

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

Dr. Trudy Bond,	)	Case No. 11 CV 004711
Mr. Michael Reese,)	
Rev. Colin Bossen,	)	Judge L. Beatty
Dr. Josephine Setzler,)	
	)	MOTION OF PETITIONERS TO
Petitioners	)	REQUEST ORAL HEARING ON
	)	RESPONDENT'S MOTION TO
v.	)	DISMISS AND MOTION TO
	)	STAY DISCOVERY
Ohio State Board of Psychology,)	
)	
Respondent.)	
	)	Terry J. Lodge (OSC # 0029271)
	)	316 N. Michigan St., Ste. 520
	)	Toledo, OH 43604-5627
	)	(419) 255-7552
	)	Fax (419) 255-8582
	)	tjlodge50@yahoo.com
	)	Counsel for Petitioners

* * * * *

Dr. Trudy Bond, Mr. Michael Reese, Rev. Colin Bossen, and Dr. Josephine Setzler, Petitioners herein, by and through counsel, set forth their request for an oral hearing on the Motion to Dismiss and Motion to Stay Discovery brought by Respondent Ohio State Board of Psychology (“the Board,” or “Respondent”). Petitioners request this hearing due to the extraordinary nature of this case.

Under Local Rule 21.1, upon written request by a party, this Court may give leave for oral hearing on a motion. In other jurisdictions, courts presented with related questions heard oral arguments before issuing their rulings. For example, judges in California, Louisiana, and New York held hearings on other professional boards’ motions to dismiss challenges by

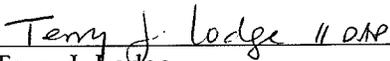
individuals who had brought complaints against health professionals for torture. These hearings led to a richer discussion of the complex and unusual factual and legal questions raised by state licensing boards' dismissals of complaints against health professionals for their alleged involvement in the torture of people held in national security prisons. Similarly, this Court should hear oral arguments on the Respondents' motions to dismiss and stay discovery because these motions raise questions – whether the Board abused its discretion in dismissing the complaint filed by Petitioners, and whether Petitioners have standing to request this Court's review of the Board's dismissal – that cannot be resolved without at least some examination of the underlying professional misconduct complaint dismissed by the Board.

This underlying complaint is exceptional in the seriousness of its allegations, the extensiveness of its documentation, and its implication of conduct susceptible to politicization. Furthermore, given the implications of the Board's leaving unexamined credible allegations of torture by a dean of an Ohio psychology school, Petitioners have invoked public interest standing, on the belief that “the alleged wrong affects the citizenry as a whole, involves issues of great importance and interest to the public at large, and the public injury by its refusal would be serious.” *Bowers v. Ohio State Dental Bd.* (Ohio App. 10 Dist., 2001), 142 Ohio App.3d 376, 381. The Board responded to the public standing argument with a conclusory statement that the issues in this case do not rise to this level of magnitude, without any reference to the underlying allegations of torture that lie at the heart of this case. *See* Respondent's Reply Brief at 7. Petitioners believe that this question in particular requires the court's careful inquiry and, as such, merits the more robust discussion that a hearing could afford.

Petitioners' mandamus petition is neither frivolous nor ordinary. It involves torture, one

of the most serious harms one human being can inflict on another. It involves the dean of a professional psychology school in this very state. It involves a state agency that indisputably chose to dismiss documented allegations that this influential licensed psychologist used his professional skills, knowledge and status to torture hundreds of men and boys in one of today's most notorious prisons. The Board argues that it can dismiss a petition of this magnitude and gravity without having to explain its reasons, or even the steps it took before making this decision. The Board has not disputed Petitioners' allegations that it failed to even meaningfully investigate the allegations before dismissing them. The Board now asks this Court to dispose of this case before hearing arguments on the merits on the premise that no one – not Petitioners, not this Court – has the power to examine its actions. At its core, this case is about a state agency defending a purported right to complete lack of transparency and accountability in disposing of a complaint involving one of the most defining issues of the decade. Regardless of its outcome, this case will become part of the historical record of how institutions in this country dealt with evidence of torture by public officials. If any questions merit the maximum process this Court has the power to afford, surely these are among them.

For these reasons, Petitioners respectfully request that the Court hear oral arguments before ruling on Respondents' motions to dismiss and stay discovery.



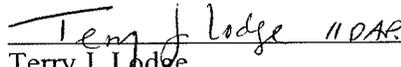
Terry J. Lodge
Co-Counsel for Petitioners

Deborah A. Popowski
Co-Counsel for Petitioners

Tyler R. Giannini
Co-Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Petitioners to Request Oral Hearing on Respondents' Motion to Dismiss and Motion to Stay Discovery was sent by me via regular U.S. mail, postage prepaid this 22nd day of August, 2011 to Roger F. Carroll, Esq., Assistant Attorney-General, 30 East Broad St., 26th floor, Columbus, OH 43215-3400.



Terry J. Lodge
Co-Counsel for Petitioners

