

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN,
Plaintiff-Appellant,

v.

IOWA BOARD OF PHARMACY,
Defendant-Appellee.

No. _____

**PETITION FOR JUDICIAL REVIEW
OF A FINAL AGENCY DECISION**

COMES NOW the Plaintiff-Appellant, Carl Olsen, by and through counsel, Colin Murphy, and in support of the Petition for Judicial Review of a Final Agency Decision, pursuant to Iowa Code section 17A.19, states:

1. The agency action that is the subject of the Petition for Judicial Review is the July 16, 2018 decision to not take any action on Mr. Olsen's July 5, 2018 Petition for Scheduling Recommendation. His Petition and Memorandum in Support are attached as Exhibit 1. The agency action is attached as Exhibit 2.
2. The July 16, 2018 decision is the final agency action of the Iowa Board of Pharmacy (the "**Board**") for purposes of judicial review under Iowa Code Chapter 17A.
3. Mr. Olsen is a resident of Polk County. Venue in Polk County is proper under Iowa Code section 17A.19(2).
4. The issue raised before the Board is whether a religious exemption for the use of cannabis extracts, which contain up to three percent THC, by Rastafari should be recommended to the general assembly in light of the already existing religious exemption for the use of peyote in Iowa Code section 124.204(8) (2017) and the approved use of the same cannabis extracts for medicinal purposes under Iowa Code Chapter 124E.

5. Mr. Olsen preserved this issue for judicial review and exhausted any and all administrative remedies.
6. The Iowa Constitution and its federal counterpart recognize Mr. Olsen's fundamental rights to the free exercise of religion and equal protection.
7. The Board is vested with the authority to administer the regulatory provisions of Chapter 124 as well as the discretion to not only interpret the schedules of controlled substances, but also make recommendations to the general assembly for rescheduling.
8. The Board's decision to not take any action on Mr. Olsen's request to recommend rescheduling the religious use of cannabis extracts, which involves its legal interpretation of Iowa Code section 124.201(1), is irrational, illogical or wholly unjustifiable and an abuse of discretion under the circumstances. The Board is the proper authority to petition for a religious exemption to the schedules. Nothing in the section prohibits the Board from considering evidence concerning the use of cannabis extracts for religious purposes in recommending a revision to the schedules; the list of factors is not exclusive. Also, the Board provides no explanation as to why scientific and medical evidence is irrelevant to any religious exemption. Furthermore, Mr. Olsen does not need a federal exemption granted by the DEA for the religious use of cannabis extracts in Iowa for the same reason that consumers of cannabis extract under Iowa Chapter 124E do not need a federal exemption for medicinal use in this state.
9. There is no compelling state interest in prohibiting the religious use of cannabis extracts now that state law allows the same for medical purposes.

WHEREFORE, Plaintiff-Appellant Carl Olsen respectfully prays for a ruling on appeal that remands this matter to the Iowa Board of Pharmacy for further proceedings and grants any other appropriate relief under the circumstances.

GOURLEY REHKEMPER LINDHOLM, P.L.C.

440 Fairway, Suite 210

West Des Moines, Iowa 50266

T: (515) 226-0500

F: (515) 244-2914

E-mail: ccmurphy@grllaw.com

By: /s/ Colin Murphy AT0005567

**ATTORNEY FOR PLAINTIFF-APPELLANT
CARL OLSEN**

Original filed.

Copy to:

Andrew Funk, Pharm.D.

Executive Director

Iowa Board of Pharmacy

400 S.W. Eighth Street – Suite E

Des Moines, Iowa 50309-4688

IOWA BOARD OF PHARMACY

Petition by Carl Olsen that Iowa Code Chapter 124 does not apply to the religious use of cannabis by Rastafari



PETITION FOR
SCHEDULING RECOMMENDATION

Carl Olsen requests the Iowa Board of Pharmacy make a recommendation to the Iowa general assembly, pursuant to the Board's authority in Iowa Code § 124.201(2018), Iowa Const. art. I, §§ 1, 3, and 6, and U.S. Const. amend. 1 and 5, that the following paragraph be added as a new numbered section immediately after Iowa Code § 124.204(8) (2018):

Nothing in this chapter shall apply to the bona fide religious use of cannabis by Rastafari; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of cannabis, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto.

