

BEFORE THE IOWA INSURANCE COMMISSIONER

<p>IN THE MATTER OF</p> <p>THOMAS W. BENNETT,</p> <p style="padding-left: 40px;">Applicant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Division Case No. 124534</p> <p>ORDER APPROVING APPLICATION FOR RESIDENT INSURANCE PRODUCER LICENSE WITH CONDITIONS</p>
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DECISION

Pursuant to Iowa Code chapter 522B – Licensing of Insurance Producers and Iowa Administrative Code rule 191—10.10, this matter comes before the Commissioner of Insurance upon the application of Thomas W. Bennett for a resident insurance producer license.

Under the authority of Iowa Code §522B.11(1)(f), the Division notified Bennett on September 25, 2024, of its intent to deny his application on the basis on his prior felony conviction. Bennett was sentenced to imprisonment for life by the District Court for Polk County on April 21, 1999. At the time of his offense, Bennett was seventeen years-old.

On October 25, 2024, Bennett requested a hearing.

A hearing was held on November 26, 2024, at the offices of the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315. Bennett appeared without counsel. The Division was represented by attorneys Zebulon Black and Johanna Nagel.

We approve Bennett’s application for a resident producer license.

NOW THEREFORE, after reviewing the pleadings submitted in the case and the evidence received, we issue the following findings of fact, conclusions of law, and orders:

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 522B—Licensing of Insurance

2. Bennett applied for a resident producer license with the Division by submitting the Iowa Uniform Application through NIPR. In submitting the Uniform Application, Bennett designated the Commissioner as an agent for service of process. Bennett’s application is filed under National Producer Number 212852270. (Ex. 1).

3. Iowa Code § 522B.5 provides that “[b]efore approving [an] application, the commissioner shall find all of the following:

- a. The individual is at least eighteen years of age.
- b. The individual has not committed any act that is a ground for denial, suspension, or revocation as set forth in section 522.11.
- c. The individual has paid the license fee of fifty dollars.
- d. The individual has successfully passed the examinations for the lines of authority for which the person has applied.
- e. In order to protect the public interest, the individual has the requisite character and competence to receive a license as an insurance producer.

4. Iowa Code § 522B.11(1)(f) provides that the Commissioner may place on probation, suspend, revoke, or refuse to issue an insurance producer’s license for “[h]aving been convicted of a felony.”

5. Bennett does not dispute his prior conviction for Murder in the First Degree in violation of Iowa Code § 707.1 and 707.2. A review of the case proceedings in the record indicates that the sentence of life imprisonment is supported by the law and the facts. The violent conduct of Bennett along with two other young men in killing a disabled man on August 4, 1998 was heinous.

However, we find that Bennett's character has changed dramatically from that day more than 26 years ago.

6. The District Court in 1999 originally sentenced Bennett to life imprisonment without any eligibility for parole. Then in 2012, following the United States Supreme Court decision in *Miller v. Alabama*, 132 S.Ct. 2455 (2012), Bennett's sentence was vacated by the Court of Appeals for Iowa and remanded to the District Court for resentencing. *State v. Thomas William Bennett*, 820 N.W.2d 769 (Table, Text in WESTLAW), Unpublished Disposition 2012 WL 2816806.

7. On March 25, 2014, Bennett was resentenced to life imprisonment with eligibility for parole.

8. In April of 2020, Bennett was paroled from work release to lifetime parole.

9. In support of his Uniform Application, Bennett submitted a written statement summarizing his educational and professional development over his 20 years of imprisonment and work release. (Ex. 1). At the hearing, he provided additional explanation of the changes in his life over the past 26 years.

10. Iowa law grants wide discretion to a licensing authority such as the insurance commissioner. The Iowa Supreme Court has described this authority as "extremely broad." *In the matter of DeVries*, No. 103128, 2021 WL 1202188, (Iowa Ins. Div., March 26, 2021), at 22; *In the matter of Diamond*, No. 96975, 2019 WL 5677529, (Iowa Ins. Div., Oct. 23, 2019), at 35; *Burns v. Board of Nursing of State of Iowa*, 528 N.W.2d 602, 604 (Iowa 1995). As the purpose of statutory licensing schemes is to protect the public health, safety and welfare of the people of Iowa, the licensing statutes should be liberally construed. *DeVries, Id.* at 22; *Diamond, Id.* at 35; *In the matter of Michael Nulph*, Division Case No. 94689, November 7, 2017, 2017 WL 6504599

(Iowa Ins. Div.) at 5. This licensing authority discretion associated with prior felony conduct is related to consumer protection and has no relationship to punishment.

11. At hearing, we received the testimony and written statements of several individuals highly respected in their communities whom shared personal experiences with Bennett in educational, professional and social capacities over the last 10 years. Each of these witnesses vouched for Bennett's good character. Character testimony is valuable evidence in cases involving an applicant's prior felony, especially when a significant time has elapsed and circumstances have changed since the date of the crime. Character testimony reflects on the applicant's current character as distinct from the character reflected by his past criminal conduct. We find from Bennett's testimony, taken with the testimony and statements of others, that Bennett has earned a second chance, and he has the requisite character and competence to receive a license as an insurance producer.

12. However, we note that Bennett will remain on parole under the supervision of the Iowa Department of Corrections. The granting of an insurance producer license is an act of trust and the granting of a privilege. In light of Bennett's ongoing parole, we condition his license on the requirement of submitting an annual report to the commissioner.

IT IS HEREBY ORDERED that upon completion of all documentation required under Iowa Code § 522B.5, the Division shall approve the application of Thomas W. Bennett.

IT IS FURTHER ORDERED that Bennett, in addition to any other requirements under Iowa law and regulations, shall submit an annual report each year for five years on the anniversary date of his license, summarizing his professional experience and association with other insurance producers over the prior twelve months. Unless extended by order of the commissioner, this condition will lapse and no longer be required after Bennett submits his annual report in 2030.

