

IOWA DISTRICT COURT FOR POLK COUNTY

<p><i>CARL OLSEN,</i></p> <p>Petitioner,</p> <p>v.</p> <p>STATE OF IOWA,</p> <p>Respondent.</p>	<p>Case No.</p> <p><i>PETITION TO ENJOIN ENFORCEMENT AGAINST RELIGIOUS USE OF CANNABIS</i></p> <p>Iowa Code Chapter 675</p>
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Carl Olsen petitions the court to enjoin the state from interfering with the religious use of cannabis pursuant to Iowa Code Chapter 675, the “Religious Freedom Restoration Act”, 2024 Acts, ch 1003.

PARTIES

1. Petitioner, Carl Olsen (“Olsen”), is a resident of Polk County, Iowa.
2. Respondent, State of Iowa (“State”), has its permanent seat of government in Polk County, Iowa.

JURISDICTION AND VENUE

3. This action arises pursuant to the Religious Freedom Restoration Act. Iowa Code § 675.4(2), 2024 Acts ch. 1003 (April 2, 2024) (2025).
4. This court has jurisdiction over this matter pursuant to Iowa Code § 602.6101 (2025).
5. Venue is proper in this court pursuant to Iowa Code § 616.3(2) (2025) because this matter arises in Polk County.

DECLARATORY AND INJUNCTIVE RELIEF

6. Mr. Olsen requests the court to enjoin the state from interfering with the religious use of cannabis, pursuant to:

- A. the Constitution of the United States;
 - B. the Iowa Constitution; and
 - C. the Iowa Religious Freedom Restoration Act (RFRA).
7. The religious use of peyote is protected in the Iowa Controlled Substances Act (CSA), creating undue prejudice against religious use of cannabis which does not enjoy that same protection.
8. The RFRA forbids the state from interfering with religious use of cannabis without a compelling interest and a least restrictive means of achieving it.
9. Organized crime is now protected in the Iowa Medical Cannabidiol Act. Cultivation of cannabis plants and distribution of cannabis extracts containing high concentrations of delta-9 THC are federal crimes. Patients with severe medical conditions who participate in this scheme are denied assistance from federally funded services for engaging in a federal criminal act. Chapter 124 still classifies cannabis as unsafe for use under medical supervision. The state's preference for the unlawful and disorderly use of cannabis over religious use of cannabis is proof of extreme prejudice.
10. Retail sales of delta-9 THC, the psychoactive component in cannabis, to anyone over the age of 21, is now protected in the Iowa Hemp Act. Religious use of cannabis does not enjoy that same level of protection, which is further proof of the extreme prejudice embedded in these statutes.
11. Three of these four statutes are recent, the Medical Cannabidiol Act in 2014, the Hemp Act in 2019, and the Religious Freedom Restoration Act in 2024, highlighting how the government's cannabis policy over the past 55 years has

been a total disaster and the opportunity that was just created by the RFRA to redress this violation of fundamental human rights.

INTRODUCTION

12. Mr. Olsen's religious freedom to use cannabis was evaluated by the Iowa Supreme Court in 1984 when Mr. Olsen was arrested with a large amount of cannabis. Mr. Olsen thought religious use of cannabis was entitled to the same protection as religious use of peyote. The court disagreed, finding a vast difference between how frequently cannabis was used by members of Mr. Olsen's church compared to how infrequently peyote was used by members of the Native American Church.
13. The U.S. Court of Appeals for the District of Columbia Circuit rejected Mr. Olsen's petition for federal exemption for that same reason in 1989, based on the difficulty of cannabis enforcement (with a strongly worded dissent from Judge Buckley complaining that the difficulty of cannabis enforcement is insufficient to explain denial of religious freedom).
14. Cannabis and peyote are both classified as hallucinogenic plants with high potential for abuse and lack of accepted safety for use under medical supervision. Religious use of peyote by the Native American Church has been protected by Iowa law since 1967, and by federal law since 1966.
15. At the time Mr. Olsen was arrested, there were no states that excepted the use of cannabis for any reason, religious or otherwise. Since that time, however, changes in state cannabis laws have been dramatic, and that change has taken place in Iowa.

16. California enacted a compassionate use act for cannabis in 1996. As of now, a total of 48 states have enacted state medical cannabis laws.
17. Iowa enacted a medical cannabis act in 2014, expanding it in 2017 and again in 2020. The act does not change the statutory classification of cannabis in chapter 124. Both cannabis plants and cannabis extracts are schedule I controlled substances with a high potential for abuse and without any accepted safety for use under medical supervision, the same as peyote.
18. Under the medical cannabis act, cultivation of cannabis and use of cannabis extracts are not medically supervised. Cultivation, distribution, and possession of cannabis plants and extracts are federal crimes. Medical professionals cannot facilitate the use of cannabis without risking the loss of license to practice medicine. The omission of medical supervision is no accident. Manufacturers, distributors, and patients, all willingly violate federal drug law to participate in Iowa's program. One could argue that patients are participating involuntarily, under duress.
19. Under the medical cannabis act, medical professionals certify a patient has a qualifying medical condition. The rest is up to the patient and a chain of activities that all violate federal drug law. The state licenses federally illegal businesses involved in the chain.
20. Chapter 124E creates some restrictions on how cannabis can be used, but users have access to cannabis extracts of any delta-9 THC potency and use the extracts at their own discretion. Manufacturers can cultivate cannabis plants without any restriction on the amount of delta-9 THC the plants can contain.

