

JUL 31 2014

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE GAMBLING COMMISSION

Gambling Commission
Comm. & Legal Division

In the Matter of the Revocation of the
License to Operate Gambling Activities of:

Mathew D. Bryant
Spokane, Washington
License No. 68-24126
License No. 69-36071

Licensee/Class III Employee.

OAH Docket No. 2014-GMB-0016

Agency No. CR 2014-00769

AMENDED INITIAL ORDER
REVOKING GAMBLING LICENSE and
CLASS III CERTIFICATION

I. ISSUES PRESENTED

1.1 Whether the conduct of Licensee Mathew D. Bryant constitutes a basis for the Washington State Gambling Commission to revoke his gambling license for Card Room Employee activity, License No. 68-24126; and license number 69-36071, authorizing Class III Employee activity.

1.2 If so, whether Mr. Bryant nevertheless has proven by clear and convincing evidence that he is qualified to hold his licenses.

II. ORDER SUMMARY

2.1 Mr. Bryant is in default under RCW 34.05.440 because he failed to appear for the hearing of this matter on July 22, 2014 after having been duly notified of the date and time of the hearing.

2.2 Mr. Bryant's conduct does constitute a basis for the Washington State Gambling Commission to revoke his gambling license for Card Room Employee activity, License No. 68-24126; and license number 69-36071, authorizing Class III Employee activity.

2.3 Mr. Bryant failed to prove by clear and convincing evidence that he is qualified to hold his licenses.

2.4 Mr. Bryant's gambling license for Card Room Employee activity, License

No. 68-24126, is REVOKED.

2.5 Mr. Bryant's Class III Employee activity certification, License No. 69-36071, is REVOKED.

III. HEARING

3.1 **Hearing Date:** July 22, 2014

3.2 **Administrative Law Judge:** Joshua D. Sundt

3.3 **Licensee:** Mathew D. Bryant (failed to appear for hearing)

3.4 **Agency:** Washington State Gambling Commission

3.4.1 **Representative:** Gregory J. Rosen, Senior Counsel, Attorney General of Washington

3.4.2 **Witnesses:** Special Agent Kevin Maxwell, Washington State Gambling Commission

3.5 **Exhibits:** Exhibits 1 through 8 were admitted into the record.

3.6 **Motions:** The Licensee failed to appear for the hearing and did not contact the Commission or the Office of Administrative Hearings to request a continuance. No other person appeared on the Licensee's behalf. I waited to begin the hearing until more than 30 minutes after the hearing start time, during which time the Agency made at least one attempt to contact the Licensee at his last known telephone number. All attempts to reach the Licensee were unsuccessful, but the Licensee did ultimately make telephone contact with the Commission after the hearing had begun. After having been informed by Commission staff that the hearing was proceeding, he did not indicate an intention to appear at the hearing or request a continuance. The Licensee was provided due notice of the hearing and the issues to be considered, but elected not to appear, either personally or through an authorized representative.

Despite Licensee's failure to appear for the hearing, the Commission chose not to move for dismissal of the appeal, electing instead to proceed with the

evidentiary hearing and present its case in chief in Mr. Bryant's absence. Consequently, although I hold the Licensee in default under RCW 34.05.440 for failure to appear for the hearing, I issue the following initial order based upon the evidence presented by or on behalf of the Washington State Gambling Commission.

IV. FINDINGS OF FACT

Jurisdiction

- 4.1 On May 29, 2014, the Washington State Gambling Commission (Commission) issued Findings of Fact, Conclusions of Law and Order of Summary Suspension of License and Certification (Order of Suspension) to Mathew D. Bryant, seeking to revoke his gambling license for Card Room Employee activity, License No. 68-24126.
- 4.2 The Order of Suspension was personally served on Mr. Bryant on May 31, 2014.
- 4.3 Mr. Bryant filed his request for hearing on June 4, 2014.
- 4.4 On June 19, 2014, the Commission issued Charges and Opportunity for an Adjudicative Proceeding to Mr. Bryant and mailed it to him via first class and certified mail. In this document, the Commission notified Mr. Bryant it was seeking to revoke both his Card Room Employee License, No. 68-24126, and his Class III Employee activity certification, License No. 69-36071.
- 4.5 On July 2, 2014, the Commission issued Mr. Bryant a Notice of Hearing, informing him that an administrative hearing regarding revocation of both his gambling license and certification was to be held on July 22, 2014, starting at 9:00 a.m.

Mr. Bryant's Gambling Licenses

- 4.6 Mr. Bryant holds a Class B Card Room Employee gambling license, No. 68-24126, issued by the Commission. His license expires on August 13, 2014. Exhibit 1, page 1. Mr. Bryant has also held a Class III Gaming Employee certification, License No. 69-36071, since December 13, 2013. Exhibit 1, page 3.

Current Prosecution for Aggravated Assault

4.7 Mr. Bryant is subject to current prosecution and pending charges for the crime of aggravated assault under the laws of Idaho. He was charged for the felony on January 17, 2014, in Kootenai County District Court, Case No. CR-F14-1413. Exhibits 3 and 4.

4.8 The Criminal Complaint alleges, in relevant part, as follows:

That the Defendant, MATHEW D. BRYANT, on or about the 29th day of November, 2013, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word and/or act to do violence upon the person of Loren Dolby, with a deadly weapon, to wit: a Jeep automobile which created a well-founded fear in Loren Dolby that such violence was imminent, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

Exhibit 3.