Equal protection requires this change. As of 2017, the Iowa Medical Cannabidiol Act, Iowa Code Chapter 124E authorizes the use and production of cannabis for medical purposes in Iowa. Religious use of peyote is unrestricted, but production of peyote is regulated. Authorized users of cannabis products are unrestricted, but production of cannabis products is regulated. Religious use of cannabis by Rastafari requires equal or greater protection of the law. Iowa Const. art. I, §§ 1, 3, and 6, and U.S. Const. amend. 1 and 5.

Attached to this petition are the following exhibits showing that Carl Olsen has personal standing to make this request:

1. Act No. 11, April 2, 1976, Jamaica.
2. State v. Olsen, No. 171/69079, July 18, 1984.
3. Registered Agent, Florida Corporation Document Number P03208.
4. Restated Articles of Incorporation, January 1, 2016.
5. USPTO Registration No. 5,039,494, September 13, 2016.

Also attached to this petition is a memorandum in support of the petition.

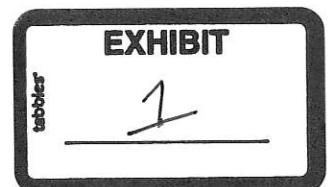
Signed by Carl Olsen this 5th day of July, 2018.

RECEIVED

JUL 05 2018

IOWA BOARD OF PHARMACY

Post Office Box 41381, Des Moines, IA 50311-0507
Tel. 515-343-9933, carl@carl-olsen.com



IOWA BOARD OF PHARMACY

Petition by Carl Olsen that Iowa Code Chapter 124 does not apply to the religious use of cannabis by Rastafari



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SCHEDULING RECOMMENDATION

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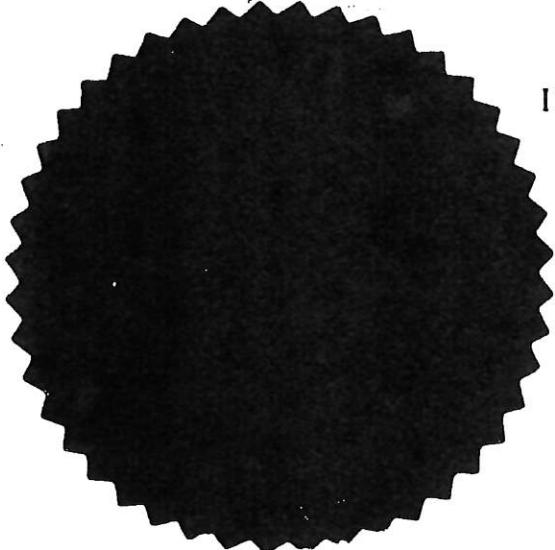
Also attached to this petition is a memorandum in support of the petition.

Signed by Carl Olsen this 5th day of July, 2018.

Post Office Box 41381, Des Moines, IA 50311-0507
Tel. 515-343-9933, carl@carl-olsen.com

JAMAICA

No. 11 -1976



I assent,

[Handwritten signature]

Governor-General

[Handwritten date: 21st day of April 1976]

AN ACT for the Incorporation of The Ethiopian Zion Coptic Church and the Vesting of certain Property in the Body so Incorporated.

[2nd April 1976]

WHEREAS the persons hereinafter named and other persons inhabitants of this Island have been associated together under the name of "THE ETHIOPIAN ZION COPTIC CHURCH" for the teaching and spreading of belief in the Bible, the Moral Laws of God, the Fatherhood of God and the Brotherhood of Man, and to safeguard and transmit to posterity the purity and righteousness of the precepts and teachings as taught by them :

AND WHEREAS property, both real and personal, in Jamaica is held or possessed by divers persons so associated in trust or for the benefit or on behalf of the Church :

2

[No.] *The Ethiopian Zion Coptic Church (Incorporation and Vesting) Act, 1976*

AND WHEREAS it is expedient and desirable that there should be a corporate body in which may be vested the real and personal property already and hereafter to be acquired in Jamaica by the persons so associated and possessed of the powers by this Act inferred :

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same as follows :

Short title.

1—This Act may be cited as THE ETHIOPIAN ZION COPTIC CHURCH (INCORPORATION AND VESTING) ACT, 1976.

