

DA 23-0512

IN THE SUPREME COURT OF THE STATE OF MONTANA

2024 MT 256

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RICHARD E. SHREVES,

Plaintiff and Appellant,

v.

MONTANA DEPT. OF LABOR and INDUSTRY,  
CORRECTIONAL HEALTH CARE REVIEW TEAM,  
MONTANA DEPARTMENT OF CORRECTIONS, and  
PAUL REES,

Respondents and Appellees.

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APPEAL FROM: District Court of the First Judicial District,  
In and For the County of Lewis and Clark, Cause No. BDV 2023-286  
Honorable Michael F. McMahon, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Richard E. Shreves, Self-Represented, Boise, Idaho

For Appellees:

Quinlan L. O'Connor, Montana Department of Labor and Industry, Helena,  
Montana

Lorraine A. Schneider, Montana Department of Corrections, Helena,  
Montana

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Submitted on Briefs: September 4, 2024

Decided: November 6, 2024

Filed:

  
Clerk

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Justice Beth Baker delivered the Opinion of the Court.

¶1 Richard Shreves appeals the First Judicial District Court's order dismissing his petition for judicial review after the Correctional Health Care Review Team closed his complaint about medical services Shreves received while in prison. We restate the issues on appeal as follows:

*1. Did Shreves have standing to petition for judicial review after the Correctional Health Care Review Team closed his complaint?*

*2. Is Shreves entitled to relief for the District Court's alleged mishandling of his filings?*

¶2 We affirm.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

¶3 Shreves received medical care while incarcerated at the Montana State Prison. He filed a complaint against Dr. Paul Rees, a medical doctor at the prison, with the Board of Medical Examiners at the Montana Department of Labor and Industry (DLI). Pursuant to § 37-1-331, MCA, the Correctional Health Care Review Team (CHCRT) reviewed his complaint. The CHCRT screens complaints from incarcerated individuals against health care providers to determine whether to forward them to the appropriate licensing board (here, the Board of Medical Examiners) for possible disciplinary proceedings. Section 37-1-331(1), MCA. Upon reviewing Shreves's complaint, the CHCRT found that Dr. Rees did not violate any law or rules of practice. The review team closed the complaint and did not forward it to the Board of Medical Examiners screening panel. Shreves filed a petition for review with the First Judicial District Court against DLI and the Montana Department of Corrections (DOC), challenging the CHCRT finding as grossly erroneous,

deficient, and lacking any evidentiary basis. He also argued that the CHCRT letter contained no findings of fact, conclusions of law, or information the CHCRT used to reach the decision, despite his request that the review team's finding include these details.

¶4 DLI and DOC both filed motions to dismiss Shreves's petition. The record shows that the District Court filed Shreves's response to the motions on July 28, 2023, though Shreves dated the certificate of service July 11, 2023. DLI filed a reply brief in support of its motion to dismiss and DOC filed a motion for extension of time to file a reply brief on July 25, 2023, suggesting that both had received Shreves's response. Shreves had, in the meantime, requested an extension of time until July 21, 2023, to file his response, citing difficulties with delay and filing as a pro se prisoner. The District Court did not rule on either of these motions. On July 28, 2023, the same day Shreves's response to the motions to dismiss was docketed, the District Court entered an order dismissing the case.

¶5 The District Court concluded, in part, that Shreves did not have standing. The court reasoned that the CHCRT matter was not a contested case. It added that, as the CHCRT process and related statutes were about screening meritorious licensing complaints, it concerned the legal rights, duties, or privileges of the doctor if CHCRT decided to forward the complaint. Shreves was a complainant and possible witness, but his legal rights were not implicated by the CHCRT process.

