

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)	
License to Conduct Gambling Activities of:)	NO. CR 2014-00573
)	
)	
Eric A. O'Neal)	FINDINGS OF FACT,
Edmonds, Washington,)	CONCLUSIONS OF LAW,
)	AND ORDER OF SUMMARY
)	SUSPENSION OF
)	LICENSE
Licensee.)	

RCW 9.46.070(17) authorizes the Washington State Gambling Commission (Commission) to summarily suspend¹ a license, subject to final action by the Commission. The Director has reviewed this Order of Summary Suspension and has issued it for service.

This Order takes effect when served on the licensee, representative, or agent. A Commission Special Agent shall seize Eric A. O'Neal's license and the card room employee must stop conducting gambling activities.

FINDINGS OF FACT

I.

David Trujillo is the Director of the Washington State Gambling Commission and issues this Order. Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and Title 230 WAC.

II.

The Washington State Gambling Commission issued Eric A. O'Neal the following license:

Number: 68-17850, authorizing Card Room Employee activity at Wizards Casino, Burien.

The Commission issued this license, which expires on November 1, 2014, subject to the licensee's compliance with state gambling laws and Commission rules.

¹ WAC 230-17-165 defines summary suspension as immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

III.

After a thorough review of a Commission Special Agent's report about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

IV.

SUMMARY:

Eric A. O'Neal was charged with felony Theft of Motor Vehicle, Felony Harassment, DUI and Hit and Run, on January 14, 2014, by the King County Prosecuting attorney.

FACTS:

(1) On March 12, 2014, Eric A. O'Neal sent an e-mail to Commission staff disclosing that he had been charged with vehicle theft, harassment, DUI and Hit and Run in February. A Washington State Gambling Commission Special Agent (agent) was assigned to investigate. The agent found Mr. O'Neal was licensed off and on since 2003 and currently works at Wizards Casino.

(2) The agent reviewed Mr. O'Neal's criminal history through the Judicial Information System and saw that Mr. O'Neal has the following criminal history listed by violation date, charge, and disposition:

- 01/01/2014- Hit & Run Unattended Vehicle, Pending;
- 01/01/2014- DUI, Pending;
- 01/01/2014- Harassment, Pending;
- 01/01/2014- Theft of Motor Vehicle;
- 09/25/2011- Reckless Driving, Guilty;
- 04/24/2009- DWLS 3rd Degree, Guilty;
- 08/10/2008- Reckless Driving, Guilty;
- 05/07/2006- Hit & Run Attended Vehicle; Guilty
- 01/19/2001- Minor in Possession and/or Consumption, Guilty;
- 01/19/2001- Unlawful Possession/Sale, Guilty;
- 06/10/2000- Possession of Marijuana, Guilty;
- 06/04/1999- Negligent Driving 1st Degree, Guilty; and
- 01/12/1997- Assault 4th Degree, Guilty.

(3) The agent reviewed the Information filed in King County Superior Court. On January 14, 2014, Mr. O'Neal was charged with:

- Count I – Theft of Motor Vehicle, class B felony: Mr. O'Neal wrongfully obtained a Ford Prius belonging to another, with the intent to deprive that person of the motor vehicle.

- Count II – Felony Harassment, class C felony: Mr. O’Neal threatened to kill another and the words or conduct placed that other person in reasonable fear that the threat would be carried out.
- Count III – DUI, gross misdemeanor: Mr. O’Neal drove a vehicle while under the influence of or affected by intoxicating liquor or any drug.
- Count IV – Hit and Run, misdemeanor: Mr. O’Neal drove a vehicle, knowingly collided with, and caused damage to another vehicle and he failed to immediately stop.

(4) The agent reviewed the Certification for Determination of Probable Cause filed with the Information. It states:

(a) Early on January 1, 2014, in the city of Seattle, a female passenger made contact with a taxi cab driver for a ride. During the ride, the female convinced the driver to pick up her boyfriend, later identified as Mr. O’Neal. Mr. O’Neal was wearing a grey three-piece suit and was on foot. Once inside the cab, Mr. O’Neal and the female requested to be driven to Chinatown. Both of the passengers were described as “very intoxicated and uncooperative,” and they were arguing with each other. During the ride, Mr. O’Neal pulled the driver’s seat back, pulled on the driver’s hair and shook the driver’s head. The driver asked Mr. O’Neal to stop touching him, but O’Neal continued to do so. The driver eventually stopped his vehicle, got out of the cab with the engine running, opened the passenger door and told Mr. O’Neal to stop or he would call the police. Mr. O’Neal yelled, “You know what? I’m gonna kill this guy,” and then displayed a handgun in his right hand, that had come from under his jacket. The female pled with Mr. O’Neal “don’t do it, baby” and attempted to physically restrain him. The driver, fearing for his life, ran from the cab for his safety and called 911.