Interpretation.

2—In this Act unless the context otherwise requires:—

“The Church” means the persons for the time being associated in Jamaica under the name of The Ethiopian Zion Coptic Church.

“The Corporation” means the body incorporated by this Act.

Incorporation of the Ethiopian Zion Coptic Church.

3—(1) The following persons, that is to say, Keith Gordon of 20 Sirgany Drive, Kingston 2 in the Parish of Kingston, Chief Elder, Laurenton Dickens of 8 Crieffe Road, Kingston 5 in the Parish of Saint Andrew, Elder, Walter Wells of Mandeville in the Parish of Manchester, Elder; Isaah Williams of 22 Sirgany Drive, Kingston 2 in the Parish of Kingston, Elder; and Victor Whitely of 22 Sirgany Drive, Kingston 2 in the Parish of Kingston, General Secretary, and their successors for the time being in their respective offices shall be and are hereby declared and appointed a Corporation or Body Corporate to have continuance forever and perpetual succession by the name of “The Ethiopian Zion Coptic Church” and possessed of a Corporate Seal and by that name may sue and be sued in all Courts in Jamaica.

(2) No act or proceedings of the Corporation shall be invalidated by reason of any vacancy in the body or in any of the offices mentioned in the proceeding subsection or by any defects in the appointment of any person to any such office.

*The Ethiopian Zion Coptic Church (Incorporation [No.]
and Vesting) Act, 1976*

3

(3) The Seal of the Corporation shall be of such design and pattern as the Corporation may from time to time determine.

(4) Upon the recording in the Record Office on the lodging at the Office of Titles of Certificate under the Seal of the Corporation of the appointment of any persons to any office mentioned in subsection (1) of this section the person named in such certificate shall be deemed to be the holder of the office named therein until the recording or lodging of a certificate of the appointment of another person to such office.

(5) No deed or document purporting to be executed by the Corporation shall be of any force or validity unless it is sealed with the Seal of the Corporation and signed by not less than two members of the Corporation one of whom shall be the Chief Elder for the time being of the Church.

4—(1) All lands and hereditaments specified in the Schedule to this Act and all other lands and hereditaments and all goods, chattels and personal property in Jamaica which are now legally and equitably the property of the Church or are now held in trust for the purpose of the Church, as by the Officials, Ministers or members of the Church or any of them are hereby transferred and vested in the Corporation, their successors and assigns subject to all trusts, mortgages, charges, rights, reservations or encumbrances (if any) affecting the same or any part thereof.

Realty and
Personalty
vested in
the Corpo-
ration Sub-
ject to all
Trusts,
Mortgages,
Etc.

(2) All property real and personal in the island of Jamaica devised or bequeathed by will or otherwise given to the Church or to any person for the benefit of the Church, shall be held by, and is hereby vested in, and shall be deemed to be the property of the Corporation.

5—The Corporation shall have the following powers:—

- (a) to acquire, hold, purchase, lease, possess and enjoy any lands and hereditaments whatsoever in fee simple for leasehold or for any other estate or in-

Powers of
the Corpo-
ration.

4 [No.] *The Ethiopian Zion Coptic Church (Incorporation and Vesting) Act, 1976*

terest therein, and all property, real, personal, or mixed;

- (b) to give, grant, let, charge, improve, manage, develop, exchange, lease, mortgage, sell, convey, assign, dispose of, turn to account or otherwise deal with all or any of the property, both present and future, so held or any part thereof;
- (c) to borrow, raise or secure the payment of money in such manner as may be thought fit and in particular by the issue of debenture or scrip charged upon all or any of the property (both present and future) held by or vested in the Corporation, and to redeem and pay off any such securities;
- (d) to appoint a person or persons as the Attorney or Attorneys of the Corporation either generally or for a limited period and for such purposes and with such powers as may be stated in the Power of Attorney and to revoke any such appointment;
- (e) to make such rules and by-laws as it may think fit in order to carry out the purposes of this Act.

Saving of Prerogative.

6—Nothing in this Act shall prejudice or affect the rights of Her Majesty the Queen, Her Heirs and Successors, the Government of Jamaica or of any body politic or corporate or of any other person or persons, except such as are mentioned in this Act and those claiming by, from, through or under them.

