

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
FOURTH DIVISION

JUSTIN W. HALL and  
HALL ENGINEERING, LTD.

PETITIONERS

vs

60CV-22-8003

ARKANSAS STATE BOARD OF LICENSURE  
FOR PROFESSIONAL ENGINEERS AND  
PROFESSIONAL SURVEYORS

RESPONDENT

ORDER

Comes now the Court on its own Motion and based on the files and records of the case, the pleadings of the parties, and all other matters considered, DOTH FIND:

This action for judicial review under the Arkansas Administrative Procedure Act Ark. Code Ann. § 25-15-201, et. seq. On November 9, 2022, the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors issued its Findings of Fact, Conclusions of Law, and Order, determining that Petitioner Hall engaged in dishonorable, unethical, or professional conduct of a character likely to deceive, defraud, or harm the public, such conduct being prohibited by Ark. Code Ann. § 17-30-305(a)(1)(K). These findings were the result of a complaint from the Dioceses of Little Rock, who had hired Petitioners to design an engineering project at their church in Mt. Ida, AR. Petitioners were ordered to pay \$6,000.00 in total civil penalties, and Hall's license was suspended for four months. Petitioners were informed by the Order that they had thirty days to file an appeal, and such appeal timely followed. Petitioners sought review from this Court by filing their appeal with the Pulaski County Clerk on November 21, 2022. Respondent filed its Response on January 11, 2023, with its copy of the Administrative Record following January 12, 2023.

Judicial review of an agency adjudication under the Arkansas Administrative Procedures Act is authorized under the laws enacted at Ark. Code Ann. § 25-15-201, et. seq. The procedures

for a circuit court to review such an adjudication appear in Ark. Code Ann. § 25-15-212. The Court may review the administrative decision based only on the record.

The Court may reverse or modify the decision if the substantial rights of the petitioner has been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) in violation of constitutional or statutory provisions; (2) in excess of the agency's statutory authority; (3) made upon unlawful procedure; (4) affected by other error or law; (5) not supported by substantial evidence of record; or (6) arbitrary, capricious, or characterized by abuse of discretion.

“To be valid as arbitrary or capricious, an agency's decision must lack a rational basis or rely on a finding of fact based on an erroneous view of the law.” Odyssey Health Care Operating A. LP v. Ark Dep't of Human Services, 2015 Ark.App. 459. An Agency's decision that is supported by “substantial evidence” is not arbitrary and capricious. *Id.*, at 4. Substantial evidence is “valid, legal and persuasive evidence that a reasonable mind might accept to support a conclusion and force the mind to pass beyond speculation and conjecture.” Ark. Dep't of Human Services v. Bixler, 364 Ark. 292 (2005). “The question is not whether the testimony would have supported a contrary finding but whether it supports the finding that was made.” Arkansas Cont. Lic. Bd. V. Pegasus Renovation Co., 347 Ark. 320 (2001). It is the prerogative of the agency to believe or disbelieve any witness and to decide what weight to accord the evidence. McQuay v. Ark. State Bd. of Architects, 337 Ark. 339 (1999). Credibility and the weight of the evidence are clearly within the administrative agency's discretion. Due process requires, at minimum, that a person be given notice and a reasonable opportunity for a hearing before a deprivation by state action. Ark. Dep't of Correction v. Bailey, 368 Ark. 518 (2007).

Petitioners assert all of the preceding grounds for their appeal – namely that the order was “rendered in violation of constitutional or statutory provisions, is made upon unlawful procedure, is not supported by substantial evidence of record; and is arbitrary, capricious, or characterized by an abuse of discretion.”

Petitioners recited that they sought an expedited hearing and a stay of the Respondent's order, saying only that failing to enjoin its enforcement would result in an intolerable risk of irreparable harm to Hall and his clients. Petitioners offer no further explanation as to how the Board's decision should be overturned or how it is infirm in any way. Again, this Court reviews such a Petition based only on the record before it, and between that record and the Petition, it has been shown nothing to suggest that the Board's findings were improper in any way. Petitioners have not indicated how granting a hearing at this juncture would add anything of use to the record or why this Court is in any better position to make findings regarding the controversy decided by the Respondent.

This Court finds that the Respondent's Decision should stand. The State Board of Licensure's Findings of Fact, Conclusions of Law, and Order should be, and is hereby, ordered AFFIRMED.

IT IS SO ORDERED.

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HERBERT T. WRIGHT, JR. – CIRCUIT JUDGE

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DATE



**Case Title:** JUSTIN W HALL ET AL V ARKANSAS STATE BOARD ET AL

**Case Number:** 60CV-22-8003

**Type:** ORDER APPEAL AFFIRMED

So Ordered

A handwritten signature in black ink, appearing to read "Herb Wright", is written over a horizontal line.

Honorable Herbert T Wright