

Pennsylvania Medical Marijuana Act Did Not Protect Employee Who Was Terminated for Positive Marijuana Test Result

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A federal court in Pennsylvania granted an employer's motion for summary judgment dismissing a former employee's Pennsylvania Medical Marijuana Act (PMMA) claim because he could not show that his termination was premised solely on his status as a certified user of medical marijuana. *Matthew Reynolds v. Willert Mfg. Co., LLC*, No. 5:21-cv-01208 (E.D. Pa. October 19, 2021).

The employee received a conditional offer of employment contingent upon the successful completion of a drug test and began working on October 16, 2020. The drug test was performed off-site by a third-party vendor. Upon submitting to the drug test, the employee informed the individual performing the drug screening that he was a medical marijuana patient. After testing positive for marijuana, he also informed the medical review officer (MRO) of his status as a medical marijuana patient. The MRO reported the positive drug test results to the employer but did not mention the employee's status as a medical marijuana patient. Based on the positive drug test result, the employer terminated the employee on November 5, 2020. Immediately after his termination, the employee informed the employer—for the first time—that he was a medical marijuana patient. The employer declined to reverse its termination decision based on the newly obtained information that the now former employee was a registered medical marijuana patient.

In February 2021, the employee filed a state court action for discrimination pursuant to the PMMA. The employer subsequently removed the action to federal court and moved for summary judgment asserting that the "uncontroverted facts indicate that" the employer's decision to terminate the employee was not based solely on the employee's status as a medical marijuana patient.

The Court agreed with the employer, reasoning that the PMMA "indicates that it prohibits discrimination 'solely on the basis of such employee's *status* as an individual who is certified to use medical marijuana,'" and does not explicitly or implicitly protect against discrimination on the basis of a positive marijuana drug test result. The Court reasoned that to prevail on a discrimination claim under the PMMA, the employee "must show (1) he was discriminated against on the basis of his status as a cardholder, and (2) that but for his status, he would not have been terminated." Because there was no evidence that the employer was aware of the employee's status as a medical marijuana patient prior to his termination, the Court could not logically conclude that the termination

was based upon such status.

In an attempt to impute the testing site's knowledge of the employee's status as a medical marijuana patient to the employer, the employee argued that the testing site was an agent of the employer. The Court rejected this argument, explaining that an agency relationship exists only where an agreement creates a fiduciary relationship between the two parties.

The Court further opined that even if the employee "could show his termination was motivated by his status as a medical marijuana user, [the employee] failed to provide facts that would allow a reasonable jury to find that his status was the *sole* basis of his termination. Accordingly, the Court granted the employer's motion for summary judgment.

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National Law Review, Volumess XI, Number 293

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