

**BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON  
REFERRAL FROM THE ALASKA BOARD OF PSYCHOLOGIST AND  
PSYCHOLOGICAL ASSOCIATE EXAMINERS**

In the Matter of the )  
Peter Igwacho ) OAH No. 06-0285-PSY  
 ) Board Case No. 2952-06-001

---

**DECISION AND ORDER**

**I. Introduction**

This case questions a decision by the Alaska Board of Psychologist and Psychological Associate Examiners (“board”) to deny Peter Igwacho’s application to take the psychological associate examination. The board denied the application because Mr. Igwacho made a false statement regarding an alcohol-related conviction on his application.<sup>1</sup>

Mr. Igwacho requested a hearing, not to challenge the board’s finding about the false statement, but rather to explain why he gave the wrong answer, and to request that the board reverse its decision. Despite his candor at the hearing, and the sincerity of his regret for having made this mistake, Mr. Igwacho did not show that the board erred in denying his application to take the examination or that the board should exercise its discretion to allow him to do so. The board’s initial denial of the application, therefore, is affirmed, but this decision does not preclude Mr. Igwacho from reapplying for licensure.

**II. Facts**

In Minnesota, on May 22, 2002, Mr. Igwacho was stopped for speeding and charged with driving while intoxicated.<sup>2</sup> He had a blood alcohol level of 0.14.<sup>3</sup> He did not dispute the charge, pled guilty, and eventually completed a two day alcohol education program.<sup>4</sup> He successfully completed the terms of his probation on June 26, 2003.<sup>5</sup>

Mr. Igwacho appeared before a judge a few days after he was stopped.<sup>6</sup> Neither the judge nor anyone else told him that driving while intoxicated is considered a minor traffic violation.<sup>7</sup>

---

<sup>1</sup> Exhibit A at pp. 10 & 24.

<sup>2</sup> Exhibit A at p. 39 (October 11, 2005 letter from Igwacho to division staff); *also* June 28, 2006 Testimony of Peter Igwacho. Unless the context indicates otherwise, references in this decision to “Igwacho Testimony” are to Mr. Igwacho’s testimony at the June 28, 2006 evidentiary hearing.

<sup>3</sup> Exhibit A at p. 40 (Ramsey County, Minnesota, probation referral form).

<sup>4</sup> Igwacho Testimony; Exhibit A at p. 39 (October 11, 2005 letter from Igwacho to division staff); Exhibit A at p. 38 (June 23, 2004 letter from Probation Representative Redmond, explaining Mr. Igwacho’s probation required him to attend an alcohol information class, which he completed “on the third attempt because of scheduling and ride problems”).

<sup>5</sup> Exhibit A at p. 38 (June 23, 2004 Redmond letter).

<sup>6</sup> Igwacho Testimony.

<sup>7</sup> Igwacho Testimony.

He “did not talk with anybody about the gravity of the offense” but he did know it could be serious.<sup>8</sup>

During the process of applying for licensure in Alaska, Mr. Igwacho spoke with his professor, Nancy A. Piotrowski, Ph.D., about the driving while intoxicated conviction when discussing his request for her to provide him with a letter of reference, but he does not recall the specific date.<sup>9</sup> He submitted his application for licensure by examination as a psychological associate on August 10, 2005.<sup>10</sup> On the application form, under the “Professional Fitness” section, Mr. Igwacho marked the “no” box next to question 4, which reads:

Have you ever been convicted of any criminal offense(s), other than minor traffic violations, under the laws of any state or of the United States (convictions include suspended imposition of sentence)?<sup>[11]</sup>

On August 25, 2005, the Division of Corporations, Business and Professional Licensing (then known as the Division of Occupational Licensing) received Dr. Piotrowski’s completed “Letter of Reference” form for Mr. Igwacho’s application.<sup>12</sup> Dr. Piotrowski submitted it to the division without providing a copy to Mr. Igwacho.<sup>13</sup> In response to a question about whether the applicant has been “addicted to or excessively used alcohol[,]” instead of marking the “yes” or the “no” box, Dr. Piotrowski put an “x” in the blank space between the two and noted “unclear, see #15.”<sup>14</sup> In item 15, which invites the reference to provide “[a]ny further comments the board might consider[,]” Dr. Piotrowski wrote

