

Commonwealth of Massachusetts
Supreme Judicial Court

SUFFOLK SS

Civil Action No. ST 2014-0434

Bharanidharan Padmanabhan MD PhD)
v)
Division of Administrative Law)
Appeals)



Motion for Stay of Proceedings

In The Division of Administrative Law Appeals
(complaint filed pursuant to MGL Ch 249 Sec 4)

The Plaintiff respectfully requests this Honorable Court to enter an Order staying all proceedings in the Division of Administrative Law Appeals Docket #RM-14-363 (BORIM Docket #10-426) in accordance with the first request for relief contained in the plaintiff's complaint filed herewith.

Respectfully submitted,

Date: 10/24/2014

Bharanidharan Padmanabhan
pro se

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Complaint In The Nature Of A Petition For A Writ Of Certiorari
And To Invoke The General Superintendence Of The Court

PRELIMINARY STATEMENT

This is an action to invoke the general superintendence of this Honorable Court to correct errors in proceedings within the Division of Administrative Law Appeals, Magistrate Kenneth Bresler presiding, which are not according to the course of the common law.

The Plaintiff seeks a reversal of the DALA Magistrate's Denial of his pro se Motion to Dismiss where Magistrate Bresler openly declared he had not even read said Motion and after Magistrate Bresler had been informed by the Board of Registration in Medicine (BORIM) that the person whose opinion had been used by

BORIM to pursue the Plaintiff for four years was unwilling to testify under oath in open Court. BORIM had no independent evidence and no independent expert.

The Plaintiff also seeks a Stay of proceedings till this Honorable Court itself can examine the egregious violations of substantive due process by BORIM in it's pursuit of this Docket over FOUR YEARS in the total absence of any credible evidence that Dr Bharani presents an IMMINENT danger to public safety and deserves to have his medical License suspended and after BORIM itself informed the DALA Magistrate that it's alleged "Independent Expert" was unwilling to testify against Dr Bharani under oath in open Court after it became clear that Dr Bharani was never going to agree to secret proceedings within BORIM and instead insisted on open transparent due process.

JURISDICTION

Jurisdiction is conferred upon this Court by MGL Chapter 249 Section 4 due to the dire need to remedy errors of procedure which are not according to the course of the common law and that are "so egregious, so outrageous that it may fairly be said to shock the contemporary conscience." Jurisdiction is also conferred by case law which allows a party aggrieved by an

interlocutory order by the trial court (DALA) to seek review under this Court's superintendency powers of interlocutory matters where no post-trial relief would put the appealing party "in status quo." Elder v. Commonwealth, 385 Mass. 128

This Honorable Court also needs to assert its superintendency in order to save the ordinary people of this Commonwealth from BORIM. The complaint and Motion are timely and are submitted within the 60 days allowed.

PARTIES

- 1 Your Plaintiff, Bharanidharan Padmanabhan MD PhD (Dr Bharani), is the Respondent in the Administrative action brought by BORIM in DALA under BORIM #2010-426 and DALA #RM-14-363. Dr Bharani continues to possess an Active License (# 209168) to practice medicine in Massachusetts.
- 2 The Defendant is the Division of Administrative Law Appeals and includes Magistrate Kenneth Bresler.

FACTUAL BACKGROUND

- 3 Dr Bharani proved repeated severe patient neglect and insurance fraud by staff at the Cambridge Public health

Commission's hospital system, known as Cambridge Health Alliance (CHA).

- 4 CHA and Neurology Chief Dr Rachel Nardin retaliated against Dr Bharani by summarily suspending him from the Medical Staff under false charges and terminating his employment in November 2010 in conscious violation of MGL Ch 149 Sec 187.
- 5 Dr Bharani was brought before a Fair Hearing Panel selected by CHA itself in January 2011. The Panel exonerated Dr Bharani and declared there was "no credible evidence" to support termination of his privileges and employment.
- 6 CHA has refused to honor that binding verdict to this day.
- 7 CHA then fabricated a second Letter of Termination in November 2011 and reported to BORIM that Dr Bharani had "Voluntarily Resigned in order to Avoid an Investigation," an action that in a professional context automatically signifies guilt, even though there was no resignation letter, Dr Bharani had been exonerated and Dr Bharani's visa to work at CHA had expired in January 2011, 10 months prior, meaning he could not have worked at CHA till November 2011.

