light of its conclusion that Said had unlawfully paid Rivera for bounty-hunter services related to Edwards’s apprehension. As demonstrated below, the Superintendent’s December 18, 2023 final agency decision was consistent with the NJSP’s administrative regulations and fully supported by substantial evidence in the record. (Pa20-25).

Our Supreme Court has held that the scope of judicial review of administrative agency actions is “limited.” In re Herrmann, 192 N.J. 19, 27 (2007). The Court has further held that “[a]n administrative agency’s final quasi-judicial decision will be

sustained unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record.” Id. at 27-28; see also Goodman v. London Metals Exch., Inc., 86 N.J. 19, 28-29 (1981) (“Though an independent de novo examination of the record might lead a reviewing court to an opposite conclusion, the court’s obligation is to examine the record in order to determine whether the evidence and the reasonable inferences to be drawn therefrom could reasonably support the decision.”).

The New Jersey Legislature has vested the Superintendent with the statutory authority to “promulgate rules and regulations necessary to carry out the provisions of [the Bounty Hunter Licensing Act, N.J.S.A. 45:19-28 to -42].” N.J.S.A. 45:19-40. In accordance with this statutory authority, the Superintendent has adopted administrative regulations concerning the licensing of bounty hunters. N.J.A.C. 13:55B-2.7(a) expressly provides in relevant part that:

The Superintendent may deny any initial application for a bounty hunter license, revoke or suspend any current license, or refuse to renew any license, for any of the following reasons:

. . .

4. The person holding a bounty hunter license, applying for a license, or applying for renewal of a license, is alleged to have violated one of the provisions of N.J.S.A. 45:19-28 et seq., the Bounty Hunter Licensing Act;

5. The person holding a bounty hunter license, applying for a license, or applying for renewal of a license, has failed to comply with any of the rules in this chapter;

. . .

7. The person holding a bounty hunter license, applying for a license, or applying for renewal of a license, has demonstrated bad moral character, incompetence, or untrustworthiness; or

8. The Superintendent determines that good cause exists to deny, revoke, suspend, or refuse, renewal of a bounty hunter license in the interest of public safety.

In his December 18, 2023 final agency decision, the Superintendent found that Said's actions concurrently contravened N.J.A.C. 13:55B-2.7(a)(4), (5), (7), and (8). (Pa24). The applicable administrative regulations required the Superintendent only to present substantial evidence that Said violated any of those four administrative regulations. N.J.A.C. 13:55B-2.7. On this record, however, there was substantial evidence in the record that Said acted in contravention of each of these administrative code subsections.

A. Substantial evidence showed that Said violated N.J.A.C. 13:55B-2.7(a)(5).

This court can affirm the Superintendent's final agency decision on the grounds that substantial evidence in the record supported the Superintendent's finding that Said violated N.J.A.C. 13:55B-2.7(a)(5). (Pa24).

N.J.A.C. 13:55B-2.7(a)(5) provides in relevant part that the Superintendent may refuse to renew a bounty hunter license where “[t]he person holding a bounty hunter license, applying for a license, or applying for renewal of a license, has failed to comply with any of the rules in this chapter [Title 13, Chapter 55B].” One such administrative rule is N.J.A.C. 13:55B-4.1(a), which provides in relevant part that:

Under the Bounty Hunter Licensing Act, licensed bounty hunters may employ as many persons as the licensee may deem necessary to assist the licensee in the licensee's work and in the conduct of the licensee's business, provided that:

1. A person employed to perform any of the functions, activities or services of a bounty hunter as defined in N.J.A.C. 13:55B–1.3, is also licensed as a bounty hunter in accordance with N.J.A.C. 13:55B–2

Neither the Bounty Hunter Licensing Act nor NJSP’s administrative regulations provide a specific statutory definition for “employed.” Therefore, the ordinary meaning of the word controls. See Grillo v. State, 469 N.J. Super. 267, 274 (App. Div. 2021) (“Where a specific definition is absent, ‘[w]e must presume that the Legislature intended the words that it chose and the plain and ordinary meaning ascribed to those words.’”) (quoting Paff v. Galloway Twp., 229 N.J. 340, 353 (2017) (additional citations omitted) (alteration in original)); see also Black’s Law Dictionary (12th ed. 2024) (defining “employ” as “[t]o make use of,” “[t]o hire,” “[t]o use as an agent or substitute in transacting business,” and “[t]o commission and

entrust with the performance of certain acts or functions or with the management of one's affairs.”).

