

Commonwealth Of Kentucky

Court Of Appeals

NO. 85-CA-2066-MR

KENTUCKY STATE BOARD
OF MEDICAL LICENSURE

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE EDWIN A. SCHROERING, JR., JUDGE
ACTION NO. 83-CI-09812

NABIL NASHED GHALI, M.D.

APPELLEE

REVERSING AND REMANDING

* * * * *

BEFORE: CLAYTON, COMBS and DYCHE, Judges.

COMBS, JUDGE. This appeal is from an order of the Jefferson Circuit Court reversing and remanding an order of the Kentucky Board of Medical Licensure [Board] revoking the medical license of Nabil Nashed Ghali, M.D. [Ghali]. In reversing, the lower court found that the Board had abused its discretion and had denied Ghali the right to be present when evidence was presented against him. We disagree and reverse.

On January 21, 1983, the State Board of Medical Licensure issued a Complaint against Ghali charging that he had been convicted of four counts of unlawful transaction with a minor in violation of KRS 530.070, in the Campbell District Court on November 10, 1982. The Complaint charged that said conviction was cause for revocation of Ghali's license pursuant to KRS 311.595(4),(8),(11), and that such acts are dishonorable, unethical and unprofessional under the statute pursuant to KRS 311.597(3),(4).

A hearing was held before the Hearing Officer of the Board on April 26, 1983. The Board and Ghali were represented by counsel at the hearing. A certified copy of the judgment of conviction in the Campbell District Court was filed, without objection, as an Exhibit. The Board introduced tapes of the district court proceedings, over Ghali's objection. The Hearing Officer allowed the tapes to be introduced but allowed Ghali time to brief the issue on whether they could be introduced as substantive evidence. No brief was filed on behalf of Ghali. Relying upon the cases of In re Rudd, 310 Ky. 630, 221 S.W.2d 688 (1949); In re Carroll, Ky., 406 S.W.2d 845 (1966); In re Shumate, Ky., 382 S.W.2d 405 (1964); Kentucky State Bar Association v. Lester, Ky., 437 S.W.2d 958 (1968), the Hearing Officer was of the opinion that the testimony in the criminal case was outside the Board's jurisdiction. He felt that consideration of this testimony would be tantamount to a collateral attack upon the conviction, and that the matter of competency and relevancy was an issue properly addressed by the Campbell District Judge. The

Hearing Officer then ruled that the tapes would not be considered by him during the proceedings.

The Hearing Officer then considered the testimony of the young victim's mother, and that of Ghali, whose testimony consisted primarily of denial. After hearing all the evidence the Hearing Officer found as facts:

(1) Ghali was convicted in the Campbell District Court on four counts of unlawful transaction with a minor in violation of KRS 530.070 and that said convictions constituted Class A misdemeanor punishable by fines up to \$500.00 for each count and imprisonment not exceeding twelve months.

(2) Ghali acted as a physician for the infant when he signed her immunization certificate on August 21, 1982 and on August 30, 1982, when he forwarded a letter to Dr. Levenson referring the child to Dr. Levenson's care and that he was acting as the child's physician when he checked her knees for swelling.

(3) Ghali's conviction resulted from the court's finding that he knowingly induced, assisted or caused the . . . child to engage in illegal sexual activity.

The Hearing Officer concluded that Ghali's conviction substantiated that he engaged in dishonorable, unethical and unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof in violation of KRS 311.595(8). He noted that Ghali's conviction was appealed to the Campbell Circuit Court on the basis of sufficiency of the evidence and other legal matters. He then recommended that Ghali be suspended from the practice of medicine until the appeal was finally terminated. He further recommended that should the conviction be sustained that Ghali's license be permanently

revoked and that if the conviction be reversed that Ghali be placed on strict probation pending the termination of the criminal action.

Ghali filed objections to the Hearing Officer's findings of fact and conclusions of law wherein he contended that the evidence failed to show that he was convicted of a misdemeanor involving moral turpitude. He then argued that KRS 530.070 was broad and did not necessarily show that one was guilty of a crime perpetrated with the use of fraud and deception or that actions constituting violation of the statute involved moral turpitude and that the Board was left to guessing in determining what portions of the statute were violated. He further contended there was insufficient evidence that the acts were performed in connection with his medical practice.

