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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**Damon Monyer and the
Pennsylvania Cannabis Coalition,**

Petitioners,

v.

23rd Judicial District, Berks County,

Respondent.

**No. _____
Original Jurisdiction**

NOTICE TO PLEAD

To the 23rd Judicial District, Berks County: You are hereby notified to file a written response to the Petitioners' enclosed Petition for Review within twenty (20) days from service hereof, or such other time as the Court prescribes, or judgment may be entered against you.

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days, or

within the time set by order of the court, after this petition for review and notice are served, by entering a written appearance personally or by attorney

and filling in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to

you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Berks County Bar Association Lawyer
544 Court Street
P.O. Box 1058
Reading, PA 19603
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**PETITION FOR REVIEW
ADDRESSED TO THE COURT'S ORIGINAL JURISDICTION**

I. SUMMARY OF THE LAWSUIT

1. Recognizing the significant health benefits that marijuana can provide to individuals with serious medical conditions, Pennsylvania legalized medical marijuana in 2016 through the Medical Marijuana Act (“MMA”). Under the MMA, individuals with serious medical conditions can use medical marijuana after registering with the state and obtaining a doctor’s certification. The law contains an immunity provision that protects patients from arrest, prosecution, or any manner of penalty and prohibits patients from being denied any right or privilege for using medical marijuana.

2. Despite these broad legal protections for individuals who use medical marijuana, the 23rd Judicial District, sitting in Berks County, has adopted two

policies that limit or entirely prohibit individuals who use medical marijuana from being admitted to and participating in the Judicial District's four problem-solving court programs.¹ The first such policy, which applies in the Judicial District's Mental Health Treatment Court and Veterans Treatment Court, flatly prohibits individuals from using medical marijuana in those programs. The other policy, which applies in the Judicial District's Drug Treatment Court and DUI Treatment Court, permits individuals to use medical marijuana only if they can prove to the presiding judge's satisfaction that they have a medical necessity to use medical marijuana. This lawsuit challenges both of those policies as illegal under Pennsylvania law.

3. The result of the policy governing Veterans Treatment Court is emblematic of the problems caused by these unlawful restrictions on lawful medical marijuana use, as it prevents veterans like Petitioner Damon Monyer from accessing the benefits of the program. The policy also runs counter to the Veterans Treatment Court's mission "to divert our combat veterans from the traditional criminal justice system and provide them with comprehensive rehabilitative services that address substance abuse, mental health, or adjustment issues that have

¹ The Judicial District's four problem-solving court programs are: (1) Mental Health Treatment Court, (2) Veterans Treatment Court, (3) Drug Treatment Court, and (4) DUI Treatment Court. As is relevant to medical marijuana use, the Mental Health Treatment Court and Veterans Treatment Court use the same policy, while the Drug Treatment Court and DUI Treatment Court follow a different, but also unlawful, policy.

occurred in correlation with their military service,” and its goals “to honor the service of our veterans, reduce recidivism, improve community relations, and restore our military heroes to productive, successful, law-abiding lives.” *See* Exhibit A, Veterans Treatment Court Participant Handbook.²

4. Despite this mission, the Veterans Treatment Court policy has excluded Petitioner Damon Monyer solely because he uses medical marijuana.

5. Mr. Monyer is a decorated United States Air Force combat veteran of the Iraq War. As a result of his military service, Mr. Monyer has post-traumatic stress disorder (“PTSD”) and chronic pain. At the recommendation of his doctor, Mr. Monyer uses medical marijuana to manage these disabilities, which has been invaluable and allowed him to end his use of pain medications and regain some normalcy in his life.

6. In 2020, the Supreme Court of Pennsylvania unanimously ruled in *Gass v. 52nd Judicial District* that individuals under court supervision were “patients” under the MMA and entitled to broad immunity from arrest, prosecution, or the denial of any right or privilege based solely on their use of medical marijuana. Accordingly, the Court held that judicial districts could not deny individuals who lawfully use medical marijuana the privilege of probation, as

² A true and correct copy of the Veterans Treatment Court Participant Handbook is attached as Exhibit A.

such a denial was “contrary to the immunity accorded by Pennsylvania’s Medical Marijuana Act” and could not be enforced. *Gass v. 52nd Judicial District*, 232 A.3d 706, 715 (2020). Nor, could judicial districts require that individuals prove a “medical necessity” before being allowed to use medical marijuana while on court supervision. *Id.*

7. The Court’s decision in *Gass* is controlling. Like probation, participation in Respondents’ problem-solving courts is a privilege protected by the MMA. The 23rd Judicial District cannot condition individuals’ admission or participation in these programs on abstaining from the lawful use of medical marijuana, nor can they pick and choose which participants may use medical marijuana. Under *Gass*, both of the policies governing medical marijuana use in Respondent’s treatment courts are illegal.

8. In light of the MMA’s clear language barring policies like the ones issued by the 23rd Judicial District, Petitioners seek an order declaring the policies unenforceable.

9. Mr. Monyer, who faces irreparable harm, also seeks special relief in the form of a preliminary injunction restraining enforcement of the Veterans Treatment Court policy so that he may be admitted to Veterans Treatment Court and continue his lawful use of medical marijuana while participating in the program.

II. JURISDICTION

10. This Court has original jurisdiction over this Petition for Review pursuant to 42 Pa.C.S. § 761(a)(1). *See Gass v. 52nd Judicial District, Lebanon County*, 223 A.3d 212, 212-13 (Pa. 2019) (challenge to court’s medical marijuana policy is properly brought in the Commonwealth Court).

III. PARTIES

11. Petitioner Damon Monyer is a 39-year-old resident of Reading, Pennsylvania, in Berks County and a veteran of the United States Air Force. He qualifies in all respects for participation in the 23rd Judicial District’s Veterans Treatment Court program, but for the Judicial District’s unlawful policy of excluding individuals who use medical marijuana.

12. Petitioner the Pennsylvania Cannabis Coalition (“PCC”) is a trade association under section 501(c)(6) of the Internal Revenue Code, which is headquartered in Harrisburg, Pennsylvania and is comprised of Pennsylvania medical marijuana permit holders and industry partners. PCC works with state and local officials to ensure that as cannabis laws evolve, they have a positive impact on jobs, taxes, patient access, and the overall cannabis industry. PCC members supply medical marijuana to individuals throughout the Commonwealth of Pennsylvania who are certified to use medical marijuana. PCC members supply medical marijuana to Mr. Monyer and others located in the 23rd Judicial District

who are and will be affected by the policies at issue. Both their professional and economic interests are and will be adversely affected if the challenged policies force their current and prospective clients to discontinue medical marijuana use.

13. Respondent, the 23rd Judicial District, is the judicial district of Pennsylvania’s Unified Judicial System that includes the Berks County Court of Common Pleas, and the problem-solving courts thereof, including Drug Treatment Court, DUI Treatment Court, Mental Health Court, and Veterans Treatment Court.

