

Schmitz vs State Board of Chiropractic Examiners 2022 ND 113 Docket 20210135

Highlight: A formal, evidentiary hearing is required whenever an administrative agency acts in a quasi-judicial capacity unless the parties either agree otherwise or there is no dispute of a material fact. Even when facts are undisputed, a summary judgment may not be granted if reasonable differences of opinion exist as to the inferences to be drawn from those facts.

[¶19] On this record, we conclude reasonable persons could reach more than “one conclusion from the facts.” We therefore conclude the ALJ **improperly** conducted a “mini-trial” under the guise of summary judgment.

- Dr. Schmitz testified for HB **1154** which passed the floor. Sponsored by twelve legislators.

‘We conclude the Board’s final order, adopting an administrative law judge’s (“ALJ”) recommended order for summary judgment, **erred** in granting summary judgment on the Board’s claims against Dr. Schmitz.’

- Dr. Schmitz testified for SB **2296** which passed the floor. Sponsored by six legislators.

‘On this issue, a parallel case has already established the Board **violated** the open meetings and records law in the prior proceedings, and required release of additional portions of the executive meeting.’

- Dr. Schmitz testified for HB **1517** which passed the floor. Sponsored by eight legislators.
- Chiropractic Board HB **1105** did not pass. Sponsored by zero legislators.

[¶20] Because the Board **erred** in accepting the ALJ’s recommended order and **failing** to hold the evidentiary hearing required by statute, we reverse and remand to the Board for an evidentiary hearing as specifically contemplated under N.D.C.C. §§ 43-06-15 and 28-32-21.

- Chiropractic Board SB **2064**. Sponsored by zero legislators.

[¶26] ‘The Board does not explain why it **disregarded** the ALJ’s recommendation for a hearing’.

The Supreme Court ruled a hearing is required.

The Chiropractic Board wants to change the code to remove the word hearing.

Supreme Court Ruling

Highlight: A formal, evidentiary hearing is required

Chiropractic Board Bill 2064

proceed with a hearing on the matter

<https://www.ndcourts.gov/supreme-court/opinion/2022ND113>

<https://www.ndcourts.gov/news/north-dakota/north-dakota-supreme-court/opinions/new-opinions-may-26>