

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

FILED
JUN 24 2019

22ND JUDICIAL CIRCUIT
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REPRODUCTIVE HEALTH)
SERVICES OF PLANNED)
PARENTHOOD OF THE ST. LOUIS)
REGION,) No. 1922-CC02395
)
Petitioner,) Division No. 6
)
vs.)
)
MICHAEL L. PARSON, et al.,)
)
Respondents.)

ORDER

This matter came before the Court on the status of the preliminary injunction entered on June 10, 2019. In the Court's June 10, 2019 Order, the Court ordered that "Respondent Department of Health and Senior Services shall issue a decision on Petitioner's application for renewal of its license without undue delay but no later than Friday, June 21, 2019." On Friday, June 21, 2019, Respondent delivered notice of its decision to Petitioner. In its decision, Respondent denied Petitioner's application for renewal of its license.

Because Respondents have now provided Petitioner with an official decision, the Court finds that any further relief sought by Petitioner must be first addressed at the administrative level.

ENTRER

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ENTRER

"Exhaustion is generally required as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review." Pettigrew v. Hayes, 196 S.W.3d 53, 56-57 (Mo.App. W.D. 2005).

Sections 197.215 and 197.220 RSMo give the Department of Health and Senior Services ("DHSS") the exclusive authority to grant or deny a license for an abortion facility. Section 197.221 RSMo then provides that a party aggrieved by an official action of the DHSS may seek review with the Administrative Hearing Commission ("AHC") pursuant to §621.045 RSMo. Section 621.035 further allows the AHC to issue a stay of an agency action during the pendency of that review.

Section 197.221 RSMo sets forth the procedure to appeal the failure to renew a license, as follows:

Any person aggrieved by an official action of the department of health and senior services affecting the licensed status of a person under the provisions of sections 197.200 to 197.240, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045 and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or

exhaust any other procedure within the department of health and senior services.

In administrative matters, the judicial function is limited to judicial review following a final decision of the administrative body. Section 621.145 RSMo provides that "all final decisions of the administrative hearing commission shall be subject to judicial review as provided in and subject to the provisions of sections 536.100 to 536.140...." **The Court has no authority to intercede in this matter until there has been a final decision by the AHC.**

THEREFORE, it is Ordered and Decreed that the Preliminary Injunction entered on June 10, 2019 is extended in part. Petitioner's license shall not expire and shall remain in effect until June 28, 2019 at 5 p.m. in order to allow Petitioner to seek review and injunctive relief from the Administrative Hearing Commission. Thereafter, on June 28, 2019 at 5 p.m., the Preliminary Injunction issued by this Court shall be dissolved. FURTHER, Counts II - VI are dismissed without prejudice for failure to exhaust administrative remedies and all other remaining motions are denied as moot. Each party to bear their own costs.

SO ORDERED:



MICHAEL F. STELZER, Judge

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Dated: JUNE 24, 2019