He had a personal incident related to alcohol within that time period [the last five years], according to his report. It sounded minor, but I do not know him well enough to comment on diagnostic issues. He did high level work in my class, however, and took feedback very well. So I have little reason to not take him for his word.<sup>[15]</sup>

Because the concern about an alcohol-related incident had been raised by a reference letter but Mr. Igwacho had answered application question 4 “no,” the division staff sought

---

<sup>8</sup> Igwacho Testimony.

<sup>9</sup> Igwacho Testimony.

<sup>10</sup> Exhibit A at p. 41-45 (completed application form).

<sup>11</sup> Exhibit A at p. 45.

<sup>12</sup> Exhibit A at p. 74-75.

<sup>13</sup> Mr. Igwacho testified that he had not seen the letter until receiving the exhibits for the June 28, 2006 evidentiary hearing.

<sup>14</sup> Exhibit A at p. 74 (response to question 8).

<sup>15</sup> Exhibit A at p. 75.

guidance from the board on Mr. Igwacho's application at the September 2005 meeting.<sup>16</sup> The board directed the division staff to investigate the matter.

In October, at the request of division staff, Mr. Igwacho provided documentation concerning his Minnesota conviction and successful completion of his probation.<sup>17</sup> By mistake, the division sent Mr. Igwacho's application back to the board prematurely, at the board's December 2005 meeting, before the investigator, Naseer Dhaamin, had completed his work and filed his report.<sup>18</sup> Problems also occurred with the notice the division staff provided to Mr. Igwacho, which later prompted the division to refer the matter to the board once again (in March 2006).<sup>19</sup>

Early in December 2005, Investigator Dhaamin and Mr. Igwacho spoke by telephone about the answer to application question 4.<sup>20</sup> According to Investigator Dhaamin, Mr. Igwacho gave the reason for answering "no" to be, in part, that "he didn't think the investigation would go that in depth."<sup>21</sup> Mr. Igwacho's memory differs, not so much about what he said as what he meant—i.e., that he did not understand what the question required.<sup>22</sup> He explained that his impression from conversations with colleagues at conferences, based on their personal experiences, was that an alcohol-related violation was not a concern for licensure and that more serious violations such as for child abuse and domestic violence were the main concerns.<sup>23</sup> Both men were credible witnesses and their testimony is not irreconcilable.<sup>24</sup>

According to Investigator Dhaamin, Mr. Igwacho also said he had been unsure about whether to say "yes" or "no" to question 4, but that Dr. Piotrowski told him (after he had already

---

<sup>16</sup> June 28, 2006 Testimony of Cynthia Cintra ("Cintra Testimony").

<sup>17</sup> Exhibit A at pp. 57 & 52-56 (October 10, 2005 letter from Cintra to Igwacho, describing information needed, and Igwacho's October 11, 2005 facsimile response); Igwacho Testimony and closing statement.

<sup>18</sup> June 28, 2006 Testimony of Jan Mays ("Mays Testimony"), Cori Hondolero ("Hondolero Testimony"), Naseer Dhaamin ("Dhaamin Testimony").

<sup>19</sup> Mays Testimony; Hondolero Testimony. The notice problems resulted from use of an incorrect letter that failed to include notice of appeal rights.

<sup>20</sup> Dhaamin Testimony.

<sup>21</sup> Dhaamin Testimony.

<sup>22</sup> Igwacho Testimony.

<sup>23</sup> Igwacho Testimony.

