



State of Louisiana

Gaming Control Board

M. J. "MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

DECISION OF THE LOUISIANA GAMING CONTROL BOARD

IN RE: CHARLES CREEKMORE
NO. P040006599

The Louisiana State Police, Riverboat Gaming Division ("Division"), denied Charles Creekmore's application for renewal of his non-key riverboat gaming employee permit. Mr. Creekmore appealed the denial and the matter was heard by the Hearing Officer of the Louisiana Gaming Control Board ("Board"). The Hearing Officer affirmed the denial on the basis that Mr. Creekmore was statutorily disqualified under La. R.S. 27:76. Mr. Creekmore appealed this decision to the Board.

The basis for the Division's denial was Mr. Creekmore's guilty plea to a felony theft charge in 1989. The Division based the denial on Mr. Creekmore's disqualification pursuant to La. R.S. 27:76 and his unsuitability pursuant to La. R.S. 27:70.

Louisiana Revised Statute 27:76 provides in pertinent part:

A. The Division or the Louisiana Gaming Control Board shall not award a license or permit to any person who is disqualified on the basis of any of the following criteria:

(1) Failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of this Chapter.

...

(3) The conviction of or a plea of guilty or nolo contendere by the applicant, or of any person required to be qualified under this Chapter as a condition of a license, for an offense punishable by imprisonment of more than one year, or theft or any offense involving false statements or declarations, or gambling as defined by the laws or ordinances of any municipality, any parish, any state, or of the United States.

...

B. In the awarding of a license or permit, a conviction or a plea of guilty or nolo contendere shall not constitute an automatic disqualification as otherwise required pursuant to the provisions of Paragraph A(3), (5), or (6) of this Section if ten or more years has elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole. These provisions shall not apply to any person convicted of a crime of violence as defined in R.S. 14:2(13). The Louisiana Gaming Control Board may consider the seriousness and circumstances of the offense and subsequent arrests.

Louisiana Revised Statute 27:70 provides in pertinent part:

A. No person shall be eligible to receive a license to conduct gaming operations on a riverboat or any license or permit issued pursuant to the provisions of this Chapter unless the division finds that:

(1) The applicant is a person of good character, honesty, and integrity.

(2) The applicant is a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

Both parties agree that Mr. Creekmore pled guilty to felony theft involving the receipt of stolen goods valued over \$500 in 1989 and his probation ended November 29, 1990. Mr. Creekmore's renewal application was dated May 31, 2000. Less than ten years had elapsed from

the time of the filing of the application and the successful completion of probation but more than ten years has elapsed from the successful completion of probation and the last two hearings and the decision in this matter.

When Mr. Creekmore filed his original application on August 20, 1994, he disclosed his felony theft charge. He completed his application and was granted a permit. Six years later the Division discovered that Mr. Creekmore was statutorily disqualified at the time of his original application and at the time of the submission of his 2000 renewal application because of the felony theft. While the Division does not think it fair to deny the renewal of Mr. Creekmore's renewal application because of the statutory disqualification, it argues that he has failed to prove by clear and convincing evidence that he is suitable under the general suitability provision, La. R.S. 27:70, and for this reason the renewal should be denied.

Generally, an applicant proves his suitability by the information supplied on his application. Because the only factual grounds for the Division's denial is the felony theft, it can be safely assumed that the Division, by issuing a permit to Mr. Creekmore in 1994, found that he met his burden of proving that he was suitable for permitting in all other regards.

The Division no longer argues that Mr. Creekmore is statutorily disqualified but contends that we should consider the crime to find that he is not generally suitable. The Division is correct in the proposition that the Board is given the power to consider all criminal history in determining general suitability under La. R.S. 27:70. In considering Mr. Creekmore's criminal conduct ten years ago, we do not find that it proves his lack of suitability at this time. The Division is not alleging any other conduct that would render Mr. Creekmore unsuitable.

Although Mr. Creekmore was statutorily disqualified when he filed his renewal application in May 2000, the equitable resolution is to allow Mr. Creekmore to withdraw the May application

and resubmit his renewal application without any additional application fee. The later filed application would eliminate the statutory disqualification under La. R.S. 27:76 and, finding that Mr. Creekmore has proven his suitability, there would be no impediment to granting the renewal of his non-key riverboat gaming employee permit.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of June 19, 2001:

IT IS ORDERED THAT the Hearing Officer's decision is **REVERSED** and that the Division will accept the withdrawal and re-submission without additional fee of Charles Creekmore's renewal application within 30 days of this decision and upon this occurrence issue the renewal of Mr. Creekmore's non-key riverboat gaming employee permit.

THUS DONE AND SIGNED this 21st day of June, 2001.

LOUISIANA GAMING CONTROL BOARD

BY:



HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 22ND DAY
OF June 2001

APPEAL DOCKET CLERK

