The Final Order dated April 19, 2012 and entered by the Honorable Thomas S. Shadrick of the Circuit Court for the City of Portsmouth granting Mobley's Motion to Strike and denying Daniels' Motion to Reconsider and Motion to Set Aside Judgment as Contrary to Law and Evidence 334

The granted assignments of error 337

The trial court erroneously held that Virginia's gambling statute, Va. Code § 18.2-325, can be violated whenever the outcome of a game is to any degree uncertain, as opposed to when chance predominates over skill in determining the outcome

The trial court erroneously held that the Texas Hold 'Em Poker games hosted at the Poker Palace qualify as gambling under Section 18.2-325 because the outcome of those games is uncertain. In making this error, the court misinterpreted both the term "uncertain," as noted in the first assignment of error, as well as the word "outcome."

The trial court erroneously held that its broad reading of the gambling statute did not render the statute unconstitutionally vague

The granted assignments of cross-error 339

The circuit court erred by not granting the special plea and dismissing the action on the grounds that Mobley, a Constitutional officer, was immune from declaratory actions under the doctrine of sovereign immunity

The circuit court erred by not granting the demurrer on the grounds that Daniels lacked standing to challenge a criminal statute under which he had not been charged

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

CHARLES DANIELS
d/b/a The Poker Palace,

Plaintiff,

v. Case No.: 740CL10002538-00

EARLE C. MOBLEY, *et al.*

Defendants.

FINAL ORDER

This matter was tried by the Court on November 9, 2011.

WHEREAS the Plaintiff presented his case, at the conclusion of which the Defendant made a motion to strike the evidence; and

WHEREAS the Court took the motion under advisement; and

WHEREAS the Defense rested its case and renewed its motion to strike, the Court adjourned to consider the motion to strike which it subsequently granted; and

WHEREAS the Plaintiff subsequently filed a Motion to Set Aside Judgment as Contrary to Law and Evidence a Motion for Reconsideration which was fully briefed and argued on April 19, 2012; accordingly,

It is ORDERED, ADJUDGED, and DECREED that the Motion to Set Aside Judgment as contrary to Law and Evidence and the Motion for Reconsideration is DENIED; and

It is further ORDERED, ADJUDGED, and DECREED that for the reasons stated by the Court from the bench on November 9, 2011, the Defendant's motion to strike is GRANTED and the motion for Reconsideration is DENIED, the Motion to Set Aside Judgment as contrary to Law and Evidence is DENIED, and this matter is dismissed with prejudice.

The Clerk is directed to send a copy of this Order to counsel of record.

And nothing further to be done herein, this matter is stricken from the active docket and placed among the ended causes.

Enter: 4 / 19 / 2012

Thomas S. Shadrick

Seen and
I ~~ASK FOR THIS~~: Objected to on the grounds that the Defendants was entitled to sovereign immunity.

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A copy, Teste: Cynthia P. Morrison
Clerk of the Circuit Court of the
City of Portsmouth, Virginia
By Melissa L. DeCompte D.C.

SEEN AND OBJECTED TO: FOR ALL THE REASONS STATED ON THE RECORD AT TRIAL, ALL THE REASONS STATED IN THE PRE-TRIAL AND POST-TRIAL MOTIONS, AND THE REASONS STATED ON THE RECORD AT THE HEARING ON APRIL 19, 201

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