Thereafter, the Board entered an order directing the Hearing Officer to review the tapes and the transcript of the trial resulting in Ghali's conviction "for the offense of unlawful transaction with a minor to determine the nature of respondent's [Ghali] conduct upon which the conviction is based." The order further directed him to file supplemental findings and conclusions. Ghali did not voice any objection to the Board's order directing the Hearing Officer to listen to the tapes.

Pursuant to the order of remand the Hearing Officer reviewed the tapes of the proceedings in the Campbell District Court in Case No. 83-J-854, 83-J-855, 83-J-856, 83-J-857 and 83-J-858 styled "Commonwealth of Kentucky v. Dr. Nabil Ghali." He then noted that the fourteen-year-old infant female was the

principal witness; that though she had been a virgin prior to August of 1982 that on August 2nd she was at the doctor's home and the doctor took her clothes off and laid her on the bed and penetrated her vagina with his penis. Again on August 20th, August 29th and early September he made further sexual contact with her. Dr. Mary Billermayer testified that she took a history from the infant and made a physical examination. According to Dr. Billermayer's testimony there was evidence of infrequent intercourse, principally a recently torn hymen. There was also evidence that Ghali had made improper contact with other girls twelve years old and under.

The learned B. Frank Radmacher, III, Hearing Officer, concluded his report to the Board by stating:

The above evidence accurately determines the four sexual encounters to which . . . testified. Those four incidents are the four incidents for which Dr. Ghali was convicted in the Campbell District Court.

On November 17, 1983, the Board entered an order accepting all the "findings and conclusions of the Hearing Officer and orders that the license to practice medicine in the Commonwealth held by Nabil Nashed Ghali, M.D. be and is hereby revoked, effective as set forth by law."

The statute under which Ghali had been convicted covered numerous illegal acts some of which would not necessarily constitute a violation of KRS 311.597(3),(4). The Board is not required to follow strict procedures and rules of evidence in gathering evidence needed to help it reach a decision. Bandeem v. Howard, Ky., 299 S.W.2d 249 (1957). The Board ordered the

Hearing Officer to listen to the tapes only, "to determine the nature of respondent's conduct upon which the conviction is based." Upon receiving the supplemental report, the nature of appellee's "unlawful transaction with a minor" became quite apparent. The Board then ruled that his misconduct constituted a violation of KRS 311.595(8) and revoked his license.

The issue before the board was not whether Ghali was guilty of the crime of sexually assaulting a fourteen-year-old girl, but whether his conduct upon which the conviction was based constituted unprofessional conduct in violation of the statute. We agree with the Hearing Officer that Ghali had no right to relitigate the matter heard by the District Court. Ghali had his "day in court" and therefore, he had no right to a "full-blown" hearing since neither party to the proceeding could relitigate the evidence on the tapes. City of Louisville v. McDonald, Ky., 470 S.W.2d 173.

The order of the Jefferson Circuit Court is reversed and remanded with directions to reinstate and affirm the order of the Board of Medical Licensure revoking Ghali's license.

ALL CONCUR.

ATTORNEY FOR APPELLANT:

R. Thomas Carter
400 Sherburn Lane, Suite 222
Louisville, KY 40207

ATTORNEY FOR APPELLEE:

Richard R. Slukich
314 Greenup Street
Covington, KY 41011

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

V.


NABIL NASHED GHALI, M.D.

RESPONDENT

ORDER

Comes now the Kentucky State Board of Medical Licensure, having considered the Findings of Fact and Conclusions of Law contained in the Hearing Officer's Opinion entered July 22, 1983, Respondent's objections thereto, the oral arguments of opposing counsel, the Supplemental Findings of Fact of the Hearing Officer and being otherwise sufficiently advised hereby accepts all the findings and conclusions of the Hearing Officer and ORDERS that the license to practice medicine in the Commonwealth held by Nabil Nashed Ghali, M.D. be and is hereby revoked, effective as set forth by law.

This 17th day of November, 1983.