14. Each of the District’s problem-solving courts has a mission that is consistent with the purposes of the MMA and antithetical to the programs’ respective policies that disadvantage medical marijuana users:

- a. The mission of the 23rd Judicial District’s Mental Health Court is to “integrate substance abuse/mental health treatment with the justice system for the promotion of public safety, individual responsibility, and reduction of substance abuse/mental health related recidivism.” Exhibit B at 1.³
- b. The mission of the 23rd Judicial District’s Veterans Treatment Court is to “divert our combat veterans from the traditional criminal justice system and provide them with comprehensive rehabilitative services

³ A true and correct copy of the Mental Health Treatment Court Participant Handbook is attached as Exhibit B.

that address substance abuse, mental health, or adjustment issues that have occurred in correlation with their military service.” Exhibit A, Veterans Treatment Court Participant Handbook at 1. “The goals of the program are to honor the service of our veterans, reduce recidivism, improve community relations, and restore our military heroes to productive, successful, law-abiding lives.” *Id.*

- c. The mission of the 23rd Judicial District’s Drug and DUI Treatment Courts is to “integrate substance abuse treatment with the justice system for the promotion of public safety, individual responsibility, and reduction of drug/alcohol related recidivism.” Exhibit C, Drug Treatment Court Handbook at 1; Exhibit D, DUI Treatment Court Handbook at 1.⁴

15. Both the Mental Health Treatment Court and the Veterans Treatment Court Participant Handbooks, which govern participation in those programs, state that each program “prohibits the use of all addictive medications.” Exhibit A at 14; Exhibit B at 13. Each handbook specifically lists medical marijuana among the prohibited medications. *Id.* The handbooks further state that if “a prescribing physician recommends that a client must be continuously maintained on prohibited

⁴ True and correct copies of the Drug Treatment Court Handbook and DUI Treatment Court Handbook are attached as Exhibits C and D, respectively.

prescriptions in order to sustain a certain quality of life, the client may no longer participate in Treatment Court.” *Id.*

16. The Drug Treatment Court Participant Handbook, which governs participation in that program, provides that:

Medical Marijuana use will be addressed on a case-by-case basis. Consideration for use should be accompanied by a letter addressed to the Court from a treating physician that details, diagnosis and medical necessity for use [sic]. Other factors that will be considered include but are not limited to prior history of illegal use, convictions relative to the substance, and prior treatment records.

Exhibit C at 13.

17. The DUI Treatment Court is governed by the same policy that governs Drug Treatment Court. *See* Exhibit E, Treatment Court Policy on Narcotic Medications and Prohibited Substances (Revised 2-11-2022).⁵

IV. FACTUAL BACKGROUND

Damon Monyer

18. Mr. Monyer joined the United States Air Force in 2005 and served back-to-back combat deployments in Iraq. Mr. Monyer was a Tactical Air Control Party Specialist who provided fighter jet close-air support for infantry combat

⁵ Although the DUI Treatment Court Participant Handbook contains the same language used by the Mental Health and Veterans Treatment Court, stating that medical marijuana is banned, the DUI Treatment Court separately adopted a new policy on February 1, 2022, that uses the same exact language as the Drug Treatment Court Participant Handbook. A true and correct copy of that new policy is attached as Exhibit E.

units. He was honorably discharged in 2010. *See* Declaration of Damon Monyer (“Monyer Decl.”) at ¶ 2.

19. As a result of his service in the Air Force, Mr. Monyer has been diagnosed with a number of serious medical conditions, including post-traumatic stress disorder (“PTSD”), depression, anxiety, muscular-skeletal injuries, tinnitus, and bilateral hearing loss. *Id.* at ¶ 4. These mental and physical disabilities cause Mr. Monyer significant psychological and physical distress. *Id.* He experiences severe chronic pain, making it difficult to sleep. *Id.* at 8. The PTSD consumes his mental focus, as he relives the trauma of his combat experience. *Id.* at ¶ 10.

20. In 2018, Mr. Monyer saw a doctor who determined that Mr. Monyer was likely to receive therapeutic or palliative benefits from the use of medical marijuana. *Id.* at ¶ 5. As a result, Mr. Monyer obtained a medical marijuana identification card issued by the Commonwealth of Pennsylvania, Department of Health, which remains valid. *Id.* His use of medical marijuana comports with the requirements of the Medical Marijuana Act, and he does not use any marijuana that is not medical marijuana within the scope of the Act. *Id.* at ¶ 5, 7.

21. At the recommendation of his doctor, Mr. Monyer uses medical marijuana to treat his serious medical conditions. *Id.* at ¶ 5. Medical marijuana has allowed him to manage his pain without addictive pain medication. *Id.* at ¶ 9. It helps reduce the anxiety and depression associated with his PTSD and helps

control the triggers for the PTSD. *Id.* at ¶ 10. His sleep, appetite, and day-to-day socializing have all dramatically improved—factors that were not improved when he was using other medications. *Id.* at ¶ 11.

22. Mr. Monyer receives medical services from the Berks County Veteran’s Affairs Outpatient Clinic in Wyomissing, Pennsylvania (“Berks VA Outpatient Clinic”). *Id.* at ¶ 6. His treating physician and psychiatrist are aware of his medical marijuana use, which he has discussed with them. *Id.* His use of medical marijuana has not been an impediment to any of his medical treatment nor has the medical marijuana limited the services Berks VA Outpatient Clinic provides Mr. Monyer. *Id.*

23. The criminal incident that Mr. Monyer is alleged to have committed occurred on April 13, 2022. According to the charging documents, Mr. Monyer was intoxicated by alcohol in public. He was arrested and charged with summary offenses for public drunkenness and disorderly conduct. During a search of his belongings incident to his arrest, the police allegedly discovered a firearm. According to the charging documents, Mr. Monyer’s license to carry that firearm expired several months before his arrest, and as a result of that expiration, he was allegedly carrying the weapon on his person unlawfully. He was subsequently charged in CP-06-CR-0002140-2022 with a third-degree felony of carrying a

firearm without a license in addition to the summary offenses for disorderly conduct and public drunkenness.

24. After these charges were brought, Mr. Monyer incorrectly assumed that he had to stop using medical marijuana as he went through the criminal justice system. Monyer Decl. at ¶ 12. He tried to taper his use and finally quit cold-turkey in early December 2022. *Id.* Almost immediately thereafter, he had a psychotic breakdown and considered suicide. *Id.* Resuming medical marijuana, however, has once again stabilized his health. *Id.*

25. As a first-time, non-violent offender, Mr. Monyer applied for Accelerated Rehabilitative Disposition (“ARD”). That application was denied by the District Attorney on September 8, 2022. Mr. Monyer’s criminal defense attorney, Alexander Lassoff, Esq., then requested reconsideration of the denial.

