

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

JAYME M. MALONE,

Appellant,

-vs-

Case No: 13CVF-06-6418

JUDGE HOGAN

**OHIO STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS AND
SURVEYORS,**

Appellee.

**DECISION AND ENTRY
AFFIRMING THE MAY 28, 2013
FINAL ORDER OF THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL
ENGINEERS AND SURVEYORS**

HOGAN, JUDGE

Before this Court is Jayme Malone's (Appellant) appeal of the May 28, 2013 Final Order of the Ohio Board of Registration for Professional Engineers and Surveyors. (Appellee) The matter has been fully briefed. For the reasons that follows, this Court **AFFIRMS** the May 28, 2013 Final Order of the Appellee.

I. STATEMENT OF THE CASE

Appellee issued an Order on May 28, 2013 that permanently revoked the Appellant's license. Appellee based its Order on Appellant's violation of R.C. §4733.20(A)(5) and Ohio Admn. Code §4733-35-07(D).

II. STATEMENT OF THE FACTS

Appellant is a professional surveyor who held an active license with the State of Ohio until January 1, 2012. At that point Appellant's license became inactive. Appellant had a prior disciplinary history with Oklahoma but the Appellee was apparently unaware of those issues

until 2011 when the Appellant surrendered his license to Oklahoma while disciplinary matters were pending.

In 2011, the Oklahoma Board of Licensure for Professional Engineers and Land Surveyors (Oklahoma) started a new investigation into the acts of the Appellant. Oklahoma established that the Appellant had entered into a Consent Order concerning his prior conduct. The Appellant was found guilty of aiding and assisting a firm in the practice of land surveying, and making false statements. The Appellant had also failed to meet minimum standards.

The Consent order was approved by Oklahoma on October 7, 2010. As noted, in 2011 another disciplinary action was commenced by Oklahoma. On June 13, 2011 Oklahoma accepted an Agreement wherein Appellant voluntarily surrendered his Certificate. The Agreement stated that the surrender was, 'as if revoked'. The Consent Order from Oklahoma can be found at pages 30 – 43, and a copy of the Agreement can be found at pages 17 – 19 of the scanned certified record filed with this Court.

The prior Oklahoma Consent Order contained the following language:

1. Jayme M. Malone should be and hereby is found guilty of the charges set forth in Count I of the Amended Formal Complaint because he reviewed, signed and sealed Survey 1, and reviewing Surveys 2 and 3, when he knew or should have known Carrell & Associates, Inc. did not have a Certificate of Authorization to provide land surveying services, and thus aided and assisted Carrell & Associates, Inc. in the practice of land surveying without a Certificate of Authorization to do so in violation of 59 O.S. §§ 475.1, 475.18(A)(8), 475.20, 475.21(A) (2) and OAC §§ 245:15-23-1 (a)(1) and (4).

The Appellant responded to the charging letter by requesting the opportunity to be heard.

Pursuant to that request, a hearing was set. After resetting the hearing a number of times, the matter was 'indefinitely' continued. (See, page 90 of the scanned certified record)

Eventually, a hearing date was set and conducted on January 24, 2013. Appellant was represented by counsel but he did not personally appear. All of the exhibits presented by the Appellee were stipulated by the Appellant's counsel and admitted by the Hearing Examiner. Hence, the Oklahoma pleadings became part of the evidence in the administrative appeal.

At the hearing the Appellee offered the testimony of Jason McLean. Mr. McLean is an enforcement supervisor for the Appellee. Mr. McLean explained the existence of a national reporting database used by the states to report violations. Periodically, the Appellee's employees go into that database to crosscheck reported violators with the Appellee's certificate holders. (Hr. Tr. page 17, lines 13 – 21) It was discovered that the Appellant had been listed on the database because of the 2011 investigation instituted by Oklahoma. From the Appellee's review of the database, it became known that the Appellant had a June 14, 2011 entry indicating that the Appellant had surrendered his license.

