

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KELLY SPANABEL,)
)
 Appellant,)
)
 v.) C.A. No. N21A-08-002 VLM
)
 DELAWARE THOROUGHBRED)
 RACING COMMISSION,)
)
 Appellee,)

ORDER

Submitted: August 26, 2021

Decided: August 26, 2021

Appellant's Motion for Stay and for Emergency Hearing,
DENIED.

Kelly Spanabel, *Pro Se.*

Andrew Kerber, Esquire, Department of Justice, Wilmington, DE.
Attorney for Appellee Delaware Thoroughbred Racing Commission.

MEDINILLA, J.

AND NOW TO WIT, this 26th day of August, 2021, upon consideration of Appellant Kelly Spanabel's (Appellant) Motion for Stay and Emergency Hearing, Appellee Delaware Thoroughbred Racing Commission's (the Commission) response, and the record in this case, it appears to the Court that:

1. On May 28, 2021, a complaint was filed with the Board of Stewards (the Stewards) about the ownership of a horse named Quality Too Spare.¹ A hearing was held on June 10, 2021, where Appellant appeared without counsel.² The Stewards allowed Appellant until June 18, 2021, to provide documents regarding the ownership of Quality Too Spare.³ Appellant provided documentation allegedly showing that she had Power of Attorney over Quality Too Spare's owner regarding all racing matters.⁴ The document was allegedly signed by the owner as sworn testimony.⁵

2. On June 25, 2021, the Stewards reviewed all evidence and documents submitted in the matter.⁶ The Stewards determined that the Power of Attorney documents submitted by Appellant had been forged by her and that she never held a license for Quality Too Spare.⁷ The Stewards deemed that Appellant's actions in

¹ Stewards Ruling 50B-2021, at 1 (June 30, 2021).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

falsifying the documents amounted to perjury.⁸ As a result, the Stewards issued a suspension of Appellant's training license, which was set to begin on June 28, 2021 and run through October 16, 2021.⁹

3. Appellant appealed the Stewards' decision with the assistance of counsel to the Commission. The Commission stayed the Steward's suspension pending its own review.¹⁰ The Commission held a hearing on August 18, 2021. Following the hearing, the Commission upheld the suspension to begin on September 1, 2021, until October 30, 2021.¹¹ Since the record has not yet been transmitted to the Court, we know little more about this case. In any event, the Commissioner's sanction is a two-month suspension of her license.

4. Appellant filed an appeal in this Court. She also filed this motion asking the Court to stay her suspension pending appellate review. Appellant contends that without a stay, she will be forced to leave where she is currently residing, and she and her horses will have nowhere to go.¹² Appellant also contends that without a stay her business will be destroyed, and her employees will be "denied a living."¹³

⁸ Stewards Ruling 50B-2021, at 1 (June 30, 2021).

⁹ *Id.* at 2.

¹⁰ Amendment to Steward's Ruling 50B-2021.

¹¹ Amendment B to Steward's Ruling 50B-2021 (Aug. 19, 2021).

¹² Appellant's Motion to Stay, D.I. 4, at 1-2.

¹³ *Id.* at 1.

5. The requested stay is governed under 29 *Del. C.* § 10144, which allows the Court to issue a stay “only if it finds, upon a preliminary hearing, that the issues and facts presented for review are substantial and the stay is required to prevent irreparable harm.”¹⁴ “Moreover, ‘simply outlining the issue before the Court’ is not enough to establish a ‘substantial issue[.]’”¹⁵ Accordingly, this Court held a preliminary hearing on August 26, 2021.

6. Appellant points to no substantial issues of law or fact in her motion to justify the granting of a stay. In her notice of appeal, her reasons for appeal are: (1) lack of substantial evidence, and (2) “a departure from precedent.”¹⁶ Even if Appellant could satisfy the “substantial issue” requirement under § 10144, while the Court is cognizant of the undesirable consequences that might ensue from denial of a stay, Appellant fails to establish her burden that she will suffer irreparable harm.

7. First, the loss of a license alone does not amount to irreparable harm.¹⁷ Second, the suspension of Appellant’s license is for two months where after October 30, Appellant is free to resume training with her license. Though she claims she will never be able to work again, Appellant presented no evidence that the alleged harms

¹⁴ 29 *Del. C.* § 10144.

¹⁵ *Dept. of Transp. v. Keeley*, 2018 WL 4352855, at *3 (Del. Super. Sept. 11, 2018) (quoting *Dept. of Transp. v. Keeler*, 2010 WL 334920, at *1 (Del. Super. Jan. 28, 2010)).

¹⁶ Appellant’s Notice of Appeal, D.I. 1.

¹⁷ See, e.g., *Denham v. Del. Bd. of Mental Health & Chem. Dependency Pros.*, 2017 WL 1505225 (Del. Super. Apr. 20, 2017); *Munir v. Del. Examining Bd. of Physical Therapy*, 1999 WL 458800 (Del. Super. May 25, 1999).

she claims she will suffer, will actually occur. Speculative harm cannot serve as the basis for irreparable harm.¹⁸

8. Notably, the Stewards' original suspension was set to begin on June 28, 2021. The Commission stayed the suspension pending its own review providing her with time to get her affairs in order should the Commission uphold the Stewards' ruling. Even with the assistance of counsel, it appears that Appellant took no action to prepare for the possibility that the Commission would uphold the suspension.

9. Appellant fails to meet her burden under 29 *Del. C.* § 10144. The Motion for Stay and Emergency Hearing is therefore **DENIED**.

IT IS SO ORDERED

/s/ Vivian L. Medinilla
Vivian L. Medinilla
Judge

¹⁸ *Keeler*, 2010 WL 334920, at *2 (citing *Liselyn Enter. v. Brady*, 1989 WL 100399, at *2 (Del. Super.)).