STATE OF MICHIGAN

COURT OF APPEALS

ANIL K. THOMAS and ARSENIO V. DELEON, Plaintiffs-Appellants, v HENRY FORD MACOMB HOSPITAL CORPORATION, d/b/a HENRY FORD MACOMB HOSPITAL and TRINITY HEALTH CORPORATION, Defendants-Appellees.	UNPUBLISHED September 28, 2010 No. 290732 Oakland Circuit Court LC No. 2008-091169-CK

Before: SHAPIRO, P.J., and SAAD and SERVITTO, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting summary disposition in favor of defendants. On appeal, plaintiffs argue that the trial court erred when it concluded that there was no contract between the parties. Because we conclude that the trial court reached the right result, albeit for the wrong reason, we affirm.

Plaintiffs are physicians at defendants' hospital, Henry Ford Macomb Hospital ("the hospital") and are board certified in internal medicine and pulmonology. They have been members of the hospital medical staff since 1979 and 1980, respectively, and since that time have provided care in the hospital's intensive care unit (ICU). On February 28, 2006, the Medical Executive Committee (MEC) considered revising the hospital's policy regarding management of the ICU to comply with the safety standard of two national regulatory agencies. The standard calls for hospitals to staff their ICUs only with board-certified critical care specialists. These changes were again considered on March 21, 2006. One of the plaintiffs, Dr. Arsenio de Leon, who was a member of the MEC, objected to the proposal.

On April 25, 2006, all of the MEC members except de Leon voted to recommend to the hospital board that it consider, approve, and implement an exclusive contract to ICU physicians who were board-certified in critical care medicine and who otherwise complied with the national regulatory agency standards of care. MEC waited over six months before communicating its position to the hospital's board in an effort to give those physicians, including plaintiffs, time to comply with the requirements and, therefore, become eligible to compete. Plaintiffs sat for the required exam, but both failed.

In September/early October of 2006, the hospital distributed requests for proposals for the exclusive contract to operate the ICU. Only two submissions were received; neither plaintiff made a submission. On December 19, 2006, the MEC recommended that the hospital award the contract to Pulmonary & Critical Care Associates, PC. That same day, a petition was submitted to the MEC and the chief of staff, signed by more than 10 percent of the active medical staff, requesting a general staff meeting to discuss the exclusive contract that MEC had recommended to the hospital board for approval. The chief of staff did not schedule the requested meeting, despite the fact that the medical staff bylaws provide that "upon presentation of a petition signed by ten percent (10%) of the members of the active staff, the MEC shall schedule a general staff meeting for the specific purposes addressed by petitioners."

The hospital board met in January, March and April 2007 to consider the issue and, on April 10, 2007, voted to award the contract to the recommended group. The hospital made an exception to the exclusive provider contract to grant ICU privileges to the one physician who had previously had privileges in the ICU, had submitted the other contract submission, and met the new qualifications.

Plaintiffs filed their breach of contract action in the trial court claiming that defendants breached the medical staff bylaws in the process of making these changes and that the bylaws were contractual. Plaintiffs requested that the court declare the resolution and exclusive ICU contract void, reinstate their ICU privileges, and award them monetary damages. The trial court granted summary disposition to defendants, concluding that the medical staff bylaws did not constitute a contract under Michigan law. Plaintiffs now appeal.

We review de novo a trial court's decision to grant a motion for summary disposition. *Hines v Volkswagen of Am, Inc*, 265 Mich App 432, 437; 695 NW2d 84 (2005).

Plaintiffs' first argument is that the trial court erred when it concluded that there was no genuine issue of material fact concerning the question of whether the medical staff bylaws constitute a contract and granted summary disposition in favor of defendants. We need not answer this question, however, because regardless of whether there was a contract and a breach for failing to hold a meeting, plaintiffs are not entitled to the relief they are seeking. As plaintiff's counsel stated at oral arguments, the bylaws permit a meeting solely on the subject set forth in the petition; the meeting could only be held for that specific purpose. The petition requesting the general staff meeting related solely to the awarding of the exclusive contract:

> It has come to our attention that the medical exec is contemplating voting on an issue that is of great interest and consequence to the medical staff of this hospital. *The issue is the awarding of an exclusive contract to a single group of practitioners for the management of intensive care unit patients.* We feel that the medical staff did not have any significant input in this matter. Because of this we would request a general staff meeting to obtain input from the general medical staff obtaining our thoughts on this matter prior to voting on this subject. [Emphasis added, underlining in original.]

At no time was any request made challenging the recommendation to change the standards which physicians would be required to meet in order to be granted ICU privileges.[1] Further, it is uncontested that plaintiffs still do not meet the new requirements. Indeed, plaintiffs' counsel conceded at oral argument that their case is not about the upgrade in qualifications adopted by the hospital. Thus, even if we agreed that a general staff meeting should have been held, neither this Court nor the trial court could grant plaintiffs the relief they seek—the reinstatement of their ICU privileges—because plaintiffs do not meet the hospital requirements to have privileges at the ICU, regardless of the existence of an exclusive contract. For this reason, plaintiffs are also not entitled to request that the exclusive contract be voided, as their privileges would have been revoked based on their failure to meet the new certification requirements, regardless of whether or to whom an exclusive contract was awarded. Because plaintiffs are not entitled to the relief that they seek as a matter of law, defendants were entitled to summary disposition. Consequently, we affirm the trial court's correct result of granting summary disposition to defendants even though it was granted for the wrong reason. *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

Affirmed.

/s/ Douglas B. Shapiro
/s/ Deborah A. Servitto

[1] We note that there is a different procedure for contesting decisions related to the grant or denial of privileges. However, plaintiffs took no action under that procedure.