ROYCE E. DAWSON, M.D.
Secretary
Kentucky State Board of
Medical Licensure

FILED IN RECORDS
M.D.B.L.L.
1-21-83

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE

CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

VS.

NABIL NASHED GHALI, M.D.
30 Holly Woods Drive
Ft. Thomas, KY 41075

RESPONDENT

COMPLAINT

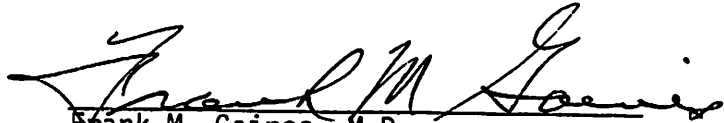
Comes now the Complainant, Kentucky State Board of Medical Licensure, pursuant to its authority under KRS Chapter 311, and for its Complaint states as follows:

1. Respondent is licensed to practice medicine in the Commonwealth of Kentucky and thereby is subject to review by the Kentucky State Board of Medical Licensure pursuant to KRS Chapter 311.
2. On January 13, 1983, Respondent was sentenced in regard to a finding of guilt on four counts of unlawful transaction with a minor in violation of KRS 350.070, a misdemeanor in the Commonwealth of Kentucky.
3. The conduct which prompted the convictions denoted in numerical paragraph 2 was performed in connection with Respondent's practice of medicine.
4. The crimes for which Respondent was found guilty were misdemeanors perpetrated with the use of fraud and deception and as such constitute misdemeanors involving moral turpitude.
5. The conviction denoted in numerical paragraph 2 is a ground for disciplinary action to be taken against Respondent's medical

license pursuant to KRS 311.595(4), 311.595(8), 311.595(11), 311.597(3), 311.597(4), and 201 KAR 9:005(3), inclusively and alternatively, as the conviction is a violation of the law, is the violation of a misdemeanor involving moral turpitude, has the effect of bringing the medical profession into disrepute and otherwise is conduct which is dishonorable, unethical, and unprofessional of a character likely to deceive, defraud or harm the public or a member thereof.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by Nabil Nashed Ghali, M.D.

This 20TH day of January, 1983.


Frank M. Gaines, M.D.
Secretary
Kentucky State Board of
Medical Licensure

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

vs.

OPINION

NABIL NASHED GHALI, M.D.

RESPONDENT

* * * * *

STATEMENT OF THE CASE

On or about January 20, 1983, the State Board of Medical Licensure issued Complaint No. 190 against the Respondent, Nabil Nashed Ghali, M.D. Said Complaint charged that the Respondent had been convicted of four counts of the unlawful transaction with a minor in contraveneance of KRS 530.070 in the Campbell District Court on November 10, 1982. The Complaint charged that said conviction is cause for revocation of the Respondent's licensure pursuant to KRS 311.595 (4) (8) (11), and that such acts are dishonorable, unethical and unprofessional under the statute pursuant to KRS 311.597 (3, 4).

A Hearing was held before this Hearing Officer on April 26, 1983, in the offices of the State Board of Medical Licensure. At said time, the Board was represented by the Honorable R. Thomas Carter, and the Respondent was present and represented by the Honorable Richard R. Slukich.

STATEMENT OF THE FACTS

The Board introduced its evidence, a certified copy of the Judgment of the conviction of the Campbell District Court which was introduced as Exhibit "1" for the Board without objection, TE 17. However, the Board also

introduced the tapes of the proceedings in the Campbell District Court which were introduced over the objection of the Respondent, TE 18-22.

This Hearing Officer allowed the tapes to be introduced, but allowed the Respondent time to brief the issue of whether they could be or should be introduced as substantive evidence. While no brief was received by this Hearing Officer from the Respondent, this Hearing Officer believes that it is not within the perimeters of this Board's jurisdiction to review the testimony which caused the Respondent's conviction. In a number of cases involving disciplinary action against attorneys in the Commonwealth of Kentucky, the Courts have held that an inquiring into the conviction is inappropriate. In re: Rudd 221 SW 2d 688; in re: Carol 406 SW 2d 845; in re: Shoemate 382 SW 2d 405; in re: Lester 437 SW 2d 958. While the statutory empowerments and rules established for the discipline of attorneys are entirely different from those relating to physicians, this Hearing Officer believes that the policy avoids collateral attack upon convictions in the administrative proceedings. In sum and substance, the Judge in the Campbell District Court has made a determination of fact which was entirely within his jurisdiction having had the opportunity to listen to the testimony while observing the demeanor of the witnesses and neither this Hearing Officer, nor this Board should allow the relitigation of those facts and/or substitute its opinion for that of the District Court.

