1-0907-10576-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF PSYCHOLOGY

In the Matter of the Psychology License
of Brenda S. Loewen, M.S., L.P.
License No. LP0888

ORDER ALLOWING ADMISSION OF TRIAL TRANSCRIPTS

By a written motion filed on July 1, 1996, the Complaint Resolution Committee of the Board of Psychology sought an order permitting the admission into evidence of the criminal trial transcripts of Respondent's criminal trials in lieu of live witness testimony. No written reply to the motion was filed by the Respondent. The Complaint Resolution Committee is represented by Michael J. Weber, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota 55103. The Respondent, Brenda S. Loewen, P.O. Box 280, 915 9th Avenue North, Moorhead, Minnesota 56560 or 4824 24th Avenue N.W., Rochester, Minnesota 55901, represents herself in this proceeding.

Based upon the motion filed, all the filings in this case, and for the reasons set out in the Memorandum which follows,

IT IS HEREBY ORDERED that the Complaint Resolution Committee shall be allowed to submit into evidence the transcripts of Respondent's criminal trials.

Dated this 15th day of July 1996.

GEORGE A. BECK
Administrative Law Judge

MEMORANDUM

The Complaint Resolution Committee submitted a motion which asks that it be permitted to submit into evidence the transcripts of Respondent's two criminal trials in lieu of live testimony at the administrative hearing. The Respondent was convicted on April 21, 1995, of a gross misdemeanor for harassing and stalking her former physician. On June 26, 1996, the Respondent was again convicted, this time of a felony, for harassing her former public defender. Together, the criminal trials lasted approximately six days.

The Complaint Committee argues that hearing live testimony in this administrative proceeding about the same facts and issues which arose in the criminal trials would be repetitive, time consuming and unduly costly. It argues that requiring the two victims to again testify to these matters would be needlessly burdensome.

A review of the criminal complaints and the Notice of and Order for Hearing in this matter indicates that the facts involved in the criminal convictions duplicate many of the allegations made by the Complaint Committee in this proceeding. Retrying these facts in this administrative proceeding would not be a reasonable approach in light of the fact that the Respondent's rights were fully protected during the criminal trial and the witnesses, who of course testified under oath, had every incentive to testify honestly. The Respondent, of course, had sufficient motivation to test the testimony of the witnesses through cross-examination in the criminal matters.

Under Minn. Rule pt. 1400.7300, hearsay evidence may be admissible if it is the type of evidence on which reasonable prudent persons would rely in the conduct of their serious affairs. The criminal trial transcripts meet this test and should therefore be admitted in this administrative proceeding. I.S.D. No. 276 v. Dept. of Educ., 256 N.W.2d 619, 627 (Minn. 1977).

G.A.B.