

Majority Opinion >

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Norman Clement, Petitioner v. Drug Enforcement Administration, Respondent

No. 21-1262

May 25, 2022, Filed

PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

DEA-19-42.

BEFORE: Katsas, Rao, and Walker, Circuit Judges.

ORDER

Upon consideration of the motion for summary reversal, the supplements thereto, the opposition, the corrected reply, and the supplements to the reply; the motion to correct the record, the opposition thereto, the corrected reply, and the supplements to the reply; the motion to appoint counsel; and the appendix, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, petitioners are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED that the motion to correct the record be denied. Petitioner has not demonstrated "unusual circumstances" warranting such relief. See *Mozilla Corp. v. FCC*, 940 F.3d 1 , 61 , 444 U.S. App. D.C. 24 (D.C. Cir. 2019). It is

FURTHER ORDERED that the motion for summary reversal be denied, and, on the court's own motion, that the petition for review be summarily denied. Petitioner's filing of a motion for summary reversal placed the merits of the petition for review before the court. The merits of the parties' positions are so clear as to warrant summary action. See *Cascade Broadcasting Group, Ltd. v. FCC*, 822 F.2d 1172 , 1174 , 262 U.S. App. D.C. 110 (D.C. Cir. 1987) (*per curiam*).

Petitioner has not shown that the Drug Enforcement Administration's ("DEA") decision published on November 18, 2021, revoking Pronto Pharmacy, LLC's registration to dispense controlled substances, was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A) ; Morall v. DEA, 412 F.3d 165 , 177 , 366 U.S. App. D.C. 383 (D.C. Cir. 2005). The DEA's conclusion that revocation was warranted because the pharmacy had committed acts rendering its registration inconsistent with the public interest was supported by substantial evidence. See 21 U.S.C. §§ 823(f) , 824(a)(4) ; Masters Pharm., Inc. v. DEA, 861 F.3d 206 , 215 , 430 U.S. App. D.C. 47 (D.C. Cir. 2017). In addition, petitioner has not shown that the DEA's interpretation of the Controlled Substances Act, 21 U.S.C. § 801 , et seq., was "arbitrary, capricious, or manifestly contrary to the statute," Wedgewood Vill. Pharmacy v. DEA, 509 F.3d 541 , 549 , 379 U.S. App. D.C. 14 (D.C. Cir. 2007), or that the DEA subjected Pronto Pharmacy, LLC to unfair or unequal treatment.

Pursuant to D.C. Circuit Rule 36 , this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b) ; D.C. Cir. Rule 41 .

Per Curiam