

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

JAMES D. ZEBRANEK, JR.,

Appellant,

v.

BOARD OF OSTEOPATHIC MEDICINE, et al.

Appellees.

NOT FINAL UNTIL THE TIME EXPIRES
TO FILE REHEARING MOTION, AND,
IF FILED, DISPOSED OF.

Case No. 5D07-525

Opinion filed August 1, 2008

Administrative Appeal from the
Board of Osteopathic Medicine.

Shannon McLin Carlyle and Christopher V.
Carlyle, of The Carlyle Appellate Law Firm,
The Villages, for Appellant.

Bill McCollum, Attorney General, and
Garnett W. Chisenhall, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Zebranek timely appeals from an order of the Board of Osteopathic Medicine ("Board") that denied his petition to lift the suspension of his license to practice osteopathic medicine in Florida. The Board had concluded that it lacked jurisdiction to consider Zebranek's petition because Zebranek had not timely appealed from the initial order of suspension.

Subsequently, pursuant to the parties' joint motion, this court relinquished jurisdiction to the Division of Administrative Hearings ("DOAH") with instructions that

RECEIVED

AUG 04 2008

DEPT. OF LEGAL AFFAIRS
Administrative Law Bureau

ARR ✓
File

DOAH conduct an evidentiary hearing to determine when Zebranek received notice of the Board's order of suspension. The DOAH administrative judge found that the Board's order of suspension had been mailed to the wrong address and that Zebranek had not otherwise received timely notice of the Board's order. Neither party has contested DOAH's findings. Accordingly, the Board had jurisdiction to consider Zebranek's petition. *Reich v. Dep't of Health*, 868 So. 2d 1275 (Fla. 1st DCA 2004). The Board's order denying Zebranek's petition is hereby quashed.

Order QUASHED; REMANDED.

GRIFFIN, SAWAYA and EVANDER, JJ., concur.