

**Ed Fallon**  
STATE REPRESENTATIVE  
Statehouse 515-281-4300  
e-mail – ed.fallon@legis.state.ia.us

HOME ADDRESS  
1321 8<sup>th</sup> Street  
Des Moines, IA 50314  
Home: (515) 243-8828



**House of Representatives**  
State of Iowa  
*Eighty-First General Assembly*  
STATEHOUSE  
Des Moines, Iowa 50319

COMMITTEES  
Economic Growth  
Environmental Protection  
Local Government

October 4, 2006

Attorney General Tom Miller  
Hoover State Office Building  
Des Moines, IA 50319

Dear Attorney General Miller,

Thank you for your July 25 response to my July 19 letter on behalf of my constituent, Carl Olsen. I shared your response with Mr. Olsen, and he indicated that it was less than satisfactory. I hope that, through this second correspondence, we can try to address his interest in the position of Iowa law on the matter he brings to our attention. I do concede that his original question was, perhaps, not entirely clear.

In the attachment I sent to you with my July 19 letter, Mr. Olsen posed the question: "What are the specific threats to public health and safety that are caused by members of the Ethiopian Zion Coptic Church growing, distributing or using marijuana?" He went on to cite numerous federal and state code references, as well as case law. This includes the following:

1. The Religious Freedom Restoration Act of 1993, 42 USC 2000bb et seq.;
2. The Religious Land Use and Institutionalized Persons Act of 2000, 42 USC 2000cc et seq.;
3. Two recent U.S. Supreme Court rulings in *Cutter v. Wilkinson* and *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal et al.* interpreting these acts;
4. Iowa Code Chapter 124.204(8) regarding the sacramental use of peyote by members of the Native American Church;
5. The fact that two Iowa residents receiving marijuana for medicinal use from the federal government are allowed to possess and use it on state property; and
6. The ensuing implication that the use of marijuana by the Ethiopian Zion Coptic Church as a sacrament does not present health and safety concerns.

-- over --

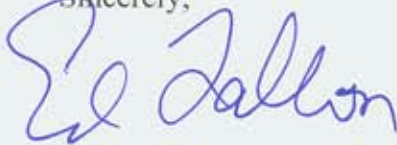
After reviewing these references, my interpretation of Mr. Olsen's question is this:

**Given the legal and legislative history on this subject, and the ensuing implication that the use of marijuana by the Ethiopian Zion Coptic Church as a sacrament does not present health and safety concerns, is it now legal under Iowa law for members of that church to use marijuana during the performance of their official religious duties?**

In your response to me on July 25, you write: "Questions about the enforcement of laws regarding marijuana should be resolved by the charging authorities in 'other formal proceedings provided by law for resolution of the issue,' and not through an opinion of the Attorney General." The problem is that, as Mr. Olsen has pointed out to me, the alternative to either a formal or informal opinion from your office is to allow the "charging authorities" to determine the answer to his question. In other words, for Mr. Olsen to receive an official legal opinion on his question, he or someone else would actually have to try to break the law.

I would appreciate your view as to whether I understand this situation correctly, and if so, short of breaking the law in order to determine the Court's stand on this matter, is their some advice or perspective you and your office can offer Mr. Olsen. Thank you.

Sincerely,



Ed Fallon