In view of the above, this Hearing Officer rules that the tapes which were introduced as Exhibits "B" for the Board should not be referred to and have not been referred to by this Hearing Officer during these proceedings.

The first witness for the Board was Mary Lou Kramer, who is the mother of the child who was involved in the proceedings in the Campbell District Court.

Ms. Kramer indicated that she and Dr. Ghali had been friends for a period of approximately four years with frequent visits to both his house and her house, TE 26. Ms. Kramer is a licensed practical nurse and originally met Dr. Ghali on a professional relationship. Subsequently, they became close friends and she allowed her children to swim at Dr. Ghali's house. Both she and the children trusted Dr. Ghali, who agreed to act as their physician, TE 27, 28. Ms. Kramer testified that on two occasions, Dr. Ghali acted as the physician for her daughter, the first of which was the signing of an immunization on August 21, 1982, for her admission to school. (Complainant's Exhibit "C") (Te 29, 30) The second occasion was the letter which Dr. Ghali forwarded to a Dr. Levenson so that the child could receive care for her knees, TE 31, 32.

On Cross-examination, Ms. Kramer admitted that she and her husband helped Dr. Ghali finish his basement which was apparently used by the Kramers and Dr. Ghali for Amway meetings. In summer of 1982, Dr. Ghali had a swimming pool installed in his backyard and both the witness and her family utilized the pool during the summer, TE 36, 37. Ms. Kramer stated that she sent her medical records and those of her two daughters to the offices of Dr. Ghali and Honey, TE 40, 41. She further testified that she thought Dr. Ghali did examine her daughter when he signed the immunization forms. On Cross-examination, the witness admitted that no examination was necessary to complete the form, TE 42. The witness testified that Dr. Ghali examined her child's legs prior to sending a referral letter to Dr. Levenson and that she was present when he did so, TE 42. She further testified that Dr. Ghali saw patients at his home including a Rose Crews, TE 43.

On Cross-Examination, the witness testified to moving into Dr. Ghali's home when he went to Utah for an undetermined period of time. The witness denied

ever asking Dr. Ghali to deed his house over to her and then subsequently admitted that she did ask him for a deed, TE 49, 51. She explained that Dr. Ghali had been sued in a malpractice suit and she felt that he could protect his property by deeding same over to her. She denied wanting the property and testified that the offer was made in good faith and that it could always be signed back over to him, TE 53.

Dr. Ghali was called as a witness in his own behalf. He is a 1958 graduate of the University of Cairo and is a United States Citizen. He began practice in July of 1971 with Dr. Honey in Northern Kentucky, TE 59, 60. In 1981, a malpractice suit was filed against Dr. Ghali which caused him to give up his practice and begin working for the Public Health Department in Cincinnati, TE 60. The witness admits that he had known Ms. Kramer since 1971, and that she was his patient from approximately that time until 1981, when he discontinued his practice.

Dr. Ghali denies that he treated the daughters of Ms. Kramer, but admits that in 1981, the nature of their relationship began to change because of an Amway meeting and the previous house-sitting incident, TE 64-72.

Dr. Ghali testified that he did not know the Kramers were going to stay in his house when he was in Utah and was upset when he discovered their presence, TE 72-74. At that time, he wanted to terminate the relationship; however, later in 1982, he did act as the sponsor for their daughter when she received her first communion, TE 74, 75. In July of 1982, Mr. Kramer was helping Dr. Ghali in the basement, and at that same time, the swimming pool was open and the Kramers and their family used same, TE 76, 77. During that summer, Dr. Ghali's eight year-old son lived with him. Toni Janji, Dr. Ghali's cousin was also present at various times, TE 75 and 78. Mr. Ghali testified that it was during that summer that

Ms. Kramer's daughter began to follow him around wherever he went, TE 77.

