

BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA

**In the Matter of the Fitness for Licensure
against:**

**Hershey Williams
Owner Applicant, License #409627**

Case No.: SAC 24-0024

DECISION AFTER NON-ADOPTION OF PROPOSED DECISION

By Notice of Decision Not to Adopt Proposed Decision and Order Directing Preparation of the Record, dated August 20, 2024, the California Horse Racing Board elected to request additional information from the parties and decide the Matter itself on a review of the record under provisions of the California Government Code section 11517, subsection (c)(2)(E).

The California Horse Racing Board issues its Decision as follows:

The attached Proposed Decision, dated July 26, 2024, is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter, granting licensure to the applicant, Hershey Williams.

IT IS SO ORDERED ON September 23, 2024.

Gregory L.

Ferraro, DVM

CALIFORNIA HORSE RACING BOARD

Gregory L. Ferraro, DVM, Chairman

Digitally signed by Gregory L.
Ferraro, DVM
Date: 2024.09.23 14:55:46 -07'00'

C. Scott Chaney

**Scott Chaney
Executive Director**

Digitally signed by C. Scott Chaney
Date: 2024.09.23 14:49:16 -07'00'

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6 **BEFORE THE CALIFORNIA HORSE RACING BOARD**

7 **STATE OF CALIFORNIA**

8 In the Matter of:

Case No. **SAC 24-0024**

9 Fitness for Licensure against:

PROPOSED DECISION

10 **HERSHEY WILLIAMS,**
11 **Appellant (Owner Applicant)**

Hearing Date:
July 3, 2024, at 8:30 a.m.

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14 **PROPOSED DECISION**

15 This matter was heard on July 3, 2024, by Edward J. Weiss, Esq., a Hearing Officer
16 designated by the California Horse Racing Board, in a Microsoft Teams audio and video
17 conference.
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20 Appellant Hershey Williams (hereinafter "Williams" or "Appellant") appeared and
21 represented himself.
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24 The California Horse Racing Board ("CHRB" or "Respondent") was represented by
25 Deputy Attorney General Robert Brodnik.

26 Williams and the CHRB are at times below referred to collectively as the "Parties."
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1 CHRB investigator Jennifer Tolman also attended the hearing.

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3 The proceedings were recorded by court reporter Michelle E. Derieg of Weinstein Court
4 Reporters, LLC.
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7 **PROCEDURAL BACKGROUND**

8 Williams is a racehorse owner whose license (#409627), is in denied status. On February
9 10, 2024, Williams submitted a CHRB owner's license application to the CHRB office at Golden
10 Gate Fields. The application listed the applicant has three prior convictions, including one
11 felony, a 1996 conviction for assault with a deadly weapon that resulted in a 4.5-year prison
12 sentence. The CHRB investigator took the applicant's fingerprints and notified him and his
13 trainer that the application would be held pending further investigation and authorization from
14 the CHRB Chief of Investigations before a license could be issued. The CHRB investigator
15 conducted a further investigation which revealed that Williams had additional offenses that were
16 not listed on his application: a misdemeanor in 1978 for driving under the influence; a
17 misdemeanor for tattooing a person under 18 years of age; a misdemeanor for making annoying
18 phone calls in 1978; and misdemeanor for a "non-retainable" offense in 1984. Based on his
19 prior conviction with a prison sentence of more than a year and a failure to list all convictions on
20 his application, Williams' application for an owner's license was denied. On March 30, 2024, the
21 CHRB investigator sent Williams written notice of the denial of his application based upon
22 CHRB Rules 1489(a)(1) and (a)(3). On April 16, 2024, Williams filed this appeal. A hearing on
23 the appeal was held on July 3, 2024, via Microsoft Teams.
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3 **LIST OF ADMITTED EXHIBITS**
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5 The following exhibits were offered by the CHRB and admitted into evidence.

