



RELIEVED AND REJOICING: Defense attorney David Oscar Markus celebrates and his client, Gale Fontaine, cries in relief as the "not guilty" verdict is read in court. The result could boost the adult arcade industry across Florida. Staff photo/Joe Cavaretta **MOM-AND-DAUGHTER MOMENT:** Gale Fontaine is hugged by daughter Johnia Nefores after being found not guilty Monday in a Broward County court. Staff photo/Joe Cavaretta

"I think we felt she acted in good faith in opening up her establishment and we also felt the machines were a game of skill, that there was some skill involved," said jury foreman Christopher Peters.

Assistant State Attorney Gregg Rossman said the verdict resolves nothing for the adult arcade industry, because the case only concerned the Tropicana Rec Room.

In the moments before the verdict was read, Fontaine, 56, sat immobile in her chair, her eyes tightly closed. When the first "not guilty" was announced, she let out a giant heave and tears began streaming down her face. Fontaine's attorney, David Oscar Markus, embraced her as she kept repeating "Thank you, thank you" to the jury.

Fontaine, a grandmother of eight and great-grandmother of two, cried for another 10 minutes as she embraced 25 family members and supporters, who applauded her three times.

Fontaine, president of the Florida Arcade Association, has said she fought the case not only to vindicate herself, but for her loyal patrons, who are largely retirees. Her arcades have developed passionate followings in retirement communities, with about 200 people coming out in support for her at a June rally outside the courthouse.

"The seniors of Broward County will continue to have a place to go to be with other people of their own age and relax in a safe environment for themselves," Fontaine said.

Fontaine has maintained that her high profile in the adult arcade industry has made her a victim of selective prosecution. She blames the county's pari-mutuels for her December arrest, saying they view the arcades as competition. The pari-mutuels deny any involvement in the case, and prosecutors have said there is no political motive.

The popularity of adult arcades has exploded within recent years; estimates are that about 100 game rooms now operate in Broward, Palm Beach and Miami-Dade counties.

Some Florida municipalities and counties have banned adult arcades, contending the machines are illegal gambling devices. Others like Palm Beach County have allowed the businesses to flourish without government interference. In Broward, sheriff's deputies have raided at least five adult arcades in the past two years, arresting and charging Fontaine and eight other arcade owners.

Fontaine is the only one so far in Broward who fought the criminal charges rather than accept a plea deal. Seven operators took plea deals on misdemeanor charges, and one is awaiting trial.

Michael Wolf, an attorney who represents the Florida Arcade Association, said he thinks the verdict further legitimizes adult arcades.

Arcade operators have long argued that the machines are legal under the state's "Chuck E. Cheese" law, which allows people to play games with an "application of skill" to get credits redeemable for non-cash prizes.

Monday's acquittal does not mean the end of Fontaine's legal woes, though. She still faces criminal charges arising from a June raid on another Pompano Beach business she owns, Four Corners Bingo. Broward sheriff's deputies seized 50 similar video machines from there.

Markus said he hopes prosecutors consider dropping the second case.

"The jury has spoken. They have spoken very clearly and I think now it has been settled that Ms. Fontaine was acting legally and in compliance with the law," Markus said.

Rossman said the second case will continue.

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The owner of a Pompano Beach adult game room sobbed uncontrollably, her attorney pumped his fists in victory and courtroom spectators applauded as a jury acquitted her Monday night of illegal gambling charges.

Gale Fontaine's victory could have immediate ramifications for the adult arcade industry not only in Broward County, but across Florida. The case marked the first time in the county -- and one of the first times statewide -- that an adult game room owner had a jury decide the legality of the businesses' video machines.

"I think this is going to encourage the further growth of adult arcades in Florida," said Robert Jarvis, a Nova Southeastern University law professor who follows the industry. "It's a red-letter day for anybody interested in these sorts of establishments. It's very big news."

The Broward County State Attorney's Office had argued the games inside Fontaine's Tropicana Rec Room were illegal slot machines that cheated customers. Fontaine's attorneys countered that the games are legal because they require an "application of skill." The video machines display colorful, spinning symbols that players press buttons to stop. Winning combinations turn into in-house prizes and gift certificates.

The Broward Circuit Court jury needed a little more than four hours of deliberations before finding Fontaine not guilty of keeping an illegal gambling house and possession of a gambling device. She had faced up to five years in prison if convicted of the charges.