



State of Louisiana
Gaming Control Board

JOHN BEL EDWARDS
GOVERNOR

RONNIE JONES
CHAIRMAN

DECISION OF THE
LOUISIANA GAMING CONTROL BOARD
Rehearing

IN RE: TORK J. CHOUN
NO. P040054465

The matter before the Louisiana Gaming Control Board is a request by the State of Louisiana, Office of State Police, Gaming Enforcement Division (“Division”), for a rehearing of the Board’s decision rendered at the May 20, 2019, meeting in which the Board upheld the Hearing Officer’s decision wherein the Hearing Officer declined to revoke Tork J. Choun’s non-key gaming employee permit as recommended and requested by the Division.

The Division argues that the decisions of the Board and Hearing Officer were clearly contrary to the law and evidence. Louisiana Revised Statute 49:959 provides in pertinent part:

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

The Division has presented grounds for a rehearing pursuant to La. R.S. 49:959(1) and (4). Additionally, at the May 20, 2019, Board meeting, there was confusion regarding the motion to reverse the Hearing Officer and the objection to that motion which may have resulted in unintended votes. In the interest of justice for all parties, we will grant the rehearing and reconsider the matter.

FINDINGS OF FACT

With further consideration, we find the following.

Tork J. Choun was employed by L'Auberge Lake Charles. He was acting as a poker dealer when the incident occurred. It was alleged that Mr. Choun stole money from the casino by placing chips into his tip or token box, which were not given to him as tips. He was arrested for theft.

Due to the theft charge and the circumstances relating to the allegation, an emergency suspension of Mr. Choun's permit was ordered.¹ The Division recommended that Mr. Choun's permit be revoked. Before the hearing on the revocation, the District Attorney dismissed the theft charge. The Division requested that the action to revoke Mr. Choun's permit proceed because Mr. Choun's actions and behavior relating to the incident showed Mr. Choun to be unsuitable to hold a gaming employee permit.

At the January 22, 2019, hearing on this matter, the Division presented evidence in the form of testimony from State Police Trooper Michael Mallett and Assistant Casino Manager Jack Rounds. Both testified that Mr. Choun's actions in placing chips into his token or tip box were theft. Trooper Mallett testified that Mr. Choun admitted to him of taking money that did not belong to him. The State Police Case Report of the incident also includes the statement that Mr. Choun

¹ Louisiana Revised Statute 42:961(C)

admitted to taking the money.

The surveillance video of Mr. Choun clearly shows Mr. Choun placing money into his tip or token box that were not tips.

Mr. Choun has worked at the casino for ten years. He worked at craps tables, blackjack tables and roulette. He began dealing poker approximately five months before the incident.

Mr. Choun did not testify at the hearing. There was no evidence produced by Mr. Choun except the dismissal of the theft charge.

The Hearing Officer found that the evidence did not prove that Mr. Choun committed theft. He refused to revoke Mr. Choun's permit relying on a prior case, *In Re Gene A Pyron*, to support his position stating that the Pyron case was a similar circumstance. The Division alleges that the Pyron case is not similar. According to the Division, the Pyron case did not involve an incident at the casino, there was no surveillance video and there was no admission of the theft.

The Division asks that we consider the cases of *In Re Scott Anderson* and *In Re Norvelle Schexnayder* instead. Both cases involved theft at a casino, surveillance video and dismissed charges. In both cases, the Hearing Officer ordered the revocation of the gaming employee permit.

LEGAL ANALYSIS

It is the intent of the legislature that persons and practices related to the operation of gaming in this state be strictly regulated. La. R. S. 27:2(A). In furtherance of that goal, the legislature has declared that a permit is not a right but a pure and absolute revocable privilege. La. R. S. 27:2(B).

An individual must demonstrate by clear and convincing evidence that he is suitable to

hold a permit. La. R.S. 27:28(A).² Suitability means that a person is of good character, honesty, and integrity and is likely to conduct gaming related activities in accordance with statute and regulation. Additionally, a person's prior activities and habits must 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 carrying on of the business and financial arrangements incidental thereto."

La. R.S. 27:28(A)(2).

We find the Division's witnesses, State Trooper Michael Mallet and Assistant Casino Manager Jack Rounds, to be credible. The surveillance video supports their testimony. Mr. Choun took money that belonged to the casino and placed it in his tip box. The fact that the District Attorney dismissed the theft charge does not determine the outcome of our consideration.

² Louisiana Revised Statute 27:28(A) provides:

A. No person shall be eligible to obtain a license or permit, enter into a casino operating contract with the state, or obtain any other approval pursuant to the provisions of this Title unless the applicant has demonstrated by clear and convincing evidence to the board or division, where applicable, that he is suitable. For the purposes of this Title, "suitable" means the applicant, licensee, casino gaming operator, permittee, or other person is:

(1) A person of good character, honesty, and integrity.

(2) 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 carrying on of the business and financial arrangements incidental thereto.

(3) Capable of and likely to conduct the activities for which the applicant, licensee, permittee, casino gaming operator, or licensed eligible facility is licensed, permitted, or approved pursuant to the provisions of this Title.

(4) Not disqualified pursuant to the provisions of Subsection B of this Section.

Mr. Choun has worked as a casino employee for 10 years. He knows the difference between a tip, which is his, and money that belongs to the casino. The amount of money taken by Mr. Choun makes no difference to our determination.

We find that Mr. Choun failed to prove his suitability. His action in taking money shows that he is unlikely to conduct himself in accordance with law and regulation. It poses a threat to the effective regulation of gaming and enhances unsuitable and illegal practices.

The Hearing Officer's reliance on the case of *In Re Gene A Pyron* is misplaced. The only similarity shown is that a theft charge was either dismissed or nolle prossed. There is no indication that witnesses were available to testify regarding the actions leading to Mr. Pyron's arrest(s) or that there was surveillance video.

For the foregoing reasons, we find that the Hearing Officer's decision is incorrect. We will reverse and order the revocation of Mr. Choun's gaming employee permit.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of June 20, 2019:

IT IS ORDERED THAT the request for rehearing is **GRANTED**; the Hearing Officer's decision is **REVERSED** and the non-key gaming employee permit of Tork J. Choun, No. P040054465, is **REVOKED**.

THUS DONE AND SIGNED on this the *20th day of June, 2019*.

LOUISIANA GAMING CONTROL BOARD

BY: 

RONNIE JONES, CHAIRMAN