

No. 24-7066

ORIGINAL

In The Supreme Court Of The United States

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FILED

SEP 26 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Hazem Garada M.D, Appellant)

v.)

D.C. Board Of Medicine, Appellee)

Feb 24, 2025

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On Petition For Writ Of Certiorari To
DC Court Of Appeal N0: 23-AA-971

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Petition For Writ Of Certiorari

Hazem Garada, MD

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Parties Of The Case

All parties appear in the caption of the case on the cover page.

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Related Case

Hazem Garada vs DC Board of Med ,DC Court Of Appeals No 23-AA-0971

Questions Presented

- I) Were due process Constitutional rights violated by respondent's agency proceeding ?
- II) Did DC Court Of Appeal violated petitioner's constitutional rights by excluding his substantial satisfactory evidence that supports his case?
- III) Did petitioner's substantial satisfactory evidences that was excluded unconstitutionally by respondent do in fact supports a reasonable mind to reach a conclusion in favor of petitioner?

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Appendix A : Hazem Garada vs. DC Board of Med ,DC Court Of Appeals No 23-AA-0971

Appendix A1) :Petitioner's only allowed Exhibits: A-K per Agency

Appendix A2) : Petitioner Submitted Exhibits prior to Agency Oct,26,2022 hearing deadline Struck out unconstitutionally in respondent's Oct 26,2024 hearing proceeding .

Supplemental Sealed Appendix: Exh. 2,3,4

Appendix A3) : Appellant's Appendix Struck out by DC court of appeals .

Appendix A4) : Sealed Exhibit few pages ordered as only allowed per DC court Of Appeals.

Appendix a5) : Respondent Exhibits in Agency Oct,26,2022 Hearing.

Related Opinions

Respondents Orders :

- i) Before Oct,26,2022 Hearing: Motion to Vacate DC Board 2019 denial and to remand back to review under the new DC 2021 ACT.
- ii) Respondent hearing order Oct,26,2022 Deadline to submit Exhibits or motions by parties .
- iii) Respondent Post Hearing orders to petitioner to submit only a " statement Of Affidavit" but denying any petitioner supportive Exhibits to be included.

Jurisdiction

Appeal Of Final Order dated Sept,6,2024 of DC Court Of Appeals NO 23-AA-0971 pursuant to rules Of Supreme Court of The United States is timely filed because a correction of a state court's federal errors necessarily returns power to the state government. Kansas v. Carr, 136 S. Ct. 633, 641 (2016) (quoting Kansas v. Marsh, 548 U.S. 163, 184 (2006) (Scalia, J., concurring)). ArtIII.S2.C2.5 Supreme Court Review of State Court Decisions

Article III, Section 2, Clause 2: In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. The Supreme Court's appellate jurisdiction includes the authority to review decisions of both lower federal courts and state

Constitutional and Statutory Provisions Involved courts.

Amendment XIV : Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

D.C. Official Code § 3-1205.14(f)(1) : When determining whether to deny an application . . .regulated by a board for a conviction pursuant to this subsection, a board shall consider:

- (1) Whether the offense is related to the occupation for which the license, registration or certification is sought or held by considering the duties and responsibilities of the health occupation;
- (2) The nature and seriousness of the offense;
- (3) The length of time that has elapsed since the offense was committed;
- (4) The age of the person at the time the offense was committed;
- (5) Any evidence produced by the applicant, licensee, registrant, person certified, or person permitted by this act to practice in the District concerning their rehabilitation and fitness including: (A) Evidence as to whether the applicant, licensee, registrant, person certified, or person permitted by this act to practice in the District has recidivated; and (B) Evidence demonstrating compliance with any terms and conditions or probation, supervised release, or parole;

(6) Evidence of work history, particularly any training or work experience related to the occupation; and

(7) Letters of reference.

