

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

ROBERT C. EGAN, M.D., Appellant,	)	No. ED92207
	)	
vs.	)	Appeal from the Circuit Court of
	)	St. Louis County
ST. ANTHONY'S MEDICAL CENTER,	)	
Respondent.	)	Honorable Thea A. Sherry
	)	
	)	Filed: June 9, 2009

### OPINION SUMMARY

Dr. Robert C. Egan appeals from the judgment of the Circuit Court of St. Louis County denying his request for injunctive relief against St. Anthony's Medical Center. Following St. Anthony's decision to permanently suspend his medical staff privileges, Dr. Egan filed suit to obtain an order requiring St. Anthony's to hold a new hearing regarding the suspension of his privileges, and to recall mandatory reports St. Anthony's submitted to the Missouri State Board for the Healing Arts and the National Data Bank regarding the revocation of his privileges. The trial court denied Dr. Egan's requested relief after determining that "St. Anthony's substantially complied with its own Bylaws before Dr. Egan's privileges were permanently revoked." On appeal, Dr. Egan raises six points, all of which challenge the trial court's conclusion that St. Anthony's "substantially complied" with its Bylaws.

AFFIRMED.

Division One Holds: The trial court did not err in denying equitable relief and concluding that St. Anthony's substantially complied with its Bylaws because: (1) even if Dr. Nelson's remarks constituted impermissible "oral evidence", they did not prejudice Dr. Egan where there is no evidence that the remarks constituted a basis for St. Anthony's decision to revoke Dr. Egan's staff privileges; (2) where, as here, a hospital complies with its bylaws to assemble a neutral review committee, we decline to set aside the hospital's decision solely based on a committee member's allegations of inappropriate remarks made by other members during their deliberations; (3) St. Anthony's notice was sufficient under the Bylaws in that it notified Dr. Egan that his "minimal or inaccurate documentation" and "questionable behavior and judgment" regarding his treatment of D.P. was a potential basis for the revocation of his staff privileges; (4) nothing in the Bylaws prevent the Board of Directors from reviewing reports and recommendations prepared by committees other than the Hearing Committee and the Appellate Review Committee; (5) the *ex parte* reports allegedly received by the Hearing Committee did not prejudice Dr. Egan in that the Hearing Committee's findings were supported by evidence properly admitted at the hearing; and (6) Dr. Egan did not raise his theory regarding the various review committees' improper use of counsel's argument at trial, and we will not fault the trial court for failing to consider theories not presented to it.

Opinion by: Patricia L. Cohen, J. Kurt S. Odenwald, P.J. and Glenn A. Norton, J., concur.

Attorney for Appellant: Alan Kimbrell

Attorneys for Respondent: Neal F. Perryman and Evan Z. Reid

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