

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN, Petitioner, v. IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES, Respondent.	No. _____ <i>PETITION FOR JUDICIAL REVIEW OF A FINAL AGENCY DECISION</i>
--	--

COMES NOW the Petitioner, Carl Olsen, by and through counsel, Colin Murphy, and in support of the Petition for Judicial Review of a Final Agency Decision, pursuant to Iowa Code section 17A.19, states:

1. The agency action that is the subject of the Petition for Judicial Review is the January 17, 2023 decision denying his application for a medical cannabidiol registration card under Iowa Code chapter 124E.
2. The decision is the final agency action of the Iowa Department of Health and Human Services (the “**Department**”) for purposes of judicial review under Iowa Code Chapter 17A and is attached as Exhibit 1.
3. Mr. Olsen is a resident of Polk County. Venue in Polk County is proper under Iowa Code section 17A.19(2).
4. The constitutional issues raised before the Department, namely that chapters 124 and 124E are neither neutral toward religion nor generally applicable due to the secular exemption for medical cannabidiol, now come full circle having previously been the subject of Olsen’s Petition for Declaratory Judgment in *Olsen v. Iowa Department of Public Health*, Polk County No. CVCVo62566, which was dismissed on exhaustion grounds on May 3, 2022.

5. Mr. Olsen preserved these issues for judicial review and has now exhausted any and all administrative remedies.
6. The Iowa Constitution and its federal counterpart recognize Mr. Olsen's fundamental rights to the free exercise of religion, due process and equal protection.
7. The Department is vested with the authority to administer the regulatory provisions of Chapter 124E.
8. The Department's action not to analyze Olsen's constitutional claims as part of his appeal of the denial of a medical cannabidiol registration card renders the decision unconstitutional on its face or as applied to Olsen. *See Iowa Code § 17A.19(10)(a) (2023).*
9. The action is also based on a provision of law, Iowa Code chapter 124E, which is unconstitutional on its face or as applied to Olsen. *See Iowa Code § 17A.19(10)(a) (2023).*
10. The action is the product of a decision-making process in which the Department did not consider a relevant and important matter relating to the propriety or desirability of the action in question that a rational decision maker in similar circumstances would have considered prior to taking that action. *See Iowa Code § 17A.19(10)(j) (2023).*
11. The action is not required by law and its negative impact on the private rights affected is so grossly disproportionate to the benefits accruing to the public interest from that action that it must necessarily be deemed to lack any foundation in rational agency policy. *See Iowa Code § 17A.19(10)(k) (2023).*

12. The action is otherwise unreasonable, arbitrary, capricious or an abuse of discretion. *See* Iowa Code § 17A.19(10)(n) (2023).

WHEREFORE, Petitioner Carl Olsen respectfully prays for a ruling on judicial review that remands this matter to the Iowa Department of Health and Human Services with an order to approve Mr. Olsen's application for a medical cannabidiol registration card and grants any other appropriate relief under the circumstances.

GOURLEY REHKEMPER LINDHOLM, P.L.C.

440 Fairway, Suite 210

West Des Moines, Iowa 50266

T: (515) 226-0500

F: (515) 244-2914

E-mail: ccmurphy@grllaw.com

By: /s/ Colin Murphy AT0005567

ATTORNEY FOR PETITIONER CARL OLSEN

Original filed.

Copy to:

Kelly Garcia, Director

Iowa Department of Health and Human Services, Fifth Floor

1305 East Walnut

Des Moines, Iowa 50319-0114