26. The District Attorney’s Office informed Mr. Monyer’s attorney that Mr. Monyer should apply to Veterans Treatment Court because the District Attorney believed it would be a better fit for Mr. Monyer than the ARD program.

27. Mr. Monyer submitted an application for admission to Veterans Treatment Court on December 5, 2022.

28. Mr. Monyer e-mailed Adult Probation Officer Rudy Leon on January 11, 2023, asking if there had been “a decision made for acceptance into the program.” Mr. Leon responded: “I believe you will be getting accepted into

Veterans Court. You should be getting an order from the court indicating when you will need to report to court for admission. Your attorney should follow up with you.” *See* Exhibit F, Emails Between Mr. Monyer and Mr. Leon.⁶

29. On or about the same day, Mr. Monyer spoke with Gelu Negrea, the Veteran’s Justice Outreach Specialist at the Veteran’s Administration who serves as a liaison between the Veterans Treatment Court and the VA. Mr. Negrea explained that Mr. Monyer would be accepted into Veterans Treatment Court and would have a grace period to wean off of medical marijuana while he tried new medication. Monyer Decl. at ¶ 15. Mr. Negrea explained that this would all be part of a treatment plan that would go into effect after Mr. Monyer was admitted to Veterans Treatment Court. *Id.*

30. Believing he had no choice if he wanted to receive the benefits of Veterans Treatment Court, Mr. Monyer was willing to try a different medication that would provide the same relief from his PTSD and chronic pain as medical marijuana. *Id.* at ¶ 16.

31. On February 2, 2023, Mr. Monyer’s attorney, Alexander Lassoff, spoke with ADA Kenneth Kelecic, the ADA who handles admissions to Veterans Treatment Court. Mr. Kelecic informed Mr. Lassoff that Mr. Monyer had not yet

⁶ A true and correct copy of the January 2023 e-mail exchange between Mr. Monyer and Mr. Leon is attached as Exhibit F.

been admitted to the program in January because Veterans Treatment Court was still developing a treatment plan for Mr. Monyer, but he would likely be admitted on February 6 or March 6, 2023.

32. As a result of that conversation, Mr. Lassoff sought a continuance of the underlying criminal case. He e-mailed the court on February 2, 2023, noting: “I was advised that the defendant is most likely approved and would be formally admitted on 3/6/23. As such, I would like to request a further status date after 3/6/23.” ADA Riccio responded: “That is correct – no objections.”

33. Mr. Monyer was not admitted into Veterans Treatment Court in February or March, and the Veterans Treatment Court had still not created a treatment plan for Mr. Monyer.

34. Adult Probation Officer Paige MacBain wrote to Mr. Lassoff on March 8, 2023 that:

The team reviewed his application again on 3/1 and it was determined that Gelu Negrea, the Veteran Justice Outreach Coordinator, needs to meet with Mr. Monyer before his application is officially accepted to develop a treatment plan. Once this is completed, we will move forward accepting Mr. Monyer into the program.

*See Exhibit G, E-mails Between Alexander Lassoff and Paige MacBain.*⁷

⁷ A true and correct copy of the March 2023 e-mail exchange between Mr. Lassoff and Ms. MacBain is attached as Exhibit G.

35. Complying with Probation Officer MacBain's instructions, Mr. Monyer e-mailed Mr. Negrea that same day. They spoke on March 14, 2023. Mr. Negrea told Mr. Monyer to expect a call from the court with an acceptance decision later that week.

36. When Mr. Monyer had not received any notice regarding his acceptance in Veterans Treatment Court by March 23, 2023, Mr. Lassoff contacted ADA Kelecic for an update on the status of Mr. Monyer's application.

37. At that point, the District Attorney's office made clear that the only barrier to Mr. Monyer's entry into Veterans Treatment Court was his medical marijuana use. ADA Kenneth Kelecic responded to Mr. Lassoff's inquiry on March 23 by e-mail:

I wanted to touch base with you about Mr. Monyer. He is still pending admission into treatment court.

He is basically ready for admission from a legal and treatment plan standpoint. The only holdup is his use of medical marijuana. As Mr. Monyer is entering Veteran's Court and his treatment is through the VA, he is required to abide by the VA's rules regarding medical marijuana., [sic] which do not allow him to use.

As such, he has apparently agreed to discontinue his use while in the program. We would like to test him in order to see that his levels are coming down before we do the formal admission. He will need to get in contact with APO Paige McBain in order to set up a time to come in. I have copied her on this email. Once we have a few tests where his levels are diminishing, we can set a date for formal admission.

If you could get in contact with your client to arrange this, I would greatly appreciate it.

See Exhibit H, E-mail from Kenneth Kelecic.⁸

38. Mr. Kelecic's e-mail regarding the VA's position on medical marijuana use is inaccurate.

39. Consistent with Mr. Monyer's own experiences, the United States Department of Veterans Affairs does not deny medical or other services to veterans who use medical marijuana in accordance with state law.

40. According to Veterans Health Administration ("VHA") Directive 1315, it is VHA policy that:

- a. VHA providers and/or pharmacists discuss with the Veteran marijuana use, due to its clinical relevance to patient care, and discuss marijuana use with any Veterans requesting information about marijuana;
- b. To comply with Federal laws such as the Controlled Substances Act (Title 21 United States Code (U.S.C.) 801 et. al.), VHA providers are prohibited from completing forms or registering Veterans for participation in a State-approved marijuana program; and,
- c. VHA providers and/or pharmacists should discuss with patients how their use of State-approved medical marijuana to treat medical or psychiatric symptoms or conditions may relate to the Veterans participation in other clinical activities, (e.g., discuss how marijuana may impact other aspects of the overall care of the Veteran such as how marijuana may interact with other medications the Veteran is taking, or how the use of marijuana may impact other aspects of the overall care of the Veteran such as pain management, Post-Traumatic Stress Disorder (PTSD), or substance use disorder treatment).

⁸ A true and correct copy of the March 23, 2023 e-mail from Mr. Kelecic is attached as Exhibit H.

41. Directive 1315 explains that Veterans Affairs prohibits its providers from completing the paperwork to register a veteran for medical marijuana, but it explains that doctors should discuss medical marijuana use as part of an overall treatment plan.

42. Put more plainly, the Veterans Affairs website “VA and Marijuana – What Veterans need to know” unequivocally states that the use of medical marijuana is not a bar to accessing care and services:

Veteran participation in state marijuana programs does not affect eligibility for VA care and services. VA providers can and do discuss marijuana use with Veterans as part of comprehensive care planning, and adjust treatment plans as necessary.

Some things Veterans need to know about marijuana and the VA:

- Veterans will not be denied VA benefits because of marijuana use.
- Veterans are encouraged to discuss marijuana use with their VA providers.
- VA health care providers will record marijuana use in the Veteran’s VA medical record in order to have the information available in treatment planning. As with all clinical information, this is part of the confidential medical record and protected under patient privacy and confidentiality laws and regulations.

