



BILLING CODE: 4410-09-P

**UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

**JOSIP PASIC, M.D.
ORDER**

On February 23, 2017, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Josip Pasic, M.D., of Chicago, Illinois. GX 2, at 2. The Show Cause Order proposed the revocation of Dr. Pasic's Certificate of Registration on the ground that he does not possess "authority to handle controlled substances in Illinois, the [S]tate in which [he is] registered with the" Agency. *Id.*

As to the jurisdictional basis for the proceeding, the Show Cause Order alleged that Dr. Pasic is "registered . . . as a practitioner in [s]chedules II through V under . . . Certificate of Registration #AP7955923 at 5510 N. Sheridan Road, Suite #7A, Chicago," Illinois. *Id.* The Order alleged that this "registration expires by its terms on March 31, 2017." *Id.*

As to the substantive ground for the proceeding, the Show Cause Order alleged that on December 14, 2016, the "Illinois Department of Financial and Professional Regulation issued an Order temporarily suspending [Dr. Pasic's] Illinois Physician and Surgeon License . . . and Controlled Substance License." *Id.* The Order then alleged that "[a]s a result of this suspension, [he is] currently without authority to practice medicine or handle controlled substances in the State of Illinois, the [S]tate in which [he is] registered with the DEA." *Id.* at 3. The Order then asserted that his registration is subject to revocation "based on [his] lack of authority to handle controlled substances in the State." *Id.*

The Show Cause Order also notified Dr. Pasic of his right to request a hearing on the allegations or to submit a written statement on the matters of fact and law asserted in the Order while waiving his right to a hearing, the procedures for electing either option, and the

consequence of failing to elect either option. *Id.* (citing 21 CFR 1301.43). Finally, the Order notified Dr. Pasic of his right to submit a corrective action plan. *Id.* at 3-4 (citing 21 U.S.C. § 824(c)(2)(C)).

On February 28, 2017, as well as on March 1, 2017, the Show Cause Order was served on Dr. Pasic. GX 4, at 3 (declaration of DI). According to the DI's Declaration, as of April 3, 2017, Dr. Pasic had not requested a hearing. *Id.* The DI's Declaration does not, however, state whether Dr. Pasic filed a written statement of position. *See generally* GX 4. So too, the Government's Request for Final Agency Action does not address whether Dr. Pasic submitted a written statement.¹ *See generally* Gov. Request for Final Agency Action.

In her declaration, the DI stated that she had obtained a copy of Dr. Pasic's Registration and Registration History. GX 4, at 3. According to the DI, "Dr. Pasic allowed his . . . registration to lapse on March 31, 2017" and has not "made any request – timely or untimely – to renew his registration." *Id.*

On May 2, 2017, the Government submitted its Request for Final Agency Action. Therein, the Government noted that the case is moot because Dr. Pasic has allowed his registration to expire and has not submitted an application. Request for Final Agency Action, at 3 (citing *Victor B. Williams*, 80 FR 50029 (2015)). However, while the Government recognizes that the matter is moot, it requests that I issue "a final order . . . setting forth the following facts and conclusions of law" related to the suspension of his state authority to "memorialize the outcome of this proceeding for the record and for purpose of evaluating future applications." *Id.*

I grant the Government's request but only with respect to its request that I dismiss this case as moot. Were I to make the factual findings and legal conclusions requested by the

¹ Because I conclude that this matter is now moot, I deem it unnecessary to remand the matter for clarification as to whether Dr. Pasic submitted a written statement.

Government, I would be issuing an advisory opinion. Though an administrative agency is not subject to the case or controversy requirements of Article III, relevant authority suggests that in the event Respondent sought judicial review of the decision, the federal courts would lack jurisdiction to review that part of the decision. It is settled, however, that where the federal courts lack the power to review an agency decision because of intervening mootness, the court vacates the agency's order. *See A.L. Mechling Barge Lines, Inc. v. United States*, 368 U.S. 324, 329 (1961) (vacating administrative orders which had become unreviewable in federal court); *see also American Family Life Assurance Co. v. FCC*, 129 F.3d 625, 630 (D.C. Cir. 1997) ("Since *Mechling*, we have, as a matter of course, vacated agency orders in cases that have become moot by the time of judicial review."). *See also Samuel H. Albert*, 74 FR 54851, 54852 (2009). As the requested factual findings and legal conclusions would be subject to vacation on judicial review, there is no point to making them.

Because Respondent's registration has expired and he has not filed an application, whether timely or not, this case is now moot. *See Williams*, 80 FR at 50029; *see also William W. Nucklos*, 73 FR 34330 (2008); *Ronald J. Riegel*, 63 FR 67132, 67133 (1988). Accordingly, I will dismiss the Order to Show Cause.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. § 824(a), as well as 28 CFR 0.100(b), I order that the Order to Show Cause issued to Josip Pasic, M.D., be, and it hereby is, dismissed. This Order is effective **immediately**.

Date: May 16, 2017

Chuck Rosenberg
Acting Administrator

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