

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico

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Mark Reynolds

Opinion Number: _____

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No. A-1-CA-42662

**G-12 ENTERTAINMENT, INC.,
d/b/a KNOCKOUTS,**

Petitioner-Appellee,

v.

**PHILLIP SANCHEZ, Director of the
Alcohol Beverage Control Division;
and THE NEW MEXICO REGULATION
AND LICENSING DEPARTMENT,**

Respondents-Appellants.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

Nancy J. Franchini, District Court Judge

Kennedy, Hernandez & Harrison, P.C.

Paul J. Kennedy

Jessica M. Hernandez

Elizabeth A. Harrison

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Albuquerque, NM

for Appellee

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- 10 for Amicus Curiae City of Albuquerque

1 **OPINION**

2 **MEDINA, Chief Judge.**

3 {1} Appellants Alcoholic Beverage Control Division (ABC) Director Phillip
4 Sanchez (the Director) and New Mexico Regulation and Licensing Department
5 challenge the district court’s determination that Appellee G-12 Entertainment, Inc.,
6 d/b/a Knockouts (Knockouts) was deprived of its right to a jury trial, under Article
7 II, Section 12 of the New Mexico Constitution, when the Director revoked
8 Knockouts’ liquor license and assessed civil penalties against it in an administrative
9 proceeding under NMSA 1978, Section 60-6C-1 (2021).¹ Concluding that
10 Knockouts is not entitled to a jury trial, we reverse.

11 **BACKGROUND**

12 {2} This appeal stems from events that occurred during the early morning hours
13 in December 2023. Police officers responded to a shooting at Knockouts’ licensed
14 premises.² A man had been shot and killed; the alleged shooter was a sixteen-year-
15 old. As a result, the Director charged Knockouts with violating six provisions of the

¹We forgo a discussion on Knockouts’ right to a jury trial under the Seventh Amendment of the United States Constitution because the Seventh Amendment only applies to actions in federal courts, and “[s]tates are not required by the United States Constitution to provide jury trials in civil cases.” *Bd. of Educ. of Carlsbad Mun. Schs. v. Harrell*, 1994-NMSC-096, ¶ 34, 118 N.M. 470, 882 P.2d 511 (citing *Minneapolis & St. Louis R.R. Co. v. Bombolis*, 241 U.S. 211, 217 (1916)).

²At the time of these events, Knockouts owned Inter-Local Dispenser Liquor License #2754.

1 Liquor Control Act (LCA), NMSA 1978, Chapter 60, Articles 3A, 5A, 6A, 6B, 6C,
2 6E, 7A, 7B (1981, as amended through 2025), and the New Mexico Administrative
3 Code. These alleged violations included:

- 4 (1) two charges of selling alcohol to intoxicated persons, contrary to
5 Section 60-7A-16 and 15.10.51.11 NMAC;
- 6 (2) allowing an unaccompanied minor to enter and remain on the
7 licensed premises, contrary to Section 60-7B-10 and
8 15.10.33.8 NMAC;
- 9 (3) serving alcohol to a minor, contrary to Section 60-7B-1 and
10 15.10.33.10 NMAC;
- 11 (4) failing to ensure “the interior lighting [of the licensed premises
12 was] sufficient to make easily discernible to persons of average
13 vision, the appearance, age and conduct of all persons on the
14 premises,” contrary to 15.10.31.8 NMAC; and
- 15 (5) obstructing the administration of the LCA, contrary to Section
16 60-7A-24.

17 {3} Pursuant to his authority under Section 60-6C-4(F), the Director appointed a
18 hearing officer, and the hearing was held more than ten days thereafter. The hearing
19 officer found Knockouts in violation of all of the charges except the two charges of
20 selling alcohol to intoxicated persons. The Director accepted the hearing officer’s
21 findings of fact and conclusions of law, concluding that they were based upon
22 “substantial, competent, and relevant evidence,” and the violations were supported
23 by a preponderance of the evidence. The Director further found that “substantial,
24 competent, and relevant evidence” warranted enhancing Knockouts’ penalties.