See Exhibit L, “VA and Marijuana – What Veterans need to know” Webpage.⁹

43. There is no basis to prohibit entry to Veterans Treatment Court based on a concern that a participant’s use of medical marijuana will prevent that individual from receiving services from Veterans Affairs.

⁹ A true and correct copy of this webpage is attached as Exhibit L.

44. Attempting to follow the instructions laid out in ADA Kelecic's e-mail, Mr. Monyer scheduled a drug test with Probation Officer MacBain for March 31, 2023.

45. When Mr. Monyer appeared for the drug test, he informed Probation Officer MacBain that he was still using medical marijuana, which would come up as positive on the drug test, because he had not yet been prescribed new medication to take in order to stop using medical marijuana. Monyer Decl. at ¶ 19.

46. Probation Officer MacBain told Mr. Monyer that there was no reason to have the drug test because of the medical marijuana use and sent him home. *Id.* at ¶ 19.

47. Neither Probation Officer MacBain nor any other individuals associated with Veterans Treatment Court asked Mr. Monyer to submit to another drug test. *Id.* at ¶ 20.

48. Following Mr. Monyer's appointment with Probation Officer MacBain, Mr. Negrea informed Mr. Monyer for the first time that he would have to stop using medical marijuana to be admitted to Veterans Treatment Court. *Id.* at ¶ 23. This was inconsistent with what Mr. Negrea had previously told Mr. Monyer—namely, that he would only need to stop using medical marijuana *after* he was admitted into Veterans Treatment Court and started a new medication. *Id.*

49. Mr. Monyer agreed, as long as he could start a new medication before stopping the medical marijuana, in light of the difficulties he faced (including a psychotic breakdown and suicidal ideation) when he tried to stop using medical marijuana previously. *Id.* at ¶ 22. His primary care physician at the Berks VA Outpatient Clinic had also told him that he should not quit medical marijuana cold turkey without a suitable replacement medication. *Id.* at ¶ 26.

50. Mr. Negrea worked with Mr. Monyer to schedule an appointment to see a psychiatrist at the Berks VA Outpatient Clinic. *Id.* at ¶ 23. The initial earliest appointment was for May 11, 2023, but the Berks VA Outpatient Clinic then cancelled and rescheduled the appointment for July 3. *Id.* at ¶ 24.

51. Mr. Negrea urged Mr. Monyer to see a Veterans Affairs psychiatrist as soon as possible and to try to get an emergency appointment at the Veterans Affairs Hospital in Lebanon County to explore different medication options. *Id.* at ¶ 24. Mr. Monyer declined because he was not experiencing an emergency at that time, and he reasonably feared that, due to VA policy, if he began treatment at the Lebanon County VA Hospital, then he would have to continue taking on the burden of traveling there for additional appointments with the same psychiatrist. *Id.* at ¶ 25.

52. Mr. Monyer is unemployed and does not have a car, so it is difficult for him to travel to Lebanon County. *Id.* at ¶ 25.

53. In addition, Mr. Monyer currently receives services from the Berks County VA outpatient facility and wishes to continue receiving services at that facility from doctors and other medical providers with whom he has a relationship.

54. Mr. Monyer was ultimately able to get a speedier psychiatric appointment at the Berks County VA facility due to a cancellation and saw a psychiatrist on April 26, 2023. *Id.* at ¶ 25. When he met with the psychiatrist, she expressed concern that the Veterans Treatment Court was trying to make Mr. Monyer stop using medical marijuana. *Id.* at ¶ 26. She prescribed Thorazine to help treat the PTSD. *Id.*

55. Mr. Monyer informed Mr. Negrea the same day that his psychiatrist had prescribed him Thorazine that would be delivered by mail. *Id.* at ¶ 27. Mr. Monyer said in the email to Mr. Negrea, “If it works for me, then I can stop using medical marijuana.”

56. Before Mr. Monyer was able to start the new medication, the 23rd Judicial District denied his application for Veterans Treatment Court. *Id.* at ¶ 28.

57. On May 3, 2023, the Berks County Court of Common Pleas issued an order stating that Mr. Monyer’s application was “[d]enied due to failure to comply

with pretrial services.” *See* Exhibit I, May 3, 2023 Order Denying Admission to Veterans Treatment Court.¹⁰

58. The only basis for the court’s denial of Mr. Monyer’s application for admission to Veterans Treatment Court was his continued, lawful use of medical marijuana. Monyer Decl. at ¶ 29.

59. The same day that Mr. Monyer learned of the court’s order denying him admission to Veterans Treatment Court was the day that the prescribed Thorazine arrived for him in the mail. *Id.* at ¶ 30.

60. Following the May 3 order, Mr. Lassoff spoke with ADA Kelecic, who suggested that Mr. Monyer reapply for Veterans Treatment Court. Mr. Lassoff submitted that reapplication on May 11, 2023. ADA Kelecic responded that he was “hoping as well that we can get him entered into the program on June 7.” *See* Exhibit H.

61. The Veterans Treatment Court initially scheduled a meeting to discuss Mr. Monyer’s reapplication for June 7, 2023, but it canceled the meeting and instead scheduled the reapplication to be heard in open court on July 20, 2023.

62. Mr. Monyer’s reapplication to Veterans Treatment Court is still pending, and he has not been accepted into the program.

¹⁰ A true and correct copy of the May 3, 2023 order denying Mr. Monyer’s application for Veterans Treatment Court is attached as Exhibit I.

63. Since Mr. Monyer received the Thorazine in May, he has been using it in conjunction with medical marijuana to treat his PTSD symptoms, and he has reduced his use of medical marijuana. Monyer Decl. at ¶ 32. The Thorazine does have some positive effect on some of his symptoms—it addresses the physical response his PTSD brings on, by reducing the adrenaline and hyperventilation caused by panic attacks. *Id.* However, the Thorazine does not change the mental responses caused by PTSD, such as the triggers for the PTSD, the way his mind focuses on reliving the trauma, and his mental reactions thereto. *Id.* Only the medical marijuana addresses those aspects of the PTSD, as well as the physical chronic pain from which he suffers. *Id.* at ¶ 32-33.

64. Respondent's Veterans Treatment Court policy plainly prohibits the use of medical marijuana, so Mr. Monyer reasonably expects that his application will be once again denied because he continues to use medical marijuana, even after months of trying to comply with the various instructions received from court personnel and attempting in vain to find a suitable alternative to medical marijuana. *Id.* at ¶ 34.

65. Upon information and belief, the sole reason that Mr. Monyer has not been admitted into Veterans Treatment Court is due to his lawful use of medical marijuana.

The Pennsylvania Cannabis Coalition

66. PCC is a trade association that is comprised of approximately 75% of the permit holders statewide who are authorized to dispense medical marijuana to patients, including patients located within the 23rd Judicial District.