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Statement of the Case

Petitioner, humbly requests the Honorable Court for review of The D.C. Court of appeal orders Sept,6,2024 & July,30,2024 which not only conflicts with petitioner's constitutional due process rights, D.C. code 3-1205.20 & D.C. Code 2-510(a)(3)A-E but is direct conflict to it's own DC Court of appeal orders in this case filed March,22,2024 " His appendix is struck because it contains documents that are not part of the record " " the appendix shall not include any document that is not included in the agency record filed with the court. This court's review is limited to the documents that were before the agency at the time it issued its order". And where D.C. Court did order in 2021 to grant's respondent motion to vacate it's D.C. Board license denial order 2019 ,and to remand applicant's license application matter back to the Board for review under the DC Law Act 2021, upon which a hearing was conducted in Oct,26,2022 for which a deadline of Oct,19,2022 was set by the Hon. Mrs. Fenzel, Esq. of D.C. Board for both parties to submit any evidence, motions or witnesses so that either party gets ahead notice prior to the hearing date, applicant did present list evidence list Ex-1-33 that included Findings , conclusions of Law of prior Medical Board actions (Exhibit,8,9,10,11,16,17,18,19,20,21,22,23 as detailed below that included 1998 Ohio Med Board conclusion: (Exh. 22This exhibit was excluded by DC Board in its Oct,26,2022 hearing. " Petitioner answered the question as he understood it and Ohio Board concluded in it "Applicant clearly did not had any clear laud intensions to defraud Ohio Board " Exh 23 (this exhibit was excluded in the DC Board Oct,26,2022 hearing). All of these rebuttal evidence which was presented prior to DC Hearing Oct,26,2022 deadline were excluded by the Respondent's counsel In Lamine motion filed in Oct,26,2022 arguing this hearing is only conducted under D.C new law 2021 ACT to review "relevant matter" after the 2004 plea deal under the New DC 2021 ACT (see Oct,26,2022 hearing record transcript) causing excluding of all Dr. Garada's Evidence showing Ohio conclusion of no intension to commit fraud in June 1998 (Ex.22,23,16) as well as VA Med Board Aug,1998 fully granting Dr. Garada full unrestricted license (Exh.10,11) as granted in Sep 1995 under which he had been practicing and as testified by his employer both at WV Veterans Administration Hospital Chief of Staff 1995-1196 Dr. George Hoch'e to the WV Board that Dr Garada had excellent professional conduct and ethics practice , same as Dr. Garada Own Employers 1997-1998 in John Randolph Med. Center , Hopewell, VA Drs: Miller , Moore, Whittington group

practice in front of The VA Med Board in Aug,1998 (Ex.16)that " Dr Garada during his 1997-1998 employment has great ethical conduct and excellent medical professional practice ethics " , all these D.C due process and procedural violations was repeatedly raised and argued in Dr. Garada only legal remedy of appeal filed Nov,2023 appeal petition to Hon. DC Court Of Appeals filed brief appeal in which he stated the following:

" **Board Finding 5-7:**"The Kentucky Board investigated the complaint and concluded that although Applicant's care was "barely adequate," and his physician note "inadequate," he did not violate the Kentucky Medical Practice Act and closed the case with no further action. Applicant did not dispute the Board's finding that Kentucky did not find a violation and closed the complaint against him without taking action. Instead he took exception to the fact that the Board did not include more information about the Kentucky finding, and in a later exception filing, again stated that the Kentucky Board found no violation of the Practice Act. The Board did not find additional information relevant to the decision. Because the Applicant did not actually dispute the finding of fact # 6, and because the Board did not find additional information relevant to its decision, no changes were made to this finding."

Appellant Reply :Applicant presented evidence that was excluded by DC Board in his WV -J-1 Visa sponsorship confirming the fact of his employer immigration labor certificate violation in 1995-96 in which applicant a Board certified internist that was supposed to practice in Internal Medicine setting (primary care) in WV and not as his employer fraudulently put him to practice in Emergency Department in Kentucky Hospital which not only is not in his field of training but violates the immigration J1 Visa waiver of The ARC , so finding Dr. Garada not violating Kentucky Practice Act in a grievance INFORMAL submitted to Kentucky Board in 1995 Excluded Ex. 18 & that Dr. Garada documentation of care, is barely adequate , should not be a finding against Dr. Garada licensure given the fact that he was put to practice not only in violation to Immigration labor certificate filed fraudulently by his employer, but also against his own field of Medical Board of internal Medicine residency training 1991-1994, for which he blew the whistle immediately to The ARC - Inspector Mr. Spark in 1995 . Evidence exhibit 8, was excluded unconstitutionally and DC law error in the DC Board Hearing Oct,26,2022.

