MISSOURI COURT OF APPEALS
WESTERN DISTRICT

BLAKE H. DONALDSON, D.O.,

Appellant,

v.

MISSOURI STATE BOARD OF REGISTRATION FOR THE HEALING ARTS,

Respondent.

DOCKET NUMBER WD83217

Date: July 7, 2020

Appeal from:
Cole County Circuit Court
The Honorable Patricia S. Joyce, Judge

Appellate Judges:
Division Two: Mark D. Pfeiffer, P.J., Alok Ahuja and Edward R. Ardini, Jr., J.J.

Attorneys:
Scott R. Pool, Cody R. Hold, Jefferson City for appellant
Adam G. Grayson, Lisa J. Dawson, Jefferson City for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT

BLAKE H. DONALDSON, D.O., Appellant,
v.
MISSOURI STATE BOARD OF REGISTRATION FOR THE HEALING ARTS, Respondent.

WD83217 Cole County

Before Division Two Judges: Mark D. Pfeiffer, P.J., Alok Ahuja and Edward R. Ardini, Jr., J.J.

The Administrative Hearing Commission issued an emergency suspension of Dr. Blake Donaldson's license to practice medicine without a hearing, after finding probable cause to believe that he had engaged in acts of sexual misconduct. After further proceedings, the Commission found cause to discipline Dr. Donaldson's license, and the State Board of Registration for the Healing Arts permanently revoked his license, with leave to apply for reinstatement after seven years.

Dr. Donaldson sought judicial review in the Circuit Court of Cole County. Among other arguments, Dr. Donaldson contended that the statute under which the disciplinary proceedings had been conducted, § 334.102, RSMo, was unconstitutional because it denied him his right to procedural due process. In particular, Dr. Donaldson challenged the statutory provisions allowing for the emergency suspension of his license without a hearing, delaying judicial review of the emergency suspension until all disciplinary proceedings had concluded, and requiring that a final disciplinary hearing be conducted on an expedited basis without allowing a licensee adequate time to investigate and conduct discovery.

The circuit court rejected Dr. Donaldson's challenges to the disciplinary decision, and he filed this appeal.

CAUSE ORDERED TRANSFERRED TO MISSOURI SUPREME COURT.

Division Two holds:

Article V, § 3 of the Missouri Constitution provides that the Missouri Supreme Court has "exclusive appellate jurisdiction in all cases involving the validity of a . . . statute . . . of this state." To invoke the Supreme Court's exclusive jurisdiction, however, the constitutional issue must be real and substantial, not

merely colorable. We conclude that Dr. Donaldson's constitutional challenges are real and substantial, and invoke the Supreme Court's exclusive jurisdiction. No Missouri appellate court has addresses similar challenges either to § 334.102, or to any analogous statute. Due process principles are flexible, and due process challenges depend on the particular interests at stake, and the particular procedures afforded, in a specific statute. Moreover, the Missouri Supreme Court has recognized that an affected party is generally entitled to a pre-deprivation hearing, which was not afforded here.

Opinion by: Alok Ahuja, Judge July 7, 2020

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.