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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

DAVID KAUFMAN,) 1 CA-CV 09-0094
)
Plaintiff/Appellant,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
ARIZONA STATE VETERINARY MEDICAL) Rule 28, Arizona Rules of
EXAMINING BOARD, a Regulatory) Civil Appellate Procedure)
Board of the State of Arizona;)
and WILLIAM LANGHOFER,)
)
Defendants/Appellees.)
)

Appeal from the Superior Court of Maricopa County

Cause No. LC2008-000482-001 DT

The Honorable Robert C. Houser, Judge

AFFIRMED

Blake D. Gunn
Attorney for Appellant

Mesa

Beaugureau, Hancock, Stoll & Schwartz, P.C.
By David L. Stoll
and Terrance L. Sims
and W. Reed Campbell
Attorneys for Appellee Langhofer

Phoenix

Terry Goddard, Attorney General
By Keely Verstegen, Assistant Attorney General
Attorneys for Appellee Board

Phoenix

T H O M P S O N, Judge

¶1 Appellant David Kaufman (Kaufman) appeals from the superior court's order dismissing his civil complaint seeking review of The Arizona State Veterinary Medical Examining Board's (the Board) entry of a consent decree against veterinarian William Langhofer (Langhofer). For the following reasons, we affirm the decision of the superior court.

¶2 In 2007, Kaufman filed a complaint with the Board arising out of Langhofer's treatment of his scarlet macaw "Salty." Kaufman alleged that Langhofer failed to diagnose and treat a heart condition which led to Salty's death. The Board resolved the complaint by entering into a consent agreement with Langhofer, and finding that Langhofer failed to keep proper records. Langhofer was placed on probation for a year, was required to complete additional continuing education, and was required to pay a \$250.00 civil penalty. Kaufman requested a rehearing of the Board's decision, but the Board determined that Kaufman lacked standing to request a rehearing.

¶3 Kaufman filed a complaint in superior court seeking review of the Board's decision. The superior court sua sponte issued a minute entry order stating that it would dismiss Kaufman's complaint with prejudice unless he could show that he was a named party to the Board's proceeding against Langhofer.

Kaufman, the Board, and Langhofer briefed the issue of Kaufman's standing to seek judicial review of the Board's decision. The Board and Langhofer moved to dismiss Kaufman's complaint.

¶4 The trial court granted the motions to dismiss, ruling that Kaufman was not a party to the proceedings before the Board. Kaufman timely appealed. We have jurisdiction.

¶5 The right to appeal from an administrative decision exists by statute and is limited to the terms of the statute. *Guminski v. Ariz. State Vet. Med. Examining Bd.*, 201 Ariz. 180, 181, 182, ¶ 8, 33 P.3d 514, 516 (App. 2001). On review, the superior court is limited to addressing claims of "parties" who were parties of record in the proceedings below. Ariz. Rev. Stat. (A.R.S.) § 12-908 (2007). The statute provides:

Parties In an action to review a final decision of an administrative agency, the agency and all persons, other than the plaintiff, who are parties of record in the proceedings shall be made defendants.

Id. A.R.S. § 32-2234 (G) (2007) further provides that "any **party aggrieved** by a final order or decision of the [Arizona State Veterinary Medical Examining] board may appeal to the superior court." (Emphasis added.)

¶6 This court has previously held that the complainant is not a party to an administrative action. *Twin Peaks Constr. Inc. of Nev. v. Weatherguard Metal Constr., Inc.*, 214 Ariz. 476, 478, ¶ 9, 154 P.3d 378, 380 (App. 2007). In determining that

Kaufman was not a party aggrieved by the Board's decision, the superior court ruled:

Kaufman is not a party to the Consent Agreement, is not subject to the Consent Agreement's obligations and is not denied a benefit or right under the Consent Agreement. Kaufman has no direct stake in the outcome of the proceedings. Moreover, he is not left without a remedy. If dissatisfied, he can file a civil action against Langhofer, which it appears he already has done. See CV2007-091294. In the circumstances of this case, it cannot be said that the Board's action in entering into the Consent Agreement with Langhofer imposes a substantial burden on Kaufman or denies him a personal or property right. The most that can be said is that Kaufman does not agree with the Board's resolution of this matter. Without minimizing Kaufman's sense of frustration and loss, his disagreement is not sufficient to make Kaufman a "party aggrieved" and, therefore, entitled to appeal from the Board's actions under A.R.S. § 32-2234(G).

¶7 We find no error. Kaufman was not a party to the administrative proceeding despite the fact that he filed the complaint and participated in the Board's proceedings as a witness. Kaufman's remedy for the wrongful acts in which he alleged Langhofer engaged was to file a civil action against Langhofer, and he did so. The superior court properly dismissed Kaufman's attempted appeal from the consent decree entered into by the Board and Langhofer.

¶18 For the foregoing reasons, the decision of the superior court dismissing Kaufman's complaint in this matter is affirmed.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

PATRICIA A. OROZCO, Presiding Judge

/s/

DIANE M. JOHNSEN, Judge