1 Consequently, the Director revoked Knockouts' liquor license and issued a \$10,000
2 fine. *See* § 60-6C-1(A).

3 {4} Knockouts appealed the Director's order to the district court, claiming that (1)
4 the hearing officer and the Director acted arbitrarily and capriciously in finding
5 against Knockouts on insufficient and insubstantial evidence; (2) the Director
6 violated Article II, Section 13 of the New Mexico Constitution and the Eighth and
7 Fourteenth Amendments to the United States Constitution related to the prohibition
8 on excessive fines and fees; and (3) the administrative proceeding violated
9 Knockouts' right to a jury trial, pursuant to Article II, Section 12 of the New Mexico
10 Constitution, the Due Process Clause of the Fourteenth Amendment to the United
11 States Constitution, and the Seventh Amendment to the United States Constitution.
12 The district court rejected Knockouts' first two arguments, but concluded that
13 Knockouts was entitled to a jury trial. The district court therefore reversed the
14 Director's decision.

15 {5} Based on the district court's order and subsequent order denying rehearing,
16 Appellants filed a petition for writ of certiorari (the Petition) to this Court. Because
17 Appellants, joined by amicus City of Albuquerque, challenge whether Knockouts is
18 entitled to a jury trial—a constitutional question arising from the district court's
19 exercise of its original jurisdiction—we construed the Petition as a direct appeal.

DISCUSSION

{6} The issue on appeal is whether the New Mexico Constitution entitles Knockouts to a jury trial for liquor license violations under the LCA. “Constitutional challenges to a statute are reviewed de novo.” *Siebert v. Okun*, 2021-NMSC-016, ¶ 12, 485 P.3d 1265. “When reviewing a statute under a constitutional challenge, a strong presumption in favor of constitutional validity attaches to legislative enactments.” *Id.* (omission, internal quotation marks, and citation omitted).

{7} Appellants argue that Knockouts is not entitled to a jury trial for the following four reasons. First, the public rights doctrine applies and permits the Director to administratively adjudicate liquor license violations under the LCA. Second, LCA enforcement proceedings have no historical, prestatehood statutory or common-law analog. Third, ABC’s license revocation and \$10,000 fine are equitable—not legal—penalties because they serve a predominantly compensatory or remedial purpose. Fourth, entitling licensees to a jury trial to determine liquor license sanctions would be “unworkable for New Mexico.” Knockouts disagrees, arguing that it is entitled to a jury trial because (1) the public rights doctrine does not apply; (2) there are historical, common-law analogs to LCA enforcement proceedings; (3) the Director’s sanctions were legal, not equitable, remedies; and (4) Appellants’ argument would provide New Mexicans with less protections under the State Constitution than under the United States Constitution. Because application of the public rights doctrine is

dispositive in this case, and because we find it applicable here, we address only the arguments relevant to application of the public rights doctrine.

The Public Rights Doctrine Under Current New Mexico Precedent

{8} Appellants contend that proper application of the public rights doctrine permits the Director to administratively adjudicate Knockouts for liquor license violations under the LCA. Knockouts counters, arguing that the public rights doctrine is inapplicable because this case presumptively involves private—not public—rights. We agree with Appellants: The public rights doctrine applies and permits the Director to exercise his statutory authority to administratively adjudicate Knockouts for liquor license violations under the LCA. We explain.

{9} Article II, Section 12 of the New Mexico Constitution provides that “[t]he right of trial by jury as it has heretofore existed shall be secured to all and remain inviolate.” As a general rule, “[t]his right pertains to civil causes of action that were triable by jury at the time the New Mexico Constitution was adopted and took effect.” *Siebert*, 2021-NMSC-016, ¶ 13. However, the public rights doctrine provides an exception to this general rule. The two key cases discussing the public rights doctrine under the New Mexico Constitution are *Board of Education of Carlsbad Municipal Schools. v. Harrell*, 1994-NMSC-096, 118 N.M. 470, 882 P.2d 511, and *Lisanti v. Alamo Title Insurance of Texas*, 2002-NMSC-032, 132 N.M. 750, 55 P.3d 962.