DC Board Finding 8-10: "his license was suspended for failure to report the Kentucky investigation on the *initial application*, failure to report the West Virginia investigation during

the *application process*, and failure to report the disciplinary *action* taken against his license by-
West Virginia. Thus this finding was changed to clarify that the Ohio action was not based on his
failure to disclose his West Virginia suspension, but on the other failures to disclose and on the
West Virginia suspension order."

Appellant Reply: DC Board not allowing full hearing or supporting evidences of documents to support Dr G response to OHIO Board action in 1998 : Dr G answered to the OHIO application as he understood " Has you ever been formally investigated by any other board..." and Dr G answered "NO" in his June,02,1996 OHIO application because it was only in July 31,1996 when WV issued a FORMAL investigation subpoena , and KY grievance was informal in 1995 and Dr G submitted a written response as was asked by the KY Med Board in 1995 to explain his side and the Board did fully exonerated him in 1995 informal grievance , so why would Dr G hide from OHIO a KY Board action that was found in his favor! moreover VA looked at all the OHIO,WV,KY actions in Aug 1998 and did fully reinstated Dr G license without any restriction in Aug,1998.(Excluded Exh. 10,11).

So if the Hon. DC Med Board claim it never wanted to re litigate other board actions then at least should not impose a new punishment now for board action of WV1996,Ohio1998 or VA1998 as eventually as detailed prior it all lead to be reviewed again in 1998 and exonerated Dr G as he was fully licensed to resume practicing 1988-2004 in USA and then 2006-2009 in UAE ministry of health. (Ex 28)

DC Finding 11-13: " June 9 ,1998 OHIO 6 Month suspension " This action taken as a result of his failure to report action taken against medical license in West Virginia and his failure to report medical complaint filed against him in Kentucky "

" Have you ever been notified of any investigation concerning you ,or have youbeen notified of any filed against you with respect to medical license " further ,the Ohio hearing examiner explicitly found that the question did not contain limiting word " formal " at the time Dr Garada answered No to the question on June 30,1996 ,he had already provided a written response to a Kentucky complaint on May 29,1995 and appeared in front of the Kentucky complaint committee .," you must immediately notify the Ohio state medical Board in writing of any changes to these answers of these questions that may be warranted PRIOR TO

LICENSURE BEING GRANTED to you by the State Medical Board , on the very next day ,July,1,1996 Dr Garada was notified of the West Virginia complaint and failed to notify the Board. ""Applicant had an ongoing duty to disclose any disciplinary action taken against his licensure.....further he was notified of the West Virginia complaint soon after he submitted the Ohio application "

Appellant Reply: Petitioner filed Ohio state application June 3,1996 not June 30,1996 which is a whole month difference, & two month before the WV Board issued its subpoena to Dr Garada in a formal complaint on July 23,1996, nearly two months from his Ohio application dated June,03,1996 with not at the board alleges (Dr Garada filed his Ohio application on June,30,1996 Exh 21,22,23 :this exhibit was excluded by DC Board in its Oct,26,2022 hearing. "Petitioner answered the question as he understood it and Ohio Board examiner found in it's Fact also "Applicant clearly did not had any clear laud intensions to defraud Ohio Board " Exh 23 (This Exhibit was excluded in the DC Board Oct,26,2022 hearing))

- Dr Garada never was requested nor he was ordered by any Kentucky medical board complaint committee to appear in front of any committee in 1995 before or ever after , The only thing Dr Garada was requested to do was to respond informally by writing to a informal grievance filed in Feb,28,1995 and the Kentucky Medical Board received Dr Garada medically based undisputed facts and medical reasoning in writing and decided no violation of standard of practice Act with no further proceedings formal or any in May,1995. Exh 18 (Excluded evidence in DC Board Oct,26,2022 Hearing).