SCHEDULE

1. All that parcel of land part of Ward's Bay situate at Alligator Pond in the Parish of Manchester containing by survey two roods and twenty-seven perches and being the land comprised in Volume 747 Folio 38 of the Register Book of Titles.

2. All that parcel of land part of Balvenie in the Parish of Manchester containing by survey twelve thousand two hundred and twenty-four square feet and being the land comprised in Volume 1060 Folio 48 of the Register Book of Titles.

3. All that parcel of land part of Balvenie in the Parish of Manchester containing by survey nine thousand one hundred and thirty-eight square feet and being the land comprised in Volume 1060 Folio 49 of the Register Book of Titles.

*The Ethiopian Zion Coptic Church (Incorporation [No.]
and Vesting) Act, 1976*

5

4. All that parcel of land part of Balvenie in the Parish of Manchester containing by survey eleven thousand seven hundred and sixty-seven square feet and being the land comprised in Volume 1060 Folio 42 of the Register Book of Titles.

Passed in the House of Representatives with four (4) amendments, this 23rd day of March, 1976.

R. S. MACPHERSON,
Speaker.

Passed in the Senate this 26th day of March, 1976.

RICHARD BYFIELD,
President.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.



Clerk to Houses of Parliament.

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,

) Filed July 18, 1984

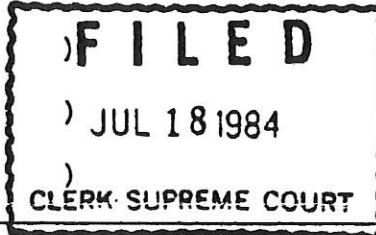
Appellee,

)

vs.

CARL ERIC OLSEN,

Appellant.



171
69079

Appeal from the Iowa District Court for Muscatine County, R. K. Stohr, Judge.

Defendant appeals from a judgment convicting him of unlawful possession of marijuana with intent to deliver, a violation of Iowa Code section 204.401(1). AFFIRMED.

Carl Eric Olsen, Miami Beach, Florida, pro se.
James R. Cook of Cook & Waters, Des Moines, on the brief.

Thomas J. Miller, Attorney General, Joseph P. Weeg, Assistant Attorney General, and Stephen J. Petersen, County Attorney, for appellee.

Considered by Reynoldson, C.J., and Uhlenhopp, Larson, Schultz, and Wolle, JJ.

PER CURIAM.

Defendant, Carl Eric Olsen, appeals from a judgment convicting him of unlawful possession of marijuana with intent to deliver, a violation of Iowa Code section 204.401(1). This case was before us in State v. Olsen, 293 N.W.2d 216 (Iowa), cert. denied, 449 U.S. 993, 101 S. Ct. 530, 66 L. Ed. 2d 290 (1980), in which we reversed and remanded when a State's witness was permitted to testify beyond the scope of the minutes of testimony. Following his conviction on a second trial, defendant again appeals and we affirm.

Olsen admits that when stopped by the West Liberty police in May of 1978, he was transporting 129 pounds of marijuana and \$10,915 in cash. His sole defense is that his possession and use of the marijuana are protected by the first amendment's guarantee of religious freedom.

Olsen is a member and priest of the Ethiopian Zion Coptic Church. Testimony at his trial revealed the bona fide nature of this religious organization and the sacramental use of marijuana within it. Testimony also revealed church members use marijuana continuously and publicly, commencing at an early age. Olsen admitted to smoking marijuana while driving and to using the drug a few hours before testifying in his second trial. Nonetheless, he asks us on this appeal to afford his religious use of marijuana unlimited constitutional protection.

I. This court dealt at length with Olsen's first amendment claim in State v. Olsen, 315 N.W.2d 1, 7-9 (Iowa

1982), a case involving this defendant but based on a different automobile stop and arrest. We find no reason to retreat from our holding there that "[a] compelling state interest sufficient to override Olsen's free exercise clause argument is demonstrated in this case." In fact, since our last Olsen decision, we have been joined in our analysis by yet another court, see Whyte v. United States, 471 A.2d 1018 (D.C. 1984).