Here, the ALJ made factual findings that Said knowingly used and paid Rivera to perform the work of a bounty hunter on February 4, 2018, and during the Stanley Edwards investigation. (Pa9-Pa19). Such bounty-hunter work included Rivera investigating Edwards’s whereabouts, assisting in the covert surveillance of Edwards and his home, being physically present for Edwards’s arrest, and transporting Edwards to Said’s office for processing. (Pa9-Pa19; Pa20-Pa25).

Rivera’s involvement in the Edwards’s apprehension falls squarely within New Jersey’s definition of being a “bounty hunter.” More specifically, NJSP’s duly-adopted administrative regulation defines a “bounty hunter” in relevant part as follows:

“Bounty hunter” means and includes any bail runner, bail recovery agent, bail enforcement agent, fugitive recovery agent, or any other person who, for fee, hire or reward: makes any investigation or investigations as to the location or whereabouts of any person who has violated the provisions of N.J.S.A. 2C:29–7 or has failed to appear in any court of law in this State or any other state, when so required by law, . . . or engages in or assists in the apprehension, arrest, detention, confinement, surrender or securing of any such person; or keeps any such person under surveillance.

[N.J.A.C. 13:55B-1.3.]

On this record, the ALJ found that Rivera was unlicensed for such work and that Said paid Rivera \$300 for Rivera's performance of bounty hunter work during the Edwards investigation and apprehension. (Pa9-Pa19). Having accepted the ALJ's amply-supported factual conclusion on that point, the Superintendent correctly determined that Said's conduct constituted a violation of N.J.A.C. 13:55B-4.1(a) and, in turn, a violation of N.J.A.C. 13:55B-2.7(a)(5), which justified the denial of Said's license-renewal request. (Pa24).

Said's arguments on appeal to the contrary must fail.

For instance, Said first contends that the ALJ erred because the test for "employment" of unlicensed persons under N.J.A.C. 13:55B-4.1(a) should mirror that for unemployment, citing Hargrove v. Sleepy's, LLC, 220 N.J. 289 (2015). (Pb16-Pb17). Said then contends that Rivera was, at best, an independent contractor, thereby negating any violation of N.J.A.C. 13:55B-4.1(a). Ibid. This argument falls flat.

Our Supreme Court has held that "[w]e interpret a regulation in the same manner that we would interpret a statute." US Bank, N.A. v. Hough, 210 N.J. 187, 199 (2012) (internal citation omitted). One recognized canon of statutory construction is, "[t]he purpose for which the statute was enacted and the evil at which it is aimed are essential stepping stones on the pathway to the determination of the [legislative] intent." State v. Franchetta, 394 N.J. Super.

200, 206 (App. Div. 2007) (quoting State v. Tims, 129 N.J. Super. 399, 401 (App. Div. 1974)). Here, the plainly expressed purpose of N.J.A.C. 13:55B-4.1(a)(1) is to further public safety by deterring the use of unlicensed persons in the performance of bounty hunter “functions, activities or services.”

Here, Said failed to offer any explanation as to how a test used for wage claim determinations under the New Jersey Unemployment Compensation Act, N.J.S.A. 43:21–19(i)(6), would further the clear objectives of N.J.A.C. 13:55B-4.1(a) and the Bounty Hunter Licensing Act, N.J.S.A. 45:19-28 to -42. (Pb16-Pb17). In actuality, such a test would harm public safety and frustrate the purpose of the regulation by enabling the very actions that the regulation seeks to curtail—the involvement of unlicensed persons in performing bounty-hunter work. See N.J.A.C. 13:55B-4.1(a) (explaining the requirements for employment of persons hired to assist licensed bounty hunters in conduct of the licensee’s business).