<sup>24</sup> In its closing argument, the division suggested that Mr. Igwacho's statement to Investigator Dhaamin showed that he was trying to hide his conviction from the board. Though that inference could be drawn from Investigator Dhaamin's recollection of what was said, Mr. Igwacho's explanation suggests another inference—i.e., that the communication between the two was not clear. Since it is unnecessary to the outcome of this appeal to make a fact finding about what Mr. Igwacho meant by the statement to Investigator Dhaamin, no inference will be drawn from that statement.

submitted his application) that he should have disclosed the conviction.<sup>25</sup> Mr. Igwacho asked Investigator Dhaamin what he could do to rectify the situation.<sup>26</sup> They discussed the possibility of Mr. Igwacho reapplying at a later date, and answering question 4 correctly.<sup>27</sup> They also discussed the possibility of the board requiring Mr. Igwacho to pay a fine or penalty before he could take the examination.<sup>28</sup> This may have resulted from some confusion about whether the board can use a memorandum of agreement (MOA) to allow initial licensure, as it can to impose agreed-upon disciplinary sanctions.<sup>29</sup>

Mr. Igwacho's application was presented to the board at its March 16-17, 2006 meeting. The board denied his application to take the examination for "making a false statement regarding an alcohol-related conviction on his application."<sup>30</sup> This appeal followed. The evidentiary hearing was held on June 28, 2006. The record was held open until July 12, 2006. Through no fault of Mr. Igwacho or the division, issuance of a proposed decision was delayed until a full year had passed since the board's action challenged by this appeal. This delay was in addition to the delay Mr. Igwacho had already experienced due to the premature referral of his application to the board in December 2005 and the need to re-present it at the March 2006 meeting due to the notice problem.

### **III. Discussion**

The board must issue a psychological associate license to a person who meets the statutory requirements for licensure.<sup>31</sup> One such requirement is that the person "takes and passes the objective examination developed or approved by the board for psychological associates."<sup>32</sup> By statute, if the board finds an applicant to have met certain qualifications, the "person is entitled to take [the] psychological associate examination ...."<sup>33</sup> The board's duties require it to

---

<sup>25</sup> Dhaamin Testimony. Since Dr. Piotrowski signed her reference letter form on August 16, 2005, (*see* Exhibit A at p. 75), six days after the division had received Mr. Igwacho's application form and 11 days after he signed it (*see* Exhibit A at p. 66, showing receipt on August 10, 2005, of the form signed on August 5<sup>th</sup>), more likely than not, the conversation with Dr. Piotrowski occurred after Mr. Igwacho had sent in his application.

<sup>26</sup> Dhaamin Testimony.

<sup>27</sup> Dhaamin Testimony.

<sup>28</sup> Igwacho Testimony.

<sup>29</sup> Exhibit A at p. 48 (email from Strickler to Mays explaining that Dhaamin was trying to contact the board chair about whether the board might wish to use an MOA and fine in this matter). According to the June 28, 2006 Testimony of Chief Investigator Richard Younkins ("Younkins Testimony"), in his experience MOAs are used only in disciplinary matters.

<sup>30</sup> Exhibit A at pp. 10 & 24.

<sup>31</sup> AS 08.86.160(a).

<sup>32</sup> AS 08.86.160(a)(4).

<sup>33</sup> AS 08.86.162.

“establish objective examination requirements” for applicants and to “adopt regulations establishing standards for the practice of psychology[.]”<sup>34</sup> Licensed psychological associates “practice psychology.”<sup>35</sup>

The board has adopted regulations that prescribe application requirements.<sup>36</sup> These include using the required form and swearing to the truth of its contents.<sup>37</sup> When an application includes a false statement, the board has grounds to deny approval to take the examination.<sup>38</sup> Additionally, “[t]he board will, in its discretion, ... deny approval to take a licensing examination, if the applicant has (3) misrepresented his or her qualifications to the board in any way ....”<sup>39</sup>

Mr. Igwacho has not questioned whether the board’s regulations exceed its statutory authority, or whether requiring an applicant to truthfully disclose information about prior criminal convictions is reasonably related to the qualifications for his profession. To the contrary, in his closing statement at the hearing, Mr. Igwacho emphasized his understanding of the importance, from an ethical standpoint, of people in his profession being truthful. He does not dispute the facts upon which the board based its initial denial of his application to take the examination. He answered “no” to application question 4, which asked whether he had “ever been convicted of any criminal offense(s), other than minor traffic violations ...” and he admits the “no” answer was false.<sup>40</sup> Thus, under 12 AAC 60.050, the board had at the time of the March 2006 meeting and still has now grounds to deny approval for Mr. Igwacho to take the examination.