- D.C Medical Board knows like every Other Medical Board that an applicant is mandatorily required in his initial license application to " sign under oath full and complete authorization to pull and summon any national practitioner data bank report ever happened or to ever happen in future of any reported State Medical Board Actions to The NPDB " Exh 20 and Dr Garada like he already did to D.C in his 2017 application , he had to comply and did in his June,3,1996 Ohio application to be deemed complete to be reviewed and get licensed, so Dr G. like every other applicant did fulfill any ongoing duty to alert any board of any ever disciplinary action taken by any other board weather he like it or not , even if he forgot or not so there is no point of even trying to hide anything ;Even if Dr Garada had any clear real intension to defraud the Ohio Board hiding other board action, he can't do so as the Board will get notice from NPDB. Exh 20.

Not to Forget Dr Garada actually even notified electively his current practicing Virginia Medical board of West Virginia Board Nov,9,1996 suspension and The in Oct 1997 VA Medical Board closed it's review. Exh 16. (Exhibit was excluded in the DC Board Oct,26,2022 Hearing).

-Furthermore,it does not make any sense to any reasonable mind that a physician would hide an informal grievance of Kentucky Medical Board in Feb,1995 on an Ohio application on June 3,1996 when The KY Medical Board found that physician didn't violated the Standard Medical Practice Care Act, but, on the other hand, it asserts the fact that this physician actually answered " No " to that question because he understood it pertaining to a formal vs. informal investigation in the question phrase " FILED AGAINST YOU".

Report and recommendation OHIO Med Board Hearing March 4,1998 :

- page 8-11 : The Practice ethics assessment conclusion that Dr. Garada action was a thorough examination consistent with his lab test ordered and that is consistent with practice assessment conclusion.
- page 11 item 14 :Virginia Board had in 10/27/1997 examined and reviewed The WV 1996 allegations and Closed the matter as Dr. Garada with no Violation .
- page 13 item # " The conduct of Hazem Garada MD is not sufficient proof to constitute a failure of good moral character , with no outright intension to commit fraud....Finally The evidence support the conclusion that Dr. Garada did not understand ,at the time, that his treatment of patient 1,2 was unprofessional ,as noted by the practice assessment Dr Garada problem areas were his failure to anticipate patient sensitivities and patient expectation, failure to communicate effectively throughout the encounter.....Dr. Garada knowledge and appreciation of basic medical ethics is good and the primary interests of the patients is well integrated into Dr. Garada medical thinking.....
- OHIO Medical Board hearing findings and conclusions in 1998 found Dr. Garada did not have any Fraud intention Ex.21 or attempting to Fraud The Ohio Medical Board when answered No the Question have you ever had any Formal investigation FILED against you in his June,03,1996 Ohio application as The West Virginia Medical Board issued a Formal investigation in

-July,31,1996 Ex.22 (nearly two Months) after his June,03,1996 OHIO application ,Ohio did suspend Dr. Garada License in Ohio June 1998 for failure to update his practice profile though Dr. Garada never practiced in OHIO ever. Exh 17

- Virginia Re-instated Fully Dr. Garada license Aug 1988 Ex.11 after review of Ohio Board action confirming: DC Med Board excluded Evidence Ex.8, provided as Decision of another Medical Boards that reviewed alleged unprofessional misconduct in West Virginia Dec,1996 order Ex 9 ,once VA Medical Board had received from Dr. Garada his notification of WV Board Action as he was practicing with his Virginia Med License in VA during 1995 onwards and had closed this matter in Oct,1997 (Ex.16) after finding related retaliation from Dr. Garada West Virginia-Employer -Green Card sponsor for his J-1 Visa ,when Dr. Garada alerted Mr. Spark (The Inspector General-Of The ARC-Health care of the WV employer immigration scam.(Ex.8)

- Moreover, Virginia Medical Board again reviewed The WV Board matter in Aug,1998(Ex.10) , OHIO Medical Board suspension in June 1998(Ex.17) for six months after it received notification from Dec,1996 WV order, in its Aug 1998 review of Dr. Garada practice since its application 1995 it concluded:

- Dr. Garada recent 1997-1998 Employers Drs. Miller ,Moore, Whittington all testified for good ethics and professional conduct. Exh 10,21,22