1 {10} In *Harrell*, our Supreme Court discussed the application of the public rights
2 doctrine under the School Personnel Act (SPA). There, the board discharged a school
3 district superintendent based on a breach of his employment contract. *Harrell*, 1994-
4 NMSC-096, ¶¶ 1-2, 33. The superintendent appealed his discharge, but under the
5 SPA, he was statutorily required to arbitrate his appeal. *See id.* ¶ 6. The
6 superintendent argued this statutorily-required arbitration abridged his right to a jury
7 trial under Article II, Section 12, of the New Mexico Constitution. *Harrell*, 1994-
8 NMSC-096, ¶¶ 8, 33. Our Supreme Court disagreed. The Court explained that the
9 superintendent was not entitled to a jury trial because his cause of action against the
10 board did not exist at common law at the time our constitution was adopted, and he
11 was requesting essentially equitable relief. *Id.* ¶ 37. But the Court went further,
12 providing an alternative holding based on the public rights doctrine. *See id.* ¶¶ 38-
13 39. It stated that even if the superintendent had stated that “a legal claim cognizable
14 at common law at the time our constitution was adopted,” he would still not have
15 been entitled to a jury trial. *Id.* ¶ 38 (citing *Granfinanciera, S.A. v. Nordberg*, 492
16 U.S. 33, 42 (1989)). The Court explained that the superintendent’s right to continued
17 employment was a public right created by the SPA. *Id.* ¶ 39. In support of its
18 determination, the Court looked to the SPA’s design and public policy objectives.
19 *See id.* Specifically, the SPA’s design was “to protect school employees from
20 wrongful discharge and to allow school boards to properly manage their personnel,”

1 and its public policy objectives were to encourage “qualified and talented individuals
2 to seek employment with the public schools.” *Id.* Accordingly, the Legislature was
3 permitted to “constitutionally prescribe the methods for adjudicating a dispute over
4 termination of that right.” *Id.* (citing *Wylie Corp. v. Mowrer*, 1986-NMSC-075, ¶¶
5 5-6, 104 N.M. 751, 726 P.2d 1381).

6 {11} In *Lisanti*, our Supreme Court discussed the limits of the public rights
7 doctrine. There, a dispute arose between insurer and insureds regarding insurance
8 policy coverage. 2002-NMSC-032, ¶ 2. The insureds alleged breach of contract and
9 breach of fiduciary duty claims, among others. *Id.* As in *Harrell*, the law—in this
10 instance, a regulation promulgated by the superintendent of insurance—required the
11 dispute to be arbitrated. *See Lisanti*, 2002-NMSC-032 ¶¶ 3-5. But unlike in *Harrell*,
12 our Supreme Court determined that the rights at issue in the underlying dispute were
13 “the equivalent of . . . paradigmatic private rights.” *Lisanti*, 2002-NMSC-032, ¶ 23
14 (internal quotation marks and citation omitted). The Court rejected the insurers’
15 contention that the public rights doctrine applied to “any heavily-regulated
16 industry.” *Id.* Instead, the Court held that for the public rights doctrine to apply, a
17 right of action must be “‘closely intertwined’ with a federal regulatory program.” *Id.*
18 (quoting *Granfinanciera*, 492 U.S. at 54). It is not sufficient for an asserted public
19 right to be only “casually or indirectly related to the regulatory scheme.” *Id.* The
20 Court also stated that the public rights doctrine is not implicated in “wholly private

1 tort, contract, and property cases.” *Id.* (internal quotation marks and citation
2 omitted).

