

SUPREME COURT OF APPEALS OF WEST VIRGINIA

James Michael Casey, D.V.M., M.S. v. West Virginia Board of Veterinary Medicine, 226 W. Va. 6

697 S.E.2d 42 (2010) · No. No. 35288 · Decided April 1, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia reversed a circuit court order granting James Michael Casey a writ of mandamus against the West Virginia Board of Veterinary Medicine. The court held that licensure by reciprocity was discretionary and that Casey failed to establish a clear legal right to a veterinary license or demonstrate that the Board acted arbitrarily or capriciously in requiring transmission of a National Board Examination score.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	April 1, 2010
DOCKET	No. 35288
DISPOSITION	reversed
PROCEDURAL POSTURE	The West Virginia Board of Veterinary Medicine appealed the Kanawha County Circuit Court's order granting Casey a writ of mandamus and directing the Board to interview him as the final requirement for obtaining a West Virginia veterinary license.
STANDARD OF REVIEW	The standard of appellate review of a circuit court's order granting relief through the extraordinary writ of mandamus is de novo.
PRECEDENTIAL VALUE	published and precedential
PARTIES	West Virginia Board of Veterinary Medicine v. James Michael Casey, D.V.M., M.S.

TOPICS

administrative law agency adjudication judicial review of agency action writ of certiorari statutory interpretation

PRACTICE AREAS

administrative law

professional licensing

mandamus

appellate procedure

QUESTIONS PRESENTED

1. Whether the Kanawha County Circuit Court had authority to issue a writ of mandamus compelling the Board to act on or grant Casey's veterinary license by reciprocity.
2. Whether Casey established a clear legal right to licensure or to the requested mandamus relief.
3. Whether the Board's failure to grant Casey a license without a transmitted National Board Examination score was arbitrary or capricious.

HOLDINGS

1. Mandamus could not issue because licensure by reciprocity was committed to the Board's discretion, and Casey did not establish a clear legal right to the requested relief or a corresponding nondiscretionary duty.
2. Casey did not establish that the Board acted arbitrarily or capriciously by requiring transmission of a qualifying National Board Examination score before acting on his application.

KEY QUOTATIONS

“The standard of appellate review of a circuit court's order granting relief through the extraordinary writ of mandamus is de novo.” (44)

“A writ of mandamus will not issue unless three elements coexist—(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” (44)

“All applicants for license by reciprocity are hereby advised that the granting of licensure by reciprocity is by privilege, not by right; and the granting of the license rests solely in the discretion of the West Virginia Board of Veterinary Medicine.” (46)

FACTUAL BACKGROUND

Casey, a Maryland resident already licensed in eight states, applied for a West Virginia veterinary license. The Board determined that his application was incomplete because his National Board Examination score had not been transmitted directly by the approved national reporting service, although Casey had passed the state jurisprudence examination and was allowed to sit for the West Virginia examination. Casey later pursued licensure by reciprocity, but the record showed that no applicable reciprocity agreement was in effect and that the Board had consistently required a qualifying National Board Examination score.

PROCEDURAL HISTORY

Casey filed an application for a West Virginia veterinary license in March 2005, but the Board deemed it incomplete because his National Board Examination score had not been transmitted directly from the approved national reporting service. After the Board did not act on the incomplete application, Casey filed a petition for a

writ of mandamus and declaratory judgment in the Circuit Court of Kanawha County. Following an evidentiary hearing, the circuit court granted mandamus on April 14, 2009. The Supreme Court of Appeals of West Virginia reversed.

DISPOSITION

reversed

CASES CITED

- *Staten v. Dean*, 195 W. Va. 57, 464 S.E.2d 576 (1995)
- *State ex rel. Kucera v. City of Wheeling*, 153 W. Va. 538, 170 S.E.2d 367 (1969)
- *McLaughlin v. West Virginia Court of Claims*, 209 W. Va. 412, 549 S.E.2d 286 (2001)
- *Koebert v. City of Clarksburg*, 114 W. Va. 406, 171 S.E. 892 (1933)
- *Beverly Grill, Inc. v. Crow*, 133 W. Va. 214, 57 S.E.2d 244 (1949)
- *Walden v. State Compensation Commissioner*, 113 W. Va. 307, 167 S.E. 743 (1933)
- *McComas v. Board of Education*, 197 W. Va. 188, 475 S.E.2d 280 (1996)
- *Dillon v. Board of Education*, 177 W. Va. 145, 351 S.E.2d 58 (1986)