21. The Iowa Hemp Act, chapter 204, authorizes delta-9 THC for retail sale. The original limit of .3% delta-9 THC calculates to approximately 1,020 milligrams per 12-ounce beverage. That limit was modified in 2024 to be no more than 4 milligrams of delta-9 THC per serving, and the department has determined that a 12-ounce beverage is one serving. Federal law still allows up to 1,020 mg in that same beverage. Delta-9 THC is legal in 4 mg increments under state law and can be sold in grocery stores to anyone above the age of 21. There is no limit on the total amount of delta-9 THC that can be purchased in a single transaction by anyone over the age of 21.
22. Until recently, the state enjoyed sovereign immunity, and Mr. Olsen was blocked from filing a civil claim against the state for favoring religious freedom for a single religious organization in chapter 124. The establishment of a single religion in chapter 124 is unconstitutional. Chapter 124E and chapter 204 now provide virtually unlimited access to delta-9 THC in both cannabis plants being grown and in cannabis extracts used outside the context of chapter 124. Chapter 204 also makes cannabis seeds legal.
23. Sale of cannabis seeds, delta-9 THC, and federal racketeering schemes are all approved in these acts, but personal, private, not for profit, religious use of cannabis has not.
24. The Iowa Religious Freedom Restoration Act (RFRA) waives sovereign immunity and gives Mr. Olsen the right to ask the court to enjoin the state from interfering with the religious use of cannabis.

25. Therefore, Mr. Olsen asks the court to enjoin the state from enforcing chapter 124 and chapter 453B against the personal, private, not for profit, religious use of cannabis.

FACTUAL ALLEGATIONS

A. Ethiopian Zion Coptic Church (1970)

26. In 1970, Mr. Olsen learned about a religious organization in Jamaica which later became known to Mr. Olsen as the Ethiopian Zion Coptic Church.
27. In 1976, the Ethiopian Zion Coptic Church was incorporated in Jamaica. The Ethiopian Zion Coptic Church (Incorporation and Vesting) Act, 1976, No. 11, April 2, 1976.¹
28. In 1979, the Florida Supreme Court found the Ethiopian Zion Coptic Church represents a religion within the first amendment to the Constitution of the United States, is centuries old, and has regularly used cannabis as its sacrament. *Town v. State ex rel. Reno*, 377 So. 2d 648, 649 (Fla. 1979).
29. In 1984, Mr. Olsen reserved the name “Ethiopian Zion Coptic Church” with the Iowa Secretary of State, March 30, 1984, Iowa Business No. 93938, while residing at Ms. Town’s residence in Miami Beach, Florida.
30. In 1984, the Iowa Supreme Court found that Mr. Olsen is a member of the Ethiopian Zion Coptic Church. *State v. Olsen*, No. 171-69079 (July 18, 1984), unreported opinion attached to *Olsen v. State*, Civ. No. 83-301-E, 1986 WL 4045 (U.S. District Court, Southern District of Iowa, Central Division, March 19, 1986)

¹ https://ethiopianzioncopticchurch.org/pdfs/jamaica_1976.pdf

(“his trial revealed the bona fide nature of this religious organization and the sacramental use of marijuana within it”).²

31. In 1984, Mr. Olsen became the registered agent of the Ethiopian Zion Coptic Church with the Florida Secretary of State, August 29, 1984, Document No. P03208, while residing at Ms. Town’s residence in Miami Beach, Florida.
32. In 1987, the Ethiopian Zion Coptic Church was incorporated in the State of Iowa. Restated Articles of Incorporation, April 1, 2024, Iowa Business No. 111308, Effective Date: 1/1/1987.
33. In 2015, Jamaica enacted an exception to its drug laws for the religious use of cannabis. Dangerous Drugs (Amendment) Act, 2015, No. 5, March 20, 2015.³
34. In 2016, Mr. Olsen registered the name “Ethiopian Zion Coptic Church” as a federal trademark, Reg. No, 5,039,494, Registered Sep. 13, 2016.