The new information triggered an Ohio investigation. The Appellee reached out to both the Appellant and Oklahoma to discover the nature of the disciplinary action. The information received during that investigation led to the request that the matter be brought to the attention of the Appellee's Board. Mr. McLean testified that the acceptance of the surrendered license in Oklahoma was similar to the surrender revocation process in Ohio. (Hr. Tr. page 22, lines 1 – 5)

Mr. McLean also testified that a revocation, like what occurred in Oklahoma, triggered a 60 day deadline for the Appellant to notify the Appellee. In addition to the Oklahoma incident,

Mr. McLean testified to recent Kentucky action against the Appellant for his failure to report the Oklahoma matter. (Hr. Tr. page 30, lines 4 – 11)

Under cross examination, Mr. McLean made it clear that the Appellee was concerned with the prior acts of the Appellant that led to his Oklahoma sanction in 2011, but that the Appellee was also focused on the Appellant's failure to report. (Hr. Tr. page 33, lines 10 – 12) The Appellant rested without offering any testimony except to inform the Hearing Examiner that the Appellant had submitted a prior affidavit to the Appellee in 2011. The Hearing Examiner made the following ruling concerning the affidavit at page 37, of the hearing transcript:

4 . HEARING EXAMINER MYERS: I'll take them
5 into evidence and give them the appropriate
6 weight.

At this point in the hearing the Hearing Examiner wanted the Appellee to clarify what the charges were. It appeared that some of Mr. McLean's testimony was not consistent with the Hearing Examiner's understanding of the charges. Appellee's counsel indicated that the charges were for both, failure to report and the breach of conduct established by the underlying Oklahoma charges.

During the exchange between counsel and the Hearing Examiner, Mr. McLean voluntarily provided additional testimony in order to let everyone know the nature and extent of the Oklahoma violations. (Hr. Tr. pages 45 & 46) Mr. McLean also testified that the subsequent Oklahoma Agreement was not a normal resolution. (Hr. Tr. page 47, lines 20 – 22) There was no objection to the additional testimony of Mr. McLean. The hearing concluded and the Hearing Examiner took the matter under advisement.

On April 2, 2013 the Hearing Examiner issued his Report and Recommendations concerning the charges pending against the Appellant. The Hearing Examiner determined that

the Appellant had been duly charged with violations of R.C. §4733.20(A)(2) & (5) and Ohio Admin. Codes §4738-35-07(D) and §4733-35-08. The Hearing Examiner found that the Appellant had surrendered his Oklahoma license in a document that clearly indicated that the surrendering of the license was 'as if revoked'.

The Hearing Examiner properly reviewed the evidence and noted that the 2011 discipline stemmed from a number of prior actions taken by Oklahoma against the license of the Appellant. The violations were in 2009, 2010 and 2011. Specifically, the Hearing Examiner held that in October of 2010, the Appellant was found guilty of aiding and assisting a firm in offering and/or practicing land surveying in Oklahoma without a Certificate of Authorization.

As a condition of his 2010 discipline, the Appellant was required to submit surveys to the Oklahoma Board so that Oklahoma could determine if Appellant was meeting the minimum standards. Because Appellant submitted surveys that were deemed to be below the minimum, and because Oklahoma found that the Appellant had made a false statement to Oklahoma's Board, a new case was instituted leading to Appellant's 'voluntary' surrendering of his license 'as if revoked'. The Hearing Examiner's determination on these points was supported by the evidence in Exhibit 6. The Hearing Examiner also concluded that the evidence showed that the Appellant had failed to report the surrender of his Oklahoma License to the Appellee within 60 days of its revocation.

The Hearing Examiner determined that the Appellee had met its burden and had established the two claimed justifications for the revocation of the Appellant's Ohio license. After considering the necessary factors, the Hearing Examiner recommended that Appellant's license be revoked.

Appellant timely appealed that recommendation to the Appellee. The Final Order of the Appellee was issued on May 28, 2013. The Appellee rejected the Appellant's objections and adopted the recommendation of the Hearing Examiner.

Appellant appealed the Final Order to this Court. The parties have fully briefed the case and the matter is ready for review.

III. STANDARD OF REVIEW

Review by this Court of an administrative agency is governed by R.C. §119.12 and the multitude of cases addressing that section. An often cited case is that of *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St. 2d 108, 407 N.E.2d 1265. The *Conrad* decision states that in an administrative appeal filed pursuant to R.C. §119.12, the trial court must review the agency's order to determine whether it is supported by reliable, probative and substantial evidence and is in accordance with law. The *Conrad* court stated at pages 111 and 112 that:

In undertaking this hybrid form of review, the Court of Common Pleas must give due deference to the administrative resolution of evidentiary conflicts. For example, when the evidence before the court consists of conflicting testimony of approximately equal weight, the court should defer to the determination of the administrative body, which, as the fact-finder, had the opportunity to observe the demeanor of the witnesses and weigh their credibility. However, the findings of the agency are by no means conclusive.