6 **CHRB EXHIBITS**

7 CHRB Exhibit 1: CHRB Investigative Report of Jennifer Tolman (two pages), dated
8 February 15, 2024.

9 CHRB Exhibit 2: CHRB Supplemental Investigative Report of Jennifer Tolman (1 page),
10 dated Notice of Refusal of License dated March 30, 2024.
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13 **WILLIAMS EXHIBITS**

14 Williams Exhibit 1: Appellant Hershey J. Williams Notice of Appeal (2 pages) dated
15 April 16, 2024.
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18 **LIST OF WITNESSES**
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20 The following witnesses testified at the hearing:

21 For Appellant: Applicant Hershey Williams

22 For CHRB: CHRB Investigator Jennifer Tolman
23

24 **APPLICABLE LAWS AND REGULATIONS**

25 **CHRB Rule 1489, Grounds for Denial or Refusal to License** - provides, in
26 pertinent part, as follows:
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1 (a) The Board, in addition to any other valid reason, may refuse to issue or deny
2 a license to any person:

3 (1) Who has been convicted of a crime punishable by imprisonment in a
4 California state prison or a federal prison, or who has been convicted of a
5 crime of moral turpitude... .
6

7 (3) Who has made any material misrepresentation or false statement to the Board
8 or its agents in his or her application for license or otherwise, or who fails to
9 answer any material question on an application for a license.
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11 (7) Who has committed an act involving moral turpitude, or intemperate acts
12 which have exposed others to danger, or acts in connection with horse racing
13 and/or a legalized gaming business which were fraudulent or in violation of a trust
14 or duty.
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18 **CHRB Rule 1489.2 – Criteria to Evaluate Rehabilitation of a Person When**
19 **Considering Denial, Suspension or Revocation of a License**

20 (a) When considering the denial of a license under Business and Professions
21 Code section 480, or the suspension or revocation Business and Professions
22 Code section 490, on the grounds that the person has committed an act or been
23 convicted of a crime, the California Horse Racing Board will evaluate the
24 rehabilitation of such person and his or her eligibility for licensure, and shall
25 consider the following criteria:
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- 1 (1) The nature and severity of the act(s) and/or offense(s), including its
2 relation to horse racing or pari-mutuel wagering and the protection of
3 the public.
4
5 (2) The total criminal record, including evidence of any act(s) and/or
6 offense(s) committed subsequent to the act(s) or offense(s) under
7 consideration as grounds for denial, suspension or revocation which
8 also could be considered grounds for denial, suspension, or revocation
9 under Business and Professions Code sections 480 or 490.
10
11 (3) The time that has elapsed since commission of the act(s) or offense(s).
12
13 (4) The extent to which the person seeking licensure, or the licensee has
14 complied with any terms of parole, probation, restitution or any other
15 sanctions lawfully imposed against the person or licensee.
16
17 (5) The credibility of the person seeking licensure or the licensee, and his
18 or her acceptance of responsibility and remorse for the conduct.
19
20 (6) Evidence, if any, of rehabilitation submitted by the person seeking
21 licensure or by the licensee....
22

23 **FACTUAL FINDINGS**

24 **I.**

25 On February 10, 2024, Williams, an owner with a license in denied status, applied
26 for a CHRB Owner License at the CHRB office at Golden Gate Fields racetrack. In his
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1 application, Williams listed a felony assault which involved a shooting for which he was
2 convicted in 1996.

3 II.

4 In his February 10, 2024, interview with CHRB investigator Jennifer Tolman,
5 Williams advised Investigator Tolman of the circumstances of his conviction for assault with a
6 deadly weapon. As reflected in the Investigative Report of February 15, 2024, Williams stated
7 that he “had a few people over at his house who subsequently left. They later returned and
8 attempted to gain access to his home. He denied them entry. He felt as though they were
9 threatening him, and they were attempting to enter his home through violence. He then fired a
10 few shots from his firearm toward the assailants. He missed and accidentally shot someone
11 across the street. It is unknown how many persons were shot/injured.” See CHRB Exhibit 1.
12

13 III.

14 On February 10, 2024, Investigator Tolman fingerprinted the applicant and
15 conducted further investigation with respect to the applicant’s criminal history. See CHRB
16 Exhibit 1.
17

