



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: ARTARY J. HILL  
P040027037**

This is an appeal by Artary J. Hill of the denial of the renewal of his non-key riverboat gaming employee permit.

By letter dated February 7, 2002, the Louisiana State Police, Riverboat Gaming Division ("Division"), denied Mr. Hill's renewal application based on his 1998 conviction of unauthorized use of a movable. Mr. Hill requested a hearing, after which the Hearing Officer upheld the Division's denial citing La. R.S. 27:28 and La. R.S. 14:68 as grounds for the ruling. Mr. Hill has appealed the Hearing Officer's decision.

After careful review of the record and based on the facts and for the reasons assigned in the decision of the Hearing Officer which we attach hereto and adopt as our own, the renewal of the non-key gaming employee permit of Artary J. Hill should be denied.

**ORDER**

This matter having been considered by the Louisiana Gaming Control Board in open meeting of February 18, 2003:

**IT IS ORDERED THAT** the Hearing Officer's decision is **AFFIRMED**.

**THUS DONE AND SIGNED** this the 18<sup>th</sup> day of February, 2003.

BY:

LOUISIANA GAMING CONTROL BOARD

  
HILLARY J. CRAIN, CHAIRMAN

**LOUISIANA GAMING CONTROL BOARD**  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 21<sup>st</sup> DA  
OF February, 2003

**APPEAL DOCKET CLERK**



STATE OF LOUISIANA  
GAMING CONTROL BOARD

ADMINISTRATIVE HEARING  
MAY 9, 2002

HEARING OFFICER  
JOSEPH E. ANZALONE, JR.

IN RE: ARTARY HILL  
#P040027037

TRUE COPY  
  
Representative  
Louisiana Gaming Control Board

IN RE: ARTARY HILL  
#P040027037

APPEARANCES:

For the State of Louisiana:  
Ms. Shana Broussard  
Assistant Attorney General  
339 Florida Street  
Suite 500  
Baton Rouge, La 70801

For Artary Hill:  
In Proper Person  
2240 Stonewall Street  
Shreveport, La 71103  
In Proper Person

Ms. Olga Bogran  
Assistant Attorney General  
One Canal Place  
356 Canal Street  
Suite 2730  
New Orleans, LA 70130

STATEMENT OF THE CASE:

The Louisiana State Police, Casino Gaming Division ("Division") seeks to deny Artary Hill a renewal of his non-key gaming employee permit. The basis for such denial is Mr. Hill's conviction on November 5, 1998, of unauthorized use of a movable which renders him statutorily unqualified.

This matter was scheduled for hearing on March 26, 2002. On that date the material witness for the Division was unable to appear, and the Court continued the matter to May 9, 2002.

## STATE'S EVIDENCE AND CONTENTIONS:

The State has offered, filed, and introduced into evidence and exhibit file marked S-1 (in globo) and containing the following documents:

1. Notice of Hearing Date advising of an administrative hearing scheduled for March 26, 2002;
2. Request for administrative hearing dated February 13, 2002;
3. Notice of Denial of Renewal Application dated February 7, 2002;
4. Non-key gaming employee permit application received March 26, 1999;
5. Non-key gaming employee permit renewal application received November 14, 2001;
6. Bill of Information in the First Judicial District Court: Parish of Caddo ; filed August 24, 1998, charging on July 19, 1998, Mr. Artary J. Hill committed the offense of unauthorized use of a movable;
7. Certified True Copy of Criminal Case Minutes of the First Judicial District Court: Parish of Caddo reflecting on November 5, 1998, Mr. Hill, was found guilty of the offense of unauthorized use of a movable and sentenced to pay a fine in the amount of \$250.00 plus costs, or serve thirty five days in the parish prison, further sentenced to serve sixty days in parish prison, sentence suspended and defendant placed on unsupervised probation for a period of six months;
8. Shreveport Police Department arrest report dated July 19, 1998, detailing circumstances of Mr. Hill's arrest on that date;
9. Affidavit of Personal Service dated February 12, 2002;

Division witness, Administrative Sgt. Michael Harrell, testified that he reviewed Mr. Hill's entire file and found that Mr. Hill had disclosed the conviction for unauthorized use of a movable in his original application.

The Division contends that Mr. Hill, although qualified at the time of filing his original application in 1999, is now deemed unqualified under new provisions of La. R.S.27:28(B)(1)(b) effective July 2, 2002.

PERMITTEE'S EVIDENCE AND CONTENTIONS:

The permittee offered, filed, and introduced into evidence the following documents:

P-1. Correspondence dated May 6, 2002, from Ms. Mary Hill reflecting Mr. Hill's current employment performance appraisal;

P-2. Correspondence dated May 7, 2002, from Ms. Laura Lee McCollister reflecting Mr. Hill's performance and disposition as a table games dealer;

P-3. Correspondence dated April 18, 2002, from Ms. Connie Stewart: Casino Shift Manager; reflecting Mr. Hill's employee performance for the past three years;

Ms. June Melendez testified that on the date of Mr. Hill's arrest she and Mr. Hill were arguing and she asked him to leave the premises. She called the police to remove Mr. Hill from the home, at when the police arrived she noticed her cellular phone was missing. Ms. Melendez further testified that she just wanted to make sure that Mr. Hill didn't remove her phone from the premises.

Upon cross-examination Ms. Melendez testified that she pressed charges against Mr. Hill for domestic violence, but that she didn't clearly understand he was also being charged with unauthorized use of a movable.

Upon examination by the court, Ms. Melendez testified that Mr. Hill returned the cellular phone soon after the police arrived.

FACTUAL CONCLUSIONS:

On November 5, 1998, Artary Hill was convicted of unauthorized use of a movable valued at \$200.00 and sentenced to six months of unsupervised probation. Mr. Hill disclosed his arrest and conviction on the original application filed on March 26, 1999.

