

RENDERED: MAY 23, 2008; 2:00 P.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2006-CA-002429-MR

LIFESTYLE COUNSELING,
JARRETT M. WOOD, JR., and
CAROLYN S. WOOD

APPELLANTS

v. APPEAL FROM MAGOFFIN CIRCUIT COURT
HONORABLE DANIEL REID SPARKS, SPECIAL JUDGE
ACTION NO. 98-CI-00215

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND
FAMILY SERVICES

APPELLEE

OPINION AFFIRMING

** ** * * * * *

BEFORE: COMBS, CHIEF JUDGE; STUMBO, JUDGE; KNOPF,¹ SENIOR
JUDGE.

KNOPF, SENIOR JUDGE: Jarrett M. Wood, Jr. and Carolyn S. Wood, on behalf
of Lifestyle Counseling (“Lifestyle”), appeal the November 14, 2006, order of the

¹ Senior Judge William L. Knopf sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

Magoffin Circuit Court dismissing its civil action against the Commonwealth of Kentucky, Cabinet for Health and Family Services (“CHFS”). We affirm.

This is the second time these parties are before the Court.² The Woods own Lifestyle, which administered D.U.I. education courses to offenders referred by the courts. On July 27, 1998, after an administrative hearing, a recommended order was entered by an administrative law judge (“ALJ”), in which Lifestyle’s certification was revoked by the Division of Substance Abuse. On August 28, 1998, the Woods filed a complaint in Magoffin Circuit Court against CHFS. The Woods alleged that they were the victims of an improper inspection of their facilities and sought a temporary restraining order, a preliminary injunction and a permanent injunction. On September 19, 1998, the Woods filed a petition of appeal, in response to the ALJ’s order, in Franklin Circuit Court.³ The Magoffin County action proceeded for several years, whereupon it concluded in a dismissal for lack of subject matter jurisdiction,⁴ by motion of CHFS. This appeal followed.

On appeal, the Woods argue that KRS⁵ 15.605 through KRS 15.635 specifically grant jurisdiction to the circuit court on this matter. We do not agree. KRS 15.625 allows individuals to appeal determinations made by the Attorney

² See *Commonwealth v. Lifestyle*, 2000-CA-002628-MR. A more detailed case history can be found in the prior appeal. We do not believe the complete history of the case to be relevant to this appeal.

³ CHFS alleges that case was dismissed on October 28, 2005. However, that order is not in the record.

⁴ In its order dismissing, the trial court also noted that the action was improper under the doctrine of sovereign immunity.

⁵ Kentucky Revised Statutes.

General to the circuit court. The Woods have not been aggrieved by a determination of the Attorney General, making this section inapplicable.

KRS 15.630 allows individuals, who have been aggrieved by an inspection, to file a complaint in circuit court for injunctive relief against the inspecting agency. At first blush, this section would appear to permit the Woods to file their complaint. However, the injunctive relief that the Woods seek relates to the administrative adjudication of their licensing hearing. Specifically, they wish to prevent its enforcement. We do not believe this to be the type of injunctive relief envisioned by the legislature when drafting KRS 15.630. Instead, we believe that the injunctive relief encompassed by the statute would be the type applicable to the actions of the inspecting agency as a whole, not to administrative adjudications. The injunctive relief sought by the Woods is clearly in response to the ALJ's judgment, not the CHFS inspections of their facility, and therefore appears to be another method in which they are merely attempting to delay the application of that judgment. Such relief should have been sought in the Franklin County appeal of the administrative adjudication.

Accordingly, the November 14, 2006, order of the Magoffin Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Garland L. Arnett, Jr.
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BRIEF FOR APPELLEE:

Ronald W. Crawford
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