Where the court, in its appraisal of the evidence, determines that there exist legally significant reasons for discrediting certain evidence relied upon by the administrative body, and necessary to its determination, the court may reverse, vacate or modify the administrative order. Thus, where a witness' testimony is internally inconsistent, or is impeached by evidence of a prior inconsistent statement, the court may properly decide that such testimony should be given no weight. Likewise, where it appears that the administrative determination rests upon inferences improperly drawn from the evidence adduced, the court may reverse the administrative order.

The *Conrad* case has been cited with approval numerous times. *Ohio Historical Soc. v. State Emp. Relations Bd.* (1993), 66 Ohio St. 3d 466, 471, 613 N.E.2d 591 noted

Conrad and stated that although a review of applicable law is *de novo*, the reviewing court should defer to the agency's factual findings. See *VFW Post 8586 v. Ohio Liquor Control Comm.* (1998), 83 Ohio St.3d 79, 82, 697 N.E.2d 655.

IV. ANALYSIS:

The Appellant advanced a number of arguments. This Court will deal with each argument in the order pled by the Appellant.

A) The Board's decision that Malone violated O.A.C. §4733-35-07(D) by failing to report the Oklahoma action to this Board within 60 days, incorporating a violation of O.R.C. §4733.30 [sic] (A)(5) is contrary to law and is not supported by reliable, probative and substantial evidence:

The Appellant asserted that he was not required to notify the Appellee of the Oklahoma action because the Oklahoma action was not a revocation of his license. The following comes from the language of R.C. §4733.20(A)(5):

§ 4733.20. Disciplinary actions

(A) Pursuant to this section, the state board of registration for professional engineers and surveyors may fine, revoke, suspend, refuse to renew, or limit the registration, or reprimand, place on probation, deny an applicant the opportunity to sit for an examination or to have an examination scored, or impose any combination of these disciplinary measures on any applicant or registrant, or revoke the certificate of authorization of any holder found to be or to have been engaged in any one or more of the following acts or practices:

(5) Violation of this chapter or any rule adopted by the board;

Appellant claimed that he voluntarily surrendered his license under Oklahoma statute

§475.20(B)(3) which reads as follows:

§ 475.20. Criminal Penalties - Administrative Penalties - Legal Counsel

B. Administrative penalties:

3. Any certificate of licensure or certificate of authorization holder may elect to surrender the certificate of licensure or certificate of authorization in lieu of an administrative action, but shall be permanently barred from obtaining a reissuance of the certificate of registration or certificate of authorization.

Hence, the Appellant claimed that there was never a finding of any violation that would have triggered his need to report the matter to the Appellee.

Appellee responded by stating that in fact O.A.C. §4733-35-08 controls. That section of the administrative code reads as follows:

4733-35-08. Other jurisdiction
Conviction of a felony without restoration of civil rights, or the revocation, **voluntary surrender**, or suspension of a professional engineer's or surveyor's license by another jurisdiction, **if for a cause which in the state of Ohio would constitute a violation of Ohio Revised Code Chapter 4733** or of these rules, shall be grounds for a charge of violation of these rules. (Emphasis added)

The Appellee asserted that the evidence at the hearing established that the Appellant had engaged in conduct in Oklahoma that would have led to sanctions in Ohio as established by the documents contained in Exhibit 6 and the testimony at the hearing. Hence, it was the Appellee's position that the Appellant was duty bound to timely report the matter to Ohio. Clearly, Appellant failed to do so.

Having established that the Appellant had failed to meet minimum requirements in Oklahoma, and having established that his conduct led him to surrender his license as if revoked, the Appellee had reliable, probative and substantial evidence and its Order is in accordance with law.

B) The finding that Malone's decision to surrender his license in Oklahoma was grounds for discipline in Ohio under O.A.C. §4733-35-08, as incorporated by O.R.C. §4733.20(A)(5), is contrary to law and is not supported by reliable probative and substantial evidence:

The Appellant divided this argument down into two subparts.

1.) No "cause" was stated as a specific action that would constitute a violation of Ohio law, therefore a cause of action in which the State of Ohio could find a violation of Ohio Revised Code Chapter 4733 is lacking:

Here the Appellant has asserted that there was never a finding of fault because he surrendered his license. Hence, the Appellant argued there was never any finding of guilt in

Oklahoma that the Appellee could rely on. Appellant claimed that the evidence produced at the hearing were nothing more than mere allegations set forth in pleadings. Those allegations could not be used to establish 'cause' or 'fault'.