Olsen now contends we must make an independent finding of a compelling state interest rather than defer to the legislature's decision to regulate marijuana. The cases do not support Olsen's assertion. See Leary v. United States, 383 F.2d 851, 860-61 (5th Cir. 1967), rev'd on other grounds, 395 U.S. 6, 89 S. Ct. 1532, 23 L. Ed. 2d 57 (1969); Whyte, 471 A.2d at 1021; State v. Rocheleau, 142 Vt. 61, 68, 451 A.2d 1144, 1148 (1982).

II. Defendant also raises an equal protection challenge, based on the legislative exemption granted the peyote ceremonies of the Native American Church. See Iowa Code § 204.204(8) (1983). This statutory exemption may be derived from the California Supreme Court's decision in People v. Woody, 61 Cal. 2d 716, 394 P.2d 813, 40 Cal. Rptr. 69 (1964). The Woody court noted in granting the prosecution exemption that peyote was used only in a desert enclosure and only during a special Saturday sundown to Sunday sunrise ceremony. The participants were fed breakfast at the close of the ceremony and were kept isolated from the general population

until the drug's effects had dissipated. Defendant can point to no such safeguards in the Coptic Church's indiscriminate use of marijuana; the drug is smoked publicly and continuously and made available to church members regardless of age or occupation. These significant distinctions render meritless defendant's equal protection argument.

We affirm the judgment of the district court.

AFFIRMED.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

[Previous On List](#) [Next On List](#) [Return to List](#)

Entity Name Search

[Events](#) **No Name History**

Detail by Entity Name

Foreign Not For Profit Corporation
THE ETHIOPIAN ZION COPTIC CHURCH, INC.

Filing Information

Document Number	P03208
FEI/EIN Number	00-0000000
Date Filed	08/29/1984
State	OC
Status	INACTIVE
Last Event	INVOLUNTARILY DISSOLVED
Event Date Filed	11/01/1985
Event Effective Date	NONE

Principal Address

CREIGHTON HALL
WHITE HORSES DISTRICT
ST. THOMAS PARISH, JAMAICA

Mailing Address

CREIGHTON HALL
WHITE HORSES DISTRICT
ST. THOMAS PARISH, JAMAICA

Registered Agent Name & Address

OLSEN, CARL ERIC
43 EAST STAR ISLAND DRIVE
MIAMI BEACH, FL 33139-5146

Officer/Director Detail

Name & Address

Exhibit #3 - page 2 of 2

Title P

GORDON, KEITH
CREIGHTON HALL
JAMAICA

Title S

WELLS, WALTER
CRIEGHTON HALL
JAMAICA

Annual Reports

No Annual Reports Filed

Document Images

No images are available for this filing.

[Previous On List](#) [Next On List](#) [Return to List](#)

Entity Name Search

Search

[Events](#) **No Name History**

111308

ETHIOPIAN ZION COPTIC CHURCH
RESTATED ARTICLES OF INCORPORATION
JANUARY 1, 2016

771029 RART 520.00 PATTY2 214#18

ARTICLE I

The name of this Corporation is:
ETHIOPIAN ZION COPTIC CHURCH

ARTICLE II

The Corporate Body of the Ethiopian Zion Coptic Church is Christ.
I Corinthians, chapter 12, verse 12, of the Holy Bible (King James Authorized Version) – “For as the Body is one, and all the Members of that one Body, being many, are one Body: so is Christ”.
I Corinthians, chapter 12, verse 27, of the Holy Bible (King James Authorized Version) – “Now ye are the Body of Christ, and Members in particular.”

ARTICLE III

The Sacrament of the Ethiopian Zion Coptic Church is Cannabis.
Cannabis is the Mystical Blood of Christ.
In 1979, the Supreme Court of Florida found: “(1) the Ethiopian Zion Coptic Church represents a religion within the first amendment to the Constitution of the United States; (2) the ‘use of cannabis is an essential portion of the religious practice’” and “the Ethiopian Zion Coptic Church is not a new church or religion but the record reflects it is centuries old and has regularly used cannabis as its sacrament.” Town v. State ex rel. Reno, 377 So.2d 648 (Fla. 1979), at page 649.