The Kramer's went on vacation in early August of 1982 and the next time Dr. Ghali saw them was approximately the 21st or 22nd, TE 84, 85. Dr. Ghali admits that he did sign the immunization forms or or about August 21, but denies having the child's medical records. He further admits that he did forward a letter to Dr. Levenson, TE 84-86. The Respondent denied having ever examined the child except for on one occasion when he checked for swelling, TE 90, 91. Dr. Ghali testified that the child only came to his home on one occasion without supervision of her parents, which occurred in June or July of 1982. On August 21, 1982, the child came to Dr. Ghali's house apparently to recover some sunglasses and Dr. Ghali called her father and asked that he come and get her, TE 98-101. Dr. Ghali denies seeing the child on September 5 or 19 and testified that he saw an interior designer, Ms. Francois Wood on that occasion. Ms. Wood testified that she was with the doctor at his home on that day, TE 101, 102 and 152.

Dr. Ghali testified that on August 2, 1982, he took his cousin to Mr. Ansara for the completion of a number of tests, TE 122. According to Mr. Ansara, those tests took place between 12:30 and approximately 2:30, TE 149. He was unable to testify regarding the events either prior to or subsequent to that time frame. Mr. Ansara and his family were present on August 21 when the daughter of the Kramers came over, TE 144.

Ms. Wood testified that she had not seen the Kramer child on either occasion when she was with Dr. Ghali, TE 155, 157.

Ms. Kramer was called as a rebuttal witness by counsel for the Board. She testified that she first noticed something was wrong with her daughter when they were on vacation. When they returned from vacation, they had a fish fry and

asked to talk to Dr. Ghali. On that date, Dr. Ghali had apparently taken the child back to his home to have a talk, TE 173.

The remainder of the rebuttal evidence is primarily with the Kramers' Amway distributorship and the use of Dr. Ghali's home as well as the offer to accept a deed from Dr. Ghali to the property.

FINDINGS OF FACT

I. This Hearing Officer finds that Nabil Nashed Ghali, M.D. was convicted in the Campbell District Court of four counts of unlawful transaction with a minor in violation of KRS 530.070. That said convictions constitute a Class A Misdemeanor in the State of Kentucky and are punishable by fines up to \$500.00 for each count and imprisonment not exceeding twelve months.

II. The evidence substantiates that Dr. Ghali acted as a physician for the Kramer child when he signed her immunization certificate on August 21, 1982. Further, that he acted as her physician on August 30, 1982, when he forwarded a letter to Dr. Levenson referring the Kramer child to Dr. Levenson's care. This Hearing Officer further finds that Dr. Ghali acted as the Kramer child's physician when he checked her knees for swelling.

III. The conviction of Dr. Ghali in the Campbell District Court resulted from the Court's finding that he knowingly induced, assisted or caused the Kramer child to engage in illegal sexual activity.

CONCLUSIONS OF LAW

I. The evidence of Dr. Ghali's conviction in the Campbell District Court substantiates that he engaged in dishonorable, unethical and unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof in contravention of KRS 311.595(8).

II. Dr. Ghali did act as a physician for the Kramer child when he signed her immunization record and referred to another physician for care.

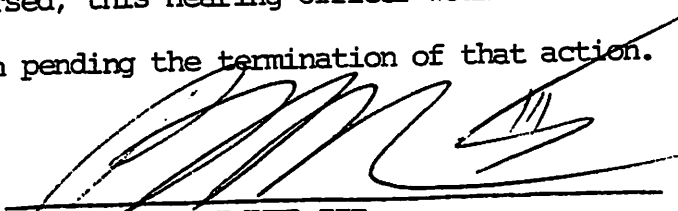
CONCLUSION

The conviction of Dr. Ghali under the circumstances reflected in the record are cause for the revocation, suspension, or probation of Dr. Ghali's license pursuant to KRS 311.595.