3 {12} Under *Harrell* and *Lisanti*, to determine whether the public rights doctrine
4 applies, we must study the regulatory scheme and identify its relationship to the
5 claims made by ABC against Knockouts. The LCA is “an exercise of the police
6 power of the state.” *Baca v. Grisolano*, 1953-NMSC-028, ¶¶ 25-26, 57 N.M. 176,
7 256 P.2d 792 (internal quotation marks and citation omitted). Indeed, the “[s]tate
8 control of the liquor business under the police power is so great as to range from
9 complete prohibition to lesser degrees of regulation and constant surveillance.”
10 *Kearns v. Aragon*, 1959-NMSC-102, ¶ 16, 65 N.M. 119, 333 P.2d 607; *see also U.S.*
11 *Brewers Ass’n, Inc. v. Dir. of N.M. Dep’t of Alcoholic Beverage Control*, 1983-
12 NMSC-059, ¶ 30, 100 N.M. 216, 668 P.2d 1093 (“By virtue of the Twenty-[F]irst
13 Amendment, the states have been conferred with something more than a nominal
14 degree of authority over public health, welfare and morals when they act to regulate
15 the liquor business.”). In enacting the LCA, “the Legislature sought to tighten this
16 state’s liquor control laws.” *Town & Country Food Stores, Inc. v. N.M. Regul. &*
17 *Licensing Dep’t*, 2012-NMCA-046, ¶ 13, 277 P.3d 490 (internal quotation marks
18 and citation omitted). The LCA’s stated policy is to license, regulate, and control
19 “the sale, service and public consumption of alcoholic beverages in the state . . . so
20 as to protect the public health, safety and morals of every community in the state.”

1 Section 60-3A-2(A). This policy aligns with the LCA’s purpose “to regulate and
2 place limitations on the sale of alcohol, not to promote it,” and when interpreting the
3 LCA, “we employ a liberal interpretation to give effect to this legislative purpose
4 and to facilitate temperance.” *Town & Country Food Stores, Inc.*, 2012-NMCA-046,
5 ¶ 13 (alteration, internal quotation marks, and citation omitted). To further the
6 LCA’s policy and fulfill its purpose, the Legislature has authorized the Director to
7 adjudicate liquor license violations through administrative proceedings. *See* §§ 60-
8 3A-7 to -10; §§ 60-6C-1 to -9.

9 {13} In this case, the enforcement action and sanctions that the Director brought
10 against Knockouts under the LCA fall squarely within the public rights doctrine.
11 *Harrell* and *Lisanti* support this conclusion. We agree with ABC and the Director
12 that their enforcement action is analogous to the board’s enforcement action in
13 *Harrell*. Like the SPA—which was designed to benefit school employees while at
14 the same time allowing school boards to properly manage their personnel—the LCA
15 was designed to allow entities like Knockouts to apply for, receive, and benefit from
16 a liquor license while at the same time providing ABC with the authority to “regulate
17 and place limitations on the sale of alcohol.” *See Santillo v. N.M. Dep’t of Pub.*
18 *Safety*, 2007-NMCA-159, ¶ 19, 143 N.M. 84, 173 P.3d 6. This authority clearly
19 permits the Director to revoke licenses and impose civil fines when licensees violate
20 the LCA’s statutory conditions. Sections 60-3A-7; -6C-1. Furthermore, as explained

1 in *Lisanti*, application of the public rights doctrine requires a right of action to be
2 “closely intertwined with a regulatory program.” 2002-NMSC-032, ¶ 23. There can
3 be no dispute that ABC’s proceedings are closely intertwined with the LCA’s
4 regulatory program. By enacting the LCA, the Legislature provided a uniform,
5 comprehensive regulatory scheme in order to protect the public from licensees who
6 violate the statute. *See Drink, Inc. v. Babcock*, 1966-NMSC-236, ¶ 13, 77 N.M. 277,
7 421 P.2d 798 (“The [LCA] was enacted as comprehensive legislation to regulate and
8 control the sale of alcoholic beverages.”). The LCA’s regulatory scheme plainly
9 provides the Director with a right of action to administratively adjudicate liquor
10 license violations, and the Director brought such an action here for the specific
11 purpose of directly enforcing various provisions of the LCA’s regulatory scheme.
12 The action brought by the Director cannot plausibly “be characterized as casually or
13 indirectly related” to the LCA’s regulatory scheme. *See Lisanti*, 2002-NMSC-032,
14 ¶ 23.

