

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Petty and Senior Judge Bumgardner

FINE GRIND, INC., D/B/A
HARD TIMES CAFÉ

Record No. 0170-12-4

VIRGINIA DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL

MEMORANDUM OPINION*
PER CURIAM
JUNE 26, 2012

FROM THE CIRCUIT COURT OF FAIRFAX COUNTY
Jan L. Brodie, Judge

(Mark R. Dycio; T. Wayne Biggs; Dycio & Biggs, on briefs), for
appellant.

(Kenneth T. Cuccinelli, II, Attorney General; Michelle Welch,
Assistant Attorney General, on brief), for appellee.

Fine Grind, Inc., d/b/a Hard Times Café (appellant) appeals a decision of the trial court affirming a decision of the Virginia Department of Alcoholic Beverage Control (VABC). The VABC suspended appellant's alcohol license for twenty-five days or until appellant paid a fine of \$2,000. On appeal, appellant argues the trial court erred in: (1) affirming the decision of the VABC where the formal agency hearing process violated appellant's due process rights because the presiding officer was biased or partial; (2) holding that although the underage buyer's action was not permitted by Code § 4.1-305, evidence obtained pursuant to the buyer's action was admissible; (3) holding that 3 VAC 5-10-110 provides authority for a presiding officer to examine witnesses; (4) holding that any error regarding the impartiality of the presiding officer

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

was harmless error; and (5) failing to award attorney's fees to appellant pursuant to Code § 2.2-4030.

We have reviewed the record, the trial court's opinion letter, and the trial court's final order, and we find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the trial court in its opinion letter.¹ See Fine Grind, Inc. v. Virginia Dep't of Alcoholic Beverage Control, Case No. CL-2011-10455 (Dec. 21, 2011). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.

¹ Because we affirm the trial court's decision, we deny appellant's requests for awards of attorney's fees and costs incurred in both the trial court and on appeal. See Shropshire v. Virginia Ret. Sys., 48 Va. App. 436, 448 n.9, 632 S.E.2d 601, 607 n.9 (2006) (denying appellant's request for attorney's fees pursuant to Code § 2.2-4030(A) where appellant did not prevail on the merits).