18 IV.

19 On March 27, 2024, Investigator Tolman received the “return” of Williams’
20 fingerprints. It reflected: (1) a 12/12/1996 conviction for felony assault with a deadly weapon
21 (firearm) in Oakland and a sentence of five years in prison (Investigator noted in her report that
22 Williams had listed 4 and half years on his application); (2) a 2/4/2009 conviction for driving
23 under the influence in Placer for which he was sentenced to 36 months of probation, 20 days in
24 jail and a fine (the Investigator noted that the application listed the conviction having occurred in
25 2012 with a sentence of “DUI classes” and three days in jail; and (3) a 9/1/2010 conviction for
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1 misdemeanor driving under the influence in Sacramento, for which he was sentenced to 48
2 months of probation, 16 days in jail and fined. The Supplemental Investigative Report noted that
3 the Applicant listed the conviction occurring in 2016 in Roseville and the case being dismissed.
4
5 See CHRB Exhibit 2. The Applicant's Notice of Appeal clarified that he was charged with DUI
6 in 2014 but that was dismissed and removed from his record. See Williams Exhibit 1.

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8 V.

9 Williams neglected to list on his application the following offenses: (1) a
10 3/14/1978 misdemeanor conviction for driving under the influence in South San Francisco for
11 which he was sentenced to six months in jail and fined an undisclosed amount and a 1978
12 conviction for tattooing a person under 18 years of age for which he sentenced to three years of
13 probation and six months in jail; (2) a March 20, 1978 misdemeanor conviction for making
14 annoying phone calls for which he was sentenced to ten day in jail; and (3) a 3/16/1984
15 misdemeanor conviction for "non retainable offense" with the sentence unknown.
16

17 VI.

18 Williams testified that he has been a good law-abiding citizen since his last
19 conviction and has not had further interaction with law enforcement since that time. He has not
20 failed to appear for any court dates, has not had warrants for his arrest and has never had a
21 problem with cooperating. He accepted responsibility for his prior actions that resulted in his
22 criminal record and acknowledged he had made mistakes. Any discrepancies between his
23 application and his record were not the result of any intention to falsify anything or mislead the
24 investigator. Williams testified that he has learned to control himself. In his Notice of Appeal,
25 he stated that he was charged with a DUI in around 2014 that was dismissed and not a DUI in
26 2016. See Williams Exhibit 1.
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VII.

Williams is a US Army veteran who was honorably discharged in 1968.

See Williams Exhibit 1.

VIII.

Williams was employed by Simmons Mattress Co. between 1968 and 1973, Chamlor & Lyon between 1973 and 1980 and Union Bank from 1980 to 1989. See Williams Exhibit 1. He is seeking an owner's license because he is interested in horse racing and believes he can be an asset.

IX.

Williams appeared to be candid and honest. The omissions from or apparent discrepancies with his record appeared to the result of a faulty memory, the passage of substantial time, a miscommunication and/or the less serious nature of his offenses and convictions in comparison to the convictions and offenses that Williams listed on his application and explained to the CHRB investigator. The totality of the testimony of Williams and the CHRB investigator made it clear that Williams did not intend to mislead the CHRB.

X.

Williams is remorseful and accepts responsibility for his past conduct and appears to have been rehabilitated and has satisfied the criteria set forth in CHRB Rule 1489.2.

XI.

Williams appeared credible to the Hearing Officer. There was no argument otherwise from the CHRB counsel.

DISCUSSION OF THE ISSUES

As an initial matter, it is understandable that the CHRB investigator denied Williams' application for a license. It is standard procedure to deny an application when, as here, there were additional convictions identified and when the applicant fails to list convictions on their application. Here, Williams has a conviction of a serious violent felony that resulted in a prison sentence of more than a year. **See** Findings of Fact I-IV. The seriousness of the criminal conviction for assault with a deadly weapon is mitigated somewhat by the underlying circumstances — Williams discharged his firearm in defense of his home and accidentally shot someone across the street. **See** Finding of Fact II. The discrepancy in what he listed in his application and his full criminal record was adequately explained and appeared to the Hearing Officer that there was no attempt to mislead the CHRB Investigator or falsify his application. Williams seems sincere, credible and honest. He testified he would be an asset to racing and is seeking an opportunity to prove that. As set forth above and below, the Hearing Officer agrees, and finds that he has satisfied the criteria of CHRB Rule 1489.2 and thus recommends that the Board reverse the denial of license application. Williams has demonstrated over a period of at least the last 10 years an apparent record of good conduct.

