

DR. CHARLES MARY, III

*

NO. 2010-CA-1435

VERSUS

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COURT OF APPEAL

**LOUISIANA BOARD OF
MEDICAL EXAMINERS**

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2010-510, DIVISION "N-8"
Honorable Ethel Simms Julien, Judge

Judge Roland L. Belsome

(Court composed of Judge Charles R. Jones, Judge Max N. Tobias, Jr., Judge Roland L. Belsome)

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APPEAL DISMISSED

APRIL 6, 2011

The Louisiana State Board of Medical Examiners ("the Board") investigated Dr. Charles Mary, III ("Dr. Mary") pursuant to a complaint regarding the performance of improper medical procedures. At the conclusion of that investigation, the Board issued an order placing Dr. Mary on probation for five years and incorporated special and general conditions which he was to satisfy over his probationary period. Dr. Mary appealed the Board's decision to the Civil District Court for the Parish of Orleans.

After hearing arguments, the district court rendered a judgment with written reasons on July 16, 2010. That judgment affirmed the Board's findings as to the charges against Dr. Mary, but it altered two of the conditions of the probation. The Board argues that the district court erred in eliminating the requirement that Dr. Mary complete a ten-day course in internal medicine.

On appeal to this Court the Board is only seeking review of the trial court's reversal of the condition mandating that Dr. Mary complete a ten-day course in internal medicine. While the appeal was pending in the district court, the Board

advised Dr. Mary that a five-day course he had inquired about would satisfy the mandated condition.¹ After obtaining approval from the Board, Dr. Mary attended the course from July 19-23, 2010. Thus, the sole issue on appeal is moot.

In Louisiana, "[i]t is well settled that courts should not decide abstract, hypothetical or moot controversies, or render advisory opinions with respect to such controversies." *Baxter v. Scott*, 2003-2013, p.1 (La. 11/14/03), 860 So. 2d 535, 536 (citing *St. Charles Parish Sch. Bd. v. GAF Corp.*, 512 So. 2d 1165 (La. 1987)). Moreover, this Court has stated that appellate courts in Louisiana may not "render advisory opinions from which no practical results can follow." *Evans v. Louisiana Patient's Compensation Fund*, 2002-0538, 2002-1486, 2003-0187, pp.3-4 (La. App. 4 Cir. 2/25/04), 869 So. 2d 234, 238 (quoting *State in the Interest of C. W.*, 97-1229, p.3 (La. App. 5 Cir. 4/13/98), 712 So. 2d 245, 246). "It is the function of an appellate court to render judgments that can be made effective, and not to give opinions on moot questions or abstract propositions from which no practical results can flow." *Ripp v. Perrault*, 39 So. 2d 362, 363 (La. App. Orleans 1949).

Since Dr. Mary has satisfied the probationary requirement that is the subject of his appeal, and because the relief sought by the Board would have no practical effect, the Board's appeal is moot and is hereby dismissed.

APPEAL DISMISSED

¹ Because the Board's order required the course to be completed within six months, Dr. Mary fulfilled the requirement even though he had appealed the Board's order.