

Board's Order accepting the surrender and declaring the license null and void effective June 15, 2016, a printout from the Board's Web site showing that his license had expired on June 15, 2016, and Respondent's August 31, 2016 DEA application which contained the various false statements. This evidence is sufficient to show that Respondent knowingly falsified his application by representing that his license had not been subject to discipline by the State Board and that he was, at the time of his application, not currently authorized to handle controlled substances in the State where he sought registration.

By contrast, Respondent did not even respond to the Government's motion,⁶ let alone offer any evidence to support the assertion made in his hearing request which characterizes the false statements as irregularities and mistakes.⁷ Thus, I conclude that there is

⁶ While the ALJ's November 1, 2016, order setting the briefing schedule for the lack of state authority allegation addressed only the timing of "any motion for summary disposition on these grounds," the Government's Motion for Partial Summary Disposition provided Respondent with ample notice that it was seeking a ruling on the material falsification allegation as well. Notably, the opening paragraph of the motion states that "[t]he Government respectfully requests that the ALJ grant the Government's request for summary disposition on two issues: That Respondent lacks state authority in West Virginia [and] that Respondent materially falsified his Application for a DEA registration. Motion, at 1.

Moreover, the Government set forth various facts which it asserted were undisputed, including Respondent's answers which provided a license number for a purported West Virginia license, which he then represented would not expire until July 1, 2017, as well as his "No" answer to Question three on the application. Later, the Government devoted a separate section of its motion to arguing that Respondent made false statements on his application by failing to disclose that he had surrendered his state license for cause, that this was a material falsification under the *Kungys* standard, and that it was entitled to summary disposition on this issue. *Id.* at 6–7. Yet Respondent offered no response to the Motion.

Also, in its Exceptions to the ALJ's R.D., the Government took issue with the ALJ's failure to grant its motion with respect to the material falsification allegations. *See generally* Gov. Exceptions. Here again, Respondent offered no response. *See* 21 CFR 1316.66(c) (providing for "the filing of a response to the exceptions filed by another party").

⁷ While the "usual rule [is] that all doubts are resolved against the moving party," as a leading authority explains, "[i]f the movant presents credible evidence that, if not controverted at trial, would entitle the movant to a . . . judgment as a matter of law that evidence must be accepted as true on a summary-judgment motion when the party opposing the motion does not offer counter-affidavits or other evidentiary material supporting the opposing contention that an issue of fact remains, or does not show a good reason . . . why he is unable to present facts justifying opposition to the motion." 10A, Charles Alan Wright, *et al.*, *Federal Practice and Procedure Civ.* § 2727.1 (4th ed. 2017). Here, as Respondent did not even respond to the Government's motion, let alone offer any evidence to create a triable issue of fact, the

no dispute as to the material fact that Respondent materially falsified his August 31, 2016 application and that he did so knowingly.

Accordingly, I conclude that the Government was entitled to summary disposition on the allegation that Respondent materially falsified his August 31, 2016 application for a new DEA registration. This provides an additional and independent basis apart from his lack of state authority for denying his application.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b), I order that the application of Richard Jay Blackburn, D.O., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: April 14, 2017.

Chuck Rosenberg,

Acting Administrator.

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DEPARTMENT OF JUSTICE

[OMB Number 1110–0005]

Agency Information Collection Activities; Proposed eCollection; eComments Requested Age, Sex, Race, and Ethnicity of Persons Arrested Under 18 Years of Age; Age, Sex, Race, and Ethnicity of Persons Arrested 18 Years of Age and Over

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-day notice.

SUMMARY: Department of Justice (DOJ), Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published allowing for a 60 day comment period.

DATES: Comments on the information collection published in the **Federal Register** at 82 FR 11060, on February 17, 2017 are encouraged and will be accepted until May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public

Government was clearly entitled to summary disposition on the allegation.

burden and associated response time, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to OIRA_submissions@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Age, Sex, Race, and Ethnicity of Persons Arrested Under 18 Years of Age; and Age, Sex, Race, and Ethnicity of Persons Arrested 18 Years of Age and Over

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Agency form number: 1–708 and 1–708a. Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal, and tribal law enforcement agencies. Abstract: Under Title 28, U.S.

Code, Section 534, Acquisition, Preservation, and Exchange of Identification Records; and Appointment of Officials, 1930, this collection requests the number of arrests from city, county, state, tribal, and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of arrest

data and to publish these statistics in Crime in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are approximately 11,791 law enforcement agency respondents; calculated estimates indicate 12 minutes for form 1-708a and 15 minutes for form 1-708 per month.

The total annual burden hour per respondent is 5 hours and 24 minutes.

Total Annual Hour Burden:

15 minutes = 12 minutes $\times$ 12 months
= 324/60 = 5 hours and 24 minutes

(6) An estimate of the total public burden (in hours) associated with the collection: There are approximately 63,671 hours, annual burden, associated with this information collection.

1-708a: 11,791 respondents $\times$ 12 responses/year = 141,492 total annual responses

$\frac{141,492 \times 12 \text{ minutes}}{60 \text{ minutes (1 hour)}} = 28,298$ total annual hour burden

1-708: 11,791 respondents $\times$ 12 responses/year = 141,492 total annual responses

$\frac{141,492 \times 15 \text{ minutes}}{60 \text{ minutes (1 hour)}} = 35,373$ total annual hour burden

Total annual hour burden: 28,298 + 35,373 = 63,671

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3E.405B, Washington, DC 20530.

Dated: April 17, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

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DEPARTMENT OF JUSTICE

[OMB Number 1110-0008]

Agency Information Collection Activities; Proposed eCollection; eComments Requested Monthly Return of Arson Offenses Known to Law Enforcement

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-day Notice.

SUMMARY: Department of Justice (DOJ), Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously

published allowing for a 60 day comment period.

DATES: Comments on the information collection originally published in the **Federal Register** at 82 FR 11061, on February 17, 2017 are encouraged and will be accepted until May 22, 2017.

FOR FURTHER INFORMATION CONTACT:

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mrs. Amy Blasher, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625-3566. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to OIRA_submissions@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Monthly Return of Arson Offenses Known to Law Enforcement.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Agency form number: 1110-0008. Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: City, county, state, federal, and tribal law enforcement agencies. Abstract: Under Title 28, U.S. Code, Section 534, Acquisition,