15 {14} Knockouts, however, contends that the public rights doctrine does not apply
16 here because this case presumptively involves private rights. We are unpersuaded.
17 The heart of Knockouts’ argument is that the administrative adjudication revoking
18 its liquor license has common-law antecedents and that, along with the \$10,000 fine,

1 amounts to a legal—not equitable—remedy.³ Consequently, Knockouts argues that
2 the administrative adjudication of liquor license violations presumptively concerns
3 private rights under the recent United States Supreme Court decision applying the
4 Seventh Amendment to the United States Constitution in *Securities and Exchange*
5 *Commission v. Jarkesy*, 603 U.S. 109 (2024). We disagree.

6 {15} In *Jarkesy*, the Securities and Exchange Commission (SEC) imposed civil
7 penalties against two defendants for securities fraud through administrative
8 proceedings. 603 U.S. at 118-19. The Court held that the Seventh Amendment
9 entitled the defendants to a jury trial because (1) the SEC’s anti-fraud provisions had
10 antecedents in common-law fraud claims, which had traditionally been heard by a
11 jury; and (2) the SEC’s monetary civil penalties were punitive in nature. *Id.* at 124-
12 26, 140-41. The Court also concluded that the public rights doctrine was
13 inapplicable. *Id.* at 134. Because, as previously explained, the Seventh Amendment
14 does not apply to the states, *Jarkesy* is not binding.

15 {16} We find *Jarkesy*’s analysis unhelpful in deciding the question presented in the
16 case before us. Importantly, *Jarkesy* focuses exclusively on application of the public

³Although we address the monetary penalty later in our discussion, it is without question that Knockouts had no vested property right in its liquor license. See *Yarbrough v. Montoya*, 1950-NMSC-006, ¶11, 54 N.M. 91, 214 P.2d 769 (“[A liquor] license is a privilege and not property within the meaning of the due process and contract clauses of the constitutions of the [s]tate and the nation, and in them licensees have no vested property rights.” (internal quotation marks and citation omitted)).

1 rights doctrine in the context of the federal right to a jury trial and the separation of
2 powers under the United States Constitution and, in any event, it declined to
3 “definitively explain[] the distinction between public and private rights,” despite
4 acknowledging that the case law related to the public rights doctrine is “an area of
5 frequently arcane distinctions and confusing precedents.” *Jarkesy*, 603 U.S. at 130-
6 31 (internal quotation marks and citations omitted). *Jarkesy* provides no guidance as
7 to how the public rights doctrine applies under the proper exercise of police powers
8 reserved to the states. *See generally Jarkesy*, 603 U.S. 109 (addressing the public
9 rights doctrine without addressing its application to matters arising under the states’
10 reserved police powers). As Knockouts correctly notes, the public rights doctrine is
11 an evolving concept “under either the federal [c]onstitution or the state constitution.”
12 Thus, while *Jarkesy* may have evolved the public rights doctrine under the federal
13 constitution, it is not apparent that it evolved the concept under our state’s
14 constitution. *See, e.g., id.* at 128-30 (recognizing the application of the public rights
15 doctrine in cases relating to Congress’ enumerated powers under Article I, Section
16 8 of the United States Constitution). Consequently, given *Jarkesy*’s lack of guidance
17 on state law issues, we rely on precedent from our Supreme Court interpreting the
18 New Mexico Constitution—precedent which, as we have explained, supports
19 application of the public rights doctrine to the facts of this case.

1 {17} Of at least equal importance is that, unlike the petitioner in *Jarkesy*,
2 Knockouts has not identified a common law antecedent to which the right to a jury
3 trial attached; Knockouts has provided no common law antecedent to administrative
4 adjudications of liquor license violations under the LCA. In *Jarkesy*, the fact that the
5 SEC’s anti-fraud provision had a common-law antecedent was crucial to the
6 conclusion that the public rights doctrine was inapplicable. *See* 603 U.S. at 135-37
7 (noting that the public rights doctrine applied for a cause of action brought under the
8 Occupational Health and Safety Act (OSHA), because OSHA did not borrow its
9 cause of action from the common law). Knockouts attempts to analogize the
10 administrative adjudication in this case to territorial-era criminal proceedings
11 because both center on allegations of serving alcohol to minors.⁴ Because a
12 defendant was entitled to a jury trial under territorial-era statutes criminalizing the
13 sale of alcohol to minors, Knockouts argues it is entitled to a jury trial for liquor
14 license violations if premised on the same conduct. We disagree. Administrative