The record reflects that the Kramers considered Dr. Ghali to be their physician and that on at least two occasions, he acted as such for the Kramer child. Dr. Ghali's sexual contact with the Kramer child is both a breach of his ethical duties to his patient and unprofessional conduct of a nature which would fully justify the revocation of his license.

RECOMMENDATION

This Hearing Officer understands that the conviction of Dr. Ghali is on appeal in the Campbell Circuit Court. Apparently, that Appeal has as its basis, the sufficiency of the evidence and the technical question regarding Dr. Ghali's right to a jury trial. This Hearing Officer would recommend that Dr. Ghali be suspended from the practice of medicine until the termination of his appeal. Should the lower Court be sustained, Dr. Ghali's licence should be permanently revoked. Should the lower Court be reversed, this Hearing Officer would recommend that Dr. Ghali be put on strict probation pending the termination of that action.


B. FRANK RADMACHER III
HEARING OFFICER, KENTUCKY STATE BOARD OF
MEDICAL LICENSURE

730 W. Main, Suite 470
Louisville, Kentucky 40202
Phone: 584-6593

CERTIFICATION

It is hereby certified that a copy hereof was this 21st day of July, 1983, mailed to R. Thomas Carter, Counsel for Complainant, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40202; C. William Schmidt, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205, and Richard Slukich, Attorney for Respondent, 314 Greenup, Covington, Kentucky 41011.


B. FRANK RADMACHER III

FILED OF RECORD
K. S. B. M. L.
11-2-83

COMMONWEALTH OF KENTUCKY

STATE BOARD OF MEDICAL LICENSURE

CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

vs.

SUPPLEMENTAL FINDINGS OF FACT

NABIL NASHED GHALI, M.D.

RESPONDENT

* * * * *

By Order of the Board, this Hearing Officer has reviewed the tapes of the proceedings held in the Campbell District Court, styled Commonwealth of Kentucky vs. Dr. Nabil Ghali, Case Nos. 83J854, 83J855, 83J856, 83J857 and 83J858, which culminated in the Respondent's conviction on four counts of unlawful transaction with a minor in violation of KRS 530.070.

The Board directed this Hearing Officer to review the tapes and report the evidence which resulted in the Respondent's conviction. Specifically, the Board questioned whether the conviction was based upon an illegal sexual activity between the Respondent and child under subsection (b) or whether the conviction was based upon evidence relating to subsections (c) or (d). Subsection (c) requires the knowingly inducement or assistance which causes a minor to become a habitual truant while subsection (d) requires the persistent and knowing inducement or assistance or causing a minor to disobey his parent or guardian.

The principal witness against the Respondent was Kim Kramer, who was at the time of the offense, 14 years of age. According to Ms. Kramer, prior to August of 1982, she had never dated nor had she allowed anyone to put anything inside of her vagina, (Transcriptive Evidence, Tape 2, Side 1, No. 166-169, hereinafter

referred to as TE, Tape ____, Side____, No.____.) Ms. Kramer advises that on August 2, she was at Dr. Ghali's home, no one else was present; however her sister was playing with a neighbor's child next door, TE tape 2, side 1, no. 188. According to Kimberlee, Dr. Ghali asked if she wanted a massage. She put on her bathing suit and met the doctor in the bedroom where he took off both her suit and his own. Dr. Ghali then laid Kimberlee on the bed, got on top of her and rubbed his penis between her legs. Kimberlee testified that Dr. Ghali penetrated her vagina which was quite painful, breathed funny, then he placed his fingers inside of her vagina, TE tape 2, side 1, no. 208-277. Kimberlee then went swimming and when Dr. Ghali joined her in the Jacuzzi, he then inserted his penis and asked her not to tell anyone, TE tape 2, side 1, no. 294, 319. Kimberlee noted some blood in her vaginal area later that day and testified that it hurt to go to the bathroom, TE tape 2, side 1, no. 327. Kimberlee testified that she didn't attempt to stop Dr. Ghali because she trusted him and felt that they ultimately would get married, TE tape 2, side 1, no. 344.

Kimberlee testified that on August 20, she went to the doctor's house and that he advised her that he was glad she was back, moved her shorts to the side and "played around down there", TE tape 2, side 1, 369.