-Dr. Garada informal grievance in 1995 By KY Med Board though was not mention in 1995 Virginia Medical Practice application That Kentucky informally reviewed Dr.Garada informal written response and found Dr. Garada did not violate any Medical Practice Act. Exh 18

-Ethical Practice assessment 1996 found Dr. Garada well knowledge about ethics and professional practice. Ex. 11,21,22

-OHIO Medical Board hearing findings and conclusions in 1998 found Dr. Garada did not have any Fraud intention Ex.21 or attempting to Fraud The Ohio Medical Board when answered No the Question have you ever had any Formal investigation FILED against you in his June,03,1996 Ohio application as The West Virginia Medical Board issued a Formal investigation in July,31,1996 Ex.22 (nearly two Months) later ,And that Ohio did suspend Dr. Garada License in

Ohio June 1998 for failure to update his practice profile though Dr. Garada never practiced in OHIO ever. Exh 17".

In Conclusion: Therefore , this clearly contradicts the statement finding of the Honorable D.C court July 30,2024 order page 2 line 19 " And any argument that 'knowingly deceptive' conduct to obtain a medical license is not covered by 3-1205.14(a)(1) has not been raised". Therefore granting respondent's Summary Judgment motion under D.C. Code3-1205.14(a)(1)&(3) is in conflict of the D.C laws .

Petitioner own 's constitutional due process statuses as well as the D.C. code 3-1205.14(a) : Revocation, suspension, or denial of license or privilege; civil penalty; reprimand.(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of a quorum of its appointed members may take one or more of the disciplinary actions provided in subsection (c) of this section against any applicant for a license, registration, or certification, an applicant to establish or operate a school of nursing or nursing program, or a person permitted by this subchapter to practice a health occupation regulated by the board in the District who:(1) Fraudulently or deceptively obtains or attempts to obtain a license, registration, or certification for himself, herself, or another person;

It's very clear That not only petitioner right of a hearing was violated but even his own evidence that rebuts the grounds of affirming Summary judgment is been excluded unlawfully in a hearing by D.C. Board that was supposedly set to review Dr. Garada's application under The scope of the new D.C Law 2021 Act as remanded in 2021 by the D. C. Court of appeal and vacated the prior D.C. denial order 2021 , Therefore under the D.C Law and The D.C. Board of Med after the D.C. vacated it's original denial order its to at least should conduct as allowed by law a new meaningful hearing, inform the petitioner of the grounds to deny his license and allow the petitioner to present his rebuttal evidence and witnesses that argues and support his case and let the Honorable D.C. Board members see the whole truth prior to issue of their judgment. Not disallowing petitioner to at least include his evidence regarding OHIO Med Board findings that this physician was found by June,1998 Ohio Board that " he had no clear laud intension or intend to commit an a outright Fraud in his June,3,1996 application " " and " he did answer the question as he under stood it" . Also as confirmed by Aug 1998 Virginia Med Board order to fully

reinstate The Med license after full careful review of Ohio June 1998 order and testimony of Dr's Garada 1997-1998 employers & his practice that spanned from 1988 .

Standards Of Review

As in the circuit court guidelines, standard of review of agency action is summarized to whether the agency acted within its statutory powers, whether the parties were afforded procedural due process, and whether the agency's decision was supported by substantial evidence. See Urella v. Kentucky Bd. of Medical Licensure, Ky., 939 S.W.2d 869,873 (1997)(citing Kentucky State Racing Commission v. Fuller, Ky., 481 S.W.2d 298 (1972)); Kentucky Bd. of Nursing v. Ward, Ky. App., 890 S.W.2d 641, 643 (1994).

Substantial evidence is defined as evidence of substance and relevant consequence having the fitness to induce conviction in the minds of reasonable people. See Commonwealth, Cabinet for Human Resources v ridewell, Ky.62 S.W.3d 370,373(2001); Burton v. Foster Wheeler Corp., Ky., 72 S.W.3d 925, 929 (2002).

