

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

JEFFREY DOYLE,  
Petitioner,

v.

GEORGIA VOCATIONAL  
REHABILITATION AGENCY,  
Respondent.

:  
:  
: Docket No.:  
: OSAH-GVRA-BEP-1511100-44-Teate



FILED  
OSAH

JAN 17 2015

**FINAL DECISION**

**I. INTRODUCTION**

Kevin Westray, Legal Assistant

Petitioner Jeffrey Doyle appeals the Georgia Vocational Rehabilitation Agency's cancellation of an Agreement allowing him to operate a food service location, and to temporarily operate vending machines at a second location, through the Business Enterprise Program. The hearing on this matter was held on November 17, 2014 before the undersigned Administrative Law Judge at the Office of State Administrative Hearings in Atlanta, Georgia. Petitioner represented himself at the hearing and Ms. Elizabeth De Janes, Esq., represented Respondent. For the reasons indicated below, Respondent's action is **AFFIRMED**.

**II. FINDINGS OF FACT**

1. The GVRA Business Enterprise Program (hereinafter "GVRA") is the State Licensing Agency ("SLA") designated by the Commissioner of the Rehabilitation Services Administration of the United States Department of Education to carry out services authorized by the Randolph-Sheppard Act. As the SLA, GVRA licenses blind individuals to manage food service and vending operations located on government property. (Testimony of Rajaunnda Gandy).
2. Mr. Doyle holds a license from GVRA to operate vending facilities on Federal or other property, having met eligibility criteria and completed an initial training program. Mr. Doyle has held such license since 2009 and has operated vending facilities at various locations since that time. (Testimony of Teresa Eggleston; Testimony of Rajaunnda Gandy; Exhibit R-1).
3. Pursuant to program requirements, vendors are required to count down their cash drawers every day. Each week, vendors do a "call-in", a report by telephone to the Georgia Cooperative Services for the Blind, Inc. (hereinafter "the Cooperative")<sup>1</sup> of the amount of funds that they will deposit in a Pre-Authorized Debit (PAD) Account (the "turn-in"). The Cooperative draws funds from vendors' PAD based on the amount they report in the call-in. Vendors are further required to submit weekly cash reports and documentation to substantiate their turn-in. All vendors receive instruction on this process during the initial training program. (Testimony of Rajaunnda Gandy; Testimony of Teresa Eggleston).

<sup>1</sup> A non-profit corporation utilized by GVRA to provide accounting and vendor training services.

4. On August 17, 2011, Mr. Doyle and GVRA entered into an Agreement of Operation whereby Mr. Doyle was permitted to operate the Rich E.S. Café<sup>2</sup> (hereinafter “the Café”), a food service facility located on the second floor of the Sam Nunn Atlanta Federal Center. Pursuant to the terms of the Agreement of Operations, GVRA furnished Mr. Doyle with equipment, an initial stock of merchandise, and petty cash. By signing the Agreement of Operation, Mr. Doyle assented to operate the vending facility according to the terms and conditions expressed therein and to abide by all GVRA rules and regulations. The Agreement provided that it was subject to termination by GVRA if the business of the vending facility was not conducted in accordance with the terms of the agreement, GVRA’s rules and regulations, or applicable federal, state or local laws or regulations. (Exhibit R-1).

5. Beginning in August 30, 2010, and during the period relevant to this Decision, Mr. Doyle also operated a vending facility located at the United States Court of Appeals<sup>3</sup> (hereinafter “the temporary facility”) on a temporary basis under an Agreement substantially similar to that described *supra*. (Testimony of Teresa Eggleston; Exhibit R-1).

6. After he began operating as a vendor, Mr. Doyle consistently failed to submit cash reports to the Cooperative. Mr. Doyle informed his Counselor, Ms. Celestina Nwizu, that he did not understand the process of submitting cash reports, whereupon GVRA provided Mr. Doyle with additional training. When Mr. Doyle’s noncompliance continued even after completion of this training, Ms. Nwizu sent him a Notice of Concern. Eventually, GVRA assessed a \$25.00 per week fee against Mr. Doyle for his continued failure to submit cash reports. GVRA lifted this fee in July 2012 after Mr. Doyle exhibited compliance with the cash reporting requirement. However, Mr. Doyle became noncompliant again after the fee was lifted. (Testimony of Teresa Eggleston).

7. In December 2013, Mr. Doyle was assigned a new Counselor, Mr. Charlie Garrett. Upon discovering that Mr. Doyle was not in compliance with cash reporting requirements, Mr. Garrett spoke with Mr. Doyle during an onsite review on January 6, 2014. Mr. Doyle proved resistant to complying with the reporting requirement, and even requested of GVRA that Mr. Garrett be removed as his Counselor. (Testimony of Charlie Garrett).