Kimberlee stated that she visited Dr. Ghali on August 29 and she intended to tell him that she didn't like sex and felt that it was gross, TE tape 2, side 1, no. 387. On that date Dr. Ghali met Kim in his bedroom, took off her shorts, laid her on the bed and again had sex with her, TE tape 2, side 1, no. 403-478. On that occasion, Kimberlee testified that she did see white on Dr. Ghali's penis, TE tape 2, side 1, no. 507.

On one other occasion, during early September, Kimberlee testified that Dr. Ghali tripped her down, put his penis between her legs and rubbed, ultimately

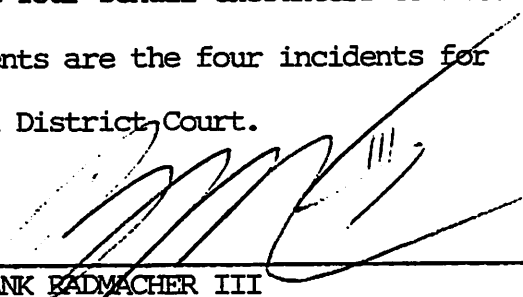
penetrating her vagina, asking her if she could feel it and asking her whether she had had enough and placed his fingers inside her vagina, TE tape 2, side 1, no. 566-645.

Kimberlee's testimony was bolstered by the testimony of Dr. Mary Billermeyer, who testified that she took a history from Kimberlee and made a physical examination. According to Dr. Billermeyer, there was evidence of infrequent sexual intercourse, principally, a recently torn hymen, TE tape 1, side 1, 178-221.

Alexis Marie Burnett whose family lives across the street from Dr. Ghali also testified. According to this child, Dr. Ghali touched her both on the chest and between her legs when she went to a party for Dr. Ghali's son Michael, TE tape 2, side 2, no. 242-340. Jackie Burnett, the twelve year old sister of Alexis testified that she had seen Dr. Ghali touch a child, Janie Woods, who is five years old, when he placed his hand under her shirt, TE tape 2, side 1, no. 417.

CONCLUSION

The above evidence accurately details the four sexual encounters to which Kimberlee Kramer testified. Those four incidents are the four incidents for which Dr. Ghali was convicted in the Campbell District Court.



B. FRANK RADMACHER III
HEARING OFFICER, KENTUCKY STATE BOARD OF
MEDICAL LICENSURE
730 W. Main, Suite 470
Louisville, Kentucky 40202
Phone: 584-6593

CERTIFICATE

It is hereby certified that a copy hereof was mailed this 15th day of

November, 1983, to R. Thomas Carter, Counsel for Complainant, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205; Richard R. Slukich, Counsel for Respondent, 314 Greenup Street, Covington, Kentucky 41011; and the original hereof mailed to C. William Schmidt, for filing in the action, Kentucky State Board of Medical Licensured, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.



B. FRANK RASMACHER III

FILED OF RECORD
K. S. B. M. L.
3-13-87

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 190

STATE BOARD OF MEDICAL LICENSURE

COMPLAINANT

vs.

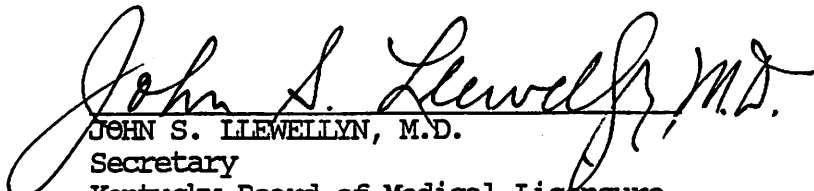
NABIL NASHED GHALI, M.D.

RESPONDENT

ORDER

Pursuant to the direction of the Kentucky Court of Appeals, the Order previously filed by the Board in this matter on November 17, 1983, is reinstated. Therefore, effective this date, the Board ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Nabil Nashed Ghali, M.D. be and is hereby permanently REVOKED.

So ORDERED this 13th day of March, 1987.


JOHN S. LLEWELLYN, M.D.
Secretary
Kentucky Board of Medical Licensure