

IN AND BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel  
STATE BOARD OF MEDICAL  
EXAMINERS,

Plaintiff,

v.

HERIBERTO MARTINEZ ARNOLD, aka  
HERIBERTO MARTINEZ, M.D.  
Limited Institution Practice  
Certificate No. L-428,

Defendant.

**RECEIVED**

OCT 21 1985

STATE BOARD  
MEDICAL EXAMINERS

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Examiners en banc on September 28, 1985, at 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff and the Defendant appeared by and through counsel, I. Frank Kardos, who appeared by announcements made by Plaintiff's counsel.

The Board of Medical Examiners en banc heard the testimony and reviewed the exhibits and being fully advised in the premises the Board of Medical Examiners therefore finds as follows:

FINDINGS OF FACT

1. That Heriberto Martinez Arnold, aka Heriberto Martinez, M.D., holds Certificate of Limited Institutional Practice No. L-428.
2. That the Board of Medical Examiners en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.
3. That on or around January 23, 1985, the Oklahoma Board of Medical Examiners received from Dr. Juan A. Silva S., Dean of Medicine, Universidad Central Del Este, Dominican Republic, information that the diploma submitted to the Board by the aforesaid Heriberto Martinez was false and had in fact been issued to another student, Carlos Figueroa Otero, and that the aforesaid Heriberto Martinez was admitted to the aforesaid institution in 1976 but withdrew immediately and did not complete any of the subjects for which he registered.
4. That the diploma submitted by the Defendant, Heriberto Martinez, was relied on by the Board in issuing the Defendant a certificate authorizing him to do limited institutional practice.
5. That the Defendant on or around January 25, 1985, was charged in the District Court of Tulsa County with the offense of obtaining money by false pretenses (21 O.S. 1981, §1541, in CFR-85-385) and practicing medicine without a license (59 O.S. 1981, §491, in CRM-85-140). That the Defendant on or around September 6, 1985, appeared in the District Court of Tulsa County and with the advice and representation of counsel named above

waived his right to jury trial and non-jury trial and entered a voluntary plea of guilty to both charges. The court accepted the plea of guilty to both charges and found the Defendant guilty of both aforesaid charges and scheduled formal sentencing for October 18, 1985.

6. That on or around September 27, 1985, the Defendant tendered a written request to the Board to cancel his Certificate for Limited Institutional Practice No. 428 immediately.

7. That the Defendant did not renew his Limited Institutional Practice Certificate and is as a matter of fact no longer employed at Hissom Memorial Center.

#### CONCLUSIONS OF LAW

1. That Heriberto Martinez Arnold, also known as Heriberto Martinez, holding Certificate of Limited Institutional Practice No. 428, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, §508, to-wit:

"Whenever any license or certificate has been procured or obtained by fraud or misrepresentation, or was issued by mistake; or if the diploma of graduation in medicine and surgery or other credentials required as necessary to the ... certificate, were obtained by fraud or misrepresentation or issued by mistake ... it shall be the duty of the Board of Medical Examiners of the State of Oklahoma to revoke such license or certificate in the same manner as is provided for in this Act for the revocation of license or certificate for unprofessional conduct."

2. Under Oklahoma law the Board retains jurisdiction over the holder of a Limited Institutional Practice Certificate once such certificate is issued. When a formal Complaint and Citation is pending against the holder of a Limited Institutional Practice Certificate, the failure of the holder of said certificate to formally renew his certificate or the resignation of the holder from employment in the designated state institution or a written request to cancel his certificate from the holder of the Limited Institutional Practice Certificate does not remove the case from the jurisdiction of the Board. The Board retains continuing jurisdiction in order to make findings and orders as it deems appropriate.

#### ORDER

IT IS THEREFORE ORDERED by the Board of Medical Examiners of the State of Oklahoma as follows:


1. That Limited Institutional Practice Certificate No. L-428 issued to Heriberto Martinez Arnold, aka Heriberto Martinez, should be and the same is hereby revoked.

2. Defendant's Motion to Dismiss should be and the same is hereby overruled.

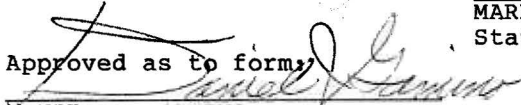
3. Defendant's Motion to Dismiss for Lack of Jurisdiction should be and the same is hereby overruled.

4. Defendant's Motion to Suppress Deposition of Rita Lynn Williams Martinez was not ruled on and should be and the same is hereby considered withdrawn. Said Motion is moot in that the deposition of Rita Lynn Williams Martinez was not offered for admission as evidence.

DATED this 21<sup>st</sup> day of October, 1985.

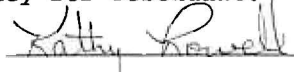
  
MARK R. JOHNSON, M.D., Secretary  
State Board of Medical Examiners

Approved as to form:

  
DANIEL J. GAMINO  
Daniel J. Gamino & Associates, P.C.  
3315 NW 63  
Oklahoma City, OK 73116  
(405) 840-3741  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that on the 22<sup>nd</sup> day of October, 1985, I mailed, postage prepaid, a true and correct copy of the above and foregoing Final Order to I. Frank Kardos, 2205 E. 51st Street, Tulsa, OK 74105, Attorney for Defendant.

  
Kathy Russell