

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

157 Holdings, LLC,	:	
Plaintiff-Appellant,	:	
v.	:	No. 15AP-95
Ohio Liquor Control Commission,	:	(C.P.C. No. 13CV-2574)
Defendant-Appellee.	:	(ACCELERATED CALENDAR)

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D E C I S I O N

Rendered on July 30, 2015

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*Kisil Law Co., LPA, and Matthew R. Kisil, for appellant.*

*Michael DeWine, Attorney General, and Paul Kulwinski, for appellee.*

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APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} 157 Holdings, LLC, is appealing from the judgment of the Franklin County Court of Common Pleas affirming the finding of the Ohio Liquor Control Commission. 157 Holdings, LLC presents a single assignment of error:

THE COMMON PLEAS COURT ABUSED ITS DISCRETION IN AFFIRMING THE ORDER OF THE LIQUOR CONTROL COMMISSION, IN THAT THE ORDERS ARE NOT SUPPORTED BY RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE AND ARE NOT IN ACCORDANCE WITH LAW.

{¶ 2} 157 Holdings, LLC provides more insight as to its arguments with its issues presented for review. They read:

1. Did The Court of Common Pleas fail to interpret R.C. 4301.66 *in pari materia* with O.A.C. 4301:1-1-79 and the Fourth Amendment to the United States and Ohio Constitutions?

2. Does the record contain any reliable, probative, and substantial evidence to establish that the Appellant was in violation of R.C. 4301.66?

{¶ 3} R.C. 4301.66 reads:

No person shall hinder or obstruct any agent or employee of the division of liquor control, any enforcement agent of the department of public safety, or any officer of the law, from making inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away.

{¶ 4} Back on July 31, 2011, police received a report of a sexual assault at 157 Lounge, the bar owned by 157 Holdings, LLC. The owner of the LLC and the bar, Matthew Guska, cooperated with the resulting investigation up to a point, but eventually refused law enforcement officers access to the bar. As a result, a citation was issued which alleged that 157 Holdings, LLC had hindered or obstructed an inspection or search in violation of R.C. 4301.66.

{¶ 5} Counsel for the bar argues that Guska fully cooperated with the investigation of the sexual assault allegation, but that police did not have the right to inspect the bar for no apparent reason. Counsel argues that the bar's owner did not know that police were also doing an administrative search in addition to the criminal investigation.

{¶ 6} Whether viewed as an administrative search or as an extension of the criminal investigation, police should have been granted access to the permit premises. The people remaining in the bar might have been able to identify the person alleged to have attacked a female near the bar. Further, a significant number of patrons were still in the bar after hours and still drinking.

{¶ 7} Under these facts, we cannot find that the common pleas court abused its discretion in affirming the finding of a violation of R.C. 4301.66 by the Ohio Liquor

Control Commission. The sole assignment of error is overruled. The judgment of the trial court is affirmed.

*Judgment affirmed.*

SADLER and LUPER SCHUSTER, JJ., concur.

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