With regard to the issue of due process, Courts adopted the three-prong analysis from Mathews v. Eldridge, 424 U.S. 319, 333-35, 96 S.Ct.893, 902-03, 47 L.Ed.2d 18, 32-33 (1976) in Division of Driver Licensing v. Bergmann, 740 S.W.2d 948, 951 (Ky.1987). It requires:

- Consideration of the private interest that will be affected by the official action;
- The risk of an erroneous deprivation of such interest through the procedures used;
- The probable value, if any, of additional or substitute procedural safeguards; and the government's interest that any additional procedural requirement would entail.

Due Process Standards:

Where, Due process includes, at a minimum, a reasonable notice of Board's intended action and a meaningful opportunity to be heard. See Goldberg v. Kelly, 397 U.S. 254, 267-68, 90 S.Ct. 1011, 1020, 25 L.Ed.2d 287 (1970). "factual allegations must be enough to raise a right to relief above the speculative level" and to "state a claim to relief that is plausible on its face."Bell Atlantic Corp. v. Twombly,550 U.S. 544,555, 570 (2007).

Such DC Board hearing In lamina motion violation did not allow the applicant to include the evidence submitted by applicant to support his application detailing supportive factors as explained 'Schmidt v. Lessard, 414 U.S. 473 (1974)' such excluded applicant's evidence in fact is documents of written evidence produced by prior actual Board Med Board Findings (Ex. 8,9,10,11,16,21,22,23,25,26), which oppose the statements alleged by DC Board,' In Bell Atlantic Corporation v. Twombly, 55 U.S. 544 (2007), the Court noted questions raised regarding the "no set of facts" test and clarified that "once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint," id. at 563.": "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face.'" Id. at 1949 (citation omitted). Where a complaint is inadequate, leave to amend the complaint is common. See, e.g., Butt v. United Brotherhood of Carpenters & Joiners of America, No. 09-4285, 2010 WL 2080034 (E.D. Pa. May 19, 2010). A court considering either type of motion assumes that the facts alleged in the complaint are true and views the complaint in the light most favorable to the plaintiff. Id.; see also Adams v. Bain, 697 F.2d 1213, 1219 (4th Cir. 1982)(court considering a motion to dismiss "contending that a complaint simply fails to allege facts upon which subject matter jurisdiction can be based" affords the plaintiff "the same procedural protection as the plaintiff would receive under a Rule 12(b)(6)consideration"). As only Applicant exhibits ("PX") A through K were admitted into evidence . Applicant submitted a request to submit the exhibits which had been excluded at the hearing on October 26, 2022. In response to that request, the Board instead only allowed Respondent to submit an "affidavit summery" regarding the issues he wanted the Board to consider that he felt he had been unable to present at the October hearing. Such attempt was blocked again to include these evidence(App2b) in which Board counsel stated only submit evidence that the Board allow!!!!in Full violation of due process and DC law and applicant constitutional rights(5,14 amendment)

Legal Argument

-Consideration of the Complaint as a whole demonstrates that it meets the requirements established under the Federal Rules. "A complaint must contain sufficient factual matter . . . to 'state a claim for relief that is plausible on its face.'" Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)). This standard is met

where "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 129 S.Ct. at 1949 (citing Twombly, 550 U.S. at 556). Here, the Complaint presents a detailed recitation of Plaintiffs' assertions that more than satisfies the pleading requirements. A review of the entire Complaint demonstrates that the Complaint in no way relies upon mere legal conclusions but contains a detailed factual account of Defendants' illegal practices which establish their liability for the violations. Shaun McCutcheon et al. Plaintiffs v. Federal Election Commission Civ. No. 1:12-cv-01034-JEB-JRB-RLW.

Dr. Garada produced factual evidence which contradicts Board's Facts findings and conclusion of law that rise up to the level of violating Factual review legal Standard :

{ The "sole determination as to factual issues is whether substantial evidence exists in the agency record to support the agency's decision." *Kenley*, 6 Va. App. at 242, 369 S.E.2d at 7. "[S]ubstantial evidence" refers to such relevant evidence as a reasonable mind *might* accept as adequate to support a conclusion. Under this standard . . . the court may reject the agency's findings of fact only if, considering the record as a whole, a reasonable mind would *necessarily* come to a different conclusion." *Aegis Waste Solutions v. Concerned Taxpayers*, 261 Va. 395, 404, 544 S.E.2d 660, 665 (2001) (quoting *Virginia Real Estate Comm'n v. Bias*, 226 Va. 264, 269, 308 S.E.2d 123, 125 (1983) ("Bias")) (emphasis in original). }

if "the legal issues require a determination by the reviewing court whether an agency has . . . accorded constitutional rights, failed to comply with statutory authority, or failed to observe required procedures, less deference is required and the reviewing courts should not abdicate their judicial function and merely rubber-stamp an agency determination." App. 231, 243, 369 S.E.2d 1, 7-8 (1988) (emphasis added *Johnston-Willis, Ltd. v. Kenley*, 6 Va.).