⁴We note that although Knockouts attempts to frame its liquor license sanctions as flowing only from serving alcohol to a minor, the record demonstrates otherwise. As recounted in the background section above, the Director found the following violations were supported by a preponderance of evidence: (1) Knockouts allowed an unaccompanied minor to enter and remain on the licensed premises, contrary to Section 60-7B-10 and 15.10.33.8 NMAC; (2) Knockouts served alcohol to a minor, contrary to Section 60-7B-1 and 15.10.33.10 NMAC; (3) Knockouts failed to ensure “the interior lighting [of the licensed premises was] sufficient to make easily discernible to persons of average vision, the appearance, age and conduct of all persons on the premises,” contrary to 15.10.31.8 NMAC; and (4) Knockouts obstructed the administration of the LCA, contrary to Section 60-7A-24.

1 proceedings for liquor license violations brought pursuant to the LCA are distinct
2 from criminal proceedings even if both proceedings rely on some of the same
3 underlying facts. *See, e.g., Town & Country Food Stores, Inc.*, 2012-NMCA-046,
4 ¶¶ 10-16 (recognizing that LCA enforcement proceedings are civil, not criminal).
5 There is no indication that liquor license revocation proceedings served as a
6 substitute for criminal proceedings. Instead, administrative adjudication of liquor
7 license violations can proceed in addition to the jury trials the defendants have
8 been—and continue to be—entitled to when charged with serving alcohol to a minor.
9 *See* § 60-7B-1 (providing that in addition to being subject to administrative penalties,
10 a person who serves alcohol to a minor is also subject to criminal penalties). We are
11 therefore satisfied that the New Mexico Legislature did not “withdraw from judicial
12 cognizance any matter which, from its nature, is the subject of a suit at the common
13 law.” *See Jarkey*, 603 U.S. at 132 (emphasizing, in the context of the public rights
14 doctrine, that Congress cannot “withdraw from judicial cognizance any matter
15 which, from its nature, is the subject of a suit at the common law”). We are
16 unpersuaded that liquor license revocation proceedings bear sufficient similarity to
17 any territorial-era criminal proceedings to warrant treating them as analogous.

18 {18} Under New Mexico law, even if administrative adjudications of liquor license
19 violations had common-law antecedents and the sanctions in this case were legal in
20 nature, the public rights doctrine would apply in this case. Under *Harrell*, the public

rights doctrine would apply even if we determined that administrative adjudications of liquor license violations had common-law antecedents. *See* 1994-NMSC-096, ¶ 38 (“Even if we interpreted [the appellant’s] claim as stating a legal claim cognizable at common law at the time our constitution was adopted, it nonetheless would be permissible for the [L]egislature to assign resolution of the claim to an adjudicative body that does not use a jury as fact[-]finder.”). And under *Lisanti*, even if we considered the monetary penalty that the Director imposed to be legal in nature, the public rights doctrine would apply because, as discussed above, ABC’s administrative adjudication of Knockouts’ liquor license violations are “closely intertwined” with the LCA’s regulatory program. Thus, for all of the reasons discussed above, we conclude that Knockouts is not entitled to a jury trial.

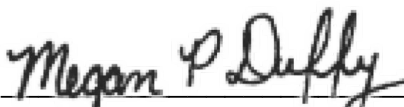
CONCLUSION

{19} We reverse the district court’s order concluding that Knockouts was entitled to a jury trial under the New Mexico Constitution, and we remand for proceedings consistent with this opinion.

{20} **IT IS SO ORDERED.**


JACQUELINE R. MEDINA, Chief Judge

1 **WE CONCUR:**

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3 _____
4 **MEGAN P. DUFFY, Judge**

4 
5 _____
6 **ZACHARY A. IVES, Judge**