

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-001245-MR

GEORGE SMITH, M.D.

APPELLANT

v. APPEAL FROM BOYD CIRCUIT COURT
HONORABLE C. DAVID HAGERMAN, JUDGE
ACTION NO. 99-CI-00601

ASHLAND HOSPITAL CORPORATION,
D/B/A KING'S DAUGHTERS MEDICAL
CENTER

APPELLEE

OPINION

AFFIRMING

** ** * * * **

BEFORE: BUCKINGHAM, McANULTY AND PAISLEY, JUDGES.

PAISLEY, JUDGE. This is an appeal from an order entered by the Boyd Circuit Court granting a partial summary judgment for each party. For the reasons stated hereafter, we affirm.

Appellant is a board-certified radiologist. In January 1998, he was afforded the status of "honorary staff" at King's Daughters' Medical Center in Ashland. Several months later, he attempted to attend a medical executive committee

meeting at the medical center. When appellant did not comply with the chief executive officer's request to leave as the meeting was closed to those who were not members of the medical executive committee, he was escorted from the room by security personnel. The medical center subsequently revoked appellant's honorary medical privileges, and it denied his request for an administrative hearing or appeal regarding the revocation.

Appellant then filed this action in the Boyd Circuit Court, asserting that he was entitled to attend the medical executive committee meeting, and that the medical center breached its duty to him by denying his request for a hearing before it revoked his honorary staff privileges. He sought compensatory and punitive damages, injunctive relief, and attorney's fees. Eventually, in response to the parties' cross motions for summary judgment, the court concluded as a matter of law that the medical center's bylaws were not violated by the exclusion of appellant from the medical executive committee's meeting. However, the court also determined as a matter of law that appellant was entitled to an administrative hearing regarding the revocation of his honorary staff privileges. Hence, the court granted partial summary judgment for each party, and it held that appellant was entitled to an appellate hearing from the medical center as to whether "his conduct at the medical executive meeting on April 7, 1998, was disruptive

and to the degree that revocation of his Honorary status was appropriate." The court subsequently denied appellant's claim for attorney's fees. This appeal followed.

Appellant's sole contention on appeal is that the trial court erred by finding that the medical center did not violate its own bylaws by excluding him from the medical executive committee meeting. He asserts that as an honorary staff member, he was entitled to attend any and all committee meetings, including medical executive committee meetings. We disagree.

The first page of the "Bylaws of the Medical Staff of King's Daughter's Medical Center" defines "medical executive committee" as "the executive committee of the Medical Staff." Section 12.2 describes the composition of the medical executive committee as including the president, the vice-president, the immediate past president and the secretary-treasurer of the medical staff, as well as all department chairs. The medical executive committee is responsible for a multitude of administrative tasks relating to the medical center, including receiving and acting upon "reports and recommendations from departments, committees and officers of the Medical Staff[.]" Section 12.2.2(a). The bylaws as a whole provide for other committees to be established by, and to report to, the medical

executive committee. See, e.g., Sections 10.1 - 10.3, 12.1, and 12.2.2.

The first page of the bylaws in turn defines "medical staff" as "the formal organization of all licensed Physicians and Dentists who are privileged to attend patients in the Medical Center." Section 4.1 generally describes several categories of medical staff membership, including "active, courtesy, consulting, provisional and honorary." The category of honorary medical staff is addressed as follows:

4.7.1 Qualifications

The Honorary Staff shall consist of physicians and dentists who do not actively practice at the Medical Center but are deemed deserving of membership by virtue of their outstanding reputation, noteworthy contributions to the health and medical sciences, or their previous long-standing service to the Medical Center, and who continue to exemplify high standards of professional and ethical conduct.

4.7.2 Prerogatives

Honorary Staff members are not eligible to admit patients to the Medical Center or to exercise clinical privileges in the Medical Center, or to vote or hold Medical Staff offices, but they may serve upon committees with or without vote at the discretion of the Medical Executive Committee. They may attend Medical Staff and department meetings, including committee meetings and educational programs. (Emphasis added.)

Section 12.5.1 describes medical staff committees as being composed of "members of the Active Staff" as well as representatives from the allied health professions and other medical center departments.

Appellant in essence argues that because Section 4.7.2 provides that honorary staff members "may attend Medical Staff and department meetings, including committee meetings[,] " his status as an honorary staff member entitled him to attend executive committee meetings. However, it is clear from a reading of the bylaws as a whole that the term "committee meetings" is used throughout the bylaws to refer to meetings held by the medical staff committees which report to the medical executive committee, while the term "medical executive committee" is used whenever references are made to that supervisory body. Moreover, the use of the word "including" after the phrase "Medical Staff and department meetings" in Section 4.7.2 can only be interpreted to mean that honorary staff members may attend those committee meetings which are medical staff or department meetings, and not that such members may also attend meetings such as those of the medical executive committee which in essence supervises all medical staff and departments. We therefore are not persuaded that the Section 4.7.2 use of the phrase "committee meetings" in any way authorized appellant to attend executive committee meetings.

Hence, we must conclude that the trial court did not err by granting summary judgment for the medical center as to the issue of whether appellant was entitled to attend the medical executive committee meeting in question.

Finally, we note that both parties refer to the language in the trial court's order which held that

the Plaintiff's Motion that he was entitled to an administrative hearing is sustained as well. Therefore, the Court directs that the Plaintiff is to receive an appellate hearing from the Defendant on whether or not his conduct at the medical executive committee meeting on April 7, 1998, was disruptive and to the degree that revocation of his Honorary status was appropriate.

It is clear that each party interprets the language as being favorable to that party, and neither party raised issues on appeal regarding the interpretation of the language. However, each party seems to assert that the other has been negligent by failing to take steps to pursue additional medical center hearings. Simply put, any issues regarding additional hearings before the medical center are not properly before us, and they will not be further discussed on appeal.

The court's order is affirmed.

ALL CONCUR.

BRIEF AND ORAL ARGUMENT
FOR APPELLANT:

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BRIEF FOR APPELLEE:

Sean M. Whitt
Carl D. Edwards, Jr.
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ORAL ARGUMENT FOR APPELLEE:

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