B. Commission on Marihuana and Drug Abuse (1970)

35. In 1970, the Controlled Substances Act of 1970, Public Law 91-513, October 27, 1970, § 601(d)(1), 84 Stat. 1236, 1280-1281, authorized a Commission on Marihuana and Drug Abuse, to “conduct a study of marihuana”.
36. In 1972, the Commission on Marihuana and Drug Abuse recommended cannabis be decriminalized for personal, private, not for profit, use. marihuana: a signal of misunderstanding, First Report of the National Commission on Marihuana and Drug Abuse March 1972, pp. 152, 154.⁴

C. Mr. Olsen’s Petition for Federal Exemption (1983)

² <https://ethiopianzioncopticchurch.org/pdfs/olsen-83-301-E-1986.pdf>

³ <https://laws.moj.gov.jm/library/statute/the-dangerous-drugs-act-2>

⁴ <https://iowamedicalmarijuana.org/about/cmda/>

37. In 1983, Mr. Olsen petitioned the U.S. Drug Enforcement Administration (DEA) for a religious exemption for the Ethiopian Zion Coptic Church like the one for the Native American Church in 21 C.F.R. § 1307.31.
38. In 1985, Mr. Olsen’s appeal from the denial of the petition was denied. *Olsen v. DEA*, 776 F.2d 267 (11th Cir. 1985) (“petitions of the plaintiffs for a religious exemption for marijuana use thus fall outside the scope of the statute, and a rule such as they sought could not be made under authority of 21 U.S.C. § 811”).
39. In 1985, Mr. Olsen again petitioned the DEA and was denied a religious exemption for the Ethiopian Zion Coptic. *Olsen v. DEA*, 878 F.2d 1458, 1464 (D.C. Cir. 1989) (“we rest our decision on the immensity of the marijuana control problem”), *cert. denied*, 495 US 906, 110 S. Ct. 1926, 109 L. Ed. 2d 290 (1990).

D. Drug Enforcement Administration (1986)

40. In 1986, Mr. Olsen intervened in cannabis scheduling proceedings initiated by the National Organization for the Reform of Marijuana Laws (NORML) in 1972. 51 Fed. Reg. 22946 (1986); *NORML v. Ingersoll*, 497 F.2d 654 (D.C. Cir. 1974); *NORML v. DEA*, 559 F.2d 735 (D.C. Cir. 1977), *NORML v. DEA, et al.*, No. 79-1660, United States Court of Appeals for the District of Columbia Circuit, unpublished order filed October 16, 1980 (remanding to DEA).
41. In 1988, Mr. Olsen’s name appeared on the cover of the Administrative Law Judge’s Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge (“Marijuana, in its natural form,

is one of the safest therapeutically active substances known to man”). DEA Docket No. 86-22 (September 6, 1988), pp. 58-59.⁵

42. In 1989, the DEA Administrator rejected the recommendation of the Administrative Law Judge. 54 Fed. Reg. 53767 (1989).

E. Religious Freedom Restoration Act (1993)

43. In 1990, the U.S. Supreme Court held that state laws are immune from First Amendment challenges if those laws do not single out religious use of a controlled substance (state laws must be neutral) and there are no other exceptions (state laws must be generally applicable). *Employment Division v. Smith*, 494 U.S. 872 (1990). This was an immensely unpopular decision.
44. The dissenting justices thought cases like Mr. Olsen’s could be distinguished without abandoning the compelling interest test. *Smith*, at 913-919 (Blackmun, J., Brennan, J., and Marshall, J., dissenting). However, Olsen never made an argument like *Smith* made. Mr. Olsen argued Iowa and federal law both granted special favor to religious use of peyote. Oregon’s controlled substances act did not have existing exceptions. Mr. Olsen has never been prosecuted by a government that does not already have a religious exception for peyote.
45. In 1993, Congress reversed *Smith* by enacting the Religious Freedom Restoration Act (RFRA), Pub. L. No. 103-141, 107 Stat. 1488 (November 16, 1993).
46. In 1997, the U.S. Supreme Court held that facially neutral and generally applicable state laws are immune from the RFRA, as well as from the First Amendment. *Boerne v. Flores*, 521 U.S. 507, 511 (1997). In response to the

⁵ <https://files.iowamedicalmarijuana.org/imm/young.pdf>

decision in *Boerne*, many states have enacted their own religious freedom restoration acts.

47. In 2024, Iowa enacted a Religious Freedom Restoration Act. Like its federal counterpart, Iowa’s RFRA requires the compelling interest test regardless of whether a law is neutral or generally applicable. And, like its federal counterpart, Iowa’s RFRA authorizes a claim against the government.⁶

F. State Medical Cannabis Programs (1996)

48. In 1996, states began enacting laws allowing cannabis as an alternative to conventional medical treatments.⁷
49. In 2005, the U.S. Supreme Court rejected a claim that Congress lacked authority under the Commerce Clause to regulate homegrown cannabis authorized by state law for medical use. *Gonzales v. Raich*, 545 U.S. 1, 27 n. 37 (2005) (“But the possibility that the drug may be reclassified in the future has no relevance to the question whether Congress now has the power to regulate its production and distribution.”).
50. In 2005, the Iowa Supreme Court rejected a claim that cannabis grown for medical use was protected by medical necessity. *State v. Bonjour*, 694 N.W.2d 511, 514 (Iowa 2005) (“procedure is to defer to the Board of Pharmacy”).
51. In 2006, after reading the U.S. Supreme Court decision in *Gonzales v. Oregon*, 546 U.S. 243 (2006) (state authority to define assisted suicide as an accepted medical treatment), Mr. Olsen and two Iowans using cannabis for federal research incorporated as “Iowans for Medical Marijuana” to bring the Bonjour ruling to the

⁶ <https://www.legis.iowa.gov/docs/publications/iactc/90.2/CH1003.pdf>

⁷ <https://www.ncsl.org/health/state-medical-cannabis-laws>

attention of the Board of Pharmacy. Iowa Business No. 334412, Effective Date: 10/2/2006.