Legal Discussion

Applicant presented evidence that was excluded by DC Board in his WV -J-1 Visa sponsorship confirming the fact of his employer immigration labor certificate violation in 1995-96 in which applicant a Board certified internist that was supposed to practice in Internal Medicine setting (primary care) in WV and not as his employer fraudulently put him to practice in Emergency Department in Kentucky Hospital which not only is not in his field of training but violates the immigration J1 Visa waiver of the ARC, so finding Dr. Garada not violating Kentucky Practice Act in a grievance Informal submitted to Kentucky Board in 1995 and that Dr.

Garada documentation care, is barely adequate -should not be a finding against Dr. Garada- licensure given the fact that he was put to practice not only in violation to Immigration labor certificate filed fraudulently by his employer, but also against his own field of Medical Board of internal Medicine residency training1991-1994,for which he blow the whistle immediately to The ARC - Inspector Mr. Spark in 1995 . Evidence exhibit of that was excluded unconstitutionally and DC law error in the DC Board Hearing Oct,26,2022.

DC Board never considered in Oct 2022 hearing any supporting evidences of documents to support Dr G response to OHIO Board action in 1998 : Dr G answered to the OHIO application as he understood " Has you ever been formally investigated by any other board..." and Dr G answered "NO" in his June,02,1996 OHIO application because it was only in July 31,1996 when WV issued a FORMAL investigation subpoena , and KY grievance was informal in 1995 and Dr. G submitted a informal written response as was asked by the KY Med Board in 1995 to explain his side and the Board did fully exonerated him in 1995 informal grievance , so why would Dr G hide from OHIO a KY Board action that was found in his favor! moreover VA looked at all the OHIO,WV,KY actions in Aug 1998 and did fully reinstated Dr G license without any restriction in Aug,1998.

So If The Honorable DC Med Board claim it never wants not to re litigate other board actions then at least should give Dr. Garada prior notice to its Oct,14,2022 deadline that this is what the Board intend to present in its Oct 2022 hearing at least prior to judging Dr. Garada and imposing a new punishment now for board action of WV1996,Ohio1998 or VA1998 which eventually as detailed prior it all lead to be reviewed again in 1998 and exonerated Dr G as he was fully licensed to resume practicing 1988-2004 in USA and then in 2006 licensed as Consultant Internal Medicine -Ministry of Health and active practice 2008-2009 at UAE ministry of health. (Appendix Exh K)

Reasons for Granting the Petition

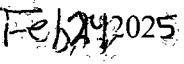
Petitioner humbly prays the Honorable Highest Court of These United States Of America in compliance with The United States Constitution granting Due process to it's free citizens and to correct the states errors of federal law violation .

In Conclusion

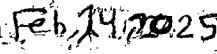
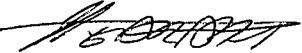
Dr. Garada humbly prays the Honorable to grant this hearing consideration of constitutional violation not only of minimum due process violation , but for the sake of justice ,the Good cause ,& to grant his request for nothing but justice to vacate this order and to remand this case back to the Board to actually allow his case to be heard with all of supporting substantial evidence under the DC ACT 2021 and evidence pertaining to prior Board actions prior to issuing it final order as This DC court of appeals had already ordered in June 22,2022 " to remand and vacate DC Board Of Med denial order in 2019 ."

Kindly submitted


Hazem Garada, M.D.


Feb 24 2025

Certificate Of Service

A Copy of above response has been mailed via Secured US mail carrier to D.C Board Of Medicine counsel on record's address On 

Hazem Garada, MD

Date 
Feb 24 2025