The Appellee pointed to the evidence that established that the Appellant willingly signed a document that referred to the surrender of his license 'as if revoked'. At a minimum, that language would have triggered his obligation to inform Ohio of the Oklahoma proceedings. Furthermore, the Appellee established how the allegations in the Oklahoma complaint were allegations that also violated the standards of Ohio; i.e., setting of corners, failing to meet minimum standards, etc.

More damning to Appellant's contention that he never was found guilty, was the existence of his own admission that was part of the record. Please note the following from page 25 of the scanned record filed with this Court:

16. In March 2011, in response to a Board Investigator, Malone stated; "I was not present when the 2nd survey was done by my company to correct the errors in the consent order. The party chief that did the survey no longer works for my company, so I am not able to discuss the matter with him. I take full responsibility for the survey and have made every attempt to correct it."

That statement, attributed to the Appellant, was never rebutted by the Appellant at the hearing or within his affidavit. The Appellee also established that the Appellant stipulated to certain facts concerning the 2008 case filed against him in Oklahoma wherein he admitted to not complying with minimum standards.

Therefore, the Final Order was/is supported by reliable, probative and substantial evidence and is in accordance with law.

2.) Because there was no Finding of Guilt in Oklahoma, there is not [sic] cause of action in which the State of Ohio could find a violation of Ohio Revised Code Chapter 4733:

Here the Appellant turns to the case of *Urella v. State Medical Bd.*, 118 Ohio App.3d 555, 693 N.E.2d 846 (10th Dist.) to support his belief that the Appellee had no evidence to support its Order. The following is a good synopsis of *Urella*:

In 1990, Dr. Rocco Urella was granted a medical license in Ohio. At that time, Dr. Urella was also licensed to practice medicine in New York, Pennsylvania, Indiana, and Kentucky. In 1992, the New York State Board for Professional Medical Conduct charged Dr. Urella with 17 specifications relating to seven patients. These charges included allegations of gross negligence in prescribing or furnishing, or both, controlled substances; negligence in issuing prescriptions for controlled substances; ordering excessive treatment or the use of treatment facilities for patients whose conditions did not warrant such treatment; abandoning or neglecting a patient in need of immediate professional care without making reasonable arrangements for continued care; and failure to maintain adequate records that reflected the evaluation and treatment of patients.

On advice of counsel, Dr. Urella, who at the time of these charges was living in Kentucky and practicing medicine in Kentucky and whose New York medical license at that time was inactive, applied to voluntarily surrender his New York medical license rather than defend against the charges brought against him. In his application of surrender, Dr. Urella asserted that he was not admitting fault in any manner, and he pled nolo contendere. Thereafter, the New York board accepted Dr. Urella's voluntary surrender application and prohibited him from reapplying for licensure for one year. The New York board made no separate findings or conclusions concerning whether the allegations against Dr. Urella were true or proven.

Claiming that the New York board's acceptance of Dr. Urella's application to surrender his New York medical license and the striking of Dr. Urella's name from New York's roster of physicians constituted the limitation, revocation, or suspension of a license issued by another state under former R.C. 4731.22(B)(22), and that the New York board's action was based upon conduct that would warrant revocation under former R.C. 4731.22(B)(3) and (B)(6), the State Medical Board of Ohio thereafter sought disciplinary action against Dr. Urella. Administrative proceedings were held to consider the State Medical Board of Ohio's proposed discipline against Dr. Urella. Concluding that the New York board's action constituted a limitation, revocation, or suspension of Dr. Urella's license by another state, the State Medical Board of Ohio permanently revoked Dr. Urella's license to practice medicine in Ohio. On appeal, the common pleas court reversed the State Medical Board's order of revocation.

Finding an absence of reliable, probative, and substantial evidence to support the State Medical Board of Ohio's order, this court concluded:

* * * Under the circumstances of this case, the New York Board's statement of charges amounts to nothing more than unsubstantiated and unproven allegations. Ohio cannot discipline Dr. Urella based on these unsubstantiated allegations, especially in light of Dr. Urella's appearance and denial of the charges before the Ohio Board and the failure to present any evidence in rebuttal. * * *

Id. at 562. This court therefore affirmed the judgment of the common pleas court reversing the State Medical Board of Ohio's order of revocation. *Haver v. Accountancy Bd. of Ohio*, 2006-Ohio-1162 at ¶¶ 25 – 28 (10th Dist.)

