

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2025-0290

EDWARD ADAMS,

Appellant,

v.

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Appellee.

On appeal from the Department of Business and Professional
Regulation.

Melanie S. Griffin, Secretary.

April 29, 2026

OSTERHAUS, C.J.

Edward Adams challenges the administrative fine levied against him by the Florida Department of Business and Professional Regulation arising from his company's installation of a vinyl pool liner for a customer without the required contracting license. He argues that § 489.103(6), Florida Statutes, exempted his work from requiring a contracting license such that the Department's order should be reversed. We affirm.

The basic facts of this case are undisputed. A client hired Adams's company, Vinyl Pools R Us, to convert her fiberglass swimming pool to a vinyl-lined pool. This conversion involved the installation of custom-made vinyl liner on a track at the top of the

pool from which it would then drape down over the original fiberglass. The client's dissatisfaction with the work led to a complaint and to the Department's investigation of Adams under state laws that regulate unlicensed contracting. *See* § 489.13(1), Fla. Stat. (2025) ("Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity[.]"). After an informal hearing before a Departmental hearing officer, the recommended order concluded that Adams and his company were not registered or certified to perform the swimming pool work under chapter 489, Florida Statutes, and its corresponding regulations. The hearing officer recommended administrative fines, including \$4,000 for having violated state licensure rules and \$145.73 in investigative costs. The Department's final order adopted the hearing officer's factual findings and legal conclusions and ordered Adams to pay fines totaling \$4,145.73. Adams then appealed.

On appeal, Adams makes two arguments. He argues first that a licensing exemption in § 489.103(6) applied to his work because the vinyl pool liner was only a temporary and transitory cosmetic covering that wasn't "fabricated into" the pool. Nor did it become a "permanent fixed part of the [pool's] structure." The relevant exemption reads:

(6) The sale or installation of any finished products, materials, or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure, such as awnings. However, this subsection does not exempt in-ground spas and swimming pools that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug.

The record, however, doesn't support Adams's argument for the exemption. According to Adams's testimony at the informal hearing, the vinyl liner was installed into the pool by being affixed within a track at the top of the pool, draping down to hold the pool's water. He explained that the liner "comports to the shallow end of the pool, the slope, and the deep end of the pool, the side walls. And

if there's steps or swim-outs, all the liner contorts to all of that." In other words, the testimony confirmed that the track and liner were "fabricated into" to the pool. *Id.*; see also *Fabricated*, *American Heritage Dictionary of the English Language* (5th ed. 2022), <https://www.ahdictionary.com/word/search.html?q=fabricated> ("To make; create. [Or to] construct by combining or assembling diverse, typically standardized parts"); § 489.103(12), Fla. Stat. (distinguishing between a "person who only furnishes material or supplies" and one who "fabricat[es] them into, or consum[es] them in the performance of [the work]"). Adams further acknowledged that a defective liner would cause water to leak from the pool into the earth. In other words, vinyl-lined pools cannot function as swimming pools without the sort of liner that Adams installed here. Because the liner's capacity to hold water was vital to the swimming pool's ability to serve its very purpose, we reject Adams's argument that, once installed, the vinyl liner didn't become a "permanent fixed part of the structure" of the pool under § 489.103(6).

Finally, we find no fault with how the Department's administrative rule addresses certification standards for pool-related contractors. Fla. Admin. Code R. 61G4-15.032. Florida law requires both structural and non-structural swimming pool work to be completed by a contractor unless it is exempt for the reasons discussed above. § 489.113(3)(c), Fla. Stat. The Legislature delegated rulemaking authority to the Construction Industry Licensing Board "to adopt rules . . . to implement the provisions of this chapter conferring duties upon it." § 489.108, Fla. Stat.; see also §§ 489.105 & 489.107, Fla. Stat. The Rule's provision for "Swimming Pool Structural Specialty Contractors" does not contradict the statutory scheme by including the "installation of . . . vinyl liners" within the scope of work that must be performed by an appropriately credentialed contractor. Fla. Admin. Code R. 61G4-15.032(2)(b). The Rule neither expands the exercise of the Department's delegated legislative authority nor contradicts the exemption contained in § 489.103(6). We thus reject Adams's administrative code-based arguments.

AFFIRMED.

ROBERTS and BILBREY, JJ., concur.

***Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.***

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