52. In 2008, Mr. Olsen filed a petition with the Board of Pharmacy to reclassify cannabis, citing *Grinspoon v. DEA*, 828 F.2d 881, 886 (1st Cir. 1987) (“Congress did not intend ‘accepted medical use in treatment in the United States’ to require a finding of recognized medical use in every state or, as the Administrator contends, approval for interstate marketing of the substance”). The two patients using cannabis for federal research joined the petition represented by the American Civil Liberties Union of Iowa.
53. In 2010, the Board of Pharmacy recommended that cannabis be reclassified as a medicine and that a task force be created to consider creating a medical cannabis program in Iowa. Mr. Olsen asked the Iowa Supreme Court to find accepted medical use of cannabis was a matter of state law in the twelve states that had accepted it (citing *Grinspoon*), but the court declined saying the board did what the petitioners asked and there was no longer an existing controversy. *Olsen v. Board of Pharmacy*, No. 09-1789, May 14, 2010.⁸

G. Medical Cannabidiol Act (2014)

54. In 2014, Iowa enacted the Medical Cannabidiol Act. 2014 Acts ch. 1125 (May 30, 2014).
55. The 2014 act defines cannabidiol as “a nonpsychoactive cannabinoid” that “has a tetrahydrocannabinol level of no more than three percent.” *Id.*, § 3(1).
Cannabidiol is a single cannabinoid. Cannabidiol does not have any other

⁸ <https://iowamedicalmarijuana.org/pdfs/09-1789-2010.pdf>

cannabinoids in it. The act authorized violation of federal drug law and name of the act was misleading.

56. The 2014 act added the adjective “medical” to the word “cannabidiol” in the title of the act, to distinguish the act’s unique definition of “medical cannabidiol” from the scientifically accurate definition of “cannabidiol”. But the term “medical” has long held a different meaning in chapter 124 (a prescription medication). *See State v. Bonjour, supra* (rejecting personal medical use outside the context of chapter 124).
57. The 2014 act authorized products “obtained from an out-of-state source” that had not been tested for quality, efficacy, or safety. *Id.*, § 7(1)(b). Transporting these products across state lines, as well as simply possessing them, was, and still is, a federal crime.
58. In 2014, Congress began restricting the funding of the U.S. Department of Justice in its annual appropriations acts (none of the funds may be used to prevent states from implementing authorized use, distribution, possession, or cultivation of medical marijuana). Public Law 118-42, § 531, 138 STAT. 25, 174 (March 9, 2024) Consolidated Appropriations Act, 2024 (H.R. 4366); Public Law 117-328, § 531, 136 STAT. 4459, 4561 (December 29, 2022) Consolidated Appropriations Act, 2023 (H.R. 2617); Public Law 117-103, § 531, 136 STAT. 49, 150 (March 15, 2022) Consolidated Appropriations Act, 2022 (H.R. 2471); Public Law 116-260, § 531, 134 Stat. 1182, 1283 (Dec. 27, 2020) Consolidated Appropriations Act, 2021 (H.R. 133); Public Law 116-93, § 531, 133 Stat. 2317, 2431 (Dec. 20, 2019) Consolidated Appropriations Act, 2020 (H.R. 1158); Public Law 116-6, §

537, 133 Stat. 13, 138 (Feb. 15, 2019) Consolidated Appropriations Act, 2019 (H.J. Res. 31); Public Law 115-141, § 538, 132 Stat. 347, 444 (Mar. 23, 2018) Consolidated Appropriations Act, 2018 (H.R. 1625); Public Law 115-31, § 537, 131 Stat. 135, 228 (May 5, 2017) Consolidated Appropriations Act, 2017 (H.R. 244); Public Law 114-113, § 542, 129 Stat. 2241, 2332 (Dec. 18, 2015) Consolidated Appropriations Act, 2016 (H.R. 2029); Public Law 113-235, § 538, 128 Stat. 2129, 2217 (Dec. 16, 2014) Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83).