8. On March 12, 2014, Mr. Doyle and Mr. Garrett entered into a Plan of Action designed to address Mr. Doyle’s continued failure to submit timely cash reports, and to improve the performance of Mr. Doyle’s vending locations. This plan contemplated a “reopening” of the Café with new equipment and a wider selection of products, to be furnished by GVRA. After implementation of the upgraded menu, equipment, and products, Mr. Garrett would closely monitor the Café’s sales and production for ninety days. Per the terms of this plan of action, Mr. Doyle agreed to adhere to accounting and cash reporting requirements and ensure that he maintained his operational cash amount. The plan provided that Mr. Doyle’s failure to comply with any or all of the objectives expressed therein could lead to disciplinary action. (Testimony of Charlie Garrett; Exhibit R-2).

---

<sup>2</sup> Vending Facility #378.

<sup>3</sup> Vending Facility #922.

9. Mr. Doyle failed to turn in cash reports for work weeks ending March 14 and 21. Although Mr. Doyle's wife was hospitalized during these work weeks, Mr. Doyle did not elect to request emergency assistance to continue operations at the Café as provided for in the program's rules. Instead, he had his daughters work the Café. Accordingly, Mr. Doyle remained responsible for properly calculating the amounts of daily sales, purchases, and for call-ins and turn-ins for those weeks.

10. At Mr. Garrett's request, GVRA instructed the Cooperative to issue Mr. Garrett a check in the amount of \$3,000.00 to be used for upgrades to the Café. (Exhibit R-3).

11. After the upgrades were implemented, and the Café reopened, Mr. Garrett remained on-site. During the work week ending March 28, 2014, Mr. Garrett maintained a "mock cash report" for his own records. At the end of each work day, when Mr. Doyle or his family members counted down the drawer, Mr. Garrett recorded exactly what the Café's sales were for that day. At the end of the work week, Mr. Garrett calculated that the Café had \$1,235.00 in cash on hand. Mr. Garrett instructed Mr. Doyle to deposit \$900.00 in the PAD Account and to hold the balance in order to build operating cash. (Testimony of Charlie Garrett; Exhibit R-4).

12. In his call-in, Mr. Doyle reported that he would be depositing \$900.00 into his PAD Account. However, Mr. Doyle failed to actually deposit the \$900.00 into the PAD Account. As a result, when the system drew funds from the PAD Account as scheduled, it resulted in an overdraft. Mr. Doyle did not thereafter replace the funds in his PAD Account, in contravention of the policy requirement that bounced PADs be replaced by the vendor within twenty-four hours.<sup>4</sup> Mr. Doyle was assessed a fee of \$250.00 for his failure to maintain sufficient funds in his PAD Account, which he has failed to pay. (Testimony of Charlie Garrett; Testimony of Teresa Eggleston).

13. Upon discovering that Mr. Doyle's PAD Account had bounced, Mr. Garrett informed his supervisor, Teresa Eggleston, BEP Program Manager. Ms. Eggleston contacted Mr. Doyle, administered a verbal warning to him regarding the bounced PAD, and advised him that a disciplinary letter was forthcoming. (Testimony of Teresa Eggleston).

14. On April 22, 2014, Mr. Garrett conducted a site visit at the Café to discuss the bounced PAD and Mr. Doyle's continued failure to submit cash reports.<sup>5</sup> During this site visit, Mr. Doyle and his wife became irate and began directing loud profanity toward Mr. Garrett in the immediate presence of customers. Following this incident, GVRA made the determination to cancel Mr. Doyle's operation agreements for the Café and the temporary vending facility. (Testimony of Charlie Garrett).

15. On April 23, 2014, Mr. Garrett and Ms. Eggleston again visited the Café to deliver an official Notice of the Cancellation of the Agreements of Operation for the Café and the temporary vending facility. The Notice of Cancellation provided that the decision to cancel the agreements

---

<sup>4</sup> This is the second instance in which Mr. Doyle's PAD had bounced. The date the first such instance is unclear from the evidentiary record. (Exhibit R-5).

<sup>5</sup> Mr. Doyle failed to mail in cash reports for work weeks ending April 4 and April 11. (Exhibit R-5).

was based on Mr. Doyle's failure to follow instructions, call in his PAD in a timely manner,<sup>6</sup> mail in cash reports, and maintain sufficient funds in his PAD Account, all of which constituted Category I violations of GVRA's Policies and Procedures. GVRA further alleged that Mr. Doyle had committed theft of BEP funds, a Category II violation, by failing to account for the balance of the funds used to upgrade the Café. Finally, the Notice provided that the cancellation was based on the extremely inappropriate behavior exhibited by Mr. Doyle and his wife during the April 22 site visit, a Category II offense. (Testimony of Teresa Eggleston; Exhibit R-5).

