

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-1120**September Term, 2019****Filed On:** October 18, 2019

In re: Scottsdale Research Institute, LLC,

Petitioner

BEFORE: Millett, Pillard, and Wilkins, Circuit Judges**ORDER**

Upon consideration of the amended petition for writ of mandamus, the response thereto, the reply, and respondent's Rule 28(j) letter; and the motion to supplement the appendix, it is

ORDERED that the motion to supplement the appendix, and the Federal Register notice that petitioner seeks to include in the appendix, be construed as a Federal Rule of Appellate Procedure 28(j) letter advising of supplemental authority, because the Federal Register notice is a judicially noticeable public record document. Therefore, petitioner's motion to supplement the appendix was unnecessary. It is

FURTHER ORDERED that the amended petition for writ of mandamus be denied. In light of respondent's October 11, 2019 publication in the Federal Register of a corrected notice of petitioner's application to manufacture controlled substances in bulk, petitioner's request for a writ of mandamus directing respondent to issue a notice of application is now moot. See McBryde v. Comm. to Review, 264 F.3d 52, 55 (D.C. Cir. 2001) ("If events outrun the controversy such that the court can grant no meaningful relief, the case must be dismissed as moot."). Further, because respondent's publication of the corrected notice "is more accurately characterized as the provision of appropriate relief to petitioner than as the 'cessation of illegal conduct,'" the "voluntary cessation" exception to mootness does not apply here. Nat. Res. Def. Council v. Nuclear Regulatory Comm'n, 680 F.2d 810, 814 n.8 (D.C. Cir. 1982).

Finally, to the extent petitioner requests that this court retain jurisdiction over this case to ensure respondent's compliance with future statutory deadlines to act on its application, petitioner has not demonstrated a "history of chronic delay and [the agency's] repeated failure to meet its own projections," In re: Ctr. for Auto Safety, 793 F.2d 1346, 1354 (D.C. Cir. 1986), or that respondent has acted in bad faith, see In re: Monroe Commc'ns Corp., 840 F.2d 942, 947 (D.C. Cir. 1988). Denial of this aspect of the mandamus petition is without prejudice to renewal in the event of significant delay.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Amanda Himes

Deputy Clerk