Denial of approval, however, is not mandatory. The board decides on a case-specific basis whether to deny the applicant’s request to take the examination, and it has discretion to deny or to grant the request. The governing statutes and regulations do not provide any particular standards for the exercise of that discretion. Neither the division nor Mr. Igwacho put any evidence into the record about this board’s past practice on this point, and no prior precedents were found in the available decisions of this board. In short, the only information in the record

---

<sup>34</sup> AS 08.86.070(1)&(3).

<sup>35</sup> Under AS 08.86.230(6), “to practice psychology” includes rendering psychological services. A licensed psychological associate “renders psychological services....” *Id.* at subpara. (4).

<sup>36</sup> See generally 12 AAC 60.010 – 12 AAC 60.060.

<sup>37</sup> 12 AAC 60.010(b) & 12 AAC 60.050.

<sup>38</sup> 12 AAC 60.050.

<sup>39</sup> 12 AAC 60.055.

<sup>40</sup> Igwacho Testimony.

on which to base the board's decision whether to exercise its discretion to allow Mr. Igwacho to take the examination is the board's previous denial of his request and any facts brought out during the hearing that may persuade the board to reverse its prior decision.

Mr. Igwacho has asked for leniency from the board. He acknowledges that it was a mistake not to disclose the Minnesota driving while intoxicated conviction with his initial application and has been very forthcoming about the conviction since the division staff discovered it. He cooperated in the investigation, providing the documents about his conviction and completion of probation the day after the division first raised the matter with him. He testified candidly and credibly, admitting that no one had told him, and he himself does not believe, that driving while intoxicated is a minor traffic violation. In his closing statement at the hearing, Mr. Igwacho acknowledged that he has made a mistake and said that he is trying to learn from his mistakes, strongly suggesting he will not make this particular mistake again.

In addition, Mr. Igwacho's efforts to obtain the board's approval to take the examination have been delayed by more than a year, first by the division's mistakes that required the matter to be brought back to the board, and then by the several months' delay in issuing a proposed decision for the board's consideration. These delays resulted through no fault of Mr. Igwacho, *except* that no delays in the board's consideration of his qualifications would have occurred at all but for his own decision not to answer question 4 truthfully.

Had Mr. Igwacho answered truthfully when he completed his application in August 2005, more likely than not, the board would have had all the information it needed about the nature of his Minnesota conviction and his successful completion of his probation by the time of the board's December 2005 meeting at the latest, and possibly by the September 2005 meeting. The board might have decided to allow him to take the examination then. Even if it did not, he would have been entitled to appeal the basis for the board's denial. It is no more likely that his conviction for driving while intoxicated would have been a sticking point for the board then, than that it will be a sticking point for the board now.

Now, however, the board is not faced with simply considering Mr. Igwacho's qualifications in light of a conviction and successful completion of probation. Now the board must consider whether the lapse in judgment demonstrated by his decision not to disclose the conviction weighs against allowing him to take the examination. Because he did not answer the question truthfully, the focus has shifted from a mistake in judgment about driving after drinking alcohol to a mistake in judgment about being forthcoming with the licensing authority from the

outset, or at least as soon as he had reason to know that it was a mistake not to disclose the conviction.

Even after Dr. Piotrowski told him he should have disclosed his conviction on his application, Mr. Igwacho took no corrective action. Rather, he waited until his application was tabled by the board and an investigation was underway before he provided information regarding his conviction. Mr. Igwacho was forthcoming only after the division discovered that he had not answered the question truthfully. This fact supports an inference that Mr. Igwacho hoped to keep the board from learning about the conviction even after his professor told him he should have disclosed it in the application. He made a calculated choice (if not when he filed the application, then certainly after he spoke with Dr. Piotrowski) to substitute his own judgment for that of the board about what information it should consider when evaluating his qualifications.

