

ORDER 2007-7

**AN ORDER REGARDING THE ADMINISTRATIVE HEARING
ON THE DENIAL OF OCCUPATIONAL LICENSE OF
BRENDA WILSON
CA-DEN-06-01**

On or about September 21, 2006, Brenda Wilson was issued a level 2 temporary occupational license to work as a Casino Host at Caesars Indiana. Ms. Wilson failed to disclose several criminal arrests on her application for an occupational license. One of her arrests was a 1973 arrest and conviction in Orange County, California for forgery. Upon obtaining court records from this arrest and conviction, Commission staff discovered that this forgery conviction was a felony.

Pursuant to Indiana Code 4-33-8-3 and 68 IAC 2-3-5(a)(4), the Commission issued an order denying Ms. Wilson's application for occupational license at the June 8, 2006 Commission business meeting. Ms. Wilson subsequently filed a request for hearing on the Commission's order. On November 30, 2006, the Superior Court of the State of California, County of Orange vacated Ms. Wilson's guilty plea to the 1973 forgery charge and dismissed all charges.

On January 30, 2007, Administrative Law Judge Gordon E. White issued his Findings of Fact and Recommendation in this matter. He stated that the sole reason the Commission ordered a denial of Ms. Wilson's occupational license application was the 1973 felony conviction; as of November 30, 2006, that conviction no longer exists as a matter of law; and therefore, the Commission's June 8, 2006 Order no longer has legal grounding. Judge White recommended that the Commission "reinstate her temporary license and process her application for a permanent occupational license."

After reviewing the foregoing, the Commission hereby:

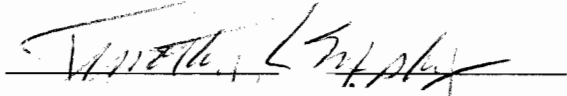
APPROVES

APPROVES OR REJECTS

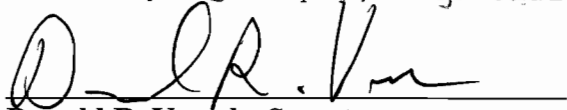
the Findings of Fact and Recommendation of Administrative Law Judge Gordon E. White in this matter. Pursuant to IC 4-21.5-3-6, this Order will become effective fifteen (15) days after it is served.

IT IS SO ORDERED THIS THE 8th DAY OF MARCH, 2007.

THE INDIANA GAMING COMMISSION:



Timothy L. Murphy, Vice-Chair



Donald R. Vowels, Secretary

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INDIANA GAMING COMMISSION

**THE INDIANA GAMING COMMISSION
APPEAL OF LICENSE DENIAL**

IN RE: BRENDA E. WILSON,
Petitioner

CAUSE NO.
CA-DEN-06-01

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATIONS**

This matter is pending before the ALJ on the petition of Brenda Wilson to reconsider the decision of the Commission to revoke her temporary license and deny her request for a permanent occupational license. Ms. Wilson's temporary license was revoked and her application for permanent licensure was denied because she had been convicted of a felony involving "fraud, deceit or misrepresentation." During the course of proceedings before the ALJ, the Commission staff filed a Motion for Summary Judgment. At the request of the parties, the ALJ withheld ruling on the Motion for Summary Judgment because Ms. Wilson was seeking to have the felony conviction, which had taken place in 1973, vacated by the courts in California. Ms. Wilson has since informed counsel for the Commission staff and the ALJ that she was successful in having the conviction set aside. The ALJ will treat Ms. Wilson's submission concerning the developments in California as a response to the Motion for Summary Judgment and rule accordingly.

FINDINGS OF FACT

1. On July 16, 1973, the 5th Department of the Superior Court of the State of California, County of Orange, entered Brenda Brannon's guilty plea to a charge of forgery.
2. Brenda Brannon and Brenda Wilson are the same person.
3. On or about September 21, 2005, Ms. Wilson applied for a Level 2 occupational license at Caesar's Indiana.
4. Ms. Wilson's application did not disclose the 1973 felony conviction for forgery.
5. On or about May 19, 2006, and after learning of Ms. Wilson's felony, Commission Staff revoked her temporary license and informed Ms. Wilson that staff would recommend denial of her application for an occupational license because of the felony conviction for forgery.

6. On June 8, 2006, the Commission upheld the revocation of Ms. Wilson's temporary license and denied her application for a permanent license.

7. On or about June 20, 2006, Ms. Wilson timely filed a request for a hearing on the Commission action.

8. During the pendency of this administrative proceeding, Ms. Wilson sought to have the felony conviction for forgery vacated.

9. On November 30, 2006, the Superior Court of the State of California County of Orange, Judge Marc Kelly presiding, issued the following order:

C-30378 PEOPLE VS BRENDA BRANNON Defendant
No appearances. The Court has considered the Petition for Relief under Penal Code 1203.4 filed 11/6/06. The Petition is granted and the Order signed and filed this date. It is hereby ordered that the plea of guilty in the above-entitled action be set aside and vacated and a plea of not guilty be entered, and that the Indictment is dismissed pursuant Penal Code 1203.4. ENTERED: 11/30/06

10. The order referenced above vacates the guilty plea for forgery which was the basis of the Commission's decision to revoke Ms. Wilson's temporary license and deny her application for permanent licensure.

CONCLUSIONS OF LAW

1. The Commission regulates riverboat gambling under the authority of IC 4-33-4-1, IC 4-33-4-2 and IC 4-33-4-5.

2. Pursuant to IC 4-33-8-3, the Commission may not issue an occupational license to an individual unless the individual "has not been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States . . ."

3. By being convicted of a felony in California, Ms. Wilson was not eligible to have a license issued to her pursuant to IC 4-33-8-3.

4. Under the authority of IC 4-33-8-11, an occupational licensee who has been convicted of certain felonies may apply for a waiver of the exclusion set forth in IC 4-33-8-3. But Ms. Wilson was not eligible for a waiver in this instance because her conviction was for a "felony of fraud, deceit, or misrepresentation". IC 4-33-8-11(d)(2).

5. The felony conviction for forgery in California was a felony of fraud, deceit or misrepresentation.

6. In November 2006, the California court vacated Ms. Wilson's felony conviction. The court order provided that, "the plea, verdict, or finding of guilty in the above-entitled action be set aside and vacated and a plea of not guilty entered, and that the accusatory filing is dismissed pursuant to Penal Code Section 1203.4/1203.4a."

RECOMMENDATION

The sole reason that the Commission revoked Ms. Wilson's temporary license and denied her application for a permanent occupational license was the fact that she had been convicted of forgery in California in 1973. The Commission applied the law correctly and there is no real dispute that it did so. Ms. Wilson realized that the only tenable solution to her problem was to have the California conviction vacated. As a result of Ms. Wilson's persistence and the Commission's patience, she was able to have the conviction aside during the course of these administrative proceedings.

There is no genuine issue of any material fact and Ms. Wilson is entitled to a judgment as a matter of law. Therefore, the Administrative Law Judge recommends to the Commission that summary judgment be entered in favor of Brenda Wilson and that Commission staff reinstate her temporary license and process her application for a permanent occupational license.

Date: January 30, 2007



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