

Commonwealth of Massachusetts

Supreme Judicial Court

No.SJC-12242

Michael L. Langan M.D.
Plaintiff-Petitioner,

v.

Board of Registration in Medicine (BORIM)
Defendant

Plaintiff-Petitioner's Motion for Judicial Notice

Dated May 10, 2017

Michael L. Langan M.D.
pro se, in forma pauperis
138 Middlesex Road, Apt. 1
Chestnut Hill MA 02467
mlangan1@mac.com

1 Petitioner respectfully requests judicial notice of the following facts already in the record in order to avoid fraud on the court.

2 On May 2, 2017, as a direct result of pointed questioning by this Court during oral argument, Assistant Attorney General Byram Bertram, appearing for the Respondent executive agency, Board of Registration in Medicine, made numerous assertions that he was fully conscious were contrary to the official record before this Court.

CONSCIOUS FACTUAL MISREPRESENTATION 1

3 AAG Bertram asserted that the action by the Respondent was not as a result of one allegedly positive blood alcohol test but a series of "low positive" blood alcohol tests and positive tests for the opioid drug "oxycodone."

4 There is no evidence in the record to this day that there were a "series of low positive" blood alcohol tests.

5 AAG Bertram committed a conscious fraud on this Court expressly to conceal the exclusive reliance on the ONE positive blood alcohol test that was consciously FABRICATED by the Respondent in order to willfully harm the Petitioner.

6 The record in this case confirms fully that the suspension of Petitioner's license was the direct result of that one FABRICATED blood alcohol test.

7 The record further confirms that the Respondent was fully aware that the test result was FABRICATED well prior to suspending Petitioner's license and chose to suspend his license with scienter because Respondent wished to harm Petitioner regardless of the truth.

CONSCIOUS FACTUAL MISREPRESENTATION 2

8 AAG Bertram asserted to this Court that hospitals had reported to the Respondent their concerns about Petitioner's prescribing practices.

9 This assertion combined with his statement about positive blood tests for the drug "oxycodone" was fully intended to convey the impression to this Court that the Petitioner had written prescriptions for oxycodone for himself or had inappropriately written oxycodone prescriptions to relatives that were intended for his own consumption.

10 AAG Bertram announced to the full bench that Petitioner is a drug addict.

11 There is zero evidence in the record to support this conscious factual misrepresentation.

13 There is zero evidence for any hospital report to the Respondent on Petitioner's prescribing practices because there were none.

14 AAG Bertram consciously and willfully LIED to this Court to try claiming a legitimate state interest in driving Petitioner and his family into bankruptcy and homelessness.

15 The record strongly demonstrates that Petitioner Dr. Langan is not an alcoholic or a drug addict.

16 The Justices' concern about the Respondent's lack of jurisdiction in the total absence of any clinical patient care issue remains valid and cannot be waylaid by a consciously false assertion that the Respondent blocked Petitioner from earning a living 'because he is a drug addict.'

CONSCIOUS FACTUAL MISREPRESENTATION 3

17 AAG Bertram asserted to this Court, in person on May 2, 2017, that there was no evidence of laboratory proof of abstinence, for this non-alcoholic.

18 The record demonstrates that Petitioner has been drug tested regularly throughout and the Respondent has had the test results in hand right along even while asserting in writing to Single Justice Hines that the Petitioner had not submitted "any records demonstrating that he remains alcohol and substance free to the present day--i.e. records of testing in the months preceding this latest petition." (SJC-2015-0267, Dkt #20, p. 8)

19 After AAG Bertram consciously LIED to Single Justice Hines, Petitioner drew his attention to the entire series of tests, urine and saliva, done throughout in order to prove the continuing total absence of any positive results, that were already in the official possession of the Respondent well prior to AAG Bertram lying to the Court. (SJ-2015-0267, #22)

20 As a direct result, AAG Bertram admitted to the Court that Respondent (specifically staff Debra Stoller and Tracy Ottina) did in fact possess evidence that Petitioner "remains alcohol and substance free to the present day."

21 Despite this series of facts that are part of the record before this Court, AAG Bertram chose to consciously and willfully LIE to Chief Justice Gants and this Court that the Respondent cannot return Petitioner's medical license because there are no "records demonstrating that he remains alcohol and substance free to the present day" and that he would need to provide the Respondent with one additional year of negative tests before he would be allowed to work again as a physician.

