

**IN THE MATTER OF**  
**GARY FISHER**  
**Applicant**

**\* BEFORE THE MARYLAND STATE**  
**\* BOARD OF PROFESSIONAL**  
**\* COUNSELORS AND THERAPISTS**  
**\* Case Number: 2021-028**

\* \* \* \* \*

**FINAL ORDER**

On or about July 16, 2021, the Maryland State Board of Professional Counselors and Therapists (the “Board”) notified **GARY FISHER** (the “Applicant”), of the Board’s intent to deny his Application to practice as an alcohol and drug trainee under the Maryland State Board of Professional Counselors and Therapists Act (the “Act”), codified at Md. Code Ann., Health Occ. §§ 17-101 *et seq.* (2014 Repl. Vol. and 2020 Supp.).

The Notice also informed the Applicant that, unless she requested a hearing in writing within thirty (30) days of service of the Notice, the Board would sign the Final Order, which was enclosed. More than thirty (30) days have elapsed, and the Applicant failed to timely request a hearing.

Specifically, the Board bases its intent to deny on the following:

**Health Occ. § 17-509. Denial, probation, suspension or revocation of trainee status, license, or certificate.**

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny trainee status, a license, or a certificate to any applicant, place any trainee, licensee, or certificate holder on probation, reprimand any trainee, licensee, or certificate holder, or suspend, rescind, or revoke the status of any trainee, a license of any licensee, or a certificate of any certificate holder if the applicant, trainee, licensee, or certificate holder:

- (10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside[.]

**FINDINGS OF FACT**

The Board makes the following Findings of Fact:

**I. Application**

1. On or about August 11, 2020, the Board received the Applicant's Alcohol and Drug Trainee Application (the "Application").
2. In his Application, the Applicant answered "yes" to question 2, which asked: "Have you pled guilty, *nolo contendere*, [*sic*] or been convicted of, received probation before judgment, or had a conviction set aside for any criminal act (excluding traffic violations)?"

3. The Application instructed the Applicant to “attach a separate page with a complete explanation of each occurrence (include date, time, location, disposition, etc.) and a *certified* copy of the disciplinary/court document from the issuing agency.”

4. The Applicant included a written explanation and certified copies of court records for criminal cases.

5. Based on the Applicant’s acknowledgment on the Application that he had a criminal history and his written explanation, the Board began an investigation.

## **II. Board Investigation**

6. The Board received court records that indicated the Applicant had criminal convictions from 1967 to 1982 that included the following:

- a. On or about July 19, 1982, in the Queens County Supreme Court, State of New York, Case Number 2637-80, the Applicant was convicted of Murder 2<sup>nd</sup> Degree: With Intent, a Class A felony; two counts of Robbery 1, a Class B felony; and, Criminal Use of a Firearm, a Class B felony. The Applicant was sentenced to incarceration for 25 years to life for Murder in the 2<sup>nd</sup> Degree and 8 years and 4 months to 25 years for the other three counts to run consecutively. According to Court records, the Applicant’s motives for his crimes involved the need to satisfy a serious heroin addiction at the time.
- b. On or about November 17, 1976, in the Queens County Criminal Court, State of New York, Case Number Q634342, the Applicant was convicted upon a plea of guilty of Attempted Possession Stolen Property-3<sup>rd</sup> Degree, a Class B misdemeanor and sentenced to 15 days of incarceration.



- c. On or about February 13, 1975, in the Queens County Criminal Court, State of New York, Case Number Q502295, the Applicant was convicted upon a plea of guilty of Attempt to Possess Stolen Property/ Misdemeanor, a Class B misdemeanor and sentenced to 30 days of incarceration.
- d. On or about June 28, 1974, in the Kings County Criminal Court, State of New York, Case Number K419932, the Applicant was convicted upon a plea of guilty of Attempted Promoting Contraband to Prisoners-2<sup>nd</sup> Degree, a Class B misdemeanor and sentenced to 30 days of incarceration.
- e. On or about April 4, 1974, in the Queens County Criminal Court, State of New York, Case Number Q404358, the Applicant was convicted upon a plea of guilty of Attempted Petit Larceny, a Class B misdemeanor and sentenced to 3 months of incarceration.
- f. On or about February 28, 1973, in the Queens County Criminal Court, State of New York, Case Number Q303174, the Applicant was convicted upon a plea of guilty of Attempted Possession Stolen Property-3<sup>rd</sup> Degree, a Class B misdemeanor and sentenced to 45 days of incarceration.
- g. On or about March 30, 1973, in the Kings County Criminal Court, State of New York, Case Number K048181, the Applicant was convicted upon a plea of guilty of Petit Larceny, a Class A misdemeanor and sentenced to 90 days of incarceration.
- h. On or about December 10, 1970, in the Queens County Criminal Court, State of New York, Case Number Y007266, the Applicant was convicted upon a plea of guilty of Assault-3<sup>rd</sup> Degree, a Class A misdemeanor; and, Petit Larceny, a Class A misdemeanor and sentenced to 1 year of incarceration.

7. In his July 27, 2020 letter of explanation that was submitted with his Application, the Applicant wrote the following:

...it was primary [*sic*] in the seventies in which my spree of criminal mischief was unleashed upon society. Being a young man who fell victim to the use of heroin, I became someone who possessed an unstable mind, laced with irrational choices...

As for the most recent charge of murder in the second degree which occurred in 1980, I was convicted of felony murder and served a sentence of 33 years and 4 months...myself, along with others decided to carry out a robbery of a store...I chose to drive them to the location in my car...my co-defendants entered the premise, and before fleeing, they caused the death of the store owner. Under the statute of felony murder, everyone is equally guilty of murder, including myself...I will always carry a heavy heart for my part in this matter.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law:

The Applicant's guilty pleas and convictions of Murder 2<sup>nd</sup> Degree, a felony; 2 counts of Robbery 1, felonies; Criminal Use of a Firearm, a felony; Attempted Possession of Stolen Property (4 separate cases), a crime of moral turpitude; Petit Larceny (3 separate cases), a crime of moral turpitude; and Attempted Promoting Contraband to Prisoners, a crime of moral turpitude, constitutes, in whole or in part: being convicted of a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside in violation of Health Occ. § 17-509(10).



**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of October 2021, by a majority of the Board considering this case:

**ORDERED** that the Applicant's Application to practice as an alcohol and drug trainee in the State of Maryland is **DENIED**; and it is further

**ORDERED** that this is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2014).

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. § 17-512(a), the Applicant has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files an appeal, the Board is a party and should be served with the court's process at the following address:

Tony W. Torain, Executive Director  
Maryland State Board of Professional Counselors and Therapists  
4201 Patterson Avenue  
Baltimore, Maryland 21215-2299  
Fax: 410-358-1610

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

November 19, 2021

Date

Mary N. Drotleff, M.S., LCMFT

Mary N. Drotleff, M.S., LCMFT

Board Chair

Maryland State Board of Professional  
Counselors and Therapists