

STATE OF ILLINOIS

UNITED STATES OF AMERICA

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS

VS

2015CM000377

CASE NUMBER

JOSE R CHARLES-MERCADO

**FILED**

17 Jun 14 PM 04: 32

*Chris Kachiroubas*CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

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**ORDER**

This cause coming before the Court; the Court being fully advised in the premises, and having jurisdiction of the subject matter:

**IT IS ORDERED**, based on the COURT'S motion:

AFTER THE STATE'S CASE AND CHIEF, THE DEFENSE'S MOTION FOR DIRECTED FINDING IS GRANTED.

Submitted by: MEGAN LAFATA

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File Date : 06/14/2017

JUDGE JAMES D OREL

Validation ID : DP-06142017-0430-42647

Date : 06/14/2017

1 with a free method, and that you clearly can do. The  
2 instructions tell you how to do it. And you know for a  
3 fact that not one of the State's witnesses made any  
4 effort whatsoever to investigate that, not even an iota  
5 of trying to see if, indeed, that's true.

6 THE COURT: Okay. Thank you. What we have here  
7 is a Statute, 720 ILCS 5/28-1 as it defines gambling.  
8 The State has charged under (a)(3), which states  
9 knowingly operates, keeps, owns, uses, purchases,  
10 exhibits, rents, sells, bargains for the sale or the  
11 lease of manufacturer or distribute any gambling  
12 device. Then you go to 528-2, what is a gambling  
13 device, any clock, tape machine, slot machine or other  
14 machines or device for the reception of money or other  
15 thing of value on chance or skill or upon the action of  
16 which money or other thing of value is staked,  
17 hazarded, bet, won or lost or any mechanism, furniture,  
18 fixture, equipment or other device designed primarily  
19 for use in a gambling place -- gambling device. And it  
20 goes on to state what a gambling device is not or does  
21 not include.

22 And, finally, 720 ILCS 5/28 (b)(13) which  
23 states games of skill or chance for money. And I will  
24 repeat again, games of skill or chance where money or



1 things of value can be won with no payment or purchase  
2 is required to participate. Now, I agree the State's  
3 witnesses were credible. There was testimony by the  
4 two officers that the defendant made an admission that  
5 he paid money, but under (b)(13) it says that you can  
6 pay money. What the issue there is the other portion  
7 of that where it can be won but no payment or purchase  
8 is required, and that's been clear here through the  
9 last witness who has demonstrated the machine and has  
10 read the language through the machine that you can play  
11 the machine and play it without money. You don't need  
12 to make a payment to play this machine. And Defense is  
13 right, it's the way the legislature has written this  
14 exemption.

15 The defense in this matter, you have to go  
16 through a few hoops to play it without money, fill out  
17 a card with a verification number, mail it in, but  
18 nonetheless, it can be played without money. There was  
19 no inquiry by any of these witnesses to see if this, in  
20 fact, worked or you can play it without money. They  
21 did not make any effort or any inquiry to see if the  
22 game was free, so I believe the State did not meet its  
23 burden even looking at it in a light most favorable to  
24 the State because of this (b)(13) exemption. The

1 legislature has written the law, the Court must follow  
2 this law. There has not been any evidence that this  
3 exemption does not apply, therefore, I grant the motion  
4 for directed verdict.

5 MR. DE LUCA: Judge, how would you like to proceed  
6 on the Karam -- Are we stipulating, State, on the Issam  
7 Karam case as well? The issues are identical.

8 MS. LAFATA: Your Honor, we'd just ask for a date.

9 THE COURT: Okay.

10 MR. DE LUCA: On Karam?

11 MS. LAFATA: Yeah.

12 MR. DE LUCA: Judge, we would ask -- I think there  
13 is one of the kiosks -- I think it could be identified,  
14 we'd ask for a return -- an order returning at least  
15 the one kiosk that they took from Mr. Charles.

16 THE COURT: Is there an objection to Mr. Charles'  
17 kiosk being returned?

18 MR. DE LUCA: And our client -- we have the  
19 capability of picking it up tonight.

20 MS. LAFATA: No, Judge.

21 THE COURT Just so you all agree on which kiosk  
22 it is.

23 MS. LAFATA: This first one, yeah.

24 MR. DE LUCA: The first one.

1 THE COURT: The first one? All right. That may  
2 well be taken. Kiosk is returned to the defendant. As  
3 to the other case, what date do you want?

4 (Which were all of the proceedings had  
5 in the above-entitled matter.)  
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I, JILLIAN DOCTOR, hereby certify that I am a Certified Shorthand Official Court Reporter, Registered Professional reporter, assigned to transcribe the computer based digital recording of proceedings had of the above-entitled cause, Administrative Order No. 99-12, and Local Rule 1.03(b). I further certify that the foregoing, consisting of Pages 1 to 165, inclusive, is a true and accurate transcript completed to the best of my ability, based upon the quality of the audio recording.

Jillian Doctor

-Jillian Doctor, CSR #084-004809