

OCT 20, 2022 09:07 AM


Cynthia C. Lazenby, Clerk
Warren County, Georgia

**IN THE SUPERIOR COURT OF WARREN COUNTY
TOOMBS JUDICIAL CIRCUIT
STATE OF GEORGIA**

ASPIRE MEDICAL PARTNERS, LLC,)
)
Petitioner,)
)
-v.-)
)
GEORGIA ACCESS TO MEDICAL)
CANNABIS COMMISSION,)
BOTANICAL SCIENCES, LLC,)
TRULIEVE GA, INC.,)
FFD GA Holdings, LLC,)
THERATRE GEORGIA, LLC,)
NATURES GA, LLC, and)
TREEVANA REMEDY, INC.)
)
Respondents.)
)
_____)

Case No. 22CV0095

MOTION TO SET ASIDE
ORDER ON EMERGENCY
MOTION TO STAY AND
MOTION TO DISMISS

**ORDER VACATING ON EMERGENCY MOTION TO STAY and
ORDER DISMISSING CASE FOR LACK OF SUBJECT MATTER JURISDICTION**

PROCEDURAL HISTORY

This is a Petition seeking judicial review of a decision of the GEORGIA ACCESS TO MEDICAL CANNABIS COMMISSION (GMCC). Contemporaneously with the filing of the petition in this matter, the Petitioner, ASPIRE MEDICAL PARTNERS, LLC (ASPIRE), filed an Emergency Motion to Stay GMCC's award, designation, and authorization of production leases to the non-GMCC Respondents named in the above-styled civil action. On September 22, 2022, at 8:22 a.m. this court entered an order granting ASPIRE'S emergency motion. On September 23, 2022, GMCC filed a Special Appearance Emergency Motion to Set Aside the Order on Emergency Motion to Stay. On September 27, 2022, this court entered a Rule Nisi scheduling the Motion to Set Aside for a hearing on October 14, 2022, at 10:00 a.m. at the Warren County Courthouse, Warrenton, Georgia, or alternatively via Webex. On September 29, 2022, Respondents, FFD

HOLDINGS, LLC (FFD), THERATRUE GEORGIA LLC (THERATRUE), NATURES GA LLC (NATURES), and TREEVANA REMEDY INC. (TREEVANA) (collectively RESPONDENTS), filed a Motion to Dismiss or in the Alternative, Transfer Venue to Fulton County, and a Motion to Set Aside the court's Order granting the Emergency Motion to Stay. On October 6, 2022, GMCC filed a Special Appearance Emergency Motion to Dismiss. On October 11, 2022, Respondents, BOTANICAL SCIENCES LLC (BOTANICAL) and TRULIEVE GA, INC. (TRULIEVE) (collectively RESPONDENTS) filed their Motion to Dismiss or in the Alternative, Transfer Venue to Fulton County and Motion to Vacate the September 22, 2022, Stay. That same day, this court entered an additional Rule Nisi scheduling the Motion to Dismiss for a hearing on the previously scheduled hearing date on October 14, 2022, at 10:00 a.m. On October 13, 2022, ASPIRE filed its response in opposition to the GMCC'S and RESPONDENTS' Motions. On October 14, 2022, at 9:48 a.m., just prior to the hearing, Respondents BOTANICAL and TRULIEVE, filed a Notice of Supplemental Authority. A hearing on the motions was held on October 14, 2022, at 10:00 a.m. at the Warren County Courthouse, Warrenton, Georgia, and via Webex, and all parties were present and represented by legal counsel. At the conclusion of the hearing, several of the parties requested additional time to file supplemental information prior to the court issuing a decision. The parties were given until 5:00 p.m. on Wednesday, October 19, 2022, to file any supplemental information. On October 18, 2022, ASPIRE filed its Notice of Supplemental Authority.

After having read, heard, and considered the parties motions, briefs, responses and oral arguments of counsel, the court enters the following judgment:

JUDGMENT

It is **ORDERED** and **ADJUDGED** that GMCC'S and the RESPONDENTS' Motion to Set Aside the court's order on ASPIRE'S Emergency Motion to Stay entered on September 22,

2022, is **GRANTED**. The court concludes as a matter of law that the September 22, 2022, order is void on its face due to ASPIRE'S failure to comply with the notice requirements of OCGA § 9-10-2 because the record does not affirmatively show that the requirements of that code section have been satisfied. *See, Hawes v. Bigbie*, 120 Ga. App. 294 (1969); Georgia Department of Driver Services v. Appling, 323 Ga. App. 724, 725-726 (2013); and Ga. Dept. of Med. Assistance v. Columbia Convalescent Center, 265 Ga. 638, 640 (1995) (this includes orders against state executive agencies).

Based upon the record in this proceeding, it is further **ORDERED** and **ADJUDGED** that GMCC's and the RESPONDENTS' Motions to Dismiss are **GRANTED**. The court concludes as a matter of law that the Georgia Administrative Procedure Act (OCGA § 50-13-1, et seq.) is not applicable in this case, (*See* OCGA § 50-13-19) and that as a result, this court lacks subject matter jurisdiction to review GMCC's Final Decision.

It is so **ORDERED**, this 20th day of October, 2022.



Thomas B. "Britt" Hammond
Judge, Superior Courts
Toombs Judicial Circuit