Said also challenges the ALJ’s credibility determinations and asserts that “Rivera was not at all credible.” (Pb17). This argument falls flat in light of the applicable law about factual determinations and the record here. An ALJ’s credibility determinations are entitled to deference before this court. See H.K. v. State, Dep’t of Hum. Servs., Div. of Med. Assistance & Health Servs., 184 N.J. 367, 384 (2005) (“The ALJ found those witnesses to be credible and

generally it is not for [the courts] or the agency head to disturb that credibility determination, made after due consideration of the witnesses' testimony and demeanor during the hearing."); Matter of J.W.D., 149 N.J. 108, 117 (1997) ("Deference to a trial court's fact-findings is especially appropriate when the evidence is largely testimonial and involves questions of credibility.") In Fagliarone v. North Bergen Township, 78 N.J. Super. 154, 155 (App. Div. 1963), the court held that "we do not disturb the factual findings and legal conclusions of the trial judge unless we are convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend to interests of justice."

Here, in her September 20, 2023 initial decision, the ALJ expressly made credibility determinations after observing the witnesses and examining the relevant evidence. (Pa13). The ALJ specifically determined that Clay's testimony was "sincere and credible," while finding the testimony of Said and Rivera "not as credible and not consistent with the facts, the other reports, and the timeline in this matter." Ibid. These findings are entitled to deference here.

With this appeal, Said has not provided this court with any factual basis to disturb that conclusion. Here, separate from general disagreement, Said has not presented any evidence or argument as to how the ALJ's credibility

determinations were “so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence.” (Pa1-Pa26).

B. Substantial evidence showed that non-renewal pursuant to N.J.A.C. 13:55B-2.7(a)(7) was appropriate.

This court should also affirm the Superintendent’s final agency decision on the grounds that substantial evidence in the record supports the Superintendent’s finding that Said “exhibited bad moral conduct” in contravention of N.J.A.C. 13:55B-2.7(a)(7). (Pa24).

The NJSP’s administrative regulations do not provide a specific statutory definition for “bad moral character, incompetence, or untrustworthiness.” However, in interpreting the analogous statutory provisions of the Private Detective Act of 1939, N.J.S.A. 45:19-8 to -27, our Supreme Court has instructed that the Superintendent may properly exercise his judgment through “the testing of the known facts against the ordinary and generally accepted meaning of the words ‘good character, competency, and integrity.’” In re Berardi, 23 N.J. 485, 493 (1957). See Black’s Law Dictionary (12th ed. 2024) (defining “bad character” as “[a] person’s propensity for or tendency toward unlawful or immoral behavior.”).

The Berardi Court further instructed that:

[T]he basic test . . . is whether the facts established at the hearing show a lack of “good character, competency, and integrity” or whether in the judgment of the Superintendent the facts and circumstances are such that the required good character, competency and integrity has

been impaired to such an extent that the holding of the license by the particular individual would create the possibility of the very mischief and danger the statute aimed to prevent.

[23 N.J. at 493.]

Here, the ALJ and the Superintendent found that Said had demonstrated bad moral character in contravention of N.J.A.C. 13:55-2.7(a)(7) by unlawfully engaging Rivera to perform unlicensed bounty-hunter services. (Pa9-Pa17; Pa20-Pa25).

In his brief, Said does not dispute the ALJ's finding that Rivera performed unlicensed bounty-hunter work. (Pb1-Pb26). See N.J.S.A. 45:19-30 ("No person shall engage in the business of, or perform, or offer to perform, the functions, activities or services of a bounty hunter . . . unless the person is licensed by the superintendent as set forth in this act."). Nor does Said dispute the ALJ's finding that Said had ultimately paid Rivera \$300 for his unlicensed bounty hunter work. (Pb1-Pb26). Instead, Said argues that the ALJ's finding of "bad moral conduct" was not supported by the record. (Pb25-26).

Specifically, Said argues that the ALJ failed to consider "the 10,000 fugitives [Said] assisted with over a 25 year career as a bounty hunter and bail bondsman," and that "[t]here was also no suggestion that Petitioner's actions caused harm to any person." (Pb25). Said cited no controlling or persuasive authority to demonstrate why these facts should have been relevant to the ALJ's analysis. (Pb25-26). See State v. Hild, 148 N.J. Super. 294, 296 (App. Div.