(b) Mr. O’Neal got into the driver’s seat of the cab, ripped the taxi’s computer and GPS tracking system out of the dashboard and threw them at a passing car, hitting the car and causing damage. Mr. O’Neal then drove off in the cab and two blocks later, he struck an unoccupied parked car and pushed that car into another parked car resulting in damage to all three vehicles. He then removed his jacket and ran from the collision scene before being apprehended by Seattle Police Officers. The firearm was not located and the female passenger was not contacted. During his arrest, the officers noted a smell of alcohol, noticed Mr. O’Neal had bloodshot eyes, and slurred speech. When asked how much he had to drink, Mr. O’Neal said that he had four or five shots and indicated that he had too much for him to drive.

(c) Officers were able to obtain still images from an in-car security system. The images showed that Mr. O’Neal’s right hand was concealed behind his back while he was seated in the back of the cab. At 04:42, Mr. O’Neal’s right hand emerged from behind his back and it appeared to be gripping an unidentified object. At 04:43, Mr. O’Neal and the female passenger engaged in a “violent” struggle and Mr. O’Neal was seen holding “what appeared to be a semi-automatic pistol in his right hand while the female appeared to be attempting to restrain his right arm.”

(d) When interviewed by the Officer, the victim said that Mr. O'Neal was in possession of a gun had threatened to kill him. The victim said he ran from his cab "in fear for his life."

(5) According to the court docket, Mr. O'Neal's next hearing is set for April 17, 2014.

CONCLUSIONS OF LAW

I.

1) **RCW 9.46.070** provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

2) **WAC 230-17-165(2)** provides that the Commission delegates its authority to the Director to summarily suspend any license if the Director determines that a licensed employee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.

3) **WAC 230-17-165(3)** The Commission deems the following actions of a certified employee constitute an immediate danger to the public safety and welfare:
(The following subsections apply.)

(a) Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission;

(f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d)² of this subsection.

On January 14, 2014, the licensee, Eric A. O'Neal was charged with Theft of Motor Vehicle, felony Harassment, DUI and hit and run. These charges are currently pending in King County Superior Court. The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a) and (f), and are a basis for Mr. O'Neal to immediately stop conducting gambling activities.

4) **RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit**

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or certified employee, or any person with any interest therein:

(The following subsections apply.)

² WAC 230-17-165(3) (d) includes the following offense: "Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to: (i) Forgery; or (ii) Larceny; or (iii) Extortion; or (iv) Conspiracy to defraud; or (v) Willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses; or (vi) Bribing or otherwise unlawfully influencing a public official or employee of any state or the United States; or (vii) Any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude..."

Eric A. O'Neal

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF
SUMMARY SUSPENSION OF LICENSE

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(9) Is subject to current prosecution or pending charges, or a conviction, which is under appeal, for any of the offenses included under subsection (4)³ of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

5) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person;

(8) 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: (a) Prior activities and (b) Criminal record.

6) RCW 9.46.153(1) Applicants and licensees - responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

³ RCW 9.46.075(4) includes the following offenses: "...forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude."

The licensee's pending criminal charges include an offense involving a threat of physical harm to an individual. The licensee poses a threat to the effective regulation of gambling based on his prior activities and criminal record, which involves a 1997 conviction for Assault, 4th degree. As a result, the licensee has failed to prove by clear and convincing evidence that he is qualified to hold a license, in violation of RCW 9.46.153. Grounds, therefore, exist to revoke Eric A. O'Neal's license based on RCW 9.46.075(1), (8), and (9), and WAC 230-03-085(1), (2), and (8).

II.

The licensee's actions are an immediate danger to public safety and welfare, and the licensee has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of Eric A. O'Neal's gambling activity is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that Eric A. O'Neal's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

STATEMENT OF RIGHTS

(1) **You may ask for a stay of this Order.** To do so, you must complete and return to the Commission the enclosed Application for Stay Hearing form within fifteen (15) days from the date you receive this Order. If the Commission receives a timely request, we will hold a hearing within seven (7) days as required by WAC 230-17-170(3). The stay hearing will determine if your suspension should continue, or whether the suspension may be modified. At the stay hearing, you will have to prove by clear and convincing evidence that:

- (a) You will likely win at hearing; and
- (b) If your suspension continues, you will suffer serious injury. Under this section, loss of income from licensed activities is not considered serious injury; and
- (c) Removing the immediate suspension will not hurt others in this case; and
- (d) The threat to the public safety or welfare does not justify continuing the suspension, or that modifying the suspension will adequately protect the public.

(2) **You also have a right to a hearing on the revocation of your license.** To do so, you must complete and return to the Commission the enclosed Application for Hearing form within twenty (20) days from the date you receive this order. If you do NOT request a hearing, we will enter an Order of Default revoking your license under RCW 34.05.440.

If you have any questions regarding the rights stated above, please contact Jennifer Stretch, Paralegal, at (360) 486-3465 or 1-800-345-2529, extension 3465.

III.

I have read this Findings of Fact, Conclusions of Law, and Order of Summary Suspension of License, know the contents of it, believe it to be true, and have executed this Notice in my capacity as Director of the Washington State Gambling Commission.

Dated April 7, 2014



DAVID TRUJILLO, DIRECTOR