

administrative proceeding "is not an appropriate forum for wholesale review of state criminal and administrative actions taken by the State of New York arising out of the laws of the State of New York. To allow it to be so would be to permit a wide collateral attack upon such convictions. See Lowell O. Kir, M.D., 58 FR 15,378 (1993). The convictions in state court are considered *res judicata* and [the] Respondent may not relitigate these matters. See Robert A. Leslie, M.D., 60 FR 14,004 (1995)."

Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., *supra*. See also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), *aff'd sub nom* Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11,873 (1978); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AS5232979, issued to Shahid Musud Siddiqui, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration be, and they hereby are, denied. This order is effective May 3, 1996.

Dated: March 28, 1996.

Stephen H. Greene,

*Deputy Administrator.*

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[Docket No. 95-52]

#### **Stan White; Denial of Application**

On July 20, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Stan White (Respondent), of Hardwick, Massachusetts, notifying him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration as a practitioner under 21 U.S.C. 823(f), because he lacked authorization to handle controlled substances within the Commonwealth of Massachusetts.

In a letter dated August 17, 1995, the Respondent, acting pro se and responding to the Order to Show Cause,

requested a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On August 30, 1995, counsel for the Government filed a Motion for Summary Disposition, asserting that the Respondent was not duly authorized to possess, prescribe, dispense, or otherwise handle controlled substances under State law in the Commonwealth of Massachusetts, the jurisdiction in which he proposed to conduct his business. Attached to the motion was a copy of the Respondent's application for registration and a copy of a letter dated August 28, 1995, from the Massachusetts Executive Office of Health and Human Services, denying the Respondent's application to obtain Schedule II controlled substances as a researcher.

The Respondent did not file a response to the Government's motion. Further, the Respondent has not filed anything denying his lack of a state registration to handle controlled substances.

On October 3, 1995, Judge Bittner issued her Opinion and Recommended Decision, finding that the Respondent lacked authorization to handle controlled substances in the Commonwealth of Massachusetts, and that there was no genuine issue of material fact in that regard. Accordingly, Judge Bittner granted the Government's Motion for Summary Disposition and recommended that the Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to her decision, and on November 6, 1995, Judge Bittner transmitted the record of these proceedings and her opinion to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the decision of the Administrative Law Judge.

The DEA does not have statutory authority under the Controlled Substances Act to issue a registration if the applicant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992); Myong S. Yi, M.D., 54 FR 30,618 (1989); Bobby Watts, M.D., 53 FR 11,919 (1988). As Judge Bittner correctly noted, "[i]n the instant case it is clear that [the]

Respondent is not currently authorized to handle controlled substances in Massachusetts. It is equally clear that because [the] Respondent lacks this state authority, he is not currently entitled to a DEA registration."

Judge Bittner also properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that the Respondent was unauthorized to handle controlled substances in Massachusetts. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., *supra*, (finding it well settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required); see also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), *aff'd sub nom* Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11,873 (1978); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that the application submitted by Stan White for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective May 3, 1996.

Dated: March 28, 1996.

Stephen H. Greene,

*Deputy Administrator.*

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## **DEPARTMENT OF LABOR**

### **Office of the Secretary**

#### **Submission for OMB Review; Comment Request**

March 28, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ([202]