H. Medical Cannabidiol Act (2017)

59. In 2017, Iowa enacted the Medical Cannabidiol Act. 2017 Acts ch. 162 (May 12, 2017).
60. The 2017 act defines “medical cannabidiol” as “any pharmaceutical grade cannabinoid found in the plant” ... “that has a tetrahydrocannabinol level of no more than three percent”. *Id.*, § 5(6). Again, cannabidiol is a single cannabinoid and has no other cannabinoids in it. Cannabis has cannabinoids. Once again, the word “medical” is used outside its usual context in the controlled substances acts, Iowa Code § 124.203(1)(b) (2025). The 2017 act goes beyond the 2014 act and authorizes federal racketeering. The name of the act was again misleading.
61. The 2017 act authorized cultivation of cannabis, distribution of cannabis extracts, and use of cannabis extracts by Iowans seeking an alternative to conventional medical treatments (pharmaceutical drugs). As was true under the 2014 act, manufacturing, distributing, and possession of “medical cannabidiol” are all federal crimes.

I. Pharmacy Board rejects Religious Exception (2018)

62. In July 2018, Mr. Olsen petitioned the Board of Pharmacy to make a recommendation to the General Assembly regarding the bona fide religious use of cannabis. The agency held the request was outside the scope of chapter 124 and did not make any decision on the merits. On judicial review, constitutionality of the existing religious exception for peyote in Iowa Code § 124.204(8) was entirely ignored. *Olsen v. Board of Pharmacy*, Iowa District Court, Polk County, No. CVCV056841, April 2, 2019 (Ruling on Petition for Judicial Review). Iowa Code § 17A.19(10)(a) (“based upon a provision of law that is unconstitutional on its face”).⁹

J. Federal Exemption (2018)

63. In 2018, Mr. Olsen began talking to legislators and public health officials about obtaining a federal waiver for Chapter 124E like the one for religious use of peyote. 21 C.F.R. § 1307.31. Mr. Olsen analogized a distinct class of medical users is an identifiable class (like members of a church) worthy of an exception for good cause under 21 U.S.C. § 822(d) (if consistent with “public health and safety”).

64. In 2019, Mr. Olsen presented this proposal to the Medical Cannabidiol Board, recommending Iowa apply for a federal exemption using the application process in 21 C.F.R. § 1307.03. In August 2019, the board voted unanimously to adopt Mr. Olsen’s proposal.¹⁰

⁹ <https://ethiopianzionopticchurch.org/pdfs/CV56841-2019-APR-02.pdf>

¹⁰ <https://iowamedicalmarijuana.org/pdfs/2019-11-01/mcab-minutes-2019-08-02.pdf>

65. In 2019, the Medical Cannabidiol Board included Mr. Olsen’s proposal in its recommendations to the legislature. 2019 Annual Report, at page 7. The board also proposed renaming Chapter 124E to be the “Iowa Medical Cannabis Act” to reflect that products containing THC are also authorized by the act. *Id.*, at page 8.
66. The board also proposed removing the 3% THC cap and replacing it with 4.5 grams of THC per 90 days (50 milligrams per day). *Id.*, at page 6.¹¹

K. Medical Cannabidiol Act (2020)

67. In 2020, Iowa enacted the Medical Cannabidiol Act. 2020 Acts ch. 1116 (June 29, 2020). The 2020 act removed the 3% THC cap and replaced it with 4.5 grams of THC per 90 days. The 2020 act directed the department of health to make a request for a federal waiver for the state authorized federal racketeering scheme. 2020 Acts ch. 1116, § 31.¹²
68. The initial version of the 2020 act, Ho*use Study Bill 653, replaced the name “cannabidiol” with the name “cannabis” as recommended by the medical cannabidiol board. That moment of truth quickly evaporated. The name “cannabidiol” was retained in the final version of the act, obfuscating the true nature of the program (a federal racketeering scheme providing full spectrum herbal preparations of cannabis as an alternative to prescription, pharmaceutical drugs).¹³

¹¹ <https://www.legis.iowa.gov/docs/publications/DF/1126149.pdf>

¹² <https://www.legis.iowa.gov/docs/publications/iactc/88.2/CH1116.pdf>

¹³ <https://www.legis.iowa.gov/legislation/BillBook?ba=hsb653&ga=88>

69. In September 2020, the department informed the board that it would seek a federal exemption pursuant to 21 C.F.R. § 1307.03. Medical Cannabidiol Program Update, September 4, 2020, Iowa Department of Public Health.¹⁴
70. In April 2021, when no updates on the progress of the application for federal exemption had been provided to the board, the department reluctantly requested protection of federal funding threatened by the state federal racketeering scheme, after being sued by Mr. Olsen for dragging its feet. *Olsen v. Reynolds*, Iowa District Court, Polk County, No. CVCV061635, May 3, 2021.¹⁵
71. At the November 18, 2022, meeting of the Medical Cannabidiol Board, the following conversation took place on the legislative proposal from Mr. Olsen:

DR. ANDREA WEBER:

There is a question, I think it was Carl that brought it up, as far as having a committee of legal experts. A lot of this stuff predates my joining of the board, so I was just curious where people stood on that idea.