¶6 Shreves argues four issues on appeal: first, the District Court abused its discretion in handling various filings and ignoring his response before dismissing the case; second, he is an aggrieved party with standing to bring the petition for judicial review of the

CHCRT decision to dismiss his complaint; third, the CHCRT is an unconstitutional delegation of authority by the Montana Legislature; and fourth, the CHCRT abused its discretion when it refused to forward his complaint for an investigation and further proceedings by the Board of Medical Examiners.<sup>1</sup>

### STANDARD OF REVIEW

¶7 Standing is a justiciability issue that we review de novo. *350 Mont. v. State*, 2023 MT 87, ¶ 11, 412 Mont. 273, 529 P.3d 847 (citing *Reichert v. State*, 2012 MT 111, ¶ 20, 365 Mont. 92, 278 P.3d 455).

### DISCUSSION

¶8 *1. Did Shreves have standing to petition for judicial review after the Correctional Health Care Review Team closed his complaint?*

¶9 Shreves argues that he is an aggrieved party who has standing to bring this petition. He contends that he was billed for the medical care services and thus has an economic interest in the equal application of professional conduct standards.

¶10 Article VII, Section 4, of the Montana Constitution limits courts' power to "justiciable controversies." *Meyer v. Jacobsen*, 2022 MT 93, ¶ 7, 408 Mont. 369, 510 P.3d 52. "The legislature may provide for direct review by the district court of decisions of administrative agencies." Mont. Const. art. VII, § 4(2). "The central concepts of justiciability have been elaborated into more specific categories of doctrines, including

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<sup>1</sup> In his petition for judicial review, Shreves alleged that he has the right to participate in the CHCRT review process under Article II, Sections 8 and 9, of the Montana Constitution. He does not raise this argument on appeal, and we do not address it.

standing, ripeness, and mootness.” *Advocs. for Sch. Trust Lands v. State*, 2022 MT 46, ¶ 19, 408 Mont. 39, 505 P.3d 825 (citation and internal quotations omitted).

¶11 Standing is a “threshold jurisdictional requirement in every case” that, like other justiciability doctrines, limits courts to deciding only cases or controversies. *Heffernan v. Missoula City Council*, 2011 MT 91, ¶ 29, 360 Mont. 207, 255 P.3d 80. There are two strands of standing. *Heffernan*, ¶ 31. One is constitutional case-or-controversy standing, and the other is prudential standing, which is judicially created and “confines the courts to a role consistent with the separation of powers.” *Bullock v. Fox*, 2019 MT 50, ¶ 28, 395 Mont. 35, 435 P.3d 1187.

¶12 Case-or-controversy standing “requires the plaintiff to clearly allege a past, present, or threatened injury to a property or civil right, and the injury must be one that would be alleviated by successfully maintaining the action.” *Advocs. for Sch. Trust Lands*, ¶ 19 (citation and internal quotations omitted). “A court lacks power to resolve a case brought by a party without standing—i.e., a personal stake in the outcome—because such a party presents no actual case or controversy.” *Heffernan*, ¶ 29. “Where the Legislature has authorized public officials to perform certain functions according to law, and has provided by statute for judicial review of those actions under certain circumstances, the inquiry as to standing must begin with a determination of whether the statute in question authorizes review at the behest of the plaintiff.” *Heffernan*, ¶ 35 (citing *Druffel v. Bd. of Adjustment*, 2007 MT 220, ¶ 15, 339 Mont. 57, 168 P.3d 640) (internal quotations omitted).

¶13 We thus analyze whether § 37-1-331, MCA, authorizes judicial review at Shreves’s request. Section 37-1-331, MCA, is part of the statutory scheme that establishes “uniform guidelines for the licensing and regulation of professions and occupations under the jurisdiction of professional and occupational licensing boards.” Section 37-1-301, MCA. The Board of Medical Examiners is a licensing board that regulates physicians, nutritionists, osteopaths, acupuncturists, physician assistants, podiatrists, and emergency care practitioners. It is administratively attached to DLI. Admin. R. M. 24.1.101(5)(c)(xii) (2023); Section 37-1-302(1), MCA. Sections 37-1-308 through 37-1-312, MCA, govern board disciplinary procedures for licensed professionals.