16. Mr. Doyle requested an administrative review of the decision to cancel his agreements of operation. Ms. Daronne Peterson, a Designated Review Official for GVRA, conducted this Administrative Review. On May 22, 2014, Ms. Peterson issued an Administrative Review Decision upholding the determination to cancel Mr. Doyle's operating agreements. Mr. Doyle subsequently requested a hearing and the matter was referred to the Office of State Administrative Hearings for adjudication. (Administrative Review Decision dated May 22, 2014).

### III. CONCLUSIONS OF LAW

1. As the present case concerns the termination of Mr. Doyle's participation in the Business Enterprise Program, GVRA bears the burden of proof. GA. COMP. R. & REGS. 616-1-2-.07. The standard of proof is by a preponderance of the evidence. GA. COMP. R. & REGS. 616-1-2-.21.

2. Federal regulations require that each State Licensing Agency develop certain policies regarding governance of the program. See 34 C.F.R. §§ 395.4(a)(3), (a)(5), & (a)(6). Accordingly, GVRA has published the Business Enterprise Program Rules and Regulations and Policies and Procedures Manual (hereinafter "BEP MANUAL")<sup>7</sup>.

3. Pursuant to the BEP Manual, GVRA may cancel<sup>8</sup> Agreements of Operation for program deficiencies, or Category I violations, which include violations of BEP Rules and Regulations or Policy and Procedures pertaining to:

- a. Hours of operation of vending facility.
- b. Care of equipment.
- c. Absences from vending facility without prior notice to SLA.

---

<sup>6</sup> Mr. Garrett later acknowledged that this determination had erroneously been included in the Notice, as Mr. Doyle had made timely call-ins of his PAD Account. (Administrative Review Decision dated May 22, 2014).

<sup>7</sup> GVRA submitted excerpts of the BEP Manual at the hearing on this matter. Some of these excerpts do not include the BEP Manual section or subsection number. Accordingly, to avoid confusion, the BEP Manual subsections cited in this Decision are referred to by the heading under which they fall.

<sup>8</sup> According to the relevant policy provision, cancellation means

that [the vendor's] assignment in a vending facility is ended. In order to secure another assignment, the vendor must bid under the competitive bid system currently in effect. A person who has had cancellation of the agreement still maintains his status as [a] blind licensee and all of the rights to which he is entitled as a blind licensee.

BEP MANUAL (Cancellation of Agreement of Operation).

- d. Submission of required reports.
- e. Failure to follow instruction.
- f. Failure to call in PAD in a timely manner.
- g. Failure to have sufficient funds in PAD account.
- h. Failure to have sufficient funds in checking account.
- i. Failure mail in cash reports in a timely manner.

BEP MANUAL (Reinstatement of Agreement of Operation). An Agreement of Operation may also be canceled for “serious misconduct”, or Category II violations, such as “theft of . . . facility funds . . .” or “[b]ehavior that is extremely inappropriate while on duty.” *Id.* Vendors are ineligible for reinstatement as an operating vendor for four months for cancellations due to initial Category I violations, and twelve months for cancellations owing to initial Category II violations.

4. In the present case, GVRA seeks to cancel Mr. Doyle’s operating agreements and impose a twelve-month waiting period, during which he would be ineligible for reinstatement as a vendor, for Category I violations, including failure to follow instructions, failure to have sufficient funds in his PAD account, and failure to mail in cash reports, as well as two Category II violations: theft and inappropriate behavior. Although GVRA did not meet its evidentiary burden in establishing that Mr. Doyle committed theft, sufficient evidence demonstrated that Mr. Doyle committed the Category I violations described in the Notice of Cancellation, with the exception of the violation regarding call-ins, which it acknowledged was alleged in error. The evidence also establishes that Mr. Doyle engaged in extremely inappropriate behavior, a Category II offense, by directing loud and profane language toward Mr. Garrett while on duty on April 22, 2014. Accordingly, cancellation of the Agreement of Operation for Mr. Doyle to operate the Rich E.S. Café facility and to temporarily operate the vending machines at the U.S. Court of Appeals is appropriate.

#### IV. DECISION

**IT IS HEREBY ORDERED** that GVRA’s decision to cancel Agreements of Operation for the Rich E.S. Café Facility #378 and the temporary location at the U.S. Court of Appeals Facility #922 is **AFFIRMED**.

**SO ORDERED**, this 14<sup>th</sup> day of January, 2015.

  
**STEVEN W. TEATE**  
Administrative Law Judge