OWEN PARKER:

Yeah, I mean, again, we are ... Sorry, go ahead Dr. Shreck ...

DR. BOB SHRECK:

Andrea, thank you for bringing that up. Mr. Olsen is a believer in the law. He thinks we should all be honest. We should all obey laws as they are passed. And he points out that we are all a bunch of criminals because we are violating federal law. And he thinks that's unnecessary. He thinks there's a way to fix it. He thinks that the state can obtain an exemption from the restrictions on cannabis. And, as far as I can tell from reading what he's done, and he's been very persistent about this, I think he's correct. This is the pathway to proceed to do this. And, it's been done half-heartedly by some parts of our government, ... at least it hasn't gone forward and been successful. It may have actually been misdirected at some point, if I recall. But I would wholeheartedly support Carl's recommendation. And I would propose that the board make that recommendation. I'm not sure how we would recruit a legal panel. I'm glad you brought that up because I did not mean to overlook that. I would propose, recommend, make a motion that we take Mr. Olsen's

¹⁴ <https://iowamedicalmarijuana.org/pdfs/2020-09-04/2020-09-04-mCBD-Board-Program-Update-Presentation.pdf>

¹⁵ <https://iowamedicalmarijuana.org/pdfs/olsen-iowa-2021/Exhibit-D-2021-04-29.pdf>

recommendation to heart and recommend that this board be created.

OWEN PARKER:

Yeah, I mean, I would be happy to, I think in terms for the purposes of this, you know, we can make another motion, formal motion, Captain McKelvey, to just request that the legislature adopt that request. You know, again, I think the minutia and how that will go down is still going to be up to the legislature and the administration. But there's nothing that precludes the board from including that in this annual report. Captain McKelvey, do you want to do a roll call vote on just the inclusion of Carl's request?

CPT. MIKE MCKELVEY:

Is it fair to say Dr. Weber was the motion and Dr. Shreck was the second?

OWEN PARKER:

That works.

CPT. MIKE MCKELVEY:

Is there any further discussion before we take a roll call vote?

DR. STEVEN RICHARDS:

Yeah, this is Steve Richards. My discussion is maybe Carl should be on that panel. I've been quite impressed by his unusual expertise on the law. He talks about subjects that are over my head.

DR. BOB SHRECK:

I agree.

OWEN PARKER:

Carl knows his stuff, for sure.

<https://files.iowamedicalmarijuana.org/podcasts/2022-11-18-cannabidiol-5.mp3>¹⁶

72. The Medical Cannabidiol Board Meeting Minutes from 2022 November 18 show the outcome, "Additionally, a motion was made to assemble a legal task force to assist the Department in requesting an exemption for IA's program from necessary Federal agencies, which was approved unanimously."¹⁷
73. In December 2022, the board included Mr. Olsen's proposal in its Annual Report to the legislature for the 2023 session.¹⁸

¹⁶ <https://files.iowamedicalmarijuana.org/podcasts/2022-11-18-cannabidiol-5.mp3>

¹⁷ <https://iowamedicalmarijuana.org/pdfs/2023-02-10/mcb-minutes-2022-11-18.pdf>

¹⁸ <https://www.legis.iowa.gov/docs/publications/DF/1313462.pdf>

74. In December 2023, the board included Mr. Olsen’s proposal in its Annual Report to the legislature for the 2024 session.¹⁹
75. In December 2024, the board included Mr. Olsen’s proposal in its Annual Report to the legislature for the 2025 session.²⁰
76. In November 2024, the department told the Medical Cannabidiol Board the problem with the fake name (“medical cannabidiol”) is a serious problem:

OWEN PARKER:

So, the first one, again, amending, you know, the name to the “Medical Cannabis Act”. You know, this has been widely documented why we would like to do this. You know, it’s really been an education barrier in a lot of ways. There’s still many very important stakeholders that I speak with that aren’t totally familiar with what the program provides and I think this would help that. The only thing I will say about this, right, other than as it relates to things, you know phrases and words that are codified, like the Medical Cannabidiol Board, or medical cannabidiol registration card, you know we’ve really taken the liberty to call it what it is. You know, so our website is Medical Cannabis. We always refer to it as medical cannabis. You know, it’s again, it’s just been an education barrier in helping people understand what it is. You know, both law enforcement, health care practitioners, you name it, it’s been important to kind of take on that kind of nomenclature.

