



## 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: QUE VAN PHAM  
NO. P040029765

This is an appeal by Que Van Pham from the decision of the Hearing Officer of the Louisiana Gaming Control Board ("Board"). Louisiana State Police, Riverboat Gaming Division ("Division"), recommended revocation of Mr. Que Van Pham's non-key riverboat gaming employee permit on the grounds that he was not qualified under La. R.S. 27:76 because of his plea of guilty to a theft charge in 2000.

The Hearing Officer found that Mr. Que Van Pham had pled nolo contendere to the theft charge and was thus statutorily disqualified from holding a permit. The Hearing Officer inadvertently ordered the denial of Mr. Que Van Pham's renewal application for a non-key gaming employee permit. Revocation of the permit was before the Hearing Officer.

## FINDINGS OF FACT

Mr. Que Van Pham was arrested for misdemeanor theft on May 9, 2000. Court documents indicate that he pled guilty to the charge. Counsel for Mr. Que Van Pham stated his client entered a plea of nolo contendere. The court granted Mr. Que Van Pham's request to set aside the conviction and dismiss the prosecution pursuant to La. Code of Crim. Proc. art. 894.

## APPLICABLE LAW

At the time of the arrest, plea and recommendation of revocation, La. R.S. 27:76<sup>1</sup> provided, 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:

....

(3) The conviction of or 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.** (Emphasis ours)

....

The setting aside of the conviction and dismissal of the prosecution pursuant to La. Code of Crim. Proc. art. 894 does not erase the historical fact of the plea. The permittee remains statutorily disqualified from holding a non-key riverboat gaming employee permit. *Eicher v. Louisiana State Police, Riverboat Gaming Enforcement Division*, 97-0121 (La. App. 1<sup>st</sup> Cir. 2/20/98), 710 So.2d 799, writ denied, 98-0780 (La. 5/8/98), 719 So.2d 51.

## LEGAL ANALYSIS

Louisiana Revised Statute 27:76 makes no distinction between a guilty plea and a plea of nolo contendere. Both disqualify an individual from holding a gaming permit. This Board has stated that setting aside the conviction and dismissing the prosecution under La. Code of Crim. Proc. arts. 894 and 893 have no bearing on the historical fact of the plea. This finding has been upheld by the courts. The individual

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<sup>1</sup> The applicable provisions of La. R.S. 27:76 are now contained in La. R.S. 27:28 pursuant to 2001 La. Act 1222 effective July 2, 2001.

remains statutorily disqualified.

For the foregoing reasons, Mr. Que Van Pham is statutorily disqualified from holding a gaming permit.

## **ORDER**

This matter having been considered by the Louisiana Gaming Control Board in open meeting of November 20, 2001:

**IT IS ORDERED** that Que Van Pham's non-key riverboat gaming employee permit, Number P040029765, is **REVOKED**.

**THUS DONE AND SIGNED** this 20<sup>th</sup> day of November, 2001.

**LOUISIANA GAMING CONTROL BOARD**

**BY:**

  
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**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> DAY  
OF November, 2001  
**APPEAL DOCKET CLERK**

