

# Revocation of Guide License

The Alaska Supreme Court today affirmed the action of the superior court in Anchorage in affirming the revocation of the guide license of Clarence Raymond Loesche by the Guide License Control Board of the Alaska Department of Fish and Game.

The board had revoked Loesche's license following a hearing on allegations that he had violated provisions of the Alaska Administrative Code by: failure to execute and submit an approved guide-client contract, permitting a client to hunt from a campsite which was not registered with the Department of Fish and Game; and employing an unlicensed assistant guide.

Loesche appealed this administrative action to the superior court in Anchorage, but Superior Court Judge Eben H. Lewis affirmed the action of the license control board, saying, however, that the board abused its discretion in its findings that Loesche's acts were "unsportsmanlike, unethical and degrading conduct to the guiding profession" when no such charges were contained in the original accusation.

The judge also said there was insufficient evidence to support the finding of the board that

Loesche had admitted failure to file a guiding contract with the Department of Fish and Game.

Judge Lewis said these were to be regarded as non-prejudicial error because the other findings of the board formed a sufficient basis for revocation of Loesche's license.

Loesche appealed to the supreme court claiming that he was entitled to a jury trial under the terms of the Alaska Constitution and the previous Alaska Supreme Court decision in *Baker vs. City of Fairbanks* regarding the right to a jury trial in a criminal prosecution.

The supreme court, in an opinion written by Justice Roger Connor, said that the Alaska Constitution did not entitle Loesche to a jury trial in an administrative proceeding affecting a professional license in which his fitness to practice that profession is the primary concern. Justice Connor also wrote that in the decision cited by Loesche the supreme court had explained that the definition of criminal prosecution "does not cover revocation of licenses pursuant to administrative proceedings where lawful criteria other than criminality are a proper concern in protecting public welfare and safety, as the basis of revocation

or suspension in such instances is not that one has committed a criminal offense, but that the individual is not fit to be licensed apart from considerations of only guilt or innocence of crime."

Loesche also claimed on appeal that he had been denied due process because of alleged defects in the notice and hearing he received from the Guide License Control Board.

But the supreme court said that a valid basis existed for the board's order of revocation as the findings of the board were supported by adequate evidence presented at the administrative hearing.

To other claims by Loesche on appeal that the board may have erred regarding its findings of "unsportsmanlike" or "unethical conduct", the supreme court held that there was still sufficient basis for the board's action in revoking Loesche's license.