2024-11-08

<https://www.youtube.com/watch?v=acYxL95aI0c>

<https://files.iowamedicalmarijuana.org/podcasts/2024-11-08-cannabidiol.mp3>²¹

L. Mr. Olsen’s Petition for Federal Exemption (2022)

77. In 2022, Mr. Olsen filed for religious exemption with the DEA pursuant to Guidance Regarding Petitions for Religious Exemption (November 20, 2020)

¹⁹ <https://www.legis.iowa.gov/docs/publications/DF/1441905.pdf>

²⁰ <https://www.legis.iowa.gov/docs/publications/DF/1518508.pdf>

²¹ <https://files.iowamedicalmarijuana.org/podcasts/2024-11-08-cannabidiol.mp3>

created by the DEA in response to the U.S. Supreme Court decision in *Gonzales v. O Centro Espirita Beneficente União do Vegetal*, 546 U.S. 418 (2006).²²

78. In 2006, the U.S. Supreme Court applied the RFRA to the religious use of a controlled substance. *Gonzales v. O Centro Espirita Beneficente União do Vegetal*, 546 U.S. 418 (2006). “The well-established peyote exception also fatally undermines the Government’s broader contention that the Controlled Substances Act establishes a closed regulatory system that admits of no exceptions under RFRA.” *Id.*, at 434. “We do not doubt that there may be instances in which a need for uniformity precludes the recognition of exceptions to generally applicable laws under RFRA. But it would have been surprising to find that this was such a case, given the longstanding exemption from the Controlled Substances Act for religious use of peyote, and the fact that the very reason Congress enacted RFRA was to respond to a decision denying a claimed right to sacramental use of a controlled substance. See 42 U.S.C. § 2000bb(a)(4).” *Id.*, at 436.

79. In March 2023, Mr. Olsen met with DEA officials for an initial interview. Mr. Olsen told the DEA officials that compliance with state law is required for federal exemption and Mr. Olsen would obtain a religious exception from the state.²³

M. Mr. Olsen’s Petition for Rules (2023)

80. In September 2023, Mr. Olsen filed a petition with the Iowa Department of Inspections and Appeals to make rules for religious exceptions to chapter 124

²² [https://www.dea diversion.usdoj.gov/GDP/\(DEA-DC-5\)\(EO-DEA-007\)\(Version2\)RFRA_Guidance_\(Final\)_11-20-2020.pdf](https://www.dea diversion.usdoj.gov/GDP/(DEA-DC-5)(EO-DEA-007)(Version2)RFRA_Guidance_(Final)_11-20-2020.pdf)

²³ <https://iowamedicalmarijuana.org/pdfs/olsen-dea-2022/DEA-Receipt-RFRA-Carl-Olsen-2022-06-16.pdf>

based on the existing exception for religious use of peyote in § 204(8). The agency held the request was outside the scope of chapter 124 and did not make any decision on the merits. Mr. Olsen filed for judicial review, thinking that the argument was strong enough to appeal in the Iowa Supreme Court and to apply for a writ of certiorari in the U.S. Supreme Court if it had to go that far. *Olsen v. Iowa Department of Inspections, Appeals, and Licensing*, Iowa District Court, Polk County, No. CVCV066477 (December 4, 2024).²⁴

81. However, in May 2024, Mr. Olsen notified the Iowa District Court that Iowa had enacted a RFRA and notified the DEA. See Mr. Olsen's 2024 May 10 Letter to the DEA.²⁵

82. The district court held that authority to make rules must be explicit in chapter 124 to be within the scope of chapter 124, despite the existing exception for religious use of peyote in § 204(8). *Olsen v. Iowa Department of Inspections, Appeals, and Licensing*, Iowa District Court, Polk County, No. CVCV066477 (December 4, 2024). As before, the court did not apply strict scrutiny to § 124.204(8). Iowa Code § 17A.19(10)(a) ("based upon a provision of law that is unconstitutional on its face").

83. At the hearing on Mr. Olsen's petition for rules on September 13, the department's attorney said, "if Mr. Olsen believes that the Iowa Controlled Substances Act fails to pass muster under the constitution, state or federal, he's certainly free to bring that litigation in an appropriate forum". Transcript, p. 13, Sept. 13, 2024. The department's attorney said, "if there is a constitutional claim, it's up to litigants to

²⁴ https://carl-olsen.com/pdfs/olsen-iowa-rules/review/05771__CVCV066477_OFJU_14097175.PDF

²⁵ <https://iowamedicalmarijuana.org/pdfs/dea-2024-04-10.pdf>

bring that question before an appropriate forum to effect or otherwise expand the scope of exceptions under the Controlled Substances Act”. Id., p. 14. In summary, the department’s attorney said:

So the Iowa Religious Freedom Restoration Act which was enacted earlier this year by the state legislature, it adopts the compelling interest test. And that test essentially says any facially neutral law or regulation of the state, code or rule, that even if it is neutral, if it substantially burdens religious practice of any particular religious group that that law or regulation is unlawful unless the state can show there’s a compelling interest that they’re trying to protect with the rule of general applicability and it’s the narrowest possible way to accomplish that goal.

Now, it may very well be that that was enacted this year, but to the extent Mr. Olsen thinks that that controls this case, it doesn’t. That might provide an avenue for a litigant to go to court to argue that the Controlled Substances Act, you know, because it restricts religious use of different products, like marijuana, for example -- if Mr. Olsen wants to litigate that, he’s free to go to court and try to do so. That’s not what happened here. The question -- The sole question here was, when the Board of Pharmacy denied his petition for rulemaking whether the Board was correct it lacked legal authority to make the requested rules.