Based on an application of the factors of Rule 1489.2 (Grounds for Evaluating Rehabilitation) to the evidence adduced at the hearing and in the record, Williams appears eligible for the denial of his license application to be reversed.

1 **(1) The nature and severity of the act(s) and/or offense(s), including**
2 **its relation to horse racing or pari-mutuel wagering and the**
3 **protection of the public.**
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5 The crime for which Williams was convicted in 1996 is serious – assault with a
6 deadly weapon. But as Williams explained, there were extenuating or mitigating circumstances,
7 namely that Williams was defending his home when he accidentally shot someone across the
8 street. Finding of Fact II. Williams seemed sincere in his testimony and took responsibility for
9 his mistake, which weighs in favor of finding Williams has satisfied this prong of the test.
10

11 **(2) Williams' Total Criminal Record**

12 Williams' record since his 1996 felony conviction (the extenuating circumstances
13 underlying which and for which he has taken responsibility and expressed remorse are explained
14 above), other than a misdemeanor DUI in 2010, is clean. The totality of his record – given the
15 types of offenses, the time when those were committed and Williams' explanations for those
16 matters weigh in favor of a finding that he has been rehabilitated and thus satisfied this prong.
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18 **(3) The Time Elapsed**

19 Almost 30 years have elapsed since the most serious matter in his criminal
20 history – his 1996 conviction for assault with a deadly weapon. Notwithstanding that he had a
21 misdemeanor driving under the influence in 2009 and 2010 convictions, he seems to have been
22 leading a law-abiding life since satisfactorily serving his 4.5 year prison sentence following his
23 1996 conviction. This is a significant amount of time that weighs in favor of a finding of
24 rehabilitation. Two misdemeanors he omitted from his application were from the 1970s. He has
25 another of an unnamed nature from 1984, approximately 40 years ago.
26

27 **(4) Compliance with Terms of Probation**
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1 Williams appears to have complied with all terms of all of his terms of
2 probation.

3 **(5) Williams' Credibility**
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5 Williams testified and was credible and sincere. He acknowledged his
6 mistakes, and his explanations for his conduct and statements during his visit to and interview at
7 Golden Gate Fields were credible. This factor weighs in his favor.

8 **(6) Evidence of Rehabilitation**
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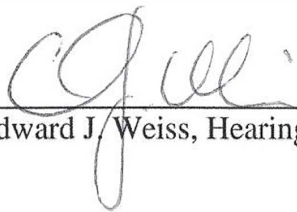
10 Williams was remorseful and acknowledged he had made mistakes. While
11 he did not present written evidence of his rehabilitation, he did testify that he has been a good
12 citizen in his community and does "not use drugs or gamble." There was no evidence or
13 argument, or evidence presented by the CHRB to challenge that assertion and thus this factor
14 weighs in his favor.

15 **CONCLUSION/PROPOSED DECISION**
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17 For the reasons set forth above, while Williams has a conviction on his record for a
18 serious felony, the factors to be considered under CHRBR Rule 1489.2 on balance, weigh in
19 favor of finding that he has been rehabilitated and sufficient time has passed during which he has
20 been a law-abiding citizen for many years. The convictions that he omitted from his application
21 were misdemeanors and many years in the past. Any omissions appear to not have been
22 intentional or material. The Hearing Officer finds that Williams did not make materially false
23 statements and did not intend to be evasive or misrepresent his record. For the foregoing reasons,
24 it is hereby respectfully recommended that the denial of Hershey Williams' application for a
25 CHRB owner's license should be reversed. Williams should receive the opportunity to prove that
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1 he indeed would be an asset to horseracing.

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3 Dated: July 26, 2024

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5 Edward J. Weiss, Hearing Officer
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