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CONNECTICUT DISTRICT COURT REJECTS MEDICAL MARIJUANA USER'S ADA CLAIMS

On March 22, 2021, U.S. District Judge Stephan R. Underhill dismissed a lawsuit filed by former firefighter, Thomas Eccleston, who claimed the City of Waterbury violated the Americans with Disabilities Act by firing him for using medical marijuana. Eccleston, a medical marijuana registration card holder, asserted claims for discriminatory termination, failure to accommodate, and retaliation under the ADA.

Judge Underhill held that Eccleston was not a "qualified individual" under the ADA by virtue of his medical marijuana use because marijuana is still an illegal drug under the Controlled Substances Act, thus even supervised use of medical marijuana cannot fit within the supervised use exception to the ADA. The Court took pains to clarify that the use of medical marijuana does not disqualify plaintiffs from asserting ADA claims provided those claims are not predicated on discrimination on the basis of the marijuana use.

Eccleston also claimed that because Waterbury was aware he had a medical marijuana card, it also should have been on notice that he suffered from post-traumatic stress disorder. The claim foundered because Eccleston never alerted Waterbury to his PTSD diagnosis and the mere mention that he might get a medical marijuana card did not put Waterbury on notice of any underlying condition.

Eccleston's failure to accommodate claims fell flat as well. He claimed that Waterbury failed to accommodate his disability by "permitting a positive result on a random drug screen when in fact he had a prescription" and by failing to engage in the interactive process. Finding that employers are not obligated to accommodate the use of drugs deemed illegal by the CSA, the Court held that Waterbury's refusal to permit Eccleston to test positive for marijuana did not state a claim for failure to accommodate.

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The Court found the interactive process claim insufficient as well. Similar to his discrimination claim, Eccleston asserted that Waterbury was on notice of the need for an accommodation discussion because he disclosed that he might get a medical marijuana card without specifying what the drug was supposed to treat.

Eccleston also failed to state a claim for retaliation because his claimed protected activity was that he mentioned the possibility of getting a medical marijuana

card to his chief. The Court found that this was not protected activity for purposes of the ADA.

Eccleston also asserted claims under Connecticut state law, including claims under the Palliative Use of Marijuana Act ("PUMA") alleging discrimination on the basis of his status as a registered medical marijuana user. However, the Court declined to exercise supplemental jurisdiction over the state law claims, dismissing them without prejudice to refile in state court.