APPLICABLE LAW:

La.R.S.27:28 provides in pertinent part::

(B) The board or division where applicable, shall not grant a license or permit, enter into a casino operating contract, or issue any other approval pursuant to the provisions of this Title to any person disqualified on the basis of any of the following criteria:

(1) The conviction or plea of guilty or nolo contendere by the applicant or any person required to be suitable under the provisions of the Title for any of the following:

(b) Theft, attempted theft, illegal possession of stolen things, or any offense or attempt involving the misappropriation of property or funds.

La. R.S. 14:68 Unauthorized use of a movable:

A. Unauthorized use of a movable is the intentional taking or use of a movable, which belongs to another either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

The fact that the movable so taken or used may be classified as an immovable, according to the law pertaining to civil matter, is immaterial.

- B. Whoever commits the crime of unauthorized use of a movable having a value of one thousand dollars or less shall be fined not more than five thousand dollars or less or imprisoned for not more than six months, or both. Whoever commits the crime of unauthorized use of a movable having a value in excess of one thousand dollars shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

#### REASONS FOR DECISION:

La.R.S. 27:28(B)(1)(b) as amended, effective July 2, 2001, provides that the conviction of an applicant for theft or attempted theft; illegal possession of stolen things; or any offense or attempt involving the misappropriation of property or funds renders that applicant statutorily disqualified and unsuitable for holding a non-key gaming employee permit.

Although not applicable in the present matter, this court feels that the permittee should be apprised of his total position. La.R.S. 27:28(C)(1)(b) provides that the provisions of La. R.S. 27:28(B)(1)(b) will not constitute an automatic disqualification if five or more years have elapsed between the date of application and the successful completion of any sentence, deferred adjudication, probation and parole, if the offense referred to under La. R.S. 27:28(B)(1)(b) is a misdemeanor offense.

Artary Hill was convicted of unauthorized use of a movable valued at \$200.00 on November 5, 1998. He was sentenced to six months of unsupervised probation. Obviously, five years have not elapsed since the date of application and the successful completion of probation.

The applicant's suitability hinges on the question of whether or not unauthorized use of a movable falls within the definition of any offense defined in La.R.S. 27:28B(1)(b). Quite clearly, the statute clearly defines...any offense or attempt involving the misappropriation of property or funds.

Misappropriation is found in the definition of theft at La.R.S. 14:67(A) and reads as follows:

Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, by means of fraudulent, practices or representations. An intent to deprive The other permanently of whatever may be the subject of the misappropriation or taking is essential.

Misappropriation describes the actual taking or removal of the object from one place to another. If the removal is intended to permanently deprive the owner of possession, the act is one of theft. If, however, the misappropriation is not done with the intent to permanently deprive the owner of his property, the act is one of unlawful use.

Mr. Hill did misappropriate the property of another. Whether it is done with or without the intent to permanently deprive the owner of possession is immaterial. The statute makes no distinction. What is prohibited is the actual removal. This, Mr. Hill did do.

For these reasons this writer is of the opinion that Mr. Hill shall should denial of his application for renewal of his non-key gaming employee permit.



IN RE: ARTARY HILL  
#P040027037

JUDGMENT

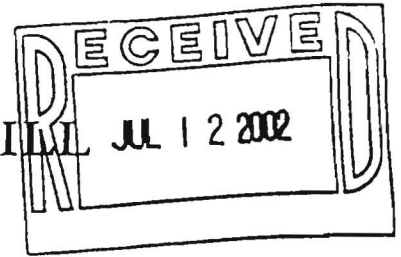
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Artary Hill be DENIED a renewal of his non-key gaming employee permit.

Baton Rouge, Louisiana, this 13 day of June, 2002

  
Joseph E. Anzalone, Jr.  
Hearing Officer

LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 13th DAY  
OF June 2002  
Doctanizer  
DOCKET CLERK, ADMINISTRATIVE HEARING OFFICE

cc: Artary Hill  
Shana Broussard, Esq.  
Olga Bogran, Esq.  
Lt. George Dean



IN RE: ARTARY HILL  
#P040027037

### AMENDED REASONS FOR JUDGMENT

After a review of these proceedings this writer amends the reasons for judgment in the following manner.

The last paragraph should be amended to read as follows:

For these reasons this writer is of the opinion that Mr. Hill shall suffer denial of his application for renewal of his non-key gaming employee permit.

The following paragraphs should be added.

This court has allowed Mr. Hill to introduce a transcript of the proceedings in which he was found guilty of the crime of Unlawful Use of A Movable. Such conviction renders him ineligible from licensing for a period of five years. This writer's opinion as to what the proper charge under the circumstances should be is immaterial.

This writer, although bound by a previous decision of the Louisiana Gaming Control Board, would urge a revisit of the Board's interpretation of La.R.S. 27:28(C)(3) which provides:

"Notwithstanding and provision of law to the contrary, the board and division may consider the seriousness and circumstances of any offense, any arrest, or any conviction in determining the suitability in accordance with Subsection A of this section."

Baton Rouge, Louisiana, this 10 day of July, 2002.

LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 11th DAY  
OF July 2002  
[Signature]  
DOCKET CLERK, ADMINISTRATIVE HEARING OFFICE

cc: Artary Hill  
Shana Broussard, Esq.  
Olga Bogran, Esq.  
Lt. George Dean

[Signature]  
JOSEPH E. ANZALONE, JR.  
HEARING OFFICER

A TRUE COPY ATTEST  
LOUISIANA GAMING CONTROL BOARD  
HEARING OFFICE  
BATON ROUGE, LA 7/11/02  
[Signature]  
BY: CLERK