67. Under the MMA, patients can only purchase medical marijuana from a permitted medical marijuana dispensary. *See* 28 Pa. Code § 1191a.31(a). The MMA represents a complex and thorough regulatory system that regulates medical marijuana dispensaries and only permits them to operate and earn revenue in accordance with the requirements of the MMA. These regulations put the medical marijuana dispensaries, including PCC's members, within the realm of the interests that are protected and regulated by the MMA.

68. In addition, its membership includes six clinical registrants, who perform research on medical marijuana and its treatment for specific medical conditions in partnership with Academic Clinical Research Centers affiliated with Pennsylvania's medical colleges, and fifteen growers/processors, who grow and process medical marijuana.

69. Part of PCC's mission is education and advocacy on behalf of its members. PCC educates legislators and policymakers about medical marijuana—both the potential medical benefits and how the MMA works in practice. The PCC also helps inform patients about the MMA.

70. PCC's member medical marijuana dispensaries are directly harmed by the 23rd Judicial Districts policies that prohibit all or some individuals in the district's treatment courts from using medical marijuana.

71. PCC's members experience a substantial, direct, and immediate professional and financial harm due to the 23rd Judicial District's policy. By forcing patients to forego medical marijuana treatment, the policy prevents PCC members from providing access to patients who need medical marijuana, which leads to a loss of revenue when individuals who participate in treatment court can no longer purchase medical marijuana from PCC's members. The professional and financial harms are not felt by the public at large but only by PCC's member medical marijuana dispensaries. It is the 23rd Judicial District's policies that directly prohibit individuals from using medical marijuana, which causes them to not purchase it from PCC's member medical marijuana dispensaries. PCC's member medical marijuana dispensaries have and are presently suffering this professional and financial harm from the 23rd Judicial District's policies.

72. In Berks County, there are four licensed dispensaries: (i) Beyond Hello Cannabis Dispensary at 300 Cherry Street, Reading PA 19602; (ii) Sunnyside Medical Cannabis Dispensary at 208 N. Park Road, Unit 1, Wyomissing, PA 19610; (iii) Trulieve at 3325 N 4th Street Hwy, Suite 1, Reading, PA 19605; and (iv) Trulieve at 201 Lancaster Avenue, Reading, PA 19611. These

are the only places within the 23rd Judicial District where patients may lawfully purchase medical marijuana.

73. Three of these dispensaries—the Sunnyside Medical Cannabis Dispensary and the two Trulieve dispensaries—are PCC members.

74. Individuals who currently participate in the 23rd Judicial District’s problem-solving court programs forego the purchase of medical marijuana they need to treat their serious medical conditions from PCC member dispensaries because the 23rd Judicial District’s policies prevent them from using medical marijuana. If the policies remain, other individuals will be forced to forgo the purchase of medical marijuana needed to treat serious medical conditions in the future.

75. If not for the 23rd Judicial District’s policies, some of those individuals would purchase medical marijuana from PCC member dispensaries in Berks County.

76. PCC’s members have and continue to directly suffer professional and financial harm as a consequence of the 23rd Judicial District’s policies that prevent some or all individuals in problem-solving court treatment court programs from using medical marijuana.

77. A typical patient spends approximately \$200 per month on medical marijuana at one of the licensed dispensaries.

78. Mr. Monyer purchases his medical marijuana from a PCC-member Trulieve dispensary in Reading. Trulieve’s mission is to “provide compassionate care patients can trust when traditional medicine is not enough.” In an attempt to comply with the Veterans Treatment Court requirements ahead of the decision on his application for readmission, Mr. Monyer tapered and reduced his medical marijuana use when he started using Thorazine. As a result, he has purchased less medical marijuana from Trulieve, which has interfered with Trulieve’s capacity to provide care and caused Trulieve to have a drop in revenue. Moreover, stopping use of medical marijuana to comply with the Veterans Treatment Court policy, so that he may be admitted based on his pending reapplication, would result not only in medical harm to Mr. Monyer, but also further professional harm and loss in revenue for that PCC member.

79. On information and belief, Laysia Santa was a participant in the 23rd Judicial District’s DUI Treatment Court until her removal from that program on March 16, 2023. She purchased medical marijuana from a PCC-member Trulieve dispensary in Reading and another dispensary in Pottstown. Ms. Santa was removed from DUI Treatment Court as a result of her lawful medical marijuana use because the court did not believe he had established a “medical necessity” for use. Ms. Santa was jailed for several months as a result of this action, during which time she could not purchase medical marijuana.

80. The DUI Treatment Court’s policy preventing Mr. Santa from using medical marijuana caused professional harm and a loss in revenue to that PCC member, directly harming it.

81. On information and belief, other individuals are not using medical marijuana and will not use medical marijuana solely as a result of the 23rd Judicial District’s policies that prevent some or all individuals in problem-solving court treatment court programs from using medical marijuana. Each person who cannot use medical marijuana cannot purchase it from PCC’s member dispensaries in Berks County and around the state.

82. Judge Eleni Geishauser, a judge on the Berks County Court of Common Pleas who oversees the DUI Treatment Court, has confirmed that, while some individuals in that the 23rd Judicial District’s problem-solving court are permitted to use medical marijuana, others like Ms. Santa have been prohibited and punished for their use of medical marijuana. As she explained to Ms. Santa, the “Court has already determined that you are not authorized, unlike others in this court.” Exhibit J, *Commonwealth v. Santa*, CP-06-CR-2852-2021, Notes of Testimony at 11:5-8 (March 2, 2023).¹¹

¹¹ A true and correct copy of this transcript is attached as Exhibit J.

83. On information and belief, Mr. Monyer and Ms. Santa are just two examples, as the 23rd Judicial District treatment court programs have prevented other individuals to use medical marijuana while they participate.

84. On information and belief, the 23rd Juridical District treatment court programs are presently and will continue to prevent individuals from using medical marijuana, which will cause additional losses of revenue to PCC members in Berks County and around the state.

V. LEGAL BACKGROUND

Medical Marijuana Was Legalized in Pennsylvania in 2016 and Is Highly Regulated by the Commonwealth

85. In 2016, the Pennsylvania General Assembly overwhelmingly passed Act 16 of 2016, the MMA. The law established a medical marijuana program that allows individuals in Pennsylvania access to a “therapy that may mitigate suffering in some patients and also enhance [their] quality of life,” while also protecting patient safety. 35 P.S. § 10231.102.

86. Under the MMA, only Pennsylvanians who have a serious medical condition and who are under the continuing care of a qualified physician are eligible to use medical marijuana. 28 Pa. Code § 1141.21.

87. A patient under the terms of the Act is a person who: (1) has a serious medical condition; (2) has met the requirements for certification under this act; and (3) is a resident of the Commonwealth. See 35 P.S. § 10231.103.