22 On May 2, 2017, AAG Bertram was personally aware that he was engaging in a conscious factual misrepresentation in order to willfully commit a fraud on this Court. It was not inadvertent. He did not "misspeak." It was a deliberate violation of this Court's Rules of Professional Conduct.

CONSCIOUS FACTUAL MISREPRESENTATION 4

23 On May 2, 2017, AAG Bertram looked this Court in the eye and asserted that Respondent had not returned Petitioner's medical license because he had not presented a work-site alcohol monitoring plan that was acceptable to the Respondent.

24 On May 13, 2016, one full YEAR ago, a work-site alcohol monitoring plan was filed with this Court. (SJ-2015-0267, Dkt. #35)

25 The Respondent claimed that serving the documents on its own Counsel before this Court, AAG Bertram, was not service on the Respondent itself.

26 Single Justice Hines agreed with the Respondent that service on the Respondent's Counsel demonstrated that the Petitioner "failed to serve the board." (SJ-2015-0267, Dkt. #49, p. 9).

27 This subversion of the judicial process in favor of a lawless state agency violated the requirement for equal protection and is one of the points that Petitioner has appealed to the full bench.

28 The record before this Court conclusively documents strong plans proposed by acknowledges experts in addiction medicine at Massachusetts General Hospital and Harvard Medical School.

29 The record before this Court also conclusively demonstrates that the Respondent has repeatedly ignored every single plan and

has dealt in bad faith throughout with the express intention of never ever returning Petitioner's license to him.

CONSCIOUS FACTUAL MISREPRESENTATION 5

30 On May 2, 2017, AAG Bertram asserted to this Court that the Respondent demanded that the Petitioner undergo frequent drug testing and inpatient psychiatric evaluation at the cost to him of \$600 per test and \$80,000 per inpatient stay, even in the total absence of any clinical patient care concerns, because the Respondent cared passionately about patient safety.

31 This assertion was designed to conceal and deny what the Petitioner had raised before this Court both on the briefs and during oral argument on May 2, 2017, namely rampant self-dealing between the Respondent and its private contractor, the Massachusetts Medical Society, the primary recipient of the cash.

32 The record comprehensively documents that the private contractor uses the credible threat of license suspension by the Respondent, a state agency, to coerce physicians, including this Petitioner, to pay for services from the exclusive contractor that are objectively unnecessary and unreasonable.

33 The record comprehensively documents that the Respondent coerced the Petitioner to pay for the services of the exclusive

contractor and punished the Petitioner for requesting to use competitors instead.

34 The record comprehensively documents that the private contractor harnesses the police power of the Respondent, a state agency, and the Respondent is a witting and willing participant in this lucrative coercion.

35 What is entirely missing from the record anywhere however is any ruling from any authority that exempts the Respondent with total compliance with 801 CMR 21.00, Procurement of Commodities or Services, including Human and Social Services, which mandatorily REQUIRES this agency to conduct an open bid process before selecting a contractor to provide services, including the type of Human Services foisted onto the Petitioner at great expense and to the detriment of his family.

36 The total absence of any evidence of compliance with 801 CMR 21.00, Procurement of Commodities or Services, including Human and Social Services, by the Respondent, in conjunction with the FABRICATION of forensic evidence documented in the record, immediately points to sweetheart kickback payments involving Debra Stoller, Tracy Ottina and the private contractor, which is a crime.

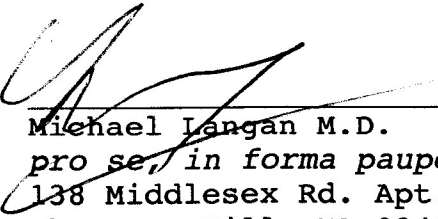
37 AAG Bertram from the Office of the Attorney General strove to distract this Court from this public crime.

CONCLUSION

38 The record before this Court comprehensively demonstrates that on May 2, 2017, AAG Bertram consciously committed a fraud on this Court in order to minimize and conceal the willful fabrication of forensic results, the violations of due process, the Establishment Clause and the Commonwealth's open tender regulations (801 CMR 21.00, Procurement of Commodities or Services, including Human and Social Services), that the Respondent continues to consciously engage in, knowing they are crimes.

Respectfully submitted,

May 9, 2017



Michael Langan M.D.
pro se, in forma pauperis
138 Middlesex Rd. Apt. 1
Chestnut Hill, MA 02467
mlangan1@mac.com