4.9 As of the date of hearing in this administrative proceeding, the charges against Mr. Bryant were still pending in Kootenai County District Court. Testimony of Kevin Maxwell.

V. CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, I make the following conclusions of law:

Jurisdiction

5.1 I have jurisdiction over the persons and subject matter herein pursuant to RCW 9.46.140, RCW 34.05.413, RCW 34.12.030(1), and WAC 230-17-025.

The Commission's Revocation Authority

5.2 The Washington State Gambling Commission is tasked with enforcing chapter 9.46 RCW, Gambling 1973 Act (Gambling Act), and is authorized by the

Legislature to enforce the Gambling Act and to adopt such rules and regulations necessary to carry out its purposes and provisions. RCW 9.46.010 and RCW 9.46.010(14).

5.3 The Commission may suspend or revoke any license or permit issued by it for any reason or reasons it deems to be in the public interest, including failure to comply with Washington state gambling laws. RCW 9.46.075(1); WAC 230-03-085(1).

5.4 More specifically, the regulation provides that the Commission may revoke a gambling license where the licensee has “demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.” WAC 230-03-085(3).

5.5 The Commission may revoke a gambling license if the licensee “poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities or criminal record.” WAC 230-03-085(8)(a) and (b).

5.6 The Commission may revoke a gambling license if the licensee “fails to prove, by clear and convincing evidence, that he . . . is qualified in accordance with the provisions of this chapter.” RCW 9.46.075(8); *see also* RCW 9.46.153(1).

Specific Violations

5.7 RCW 9.46.075(9) states, in relevant part, that the Commission may revoke a gambling license if the licensee is subject to current prosecution or pending charges for any of the offenses included in RCW 9.46.075(4).

5.8 In turn, one of the offenses listed in RCW 9.46.075(4) is any felony or misdemeanor involving physical harm to individuals.

5.9 “Physical harm to individuals” is defined in WAC 230-03-085(2) as 1) any form of criminal assault, 2) any crime involving a threat of physical harm against another person, or 3) any crime involving an intention to inflict physical harm on another person.

5.10 Idaho Code § 18-901 defines assault as:

- (a) An unlawful attempt, coupled with apparent ability, to commit a violent injury on the person of another; or
- (b) An intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

5.11 Aggravated assault is defined in Idaho Code § 18-905, in relevant part, as an assault:

- (a) With a deadly weapon or instrument without intent to kill; or
- (b) By any means or force likely to produce great bodily harm.

5.12 Mr. Bryant is subject to current criminal prosecution for the felony of aggravated assault, which is obviously a form of criminal assault under the Idaho Code. Furthermore, the criminal complaint alleges he committed a crime involving an intentional threat of physical harm against another person. Under the definition in WAC 230-03-085(2), then, Mr. Bryant is subject to current prosecution and pending charges for a felony involving physical harm to an individual.

License Revocation Is Proper

5.13 In this case, because Mr. Bryant is subject to current prosecution and pending charges for a felony involving physical harm to an individual, the Commission has a basis for revocation of his gambling licenses under RCW 9.46.075(9). I conclude that continued licensure of Mr. Bryant would violate the public interest and pose a threat to the effective regulation of gambling in the state of Washington. Therefore, the Commission has established a sufficient basis for revocation of Mr. Bryant's gambling licenses. Moreover, Mr. Bryant did not appear for the hearing and has failed to affirmatively show by clear and convincing evidence that he is qualified to be licensed. Thus, Mr. Bryant's gambling licenses should be revoked.

VI. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

Mr. Bryant is in default under RCW 34.05.440 because he failed to appear for the hearing of this matter on July 22, 2014 after having been duly notified of the date and time of the hearing.

Mathew D. Bryant's Card Room Employee gambling license, License No. 68-24126, is **REVOKED**.

Mr. Bryant's Class III Employee activity certification, License No. 69-36071, is **REVOKED**.

Signed and Issued at Tacoma, Washington, on the date of mailing.



Joshua D. Sundt
Administrative Law Judge
Office of Administrative Hearings

NOTICE OF APPEAL RIGHTS

VACATION OF DEFAULT:

RCW 34.05.440(3) provides:

Within seven days after service of a default order under subsection (2) of this section, or such longer period as provided by agency rule, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

PETITION FOR REVIEW OF INITIAL ORDER:

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1).

An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2).

RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1).

Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with the Washington State Gambling Commission within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2).

Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3).

Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with the Washington State Gambling Commission within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4).

Any party may file a cross appeal. Parties must file cross appeals with the Washington State Gambling Commission within ten days of the date the petition for review was filed with the Washington State Gambling Commission. WAC 230-17-090(5).

Copies of the petition or cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6).

After the Washington State Gambling Commission receives the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

CERTIFICATE OF MAILING IS ATTACHED

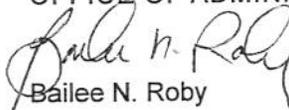
CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 2014-GMB-0016

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

<p>Mathew D. Bryant 4909 E Upriver Dr Apt N105 Spokane, WA 99217 Licensee</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Gregory J. Rosen Assistant Attorney General Office of the Attorney General 1125 Washington St SE PO Box 40100 Olympia WA 98504-0100 Fax: (360) 664-0229 Agency Representative</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Maureen Pretell Washington State Gambling Commission PO Box 42400 Olympia WA 98504-2400 Fax: (360) 486-3625 Agency Contact</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Wednesday, July 30, 2014

OFFICE OF ADMINISTRATIVE HEARINGS


 Bailee N. Roby
 Legal Secretary