

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DEPARTMENT OF CONSUMER & INDUSTRY  
SERVICES, doing business as BOARD OF  
PHARMACY, doing business as DISCIPLINARY  
SUBCOMMITTEE,

Petitioner-Appellee,

v

FADI AHMAD SOBH,

Respondent-Appellant.

UNPUBLISHED  
September 18, 2003

No. 239281  
LC No. 2000-001555

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Before: Markey, P.J., and Saad And Wilder, JJ.

PER CURIAM.

Respondent Fadi Ahmad Sobh appeals as of right from the Board of Pharmacy Disciplinary Subcommittee's order revoking his pharmacist's license. Petitioner Department of Consumer and Industry Services accused respondent of sending an imposter to take his pharmacist's examination after failing the examination three previous times. We affirm.

Respondent first argues the disciplinary subcommittee should have accepted the hearing referee's proposal for decision because the proposal for decision was supported by the record. This Court reviews a disciplinary subcommittee's final decision to determine whether it was "authorized by law and supported by competent, material, and substantial evidence on the whole record." *Cogan v Bd of Osteopathic Medicine & Surgery*, 200 Mich App 467, 469; 505 NW2d 1 (1993), citing *Black v Dep't of Social Services*, 195 Mich App 27, 29; 489 NW2d 493 (1992); see also MCL 24.306(1). "Substantial evidence" is "more than a mere scintilla, but somewhat less than a preponderance," and this Court examines "whether there was evidence that a reasonable person would accept as sufficient." *Id.* at 470, citing *Black, supra* at 30.

The disciplinary subcommittee's findings are supported by competent, material and substantial evidence. Todd Welch, a forensic document examiner who is employed in private practice and also as a forensic document examiner with the Michigan State Police, testified as petitioner's expert witness. Mr. Welch testified that in his opinion the signatures from the test center logs on the date in question were simulations of respondent's signature, and not respondent's actual signature. The subcommittee found that Mr. Welch had conducted a specific and thorough analysis of the questioned signatures contained on the test logs at issue, similar

analysis of defendant's known signatures from multiple documents, and comparison of the questioned signatures against the known signatures, and that this comprehensive analysis supported his opinion.

The disciplinary subcommittee further concluded that Mr. Welch's opinion, that the signatures on the test logs were not respondent's signatures, was more credible than the testimony and opinion offered by respondent's expert witness, Rita Lord. The subcommittee first found that Mr. Welch's credentials exceeded those of Ms. Lord. In particular, the subcommittee specifically discounted Ms. Lord's opinion because, having trained herself rather than receiving two years of supervised training, she was ineligible to be certified by the American Board of Forensic Document Examiners – the only certifying organization recognized by the American Academy of Forensic Sciences. The disciplinary subcommittee next questioned the reliability of Ms. Lord's opinion that the test log signatures were respondent's signatures because her written opinion was conclusory rather than analytical, and the documentary evidence she submitted in support of her opinion did not establish that she had even reviewed the questioned signatures.<sup>1</sup> On the whole record, the finding by the disciplinary subcommittee, that respondent did not take the examination in question because the signatures on the test logs were not those of respondent, was based on evidence that was competent, material and substantial. The testimony of Mr. Welch was clearly testimony that a reasonable person would accept as sufficient. Thus, respondent has not shown an error requiring reversal.

Defendant also argues that the assistant attorney general communicated ex parte with the disciplinary subcommittee contrary to MCL 24.282. Because defendant did not raise this issue below, it is unpreserved for our review. See *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 471-472; 628 NW2d 577 (2001). In any event, defendant presents no evidence of ex parte communications. Rather, the disciplinary subcommittee's minutes reflect that the assistant attorney general was merely present at its open meeting during which the subcommittee voted to accept in part and reject in part the proposed findings of fact and conclusions of law of the

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<sup>1</sup> The disciplinary subcommittee noted that Ms. Lord's written opinion did not describe the analytical method or process she used to examine the signatures, or provide any information as to how she compared questioned signatures to known signatures. In her videotaped de bene esse deposition, Ms. Lord produced examples of the documents she reviewed in reaching her opinion. None of the documents produced at the deposition, however, contained the questioned signatures. Instead, all of the signatures produced by Ms. Lord in support of her conclusions were known signatures. On cross examination in the deposition, when presented with an exhibit prepared by Mr. Welch which indisputably contained both the questioned signatures from the test logs and signatures known to be "penned" by respondent, Ms. Lord testified that some of the known signatures on the exhibit had been represented to her as being questioned signatures. She declined to offer any opinion as to whether the questioned signatures on the exhibit prepared by Mr. Welch were those of respondent, or to comment in any way about the signatures because she didn't know "where these signatures are coming from." The disciplinary committee concluded that Ms. Lord was defensive on this point and that she had refused to answer pertinent questions.

administrative law judge, and to table the proposal for decision for redrafting. Nothing in the record establishes that the assistant attorney general spoke to the subcommittee or in any way communicated with the subcommittee. Thus, defendant's contention is without merit.

Affirmed.

/s/ Jane E. Markey  
/s/ Henry William Saad  
/s/ Kurtis T. Wilder