1977) (“[T]he parties may not escape their initial obligation to justify their positions by specific reference to legal authority.”). Moreover, even if these unsupported claims were relevant, no evidence would support a finding that Said complied with the relevant administrative regulations in any of those apprehensions in light of the other evidence presented. In fact, evidence in the record suggests that Said may have paid additional unlicensed individuals for assistance in some of those apprehensions. (Pa81-84).

Thus, the record, supports the finding that Said exhibited “bad moral character.” (Pa9-19).²

POINT II

SAID’S PROCEDURAL DUE PROCESS CHALLENGE TO THE ADMINISTRATIVE PROCEEDING IS WITHOUT MERIT.

On appeal, Said asserts that because NJSP’s August 21, 2018 notice of nonrenewal referred to Said’s arrest as the basis of his nonrenewal, rather than to the specific facts learned through NJSP’s investigation of Said that resulted

² Said also argues on appeal that there is not substantial evidence in the record that he violated N.J.S.A. 45:19-36. (Pb14-Pb15). Specifically, he argues that because Rivera, Conner, and Viruet held professional licenses, for which a criminal record would be disqualifying, it was reasonable for him to assume that each had no criminal record. *Ibid.* NJSP concedes this point for purposes of appeal. However, Said’s argument here is only relevant to the Superintendent’s finding that he violated N.J.A.C. 13:55B-2.7(a)(4). (Pa24). It has no relevance to the other three administrative regulations that the Superintendent found that Said also violated. (Pa24).

in his arrest, NJSP “must be bound by the reasons given in their denial letter.” (Pb13). Said also asserts that NJSP was required to dismiss its administrative action upon the Paterson Municipal Court’s dismissal of Said’s criminal charges. Ibid. Because these arguments are unsupported by citation to authority and are at odds with existing law, the court should reject these claims.

On August 21, 2018, NJSP served Said with notice of nonrenewal, pursuant to N.J.A.C. 13:55B-6.3(a). (Pa42-Pa43). That administrative regulation provides that “[t]he Superintendent shall notify applicants, licensees or registrants, in writing, of any denial, revocation, suspension of, or refusal to renew licenses and registration cards and shall state the reasons for the action.” N.J.A.C. 13:55C-6.3(a). Here, the Superintendent notified Said of the legal basis for his nonrenewal decision, citing N.J.A.C. 13:55B-2.7(a)(4), (a)(5), (a)(7), and (a)(8). (Pa42). While the Superintendent generally cited Said’s July 19, 2018 arrest as the factual basis for his nonrenewal decision (Pa42), Said does not advance any argument as to why the letter would have somehow barred the Superintendent from considering the investigatory facts that established probable cause for that arrest. (Pb13-Pb14).

In fact, Said’s argument has no basis in law. In High Horizons Dev. v. State, Dep’t of Transportation, 120 N.J. 40, 53 (1990), the Court held that “so long as the parties had adequate notice, a chance to know opposing evidence,

and to present evidence and argument in response, due process would be fundamentally satisfied.” Here, Said does not argue that he was denied any of these procedural rights, either through the August 21, 2018 letter or during the later April 26, 2023 administrative hearing. (Pb13-Pb14). As such, the court should find Said’s technical argument without merit and far beyond the minimal requirements of procedural due process.

This court should also reject Said’s argument as to the relevance of the dismissal of his criminal charges to the Superintendent’s nonrenewal decision because it is at odds with controlling authority. (Pb13). In Berardi, 23 N.J. at 493, for example, the Court expressly held that “[t]he Superintendent has the right to deny a license to an applicant who may never have committed an act denominated a crime or an offense by the laws of this State or the United States.” Under such circumstances here, while the Superintendent may have cited Said’s arrest as a factual basis for nonrenewal (Pa42), as a matter of law, the Superintendent’s discretion was not circumscribed by the ultimate result of Said’s municipal court criminal action.

CONCLUSION

For these reasons, this court should affirm the Superintendent’s December 18, 2023 final agency decision denying renewal of Said’s bounty-hunter license.

Respectfully submitted,

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