

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 1735

DR. TRUDY BOND

VERSUS

LOUISIANA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Judgment rendered: JUN 11 2010

On Appeal from the Nineteenth Judicial District Court
Parish of East Baton Rouge, State of Louisiana
Suit Number: 569,127; Division: I #24
The Honorable R. Michael Caldwell, Judge Presiding

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BEFORE: PARRO, DOWNING, AND GAIDRY, JJ.

*Parro, J. concurs
by PDD*

DOWNING, J.

The issue for our consideration is whether a complainant has a right of action to seek judicial review after a professional licensing board fails to pursue disciplinary proceedings against one of its members.

Dr. Trudy Bond, an Ohio psychologist, lodged a complaint with the Louisiana State Board of Examiners of Psychologists (LSBEP), alleging that a psychologist licensed in Louisiana, violated ethical standards of psychology by his mistreatment of foreign detainees while serving in the military at the U.S. military base at Guantanamo Bay, Cuba.¹ After investigating the complaint, LSBEP took no disciplinary action against the member and rendered no decision in the matter. Dr. Bond filed a petition for judicial review, requesting that the district court remand the matter to LSBEP and order LSBEP to conduct a complete investigation, and to hold a hearing.² LSBEP responded by filing an exception of no right of action. The district court, sustaining the exception, dismissed Dr. Bond's petition for judicial review; Dr. Bond appealed.³ For the following reasons, we affirm the district court judgment.

Louisiana Revised Statutes 37:2353C(5) gives LSBEP the authority to revoke or suspend the license of a psychologist and conduct hearings upon complaints concerning the disciplining of a psychologist. La. R.S. 37:2353E provides that "any person aggrieved by an action of the board may seek judicial review," in the 19th Judicial District Court in accordance with La. R.S. 49:950, *et seq.* the Administrative Procedure Act (APA). (Emphasis added). In the underlying administrative matter, no 'action' was taken, and there is no person 'aggrieved' within the legal meaning of that term.

¹ Dr. Bond has not alleged that she has treated any of the detainees whom she claims were mistreated.

² Dr. Bond also filed a petition for declaratory judgment action praying for the district court to declare that her complaint had been timely filed. The discussion on this assignment of error is pretermitted.

³ An amicus brief in support of Dr. Bond's position was filed on behalf of five non-profit organizations, by the Loyola University New Orleans College of Law. We recognize their arguments, and their positions are incorporated into our analysis.

For purposes of determining availability of judicial review under the APA, “adjudication” is a proceeding resulting in a decision or an order. **Jones v. Southern University and A & M College System**, 96-1430, p. 6 (La.App. 1 Cir. 5/9/97), 693 So.2d 1265, 1269. A decision or order, for purposes of the APA, is a disposition required by constitution or statute. **Id.** Therefore, unless there is some constitutional or statutory provision requiring LSBEP to render a decision or order, then there was nothing for the district court to review. The law sets forth no provision requiring LSBEP to act. Therefore, no right of action exists to make them do so.

Moreover, Dr. Bond and the amici brief argue that La. R.S. 37:2351 *et seq.*, requires LSBEP to take disciplinary action upon concluding that an enumerated offense has been committed. Here, however, we have no such conclusion that an enumerated offense has been committed. No authority has been cited, and we find none that forces LSBEP to discipline its member after the investigation of the alleged offense has been concluded.

The exception of no right of action calls into question whether the plaintiff has standing or interest required under the law to bring the action. **League of Women Voters of New Orleans v. The City of New Orleans**, 381 So.2d 441, 447 (La. 1980). Stated in the context of the present litigation, the exception of no right of action asks whether Dr. Bond has standing to obtain an order against LSBEP, requiring it to take action in this matter. While Dr. Bond contends that she had a duty to report the psychologist’s unethical conduct, she must have a real and actual interest in the action on order to be entitled to a judicial review. **Id.** 381 So.2d at 447 (La. 1980), *citing* La.-C.C.P. art. 681. Without a showing of some special interest in the performance sought of a public board, which is separate and distinct from the interest of the public at large, plaintiff will not be permitted to proceed. **Id.** Without some peculiar, special, and individual interest, a citizen has

no standing in court to champion a cause or subject matter that pertains to the whole people in common, nor has an individual citizen legal standing in court to enforce the performance of a duty owed to the general public. *Id.* Here, Dr. Bond has shown no particular, special, or individual interest.⁴

Therefore, while Dr. Bond may have a professional or ethical duty as a psychologist to file a complaint with LSBEP about a fellow psychologist's interrogation techniques, she, however, has no justiciable right to maintain this action for judicial review. We therefore comply with our judicial duty and affirm the district court's judgment dismissing her claim on the exception of no right of action; the cost of this appeal is assessed to plaintiff-appellant, Dr. Trudy Bond.

AFFIRMED

⁴ *See also* *Wooley v. State Farm Fire & Cas. Ins. Co.*, 05-1490, pp. 4-8 (La.App. 1 Cir. 2/10/06), 928 So.2d 618, 621-23.