¶14 While a person ordinarily may submit a written complaint to DLI about a licensee’s conduct, someone who receives medical care while in DOC custody cannot file a complaint directly with DLI against a health care provider. Section 37-1-308(1), (4), MCA. Instead, the CHCRT (established under § 37-1-331, MCA) first must review the complaint. Section 37-1-308(4), MCA. Each review team has three members who have “at least [two] years of experience in providing health care or rehabilitative services in a correctional facility or program.” Section 37-1-331(2), (3), MCA. “Two members of the review team must be providers of the same discipline and scope of practice as the provider against whom a complaint was filed[.]” Section 37-1-331(3), MCA. The members are not compensated for their service. *See* § 37-1-331(3), MCA. The CHCRT’s purpose “is to review complaints filed by an inmate against licensed” health care providers for services provided to the complainant while incarcerated. Section 37-1-331(1), MCA. If the CHCRT “has

reason to believe that there has been a violation,” it forwards the complaint to the DLI for action under § 37-1-108, MCA. Section 37-1-331(1), MCA. The CHCRT notifies the inmate of its decision through a written response. Section 37-1-331(5), MCA. DLI must retain all complaints from inmates submitted to the CHCRT, even if the review team does not forward the complaint to the licensing authority. Section 37-1-331(5), MCA.

¶15 The statute does not provide for judicial review of a decision by the CHCRT. *See* § 37-1-313, MCA (governing when appeal is appropriate to a district court from a board decision, not from a CHCRT decision). Section 37-1-331(5), MCA, explicitly ended the administrative process for Shreves after CHCRT determined not to forward the complaint. The statute therefore does not authorize review at the behest of Shreves for a CHCRT decision. *See Heffernan*, ¶ 35.

¶16 The statutory scheme regulates licensing and protects due process rights in professional licensing regulation overseen by DLI. Title 37, chapter 1, part 3, MCA, *Annotations*, Compiler’s Comments (2023) (“The rules must provide for adequate due process for licensed persons involved in disciplinary proceedings.”). As the District Court observed, the CHCRT makes no determination of legal rights, duties, or privileges of any party. It instead may refer the provider to the Board, at which time the full panoply of administrative processes is triggered, including the provider’s right to seek judicial review of a disciplinary order. Section 37-1-313, MCA. But the statute does not “authorize[] review at the behest of the plaintiff.” *Heffernan*, ¶ 35. Because Shreves cannot request judicial review under § 37-1-331, MCA, he lacks a legally cognizable injury to confer

standing. Shreves’s claim that the CHCRT abused its discretion when it refused to forward his complaint for further investigation is not a legally cognizable injury protected by the statute. *Heffernan*, ¶ 35 (reasoning that “standing often turns on the source of the plaintiff’s claim, since the actual or threatened injury required by the Constitution might exist solely by virtue of statutes creating legal rights”). The District Court correctly concluded that Shreves does not have standing to petition for judicial review from the CHCRT decision.

¶17 Shreves maintains, however, that § 37-1-331, MCA, is an unconstitutional delegation of authority by the Montana Legislature. He contends that because the statute applies solely to incarcerated persons’ complaints about medical care, no other party or class has the same interest as Shreves to ensure that incarcerated people receive adequate medical care. “[A] general or abstract interest in the constitutionality of a statute . . . is insufficient for standing absent a direct causal connection between the alleged illegality and specific and definite harm personally suffered, or likely to be personally suffered, by the plaintiff.” *350 Mont.*, ¶ 15. A “personal stake in the outcome of the controversy at the commencement of the litigation” is required to establish standing. *Heffernan*, ¶ 30. Shreves does not have a personal stake in the regulation of Dr. Rees’s medical practice.