88. The current list of covered conditions is limited to:

- Amyotrophic lateral sclerosis
- Anxiety disorders
- Autism
- Cancer, including remission therapy
- Crohn's disease
- Damage to the nervous tissue of the central nervous system (brain-spinal cord) with objective neurological indication of intractable spasticity, and other associated neuropathies
- Dyskinetic and spastic movement disorders
- Epilepsy
- Glaucoma
- HIV / AIDS
- Huntington's disease
- Inflammatory bowel disease
- Intractable seizures
- Multiple sclerosis
- Neurodegenerative diseases
- Neuropathies
- Opioid use disorder for which conventional therapeutic interventions are contraindicated or ineffective, or for which adjunctive therapy is indicated in combination with primary therapeutic interventions
- Parkinson's disease
- Post-traumatic stress disorder
- Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain
- Sickle cell anemia
- Terminal illness
- Tourette Syndrome

35 P.S. § 10231.103 (defining “serious medical condition”).¹²

89. Access to medical marijuana is highly controlled in Pennsylvania. To gain access to medical marijuana, an individual must first register with the state-run Medical Marijuana Registry (“the Registry”). 28 Pa. Code § 1191.22(a–b); *see also* 28 Pa. Code § 1191.28. The Registry collects information such as legal name, current address, and contact information. *See* 35 P.S. § 10231.501(c). An individual must also have a Pennsylvania driver’s license or ID card issued by the Pennsylvania Department of Transportation to register for the medical marijuana program. 28 Pa. Code § 1191.25(b)(2).

90. After successfully registering, an individual must then have a consultation with a physician approved by the Pennsylvania Department of Health. 35 P.S. §§ 10231.401(a–b). The physician then issues a certification verifying, *inter alia*, (i) the individual has a qualifying serious medical condition; (ii) the individual will remain under the physician’s continuing care; and (iii) it is likely the patient will receive therapeutic benefit from the use medical marijuana. *See* 35 P.S. §§ 10231.501(a), 10231.403(a).

¹² The Department of Health also added anxiety disorders and Tourette syndrome as approved medical conditions as of July 20, 2019. This change is reflected on the Pennsylvania Department of Health’s website, but has not been formally codified yet. *See* PA. DEP’T OF HEALTH, *Getting Medical Marijuana*, <https://www.pa.gov/guides/pennsylvania-medical-marijuana-program/>.

91. Physicians who issue certifications may set forth recommendations, requirements, or limitations as to the form or dosage of a medical marijuana product on the patient certification. 35 P.S. § 10231.403(b)(6).

92. Once certified by an approved physician, individuals may complete their application for a medical marijuana ID card with the Pennsylvania Department of Health's registry. Medical marijuana ID cards must be renewed annually. 28 Pa. Code §§ 1191.28(d)(1), 1191.29(a).

93. Only after an individual has gone through all of these steps, and only after an individual has received a medical marijuana ID card, may she or he purchase medical marijuana from a dispensary. 28 Pa. Code § 1191a.31(a–b).

94. Medical marijuana products must have a specific concentration of total THC and total CBD, and must have a consistent cannabinoid profile. The concentration of 10 different cannabinoids must be reported to the Department by an approved laboratory and be included on the product label. 28 Pa. Code § 1151.29(a).

95. A dispensary may not dispense an amount of medical marijuana product greater than a 90-day supply to a patient or caregiver, until the patient has exhausted all but a 7-day supply provided pursuant to the patient certification currently on file with the Department. 28 Pa. Code § 1161.24(b). 35 P.S. § 10231.801(e).

96. Prior to dispensing the product, the dispensary employee must prepare a receipt of the transaction and file it with the Department using the electronic tracking system. The receipt must include all of the following information: the name, address and any permit number assigned to the dispensary by the Department; the name and address of the patient and, if applicable, the patient's caregiver; the date the medical marijuana product was dispensed; any requirement or limitation noted by the practitioner on the patient's certification as to the form of medical marijuana product the patient should use; and the form and the quantity of medical marijuana product dispensed. 28 Pa. Code § 1161.23(c). A copy of this receipt must also be given to the patient and/or caregiver, unless that individual declines a receipt. *Id.*

97. The MMA allows the Department to notify any appropriate law enforcement agency of information relating to any violation or suspected violation of the Act and directs the Department to verify to law enforcement personnel whether a certification, permit, registration or an identification card is valid, including release of the name of the patient. 35 P.S. § 10231.1103.

98. If the Department determines that a patient intentionally, knowingly or recklessly violates any provision of the MMA, it can suspend or revoke the identification card of the patient. *Id.* at § 10231.509.

99. The MMA makes it a misdemeanor of the second degree for a patient to intentionally, knowingly or recklessly provide medical marijuana to a person who is not lawfully permitted to receive medical marijuana. *Id.* at § 10231.1304.

The MMA’s Immunity Provision

100. A core component of the MMA is its broad protection for patients from any form of punishment, or the denial of rights or privileges, stemming from their lawful use of medical marijuana. To that end, the MMA protects from governmental sanctions not only patients, but also doctors, caregivers, and others involved in lawful practice under the MMA. According to the MMA, “none” of those individuals:

shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a Commonwealth licensing board or commission, solely for lawful use of medical marijuana or manufacture or sale or dispensing of medical marijuana, or for any other action taken in accordance with this act.

35 P.S. § 10231.2103(a).

101. Section 10231.2103(a) prohibits *any* arrest, prosecution or other penalty. Likewise, medical marijuana patients cannot be denied *any* right or privilege for using medical marijuana under this Section.

102. Applying this provision, the Pennsylvania Supreme Court in *Gass v. 52nd Judicial District* held that a policy denying individuals who lawfully use medical marijuana the privilege of probation was “contrary to the immunity

accorded by Pennsylvania’s Medical Marijuana Act” and could not be enforced.
232 A.3d at 715.

103. In *Gass*, the Supreme Court ruled that two versions of a policy regulating the use of medical marijuana by the 52nd Judicial District were illegal. The first policy banned the use of medical marijuana outright for anyone on probation, and the second policy permitted individuals to present evidence at a hearing to “prove medical necessity” of the medical marijuana use. In rejecting both policies, the Court wrote:

The Policy, both in its original and amended forms, fails to afford sufficient recognition to the status of a probationer holding a valid medical marijuana card as a patient, entitled to immunity from punishment, or the denial of any privilege, solely for lawful use. See 35 P.S. § 10231.2103(a). . . . In terms of the amended Policy, the Court deems the affordance of a hearing -- in which probationers bear the burden of overcoming this presumption by proving medical necessity and lawfulness of use -- to be an insufficient countermeasure to the Policy’s foundationally inappropriate presumption.

Gass, 232 A.3d at 715.

The 23rd Judicial District’s Problem-Solving Courts’ Policies Violate the MMA Immunity Provision

104. The 23rd Judicial District operates four problem-solving courts: Drug Treatment Court, DUI Treatment Court, Mental Health Court, and Veterans Treatment Court.

105. As with being on probation, participation in problem-solving court programs like Veterans Treatment Court are privileges under Pennsylvania law,

and a plain reading of the Act includes such court programs within the privileges protected by Section 10231.2103(a).