In this particular licensure category, the board must be able to rely on candor from applicants about criminal convictions because the division cannot require psychological associate applicants to submit fingerprints, which are necessary to run a nationwide criminal history check.<sup>41</sup> No evidence was brought out at the hearing that Mr. Igwacho knew of this limitation on the division's investigative capabilities. Indeed, at the end of the hearing, Mr. Igwacho said he would provide fingerprints for the purpose of running a criminal history check if the board wants him to do that. He provided a criminal history search record on himself that he had obtained, but it was limited to the State of Alaska.<sup>42</sup> Again, Mr. Igwacho was cooperative and forthcoming, but only after the alcohol-related incident had come to light.

Ultimately, the board's decision whether, in its discretion, to allow Mr. Igwacho to take the examination rests on a balancing of the facts showing that he failed to promptly disclose information he had reason to know the board wanted to consider against the facts showing that he is remorseful and has learned a lesson from his mistake. The difficulty with tipping the balance toward the latter—i.e., that the lesson has been learned—is the result that yields. If the board were to exercise its discretion to approve Mr. Igwacho's 2005 application and allow him to take the examination and he passed it, he could then fairly represent on future license

---

<sup>41</sup> Chief Investigator Richard Younkens testified that without an applicant's fingerprints, the division is not able to check applicants' criminal histories through the national and state law enforcement databases. Instead, it is limited to running the applicants' names through the commercial Lexis/Nexus database, which does not include criminal history information for Minnesota. Dhaamin Testimony.

<sup>42</sup> The criminal history record shows only one dismissed charge for driving without proof of insurance and no convictions in Alaska.

applications (in Alaska or elsewhere) that he has not been denied licensure. If the board were to affirm its prior denial, Mr. Igwacho could reapply and answer question 4 truthfully, but he would also be obliged to disclose the past denial when the licensing authority asks about licensing history (as Alaska does).<sup>43</sup>

In short, the choice for the board is whether Mr. Igwacho's circumstances justify setting a precedent that favors giving an applicant who made Mr. Igwacho's mistake a clean slate or favors requiring such applicants to disclose in future applications that their candor with the licensing authority previously wavered. Despite Mr. Igwacho's sincere desire to rectify and learn from his past mistake, the policy of requiring candor from applicants seeking licensure as psychological associates argues against the board reversing its prior denial.

#### **IV. Conclusion**

Mr. Igwacho did not answer application question 4 truthfully and did not disclose his driving while intoxicated conviction, even after his professor told him he should have, until the division staff asked him about the alcohol-related incident his professor reported. He attempted to substitute his judgment about what the board needed to know with his own judgment about what he wanted the board to consider. Though Mr. Igwacho regrets his mistake, the board cannot reward that mistake with the leniency Mr. Igwacho requests without setting a potentially bad precedent, which could undermine the board's policy of requiring candor from applicants.

The board's denial of Mr. Igwacho's 2005 application for approval to take the examination for licensure as a psychological associate, therefore, is affirmed. Mr. Igwacho is free to reapply for licensure, but his 2005 application remains denied.

DATED this 15<sup>th</sup> day of March, 2007.

By: Signed \_\_\_\_\_  
Terry L. Thurbon  
Chief Administrative Law Judge

---

<sup>43</sup> In the Alaska psychological associate application form, revised as of April 5, 2004, question 1 asks: "**Has your professional license ever been denied**, revoked, suspended, surrendered, stipulated, on probation, or been subject to any other restriction or disciplinary action in any jurisdiction?" See Exhibit A at p. 66 (emphasis added).



## Adoption

The undersigned, on behalf of the Alaska Board of Psychologist and Psychological Associate Examiners, adopts this Decision and Order under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 13<sup>th</sup> day of April, 2007.

By: Signed  
Signature  
Lorin L. Bradbury, Ph.D.\*  
Name  
Board Chairman  
Title

\* Typographical error on page 3 amended.

[This document has been modified to conform to the technical standards for publication.]