¶18 The legally cognizable injury contemplated by the statutes is the injury to the doctor’s license. Here, the Legislature delegated authority to the CHCRT to provide an initial screening of complaints against providers of health care and rehabilitative services to incarcerated persons. The CHCRT has authority only to refer or to not refer a complaint



to the Board of Medical Examiners. Section 37-1-331(1), (5), MCA. The Legislature has not delegated any authority to determine Shreves's rights by virtue of § 37-1-331, MCA.

¶19 Shreves instead may pursue his rights through other avenues. He alleges that he suffers unending pain and suffering due to the doctor's actions. Section 37-1-331, MCA, does not foreclose Shreves from pursuing a civil claim against the doctor for the injuries he alleges. But standing requires redressability, which means "the injury would be alleviated by successfully maintaining the action." *Schoof v. Nesbit*, 2014 MT 6, ¶ 15, 373 Mont. 226, 316 P.3d 831. Forcing CHCRT to forward Shreves's complaint to the Board of Medical Examiners or challenging the delegation of legislative authority to licensing boards would not redress Shreves's injuries for Dr. Rees's alleged medical negligence. Shreves cannot establish that an abstract interest in the constitutionality of the licensing statutes would alleviate the injuries he suffered. We affirm the District Court's order to dismiss his claims.<sup>2</sup>

¶20 *2. Is Shreves entitled to relief for the District Court's alleged mishandling of his filings?*

¶21 Shreves alleges that the District Court mishandled his filings at various points during his case. First, he states that his petition for judicial review arrived at the court on April 6, 2023, but was not filed for weeks until his father went in person to inquire at the courthouse. Shreves's case initially was assigned to District Court Judge Mike Menahan. Shreves contends that the District Court never entered his motion to substitute judge or

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<sup>2</sup> Because Shreves has not established case-or-controversy standing, we do not consider his prudential standing arguments.

documents in support of a filing fee waiver in the case register.<sup>3</sup> Although a motion to substitute judge is not found in the case register, his case was reassigned to District Court Judge Michael McMahon. The District Court granted Shreves’s waiver of filing fees and court costs. Shreves argues that the District Court erred by ordering dismissal before Shreves timely filed his response to the motions to dismiss. He requests this Court to determine that the District Court Clerk’s office and staff are subject to discipline for official misconduct.

¶22 Despite the alleged delays in filing, Shreves’s petition and his response to the Defendants’ motions ultimately were filed, and the District Court heard his claims. Shreves’s right to adequate process was protected. *See Labair v. Carey*, 2017 MT 286, ¶ 20, 389 Mont. 366, 405 P.3d 1284 (recognizing notice and opportunity to be heard as “the hallmarks of due process”). Additionally, the District Court did not enter its order until July 28, 2023, seven days after the second filing deadline that Shreves requested. Even if—as Shreves alleges, though it is not evident from the record—the District Court did not review his response before issuing the dismissal order, this Court has reviewed the entire record, including Shreves’s response to the motions to dismiss. As explained above, the question of Shreves’s standing is a matter of law, resolved by examination of the statute and consideration of controlling legal principles. Shreves’s response does not change the determination of that issue or affect the outcome in this case. Because the District Court’s

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<sup>3</sup> Shreves filed a petition for supervisory control with this Court, which we granted in part, remanding to the District Court either to grant Shreves’s request for a fee waiver or to issue findings of fact and conclusions of law supporting a denial. *Shreves v. First Jud. Dist. Ct.*, No. OP 23-0293, 412 Mont. 554, 531 P.3d 546 (June 6, 2023).

legal conclusions were correct, we take no further action than to affirm its order of dismissal.

### **CONCLUSION**

¶23 The District Court's order dismissing Shreves's petition for judicial review is affirmed.

/S/ BETH BAKER

We Concur:

/S/ MIKE McGRATH

/S/ JIM RICE

/S/ INGRID GUSTAFSON

/S/ LAURIE McKINNON