106. According to the Administrative Office of Pennsylvania Courts:

The goal of problem-solving courts is to supervise the treatment and rehabilitation of carefully screened and selected defendants to try to change their behavior. Instead of a jail sentence, defendants are given counseling, treatment for their addictions or illnesses, educational assistance and healthcare support. ... Defendants who complete their court-supervised programs and graduate may have the charges that brought them to court dismissed and/or their term of supervision reduced. Their criminal records may be expunged.¹³

107. The 23rd Judicial District's Agreement to Participate in Treatment Court specifies that individuals who complete treatment court receive reduced criminal sentences: "I understand that, as a result of my successful participation in treatment Court, I will receive a reduced sentence." *See* Exhibit M, Agreement to Participate in Treatment Court.¹⁴

108. The Pennsylvania General Assembly could have excluded individuals who are participating in problem-solving court programs like Veterans Treatment Court from using medical marijuana, but it did not.

109. Nor does the statute authorizing the creation of problem-solving courts exempt them from the requirements of the MMA. *See* 42 Pa.C.S. § 916.

¹³ AOPC, *Problem-Solving Courts*, <https://www.pacourts.us/judicial-administration/court-programs/problem-solving-courts>.

¹⁴ A true and correct copy of Respondent's Agreement to Participate in Treatment Court is attached as Exhibit M.

The 23rd Judicial District’s Mental Health Treatment Court and DUI Treatment Court Policies

110. The 23rd Judicial District’s Mental Health Treatment Court and Veterans Treatment Court have policies that bars participants from using medical marijuana, and individuals who use medical marijuana are not admitted to those programs.

111. That The Mental Health Treatment Court and Veterans Court Participant Handbooks contain a section titled “Treatment Court Policy on Narcotic Medications and Prohibited Substances.” It provides, in relevant part:

Due to the high potential of narcotic medications to interfere with treatment and recovery efforts, the Berks County Veterans Treatment Court prohibits the use of all addictive medications. Addictive medications include all opiate-based pain medications, benzodiazepines or anti-anxiety medications, stimulant medications for the treatment of ADHD, sleeping pills and muscle relaxers. The list includes, but is not limited to, the following and includes any generic versions of these drugs:

ADDERALL	AMBIEN	AMYTAL
ATIVAN	CODEINE	CONCERTA
DEMEROL	DEXEDRINE	DILAUDID
FOCALIN	HALCION	KLONOPIN
LORCET	LORTAB	LIBRIUM
LUNESTA	MORPHINE	NEMBUTAL
OPANA	OXYCODONE	OXYCONTIN
PERCOCET	PERCODAN	RITALIN
ROXANOL	SECONAL	SOMA
SONATA	STADOL	TYLOX
TRAMADOL	VALIUM	VICODIN
XANAX	MEDICAL MARIJUANA	CBD OIL
FENTANYL	OTC CORICIDIN	MARINOL
GABAPENTIN	NEURONTIN	KRATOM

Participants in Berks County Veterans Treatment Court and individuals seeking entry into the Berks County Veterans Treatment

Court are expected to notify all their treating physicians that they are in recovery. If a treatment physician wishes to treat the individual with narcotic or addictive medications, the individual shall immediately disclose this information to the Treatment Court Team.

Treatment Court participants using such medications absent permission from the Treatment Court Judge are subject to termination from the program.

Exceptions to this policy are made only in rare occasions, such as in the case of *documented* medical emergency treatment. Participants who habitually seek exception to this policy are subject to termination. If a prescribing physician recommends that a client must be continuously maintained on prohibited prescriptions in order to sustain a certain quality of life, the client may no longer participate in Treatment Court.

Exhibit A 14; Exhibit B at 13.

112. Medical marijuana is among the medications and substances prohibited by Mental Health Treatment Court and Veterans Treatment Court.

113. All individuals who participate in Mental Health Treatment Court and Veterans Treatment Court must abide by the policy prohibiting the use of medical marijuana set forth in the Participant Handbooks.

114. Individuals who do not abide by the policy on medical marijuana set forth in the Participant Handbooks are denied admission to Mental Health Treatment Court and Veterans Treatment Court or, if already enrolled in the program, are terminated.

115. The 23rd Judicial District's Mental Health Treatment Court and Veterans Treatment Court policies barring medical marijuana violate the MMA, as

interpreted by the Supreme Court’s decision in *Gass*, which prohibits judicial districts from barring the use of medical marijuana.

The 23rd Judicial Districts Drug Treatment Court and DUI Treatment Court Policies

116. The Drug Treatment Court and DUI Treatment Court both have policies that bar medical marijuana unless the participant can prove that there is a “medical necessity” for its use:

Medical Marijuana use will be addressed on a case-by-case basis. Consideration for use should be accompanied by a letter addressed to the Court from a treating physician that details, diagnosis and medical necessity for use. Other factors that will be considered include but are not limited to prior history of illegal use, convictions relative to the substance, and prior treatment records.

Exhibit C at 13; Exhibit E.

117. Judge Geishauser has explained the procedure that is required under this policy. If a person in one of these treatment court programs wishes to use medical marijuana, the person must file a written petition with the court and request a hearing with the court. Exhibit K, *Commonwealth v. Santa*, CP-06-CR-2852-2021, Notes of Testimony at 4:2-5 (March 16, 2023).¹⁵ At the hearing, the person requesting to use medical marijuana would have to present witnesses and medical testimony. *Id.* at 4:5-6. The treatment court would then determine whether

¹⁵ A true and correct copy of this transcript is attached as Exhibit K.

there is a “medical necessity” for the use of medical marijuana. *Id.* Only if it makes that finding would it “authorize the use of the medical marijuana.” *Id.* at 2:15-16).

118. Individuals who do not follow this policy in Drug Treatment Court or DUI Treatment Court, including by not meeting their burden to demonstrate a “medical necessity” to satisfy the presiding judge, will be prohibited from using medical marijuana and will be expelled from the treatment court program if they use medical marijuana.

119. The 23rd Judicial District’s Drug Treatment Court and DUI Treatment Court policies that bar the use of medical marijuana unless an individual proves a “medical necessity” for its use violate the MMA, as interpreted by the Supreme Court’s decision in *Gass*, which specifically held that judicial districts cannot condition the use of medical marijuana on a showing of “medical necessity.”

* * *

120. Each of the medical marijuana policies applied in the 23rd Judicial District’s problem-solving courts contradicts the unambiguous intent of the General Assembly and the Supreme Court’s interpretation thereof in *Gass*. Unless the 23rd Judicial District is enjoined from enforcing these policies, it will subject Mr. Monyer and other medical marijuana patients to adverse consequences that the Act sought to prevent. These consequences include the denial of the ability to participate in Veterans Treatment Court and the benefits of that program, including

a reduced criminal sentence. This further results in an additional penalty under the MMA, relative to individuals who do not use medical marijuana.