Unlike in *Urella*, Appellant did not appear and defended himself against the claims contained in the charging documents at his Ohio hearing. Dr. Urella addressed the New York allegations point-by-point with evidence of his conduct that rebutted all of the prior allegations. Appellant did nothing similar in this case. That fact alone severely limits the application of the *Urella* opinion to this case.

Another unavoidable difference between the *Urella* case and the Appellant's case is the existence of the words 'as if revoked' in the document that effectuated the surrender. There was no similar language in *Urella*. Though the Appellant asserted that Oklahoma clearly must not have known what those words would do or mean, this Court will presume otherwise. Given the documented recent prior conduct of the Appellant in Oklahoma, it does not surprise this Court that Oklahoma would have been looking for something more than just a voluntary surrendering of the Appellant's license.

Appellant, having no rational argument that could change the meaning of 'as if revoked', argued that this Court should read the document as if the clause did not exist. That clearly is not going to happen. The Appellant, therefore, had a duty to report the Oklahoma action to the Appellee and he clearly failed to do that.

Appellant also relied upon *Disciplinary Counsel v. Lapine*, 2010-Ohio-6151, 128 Ohio St.3d 87 to support his 'Urella' style argument. However, *Lapine* is not dispositive. Please note the following from paragraph 1 of *Lapine*:

This case concerns whether a suspension order entered by the United States Securities and Exchange Commission (" SEC"), in which an attorney licensed in Ohio has voluntarily agreed not to practice before the SEC for five years and which reflects neither an admission of wrongdoing by the attorney nor an affirmative finding of professional misconduct by the SEC, is a disciplinary order by another jurisdiction that requires this court to impose reciprocal discipline pursuant to Gov.Bar R. V(11)(F). Upon review, we conclude that the appropriate disposition is to dismiss this matter without imposing reciprocal discipline.

The *Lapine* case did not have the 'as is revoked' clause in the voluntary agreement.

Furthermore, the documents contained in the SEC's settlement affirmatively stated that Mr. Lapine was not admitting to any misconduct nor was the SEC making any affirmative findings.

The main focus of *Lapine* concerned the adjudication authority of the SEC. The *Lapine* court looked into what types of activities were regulated by the SEC and noted that a great deal of the activities regulated by the SEC had nothing to do with the qualifications or ethics of an attorney. Citing *Florida Bar v. Teppis* (1992) 601 So.2d 1174, the *Lapine* court held at paragraphs 20 and 21:

Because the SEC does not admit or supervise attorneys or specifically regulate the practice of law, it should not be considered a jurisdiction for purposes of imposing reciprocal discipline on an attorney admitted to practice in Ohio.

Even if we were to consider the SEC a jurisdiction for purposes of reciprocal discipline, this matter should nonetheless be dismissed because as relator concedes, the SEC suspension order is not the result of a disciplinary proceeding and is therefore not a " disciplinary order" within the meaning of Gov.Bar R. V(11)(F)(1).

The *Lapine* decision has no real value to the case before this Court.

An *Urella* analysis does not apply. The Final Order was/is supported by reliable, probative and substantial evidence and is in accordance with law.

C) The Board's decision to revoke Malone's Ohio license, when no finding of guilt has been established is not supported by reliable, probative and substantial evidence and is contrary to a violation of Malone's due process rights under the Fifth and Fourteenth Amendment of the United States Constitution and Section 16, Article 1 of the Ohio State Constitution:

The majority of this argument goes to the lack of any prior finding of 'guilt' by the State of Oklahoma. Appellant asserted that his due process rights were violated when the Appellee acknowledged the prior acts in Oklahoma without better evidence. The Appellant summed up the argument as follows:

“Here, by failing to establish whether or not Malone actually committed an act in which a violation of law occurred in Oklahoma, yet to take at face value the allegations of the same, denied Malone his rights of due process and Malone was prejudiced by the same.” (Appellant's Brief at page 13)

However, this Court has already determined that the decision of the Appellee is supported by reliable, probative and substantial evidence and is in accordance with law. Therefore, as to that aspect of the Appellant's due process claim, there is no merit.

This Court has reviewed the procedural aspect of the certified record. It is clear that the Appellant knew what he was charged with and he was given ample opportunity to appear and contest the charges. He opted to do so by legal arguments and an affidavit. That was Appellant's choice and his choice cannot create a lack of due process. There is no merit in the Appellant's due process argument.

