

BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD
OF THE STATE OF CALIFORNIA

CIRCLE K STORES, INC.	)	AB-7172
dba Circle K Store #5217)	
12512 Knott Avenue	)	File: 20-295701
Garden Grove, CA 92641,	)	Reg: 97040449
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Rodolfo Echeverria
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	June 3, 1999
	)	Los Angeles, CA
_____)	

Circle K Stores, Inc., doing business as Circle K Store #5217 (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its off-sale beer and wine license for 15 days for its clerk, Geovanne Alfonso Cea, having sold an alcoholic beverage (a single 12-ounce bottle of Corona beer) to Ai Pham, a minor participating in a decoy operation being conducted by the Garden Grove Police Department.

Based upon our review of the record and upon the representations of counsel for the Department and the appellant, we conclude that the result in this matter is controlled by the October 28, 1998, decision of the Second District Court of Appeal in

¹ The decision of the Department, dated June 25, 1998, is set forth in the Appendix hereto.

Acapulco Restaurants, Inc. v. Alcoholic Beverage Control Appeals Board (1998) 67 Cal.App.4th 575 [79 Cal.Rptr.2d 126]. The court there stated that “rule 141(b)(5) means what it says,” i.e., strict compliance with the face-to-face identification provision is required. No face-to-face identification of the seller by the decoy was made in this case. Pursuant to Rule 141(c), the failure of the police to comply with 141(b)(5) provides a defense to the accusation issued by the Department.

ORDER

The decision of the Department is reversed.²

TED HUNT, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
JOHN B. TSU, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This final order is filed in accordance with Business and Professions Code §23088, and shall become effective 30 days following the date of the filing of this order as provided by §23090.7 of said code.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code §23090 et seq.