

Maine Medical Use of Marijuana Act

Where Maine Medical Use of Marijuana Act (MMUMA) does not provide employee with private right of action against employer when job was terminated after she told employer she was applying to open a registered marijuana dispensary, employer's motion to dismiss was properly granted.

Judy Savage began employment with Maine Pretrial Services in June 2009. In March 2010, Savage approached her supervisor to discuss her interest in opening a medical marijuana dispensary. In April 2010, Savage was disciplined for her work attire and use of compensable time, despite not having changed her attire or behavior since starting work. She was terminated from her job on June 28, 2010.

Savage sued Maine Pretrial, arguing that her job termination violated the MMUMA. Maine Pretrial moved to dismiss the complaint for failure to state a claim upon which relief could be granted; the trial court granted the motion to dismiss, and Savage appealed.

The MMUMA provides certain protections to individuals lawfully engaging in conduct involving the use of medical marijuana authorized under the act. In this case, Savage was only applying for a license to operate a dispensary; this does not involve the use of medical marijuana, and nowhere in the act does the phrase "authorized conduct" describe applications for a license to operate a dispensary.

"The conduct of applying for a license to operate a registered dispensary, although contemplated and required by the Act in order to operate a registered dispensary, is not otherwise illegal and therefore does not require special protection."

"Additionally, [section 2423-E(1)] does not create a private right of action against private employers. Rather, it protects against prosecution and penalties by governmental regulatory entities. ... The statute already provides for a private right of action for qualifying patients and primary caregivers who have been discriminated against by their employers and it would have been duplicative for the Legislature to provide for a private right of action against employers again in section 2423-E(1)."

Judgment affirmed.

Savage v. Maine Pretrial Services, Inc. (Mead, J.) Dec. No. 2013 ME 9, Cum-12-147, 1-17-13
Appealed from Superior Court (Wheeler, J.)
Lee H. Bals and Andrew C. Helman for Savage
Robert W. Kline for Maine Pretrial Services
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