MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI ex rel. MISSOURI DEPARTMENT OF HEALTH and SENIOR SERVICES,

Appellant,

v.

RENEE T. SLUSHER, Commissioner, Administrative Hearing Commission,

Respondent.

DOCKET NUMBER WD84247

Date: May 18, 2021

Appeal from:

Cole County Circuit Court
The Honorable John E. Beetem, Judge

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick and W. Douglas Thomson, Judges

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Attorneys:
James R. Layton, Joshua E. Douglas, Steven D. Hall, St. Louis for appellant.
Renee T. Duffield, Joshua L. Hill, Jefferson City for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI ex rel. MISSOURI DEPARTMENT OF HEALTH and SENIOR SERVICES, Appellant,

v.

RENEE T. SLUSHER, Commissioner, Administrative Hearing Commission, Respondent.

WD84247 Cole County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick and W. Douglas Thomson, Judges

The Missouri Department of Health and Senior Services ("the Department") appeals the circuit's court's judgment quashing its preliminary writ of prohibition and denying the Department's petition for a permanent writ of prohibition. The Department contends that it cannot be compelled to disclose data submitted by medical marijuana license applicants because the Missouri Constitution requires it to keep that information confidential.

AFFIRMED.

Division Four holds:

The circuit court did not err in quashing its preliminary writ of prohibition and denying the Department's petition for a permanent writ of prohibition. Article XIV, Section 1.3(5) of the Missouri Constitution expressly allows the constitutionally mandated confidential information in this case to be "used" for a purpose authorized by the section. Because an appeal to the Administrative Hearing Commission and the courts is authorized by Section 1.3(23), the plain language of Section 1.3(5) allows the confidential information to be used for the purpose of an appeal of a license denial. Furthermore, because Section 1.3(5) does not limit the use of the information in an appeal of a license denial, the information is subject to discovery as provided in 1 CSR 15-3.420, the regulation governing discovery in contested cases before the Administrative Hearing Commission. Therefore, Commissioner Slusher did not act outside of her authority by compelling the disclosure of the requested applicant data to Kings Garden, an applicant who is appealing a license denial.

Opinion by: Lisa White Hardwick, Judge May 18, 2021

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