121. The 23rd Judicial District is an outlier among courts with treatment court programs. Of the twenty-five Pennsylvania judicial districts with veterans treatment programs, only the judicial districts in Berks, Carbon, Dauphin, Erie, and Montgomery counties prohibit the use of medical marijuana in their Veterans Treatment Courts.

VI. CLAIMS

COUNT I

(Violation of Pennsylvania’s Medical Marijuana Act, 35 P.S. § 10231.101 et seq.)

122. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Petition for Review.

123. The Medical Marijuana Act protects patients, doctors, caregivers, and other health care providers involved in lawful practice under the Act from governmental sanctions.

124. Section 2103(a) of the Medical Marijuana Act provides that “none” of those individuals:

shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a Commonwealth licensing board or commission, solely for lawful use of medical marijuana or manufacture or sale or dispensing

of medical marijuana, or for any other action taken in accordance with this act.

35 P.S. § 10231.2103(a).

125. This provision prohibits *any* arrest, prosecution, or other penalty. In addition, a medical marijuana patient cannot be denied *any* right or privilege for using medical marijuana pursuant to the Medical Marijuana Act.

126. The Pennsylvania Supreme Court ruled in *Gass* that a policy denying individuals who lawfully use medical marijuana the privilege of probation was “contrary to the immunity accorded by Pennsylvania’s Medical Marijuana Act” and could not be enforced. 232 A.3d 706, 715 (Pa. 2020). It went on to hold that courts also could not condition use of medical marijuana on an individual proving “medical necessity and lawfulness of use,” as such an approach is “an insufficient countermeasure to the Policy’s foundationally inappropriate presumption.” *Id.*

127. That Court further noted that the “solution” to “concerns that medical marijuana use by probationers may, in fact, cause difficulties with court supervision and treatment . . . is legislative – and not judicial – adjustment.” *Id.* at 604.

128. Like probation, participation in a specialty court program like Drug Treatment Court, DUI Treatment Court, Mental Health Treatment Court, and Veterans Treatment Court is a privilege under Pennsylvania law.

129. The plain language of the MMA prohibits courts from denying privileges to patients who use medical marijuana in accordance with the MMA.

130. The 23rd Judicial District's Mental Health Treatment Court and Veterans Treatment Court have policies that bars participants from using medical marijuana, and individuals who use medical marijuana are not admitted to the Mental Health Treatment Court and Veterans Treatment Court.

131. The 23rd Judicial District's Drug Treatment Court and DUI Treatment Court have policies that bar medical marijuana unless the participant can prove that there is a "medical necessity" for its use Individuals who do not comply with this policy in Drug Treatment Court or DUI Treatment Court will be prohibited from using medical marijuana and will be expelled from the treatment court program.

132. These policies unlawfully prevent individuals from using medical marijuana while in treatment court programs in violation of the MMA.

133. The situation in Veterans Treatment Court is emblematic of the problem with all four treatment court programs. That policy denies Mr. Monyer and other veterans who lawfully use medical marijuana the privilege of participating in Veterans Treatment Court solely because they use medical marijuana. These military heroes are not only denied "comprehensive rehabilitative services that address substance abuse, mental health, or adjustment issues that have occurred in correlation with their military service" but are also denied the benefit

of a reduced sentence and the opportunity to expunge their criminal record. *See* Exhibit A at 1.

134. For these reasons, Petitioners are entitled to declaratory and permanent injunctive relief to enjoin the 23rd Judicial District from enforcing or otherwise implementing these medical marijuana policies in treatment courts. Mr. Monyer is also entitled to preliminary injunctive relief to avoid the irreparable injury that results from the 23rd Judicial District's policies.

COUNT II

(For Declaratory Relief Pursuant to 42 Pa.C.S. § 7531. et seq.)

135. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Petition for Review.

136. Petitioners are engaged in an actual controversy regarding the lawfulness of the 23rd Judicial District's two court policies that limit or entirely prohibit individuals who use medical marijuana from being admitted to and participating in the Judicial District's four problem-solving court programs. Unless addressed, this controversy is, and will continue to be, a source of litigation between the parties.

137. A declaration by this Court would terminate this controversy and remove uncertainty.

138. Petitioners therefore requests a declaration that the 23rd Judicial District's policies regarding the use of medical marijuana in treatment courts violate the MMA.

PRAYER FOR RELIEF

139. Petitioners have no adequate remedy at law to redress the wrongs suffered as set forth in this petition. Petitioners has suffered and will continue to suffer irreparable harm as a result of the unlawful acts, omissions, policies, and practices of Respondent, as alleged herein, unless this Court grants the relief requested.

140. **WHEREFORE**, Petitioners respectfully request that this Honorable Court enter judgment in his favor and against the 23rd Judicial District and:

- a. Assume jurisdiction of this suit and declare that the two 23rd Judicial District's policies that prohibit the use of medical marijuana in Mental Health Treatment Court and Veteran's Treatment Court, and that require that individuals demonstrate a medical necessity to use medical marijuana in Drug Treatment Court and DUI Treatment Court, violate the Medical Marijuana Act and are therefore invalid, ineffective, and without the force of law;
- b. Preliminarily and permanently enjoin 23rd Judicial District, its agents, servants, officers, and others acting in concert with them, including

but not limited to the Court of Common Pleas judges and probation department staff, from enforcing or otherwise implementing 23rd Judicial District's Veterans Treatment Court policies that prohibit the use of medical marijuana in Mental Health Treatment Court and Veteran's Treatment Court, and that require that individuals demonstrate a medical necessity to use medical marijuana in Drug Treatment Court and DUI Treatment Court;

- c. Award Petitioner costs; and
- d. Provide such other and further relief that this Honorable Court deems just and appropriate.

Dated: June 21, 2023

Respectfully submitted,

/s/ Stephen Loney

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Counsel for Petitioner

VERIFICATION

I, Andrew Christy, counsel for the Petitioners in this matter, hereby verify that the facts set forth in the foregoing Petition for Review are true and correct to the best of my information, knowledge, and belief. None of the parties, individually, has sufficient knowledge or information about all of the facts to verify the petition, so accordingly I verify it pursuant to Pa.R.C.P.

1024(c). I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Signed: Andrew Christy

Dated: June 20, 2023

VERIFICATION

I, Damon Monyer, verify that the facts set forth in the foregoing Petition for Review concerning me are true and correct to the best of my information, knowledge, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Signed: 

Dated: June 18 2023

VERIFICATION

I, Meredith Buettner, am the Executive Director of the Pennsylvania Cannabis Coalition and am authorized to make this verification on behalf of the Pennsylvania Cannabis Coalition. I hereby verify that the facts set forth in the foregoing Petition for Review concerning the Pennsylvania Cannabis Coalition are true and correct to the best of my information, knowledge, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Signed: 

Dated: 6/20/23

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Andrew Christy
Andrew Christy