
Paul v. Div. of Gaming Enforcement
Cite as 2 *N.J.A.R.* 341

CHRISTINE PAUL,
Petitioner,
v.
DIVISION OF GAMING ENFORCEMENT,
Respondent.

Decided August 29, 1979

Initial Decision

SYNOPSIS

Under *N.J.S.A. 52:12-86b*, petitioner is disqualified from receiving a casino employee license because she intentionally failed to disclose facts material to her license qualifications. Petitioner disclosed neither information relating to her past employment and subsequent termination for selling merchandise priced at \$72.55 for 93 cents to fellow employees, nor her resulting arrest for petty larceny and conviction for shoplifting. The Legislature's express declaration of public policy in the Casino Control Act requires the strict regulation of the licensing process to preserve public confidence in its integrity.

H. Parker Smith, Esq., for Petitioner

Frederick E. Gushin, Deputy Attorney General (John J. Degnan, Attorney General of New Jersey, Attorney) for Respondent

FIDLER, ALJ:

In September, 1978, Christine Paul (petitioner) filed an application, including a personal history disclosure form, with the Casino Control Commission (Commission) for licensure to work in a casino as a dealer. By letters dated January 18, 1979 and April 5, 1979, the Division of Gaming Enforcement (Division) objected to the licensure of Ms. Paul based upon her alleged failure to disclose correct answers to three questions on her personal history disclosure form. Petitioner was advised by letter dated April 26, 1979 from the Casino Control Commission General Counsel, that based upon the information received from the Division, there was a "substantial possibility" that the Commission would deny her application, and that she had a right to a hearing.

Petitioner requested a hearing and the matter was transmitted to the Office of Administrative Law for a determination as a contested case pursuant to

N.J.S.A. 52:14F-1 *et seq.* The hearing was held July 18, 1979, at the State House Annex, Trenton, New Jersey.

At issue is whether petitioner should be denied licensure as a casino dealer based upon three omissions from her personal history disclosure form concerning her employment as a division manager at Sears Roebuck. The three omissions were 1) a failure to disclose her employment at Sears from 1966 to 1969; 2) failure to disclose that she was fired or asked to resign from Sears; and 3) failure to disclose her record of an arrest for petty larceny and her conviction upon a plea of guilty to the downgraded offense of shoplifting, arising from her sale of Sears merchandise at marked-down prices to two fellow employees.

The relevant section of the Casino Control Act relied upon by the Division of Gaming Enforcement in its opposition to the applicant is *N.J.S.A.* 5:12-90, which incorporates criteria set forth in section 89 of the act, including the requirement that the petitioner shall show by "clear and convincing evidence the petitioner's reputation for good character, honesty and integrity." Section 90 of the act also incorporates the disqualification criteria of section 86, which provides, *inter alia*, that the Commission shall deny licensure to any petitioner disqualified for failure to provide information required by the act or requested by the Commission, or for failure to reveal any fact material to qualification, or for supplying information which is untrue or misleading as to a material fact pertaining to the qualification criteria.

Petitioner testified that she had successfully completed a blackjack dealer's course for Caesar's Boardwalk Regency, and had also finished at the top of her class upon completion of the required hours for baccarat. Petitioner has been employed at Boardwalk Regency since May 7, 1979 and practices her dealing daily. Petitioner was employed from March 1969 to February 1979 at Paul's Charcoal Pit, a restaurant owned by her parents. She is an active member of her church, and is also a member of the Atlantic County Theater.

Petitioner testified that she had been employed by Sears Roebuck from 1966 to 1969 as a division manager of lamps, china and giftware, and that her employment with Sears had been terminated as a result of an incident involving her sale of marked-down merchandise to two fellow employees without having followed the proper procedures for such a sale. According to the petitioner, she did not remember the incident well, since it had occurred ten years earlier, and her parents had intervened on her behalf. It was her recollection that she had been given an option to resign from Sears, and although she could not remember being arrested, she did remember that there were criminal charges against her and that she had gone to court. She

did not recall pleading guilty to anything, or that a fine had been imposed.

Petitioner testified that she knew her answer was not complete when she did not include her employment with Sears on her disclosure form. She stated that she did not disclose the employment because the incident which led to her leaving Sears was too embarrassing and she did not want it to reflect badly on her character. She did not reveal her conviction because her own investigation led her to believe there were no charges or convictions on her record, and it was her belief that she had not in fact been convicted of anything. Petitioner testified that she had never been arrested or in trouble either before or after the Sears incident.

James J. Webster, a security manager for Sears, testified on behalf of the Division of Gaming Enforcement concerning petitioner's termination. The records of the incident maintained by Sears revealed that petitioner had sold nine items worth a total of \$72.55 for a marked-down price of 93 cents, and Mr. Webster testified that a division manager such as petitioner would not have had the authority for such a markdown. The Sears records reveal petitioner was terminated due to a security violation, and that larceny charges against petitioner were downgraded to shoplifting, to which a plea of guilty was entered.