D) A Violation of R.C. §4733.20(A)(2) has not been established and should not be a basis of the Board's revocation:

Appellant again asserted that there was no evidence produced by the Appellee to establish any wrong doing. However, the evidence produced did establish that the Appellant had failed to take proper steps to insure that surveys he conducted, or were responsible for, met minimum standards of conduct. As noted earlier, the record contained an admission by the Appellant that he took responsibility for the Oklahoma charges that lead to his discipline.

Exhibit 6, as contained in the administrative record, included the other consent judgment wherein Appellant agreed to the factual allegations associated with the 2009 findings in the Oklahoma case against his license. Hence the record did contain a number of known facts that supported the position taken by the Appellee.

Furthermore, the document Appellant agreed to in 2011 stated that he was surrendering his license 'as if revoked' triggering his need to report the disciplinary action to the Appellee. These 'facts' are/were sufficient to support the violation of the code here in Ohio. Therefore the Order of the Appellee is supported by reliable, probative and substantial evidence and is in accordance with law.

E) The Board Lacked jurisdiction to accept that Hearing Examiner's findings of fact and conclusions of law because Malone's Ohio license was inactive prior to the Board sending the Ohio charges to him:

It is an undisputed fact that the conduct of Appellant in Oklahoma occurred prior to 2012. It is an undisputed fact that the Appellant held an active license in Ohio throughout 2011. It is an undisputed fact that the Appellee began to investigate the Appellant in 2011. It is an undisputed fact that the Appellant allowed his license to go inactive starting in January of 2012. Appellant now asserts that because the Appellee did not send out its charging letter until after he became inactive, the Appellee had no jurisdiction. Appellant did not support that contention with any case law.

Appellee responded that the case law supported its right to continue to administratively adjudicate the Appellant even after the Appellant's license became inactive. Appellee relied upon the authority of *Wise v. Ohio Motor Vehicle Dealers Bd.*, 106 Ohio App.3d 562, 666 N.E.2d 625 (9th Dist. 1995). Please note the following from *Wise*:

Neither the Revised Code nor the Ohio Administrative Code rules promulgated pursuant to R.C. Chapter 119 and R.C. 4517.32 provide for a remedial measure

such as voluntary license surrender in order to avoid penalty. In fact, according to R.C. 119.091, failure to hold an administrative hearing prior to license expiration does not deprive the agency of jurisdiction over the licensee. Even after license expiration an agency may enter an order of suspension. See Haehn, 83 Ohio App.3d at 211-212, 614 N.E.2d at 835-836. The present situation is not unlike that contemplated by R.C. 119.091 and Before the court in Haehn. *Id.* at 566.

The statute reflects the Appellee's position. Please note the following from R.C. §119.091:

§ 119.091. Failure of agency to hold adjudication hearing before expiration of license

The failure of any agency to hold an adjudication hearing before the expiration of a license shall not terminate the request for a hearing and shall not invalidate any order entered by the agency after holding the hearing. If during or after such hearing but before the issuance of an order the existing license shall expire[,] the adjudicatory agency shall in its order in favor of the affected party provide that the licensing authority shall renew the license upon payment of the fee prescribed by law for the renewal of the license.

Therefore, the Appellee claimed that the change in Appellant's licensing status did not have any impact on its ability to investigate and prosecute the Appellant.

This Court agrees with the Appellee. The Appellee did not lack jurisdiction to hear the matter after the Appellant's license became inactive.

V. DECISION:

The Court finds that the Final Order of May 28, 2013 of the Ohio Board of Registration for Professional Engineers and Surveyors is supported by reliable, probative and substantial evidence and is in accordance with law and **AFFIRMS** same.

THIS IS A FINAL APPEALABLE ORDER

DANIEL HOGAN, JUDGE

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Franklin County Court of Common Pleas

Date: 10-17-2013

Case Title: JAYME M MALONE -VS- OHIO STATE BRD REGISTRATION
PROF ENGINEE

Case Number: 13CV006418

Type: DECISION/ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "D. T. Hogan", is written over a blue circular seal. The seal contains the text "COMMON PLEAS COURT" at the top and "ALL THINGS ARE" at the bottom, with a central emblem.

/s/ Judge Daniel T. Hogan

Court Disposition

Case Number: 13CV006418

Case Style: JAYME M MALONE -VS- OHIO STATE BRD
REGISTRATION PROF ENGINEE

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes