

# Court Denies New Bid to Dismiss Medical Cannabis Case

## **The Most Meaningful Action Taken by Anderson Was to Deny the AMCC's Motion to Dismiss the Lawsuit**

Some drastic options were on the table for consideration Tuesday in the court of Montgomery Circuit Judge James Anderson, but the consolidated suit against the Alabama Medical Cannabis Commission (AMCC) continues largely unaffected.

The master case is often confusing even to the parties involved, with so many different lawyers that several said it was hard to keep up with the status of all the filings in the case. However, the most meaningful action taken by Judge Anderson was to deny the AMCC's motion to dismiss the lawsuit. This decision ensures the legal battle will continue, with significant implications for the future of medical cannabis in Alabama.

### **Denial of the Motion to Dismiss**

Judge Anderson's denial of the AMCC's motion to dismiss the lawsuit represents a pivotal moment in the ongoing legal proceedings. This action signifies that the case has enough merit to proceed through the courts, allowing for further examination of the issues at hand.

### **Issuance of a New Temporary Restraining Order (TRO)**

In addition to denying the motion to dismiss, Judge Anderson agreed to allow a new temporary restraining order (TRO) to be issued. Both parties are required to work on the language of this document. An existing TRO is currently being appealed for technical reasons, so Alabama Always attorney Will Somerville emphasized the importance of having a backup in place.

If both sides can agree on the terms, the new TRO could enable investigative hearings to begin by the commission. However, lawyers for denied applicants stressed that the process must be clear to ensure their rights are protected, and the TRO must prevent the Commission from issuing licenses during this period.

### **Potential Resolutions for the Case**

Somerville presented two potential ways to resolve the case: either require the Commission to write new rules and restart the process or assign a special master to oversee the proceedings. Although Judge Anderson expressed reservations about appointing a special master, Somerville indicated he would revisit this potential solution.

"The combination of the urgency and the Commission's failure to do their job is an exceptional condition to allow the appointment of a special master to allow the court to move the process forward," Somerville told Anderson. "That's the only way it could get done any time soon."

## **Compliance with the Alabama Administrative Procedure Act**

The lawyers debated whether the Commission is abiding by the Alabama Administrative Procedure Act (AAPA). Somerville challenged the notion that the awarding of licenses does not fall under the contested case provisions of the AAPA, arguing that it is mandatory for all state agencies.

“Their argument ... is flatly contradicted by the administrative procedure act mandatory for all agencies in the state,” Somerville said. “It’s simply an untenable argument that this is not a contested case.”

Counsel for the Commission contended that the investigative hearing would provide plaintiffs due process to argue why a company awarded a license should not have one issued. However, both the defendants and Judge Anderson questioned what relief would be available.

## **The Future of Medical Cannabis Licensing**

Judge Anderson noted that in an ideal scenario, where the Legislature had not limited the number of licenses, applicants denied a license could simply appeal and be granted one if they proved their qualifications. However, the current limit of five integrated licenses means that this straightforward solution is not feasible.

Despite the standstill with integrated licenses, there is hope that [medical cannabis](#) could reach patients soon. Counsel for some dispensary applicants suggested that the injunction on dispensary licenses could be lifted, and no objections were raised in open court. Judge Anderson stated that if no objections are raised within seven days, he would grant a motion to allow licensing of dispensaries to proceed.

## **Impact on the Medical Cannabis Supply Chain**

If the dispensaries are allowed to move forward, the entire supply chain could be operational. With cultivators, labs, and transport licenses already approved, licensing dispensaries would enable the flow of medical cannabis from seed to sale. Although the supply might be limited without integrated facilities, doctors could begin prescribing medical cannabis to patients.

Judge Anderson’s denial of the AMCC’s motion to dismiss the lawsuit is a significant development in the ongoing legal proceedings surrounding medical cannabis in Alabama. As the case continues, the potential for resolving the licensing issues and advancing the medical cannabis industry remains a focal point. The outcome of these proceedings could have far-reaching implications for the accessibility and regulation of medical cannabis in the state.

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