Investigator Bruce Perino of the Division of Gaming Enforcement testified concerning his investigation of petitioner. Petitioner was arrested March 5, 1969 on the larceny charge and was fingerprinted, according to the State Police Arrest Report obtained by the investigator. It was Investigator Perino's testimony that when he questioned petitioner about her failure to disclose her employment with Sears, she stated that she did not disclose it because she felt it would look bad if it were investigated.

Petitioner has admitted her failure to disclose three years of employment with Sears Roebuck, explaining that the incident resulting in her termination caused her embarrassment and she feared the incident would reflect badly on her character. Petitioner did not dispute the accuracy of evidence showing she was fired from Sears for selling merchandise priced at \$72.55 for 93 cents, although she explained it was her recollection that she had been given an option to resign. Neither did petitioner dispute her subsequent arrest for petty larceny, arising out of the Sears incident, or her conviction upon a plea of guilty to the downgraded offense of shoplifting. However, petitioner testified that she did not remember being arrested or pleading guilty to any offense. She did remember that she had faced criminal charges, and that it was necessary for her to go to court.

Exclusive of the events surrounding her termination from Sears, petitioner's record both before and after the incident appears to be unblemished. Under such circumstances, it is reasonable to expect that the

abrupt termination of her employment and her subsequent police and court activity, being events unique in petitioner's experience, would have left upon her a lasting impression. It is therefore difficult to give credence to petitioner's explanation that omissions concerning these events, from her personal history disclosure form, were due to her inability to recall precisely what had happened.

Even if it were accepted that petitioner's recollection of the events in question was faulty, it must not be overlooked that this information was not candidly disclosed in her personal history disclosure form. In fact, quite the opposite is true. Question 27 of the form seeks disclosure of all places of employment, in inverse chronology. Petitioner made no mention of her three years of employment at Sears in response to this specific request for employment information. Question 29 of the form specifically asks whether petitioner was ever discharged or asked to resign from employment. Petitioner's answer to this question was "no," even though it was her recollection that she had been given the option to resign from Sears as a result of the incident involving her sale of marked-down merchandise to two fellow employees. Question 41 of the disclosure form asks if petitioner had ever been arrested, indicted, charged with or convicted of a criminal or disorderly persons offense. Although it was petitioner's testimony that she knew when she appeared in court that she faced criminal charges, her response to this specific request for just such information was "no."

It is clear from petitioner's own testimony that she possessed significant information concerning her employment and termination at Sears and her resulting police and court activity. Petitioner's failure to disclose this information was not inadvertent. Rather than disclose that information which she did possess, petitioner chose to disclose none of the requested information. The information withheld is significant as to the evaluation of petitioner's qualifications for licensure, and as such it constitutes material facts within the meaning of the disqualification criteria of section 86b of the Casino Control Act, which provides for denial of licensure to any petitioner who, *inter alia*, fails to reveal any fact material to qualification.

After consideration of the entire record, I *FIND*:

1. Petitioner successfully completed courses in blackjack and baccarat and was employed May 7, 1979 by Caesar's Boardwalk Regency.
2. Petitioner failed to disclose on her personal history disclosure form any information in her possession concerning her employment at Sears Roebuck from 1966 to 1969.
3. Petitioner failed to disclose on her personal history disclosure form any information in her possession concerning her termination from employment at Sears in 1969, for having sold merchandise at marked-down prices to two

fellow employees.

4. Petitioner failed to disclose on her personal history disclosure form any information in her possession concerning her arrest on a charge of petty larceny, arising from the incident at Sears which resulted in her termination, and failed to disclose any information in her possession concerning her subsequent conviction upon a plea of guilty to the downgraded charge of shoplifting.

5. Petitioner's failure to disclose any information concerning her employment relationship with Sears, her termination therefrom, and the resultant arrest, charges, and conviction, was intentional, rather than inadvertent.

6. The information withheld by petitioner was material to the evaluation of her qualifications for licensure, within the meaning of the disqualification criteria of section 86b of the Casino Control Act.

The Legislature has seen fit to include in the Casino Control Act an express declaration of public policy. *N.J.S.A.* 5:12-1b (6) provides in part:

An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided.

Pursuant to the express public policy of the Casino Control Act, and based upon the facts adduced at the hearing and the applicable statutory provisions, I **CONCLUDE** that petitioner is disqualified from receiving a casino employee license to work as a dealer, based upon her failure to disclose facts material to her qualification for licensure, within the meaning of *N.J.S.A.* 5:12-86b. It is therefore **ORDERED** that the application of Christine Paul for licensure as a casino employee, dealer, be denied.

After reviewing the Initial Decision,
the Casino Control Commission on October 9,
1979 issued the following Final Decision:

It is on this 9th day of October, 1979, **ORDERED** that the Initial Decision of the administrative law judge in this matter, is adopted by the Commission.