- 8 Dr Bharani proved to BORIM's Complaints Committee that BORIM staff were not meeting their obligations to serve the people of the Commonwealth as neutral finders of fact. BORIM has been unable to explain how it "independently" generated the same list of patients as that selected by Dr Nardin or how it quoted verbatim from a report commissioned and paid for by CHA and then claimed that report as BORIM's own.
- 9 The Docket brought against Dr Bharani involves the same list of patients composed in November 2010 by Dr Rachel Nardin at CHA. BORIM claimed that Dr Bharani had harmed these patients, without ever contacting them even by telephone even once to hear what the patients themselves had to say.
- 10 Around FORTY patients have submitted credible substantiated written complaints to BORIM against Dr Rachel Nardin. BORIM dismissed every single patient complaint against Dr Nardin instantly and without any investigation.
- 11 BORIM continues to pursue Dr Bharani on the basis of Dr Nardin's proven-false allegations despite the fact that BORIM knows around FORTY Massachusetts patients had complained

strongly in writing against Dr Nardin and knowing that BORIM's Docket against Dr Bharani on behalf of Dr Nardin involves ZERO patient complaints. BORIM does not care about Massachusetts patients per se.

- 12 Dr Bharani requested BORIM for three full years to end it's corrupt proxy action on behalf of Dr Nardin and CHA.
- 13 BORIM kept pushing Dr Bharani to plead guilty and accept Probation. Dr Bharani insisted on full exoneration given the absence of evidence and the long drawn out egregious outrageous shocking violations of due process.
- 14 BORIM brought the matter before a DALA Magistrate instead of dismissing the false charges.
- 15 At that point, as the matter entered a public courtroom, BORIM's ostensible "expert" indicated his unwillingness to testify under oath in open court about his own report to CHA and BORIM that forms the basis of BORIM's false charges. BORIM has refused till today to confirm the full name and CV of this "Expert" despite repeated requests by Dr Bharani.

BORIM finally revealed the last name to be Horowitz. FOUR years out the first name remains unknown.

16 Dr Bharani had already filed a Motion to Dismiss documenting numerous violations of procedure that are “so egregious, so outrageous that it may fairly be said to shock the contemporary conscience” and the fact that, going by the Rules of Civil Procedure, BORIM had failed to prosecute and had failed state a claim given that it simply warmed over already-disproved allegations handed to it by CHA. BORIM had NO independent claim of it’s own.(Paragraphs 55 to 68, Respondent’s response to BORIM’s Opposition, 08/12/2014)

17 DALA Magistrate Kenneth Bresler denied Dr Bharani’s pro se Motion to Dismiss without even reading it and said so. It is in the DALA Transcript.

18 Even after BORIM admitted that it’s “Expert” was unwilling to testify under oath and that BORIM was looking for another “Expert” FOUR years into this same Docket, Magistrate Bresler again refused to dismiss this case.

19 Both BORIM and DALA Magistrate Kenneth Bresler are fully aware that as long as this Docket remains open Dr Bharani has been unable to enroll with medical insurance carriers and thus has NOT been reimbursed by insurance since November 2010 for seeing his patients. Dr Bharani has continued to treat his patients since then without charge.

20 Due entirely to BORIM, Dr Bharani's aggregate income for 2013 was \$0. His income for 2014 is \$0 as well. BORIM explicitly aimed for Dr Bharani to buckle down and crawl away. Dr Bharani hoped that in an open Court and under sunlight he would finally receive due process after FOUR years of closed-room harassment and be able to earn a living again. Thanks to Magistrate Bresler, his hope was in vain.

Wherefore, this Plaintiff requests this Honorable Court to grant the following relief -

1 Reverse the Dismissal by Magistrate Bresler of Dr Bharani's Motion to Dismiss BORIM's action (BORIM Docket 2010-426/ DALA RM-14-363)

2 Examine the shocking egregious outrageous violations of due process by BORIM in the false prosecution of Docket 2010-426, the deliberate delays over FOUR years and the deliberate obstruction of justice by BORIM through conscious prosecutorial misconduct.

3 Examine BORIM's shocking egregious outrageous disregard for the common people of this Commonwealth in favor of a preferred Doctor (Dr Rachel Nardin) who remains untouchable despite 40 patient complaints and whose wishes BORIM continues to carry out to this day. It is impossible to tell where CHA ends and BORIM begins.

4 Condemn publicly BORIM's contemptuous disregard for the people of Massachusetts and it's consequent refusal to act on behalf of the people as a neutral finder of fact.

5 Declare other such relief as this Honorable Court deems just and fair.

Dated: 10/20/2014

Respectfully submitted,

Bharani 

pro se

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