

SUPREME COURT OF PENNSYLVANIA

Street Road Bar & Grille, Inc. v. Pennsylvania Liquor Control Board,
583 Pa. 72

876 A.2d 346 (Pa. 2005) · No. No. 253 MAP 2003 · Decided June 20, 2005

SUMMARY

The Pennsylvania Supreme Court held that a liquor license applicant bears the burden of proving good repute under Section 404 of the Pennsylvania Liquor Code. The Court further held that the Pennsylvania Liquor Control Board may consider an applicant's prior Liquor Code citation history and misdemeanor convictions when evaluating good repute. The Court reversed the Commonwealth Court's decision, which had required the Board to disprove good repute and had deemed the prior history irrelevant.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Castille; Chief Justice Cappy; Justice Nigro; Justice Saylor; Justice Eakin; Justice Baer
JURISDICTION	Pennsylvania
DECIDED	June 20, 2005
DOCKET	No. 253 MAP 2003
DISPOSITION	reversed
PROCEDURAL POSTURE	The Pennsylvania Liquor Control Board denied Street Road Bar & Grille's application for a person-to-person transfer of a liquor license. After a de novo hearing, the trial court affirmed the denial. The Commonwealth Court reversed and remanded, and the Supreme Court of Pennsylvania granted further review.
STANDARD OF REVIEW	On an appeal from a trial court's decision following a de novo hearing on a liquor-license transfer, review is limited to whether the trial court's findings are supported by substantial evidence and whether the trial court committed an error of law or abused its discretion. Statutory-interpretation issues are reviewed plenaryly.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Pennsylvania Liquor Control Board v. Street Road Bar & Grille, Inc.

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QUESTIONS PRESENTED

1. Whether the liquor-license applicant or the Pennsylvania Liquor Control Board bears the burden of proving good repute under section 404 of the Liquor Code.
2. Whether an applicant's prior Liquor Code citation history is relevant to determining whether the applicant is a person of good repute.
3. Whether an applicant's prior misdemeanor criminal convictions are relevant to determining whether the applicant is a person of good repute.
4. Whether consideration of settled Liquor Code citations in a later license-transfer proceeding violates double-jeopardy principles.
5. Whether the applicant's unpreserved argument that the corporate-applicant provisions of section 404 controlled the matter was waived.

HOLDINGS

1. Under section 404 of the Liquor Code, the liquor-license applicant bears the burden of proving that the applicant is a person of good repute.
2. An applicant's prior Liquor Code citation history, including citations connected with other licensed establishments operated by the applicant, is relevant and may be considered in determining good repute for a liquor-license transfer.
3. Prior misdemeanor convictions are relevant and may be considered in determining whether a liquor-license applicant is a person of good repute, although misdemeanor convictions alone may not necessarily authorize denial where the statute separately identifies recent felony convictions as a disqualifier.
4. Double-jeopardy principles do not bar the Board from considering previously adjudicated and sanctioned Liquor Code citations in a later civil liquor-licensing proceeding.
5. The applicant waived its distinct argument that the corporate-applicant provision of section 404 controlled because the argument was not raised in the Commonwealth Court.

KEY QUOTATIONS

"We agree with the Board and hold that Section 404 clearly contemplates that the applicant has the burden of proving "good repute."" (876 A.2d at 353-54)

"The applicant's citation history in connection with other liquor licenses is extremely probative in order to accurately measure whether a person (or establishment) is reputable." (876 A.2d at 358)

“The fact that the prior citations resulted in paid fines does not serve to expunge the violations, any more than service of a sentence would serve to expunge a conviction.” (876 A.2d at 359)

FACTUAL BACKGROUND

Street Road Bar & Grille, a corporation operated by brothers William and Thomas Golden, applied for a person-to-person transfer of a Pennsylvania liquor license. Licensed establishments in which the brothers had been involved had accumulated 21 Liquor Code citations, resulting in more than \$8,000 in civil penalties, seven license suspensions, and revocation of a Sunday Sales Permit. The brothers also had misdemeanor convictions, including gambling and conspiracy convictions arising from the use of video gambling machines at one of their licensed establishments.

PROCEDURAL HISTORY

The Board denied the transfer application after finding that the applicant's officers, William and Thomas Golden, were not persons of good repute under section 404 of the Liquor Code. The trial court affirmed following a de novo hearing. A divided Commonwealth Court panel reversed, concluding that the Board bore the burden of disproving good repute and that the officers' citation history and misdemeanor convictions were irrelevant. The Supreme Court reversed the Commonwealth Court.

DISPOSITION

reversed

CASES CITED

- *Replogle v. Commonwealth, Pennsylvania Liquor Control Board*, 523 A.2d 327, 330 (Pa. 1987)
- *Tahiti Bar, Inc. Liquor License Case*, 150 A.2d 112, 117 (Pa. 1959)
- *Global Beer Distributing, Ltd. v. Pennsylvania Liquor Control Board*, 800 A.2d 387 (Pa. Cmwlth. 2002)
- *Commonwealth v. Gilmour Manufacturing Co.*, 822 A.2d 676, 679 (Pa. 2003)
- *Bowser v. Blom*, 807 A.2d 830, 835 (Pa. 2002)
- *Pennsylvania Financial Responsibility Assigned Claims Plan v. English*, 664 A.2d 84, 87 (Pa. 1995)
- *Commonwealth v. Packer*, 798 A.2d 192, 196 (Pa. 2002)
- *Allegheny County Sportsmen's League v. Rendell*, 860 A.2d 10, 15-16 (Pa. 2004)
- *In re Giannilli*, 474 A.2d 738, 740 (Pa. Cmwlth. 1984)
- *In re Rydewski's Appeal*, 183 A. 437, 438 (Pa. Super. Ct. 1936)
- *Atiyeh v. Pennsylvania Liquor Control Board*, 629 A.2d 182, 183 (Pa. Cmwlth. 1993)
- *Slovak-American Citizens Club of Oakview v. Commonwealth, Pennsylvania Liquor Control Board*, 549 A.2d 251, 255 (Pa. Cmwlth. 1988)
- *Commonwealth v. Koczvara*, 155 A.2d 825, 828 (Pa. 1959)
- *Appeal of Irene's Café*, 404 A.2d 707, 709 (Pa. Cmwlth. 1979)
- *Commonwealth v. Lyons*, 15 A.2d 851, 852 (Pa. Super. Ct. 1940)

- Commonwealth v. Webb, 97 A. 189, 196 (Pa. 1916)
- Commonwealth v. Fulton, 830 A.2d 567, 572-73 (Pa. 2003)
- Michelson v. United States, 335 U.S. 469, 483 (1948)
- Commonwealth v. Scott, 436 A.2d 607, 611-12 (Pa. 1981)
- In re Nader, 858 A.2d 1167, 1181 n.18 (Pa. 2004)
- Borough of West Chester v. Lal, 538 A.2d 879 (Pa. 1987)
- Pennsylvania Liquor Control Board v. Richard E. Craft American Legion Home Corp., 718 A.2d 276, 278 (Pa. 1998)
- American Airlines, Inc. v. Commonwealth, Board of Finance and Revenue, 665 A.2d 417, 420 (Pa. 1995)

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