Id., p. 21.²⁶

N. Recent Major Shifts in Compelling Interest (2024)

84. In 2024, the legislature authorized delta-9 THC in beverages sold in grocery stores. 2024 Acts ch. 1176 (May 17, 2024). The act caps the delta-9 THC at 4 mg per serving. But how is it possible to obtain 4 mg of delta-9 THC if hemp and hemp products cannot have more than .3% delta-9 THC by dry weight?²⁷
85. Rod Kight (<https://cannabusiness.law/>) sent me this explanation:

The issue of “hot hemp extract”, which can mean anything from a 1% delta-9 THC extract to 99% delta-9 THC isolate, has been around since the 2014 Farm Bill and applied equally to manufacturing CBD gummies in 2015 as it does to manufacturing delta-9 THC seltzers in 2024. Most people assert that the practice of using (or having as a

²⁶ <https://carl-olsen.com/pdfs/olsen-iowa-rules/review/transcript-2024-09-13.pdf>

²⁷ <https://www.legis.iowa.gov/docs/publications/iactc/90.2/CH1176.pdf>

by-product) “hot hemp extract” is lawful provided that the end-product does not contain more than 0.3% delta-9 THC. This view was supported by several members of Congress in our lawsuit against the DEA, and also by the 9th Circuit Court of Appeals in the AK Futures case. That being said, the DEA and others assert that this practice is not lawful. Some contend that this amounts to creating a “controlled substance mixture” that is not lawful. Regardless, its lawfulness has become the de-facto position throughout most of the country.

Citations:

Hemp Industries Ass’n v. DEA, 539 F. Supp. 3d 120 (D. D.C. 2021); *AK Futures LLC v. Boyd St. Distro, LLC*, 35 F. 4th 682 (9th Cir. 2022).

O. Federal Rescheduling (2024)

86. In 2024, the U.S. Drug Enforcement Administration (DEA) proposed transferring marijuana from Schedule I to Schedule III. See Federal Register, Vol. 89, No. 99, Tuesday, May 21, 2024, p. 44597. Schedule III drugs have a lower potential for abuse when compared to drugs in schedules I and II, have a Currently Accepted Medical Use, and their abuse may lead to moderate or low physical dependence or high psychological dependence. 21 U.S.C. § 812(b)(3). If marijuana is transferred into schedule III, the manufacture, distribution, dispensing, and possession of marijuana would remain subject to the applicable criminal prohibitions of the CSA.²⁸
87. What this means is that even if cannabis is transferred into schedule III both federally and in Iowa, the Medical Cannabidiol Act would remain inconsistent with federal drug law without an exception under 21 U.S.C. § 822(d).
88. An exception under 21 U.S.C. § 822(d) must be consistent with “public health and safety”. Because state programs like the Iowa Medical Cannabidiol Act are the sole reason the HHS and the DEA are recommending transfer of cannabis to

²⁸ <https://www.federalregister.gov/d/2024-11137>

Schedule III, it seems Iowa has a strong case for federal exemption but lacks the moral integrity to put any muscle into it.

89. Mr. Olsen spent many hours working with the Medical Cannabidiol Board, department officials, and state legislators to get the department to ask the DEA for a waiver. No response has been received from the DEA. Mr. Olsen should not have to ask the legislature again. The department should file legal action under the Administrative Procedures Act, 5 U.S.C. §§ 551–559, to compel a response from the DEA.

CONCLUSION

90. The 1972 commission report recommended cannabis be legal for personal use and the 1988 administrative law judge found cannabis to be one of the safest therapeutically active substances known to man. And, since that time, states have shown again and again that people with serious medical conditions can use cannabis safely without direct medical supervision. Cannabis has become so widely accepted that it can no longer be considered to have a high potential for abuse.
91. All 48 states that have medical cannabis programs have criminal organizations cultivating and supplying cannabis products to patients with serious medical conditions, and now delta-9 THC is being sold in grocery stores for recreational use.
92. The state has no compelling interest in prohibiting personal, private, not for profit, religious use of cannabis.

93. Because the state authorizes religious use of a controlled substance by statute in Chapter 124, and because the state authorizes secular use of cannabis by statute in Chapter 124E inconsistent with federal drug law, and because the state authorizes delta-9 THC by statute in Chapter 204, the lack of any statutory protection for religious use of cannabis causes significant injury to Mr. Olsen and can only be resolved by a court order enjoining the state from interfering with this constitutionally protected activity.

Dated January 20, 2024.

Respectfully submitted.

CARL OLSEN

/s/ Carl Olsen

CARL OLSEN
Pro Se
130 E. Aurora Ave.
Des Moines, IA 50313
Phone: 515-343-9933
Email carl@carl-olsen.com

Original filed.

Copy to:
Attorney General of Iowa
Hoover Building
1305 E Walnut St
Des Moines, IA 50319