ARTICLE IV

The Ethiopian Zion Coptic Church is organized and operated exclusively for religious purposes and has such powers as are consistent with an organization operated exclusively for religious purposes, including the power to acquire and receive funds and property of every kind and nature, whether by purchase, conveyance, lease, gift, grant, bequest, legacy, devise, or otherwise, and to own, hold, expend, make gifts, grants, and contributions, and to convey, transfer, and dispose of any funds and property and the income from them for the furtherance of the purposes of the Ethiopian Zion Coptic Church, and to lease, mortgage, encumber, and use the same, and such other powers which are consistent with the Iowa

5

ETHIOPIAN ZION COPTIC CHURCH
RESTATED ARTICLES OF INCORPORATION
JANUARY 1, 2016

Nonprofit Corporation Act, and by any future laws amendatory thereof and supplementary thereto.

ARTICLE V

This Corporation shall not afford pecuniary gain, incidentally or otherwise, to its members, and no part of the net income or net earnings of this corporation shall inure to the benefit of any member, private shareholder, or individual.

This Corporation shall not lend any of its assets to any officer, director, or member of this corporation or guarantee to any other person the payment of a loan made to an officer, director, or member of this corporation.

This Corporation is not organized as a Title 26, United States Code, Section 501(c)(3) Corporation and donations to this organization are not tax exempt.

ARTICLE VI

The period of duration of this corporation's existence is perpetual.

ARTICLE VII

This Corporation is specifically empowered to establish, register and operate other for profit corporations for the purposes of carrying out the mission of the Ethiopian Zion Coptic Church.

Upon dissolution of a subordinate corporation, the assets of that corporation will be distributed to the Ethiopian Zion Coptic Church.

Iowans for Medical Marijuana is currently the sole subordinate corporation established by the Ethiopian Zion Coptic Church.

ARTICLE VIII

The initial registered agent of this Corporation is Carl Olsen, 130 E. Aurora Ave., Des Moines, Iowa 50313-3654.

ARTICLE IX

The director of this Corporation shall initially consist of Carl Olsen. The name and address of the initial director is: Carl Olsen, 130 E Aurora Avenue, Des Moines, Iowa 50313-3654, (515) 343-9933.

**ETHIOPIAN ZION COPTIC CHURCH
RESTATED ARTICLES OF INCORPORATION
JANUARY 1, 2016**

ARTICLE X

Members and branches of the Ethiopian Zion Coptic Church must adhere to the following:

The Ethiopian Zion Coptic Church is a Christian Church.

The Ethiopian Zion Coptic Church uses both the Old and New Testaments of the Holy Bible (Authorized King James Version).

The Ethiopian Zion Coptic Church is a Rastafarian Church.

The Sacrament of the Ethiopian Zion Coptic Church is Cannabis.

The Members of the Ethiopian Zion Coptic Church are the Body of Christ.

Cannabis is the Blood of Christ.

God lives in Us and not up in the sky, we see and talk to our God face to face here on Earth when we see and talk to each other. I Corinthians, chapter 2, verse 16, of the Holy Bible (King James Authorized Version) – “Know ye not that ye are the temple of God, and [that] the Spirit of God dwelleth in you?”

ARTICLE XI

Members of this corporation will not be personally liable for the payment of any debts or obligations of this Corporation of any nature whatsoever, nor will any of the property of the Members be subject to the payments of the debts or obligations of this Corporation to any extent whatsoever.

ARTICLE XII

This Corporation will have no capital stock.

ARTICLE XIII

These Articles of Incorporation may be amended from time to time in the manner prescribed by law.

ARTICLE XIV

In the event of the dissolution of this Corporation any assets or surplus property remaining after the payment of its debts will be disposed of by transfer to one or more corporations, associations, institutions, trusts,

**ETHIOPIAN ZION COPTIC CHURCH
RESTATED ARTICLES OF INCORPORATION
JANUARY 1, 2016**

community chests, or foundations organized and operated exclusively for one or more of the purposes of this Corporation.

Notwithstanding any provision herein to the contrary, nothing herein will be construed to affect the disposition of property and assets held by this Corporation upon trust or other condition, or subject to any executory or special limitation, and such property, upon dissolution of this Corporation, will be transferred in accordance with the trust, condition, or limitation imposed with respect to it.

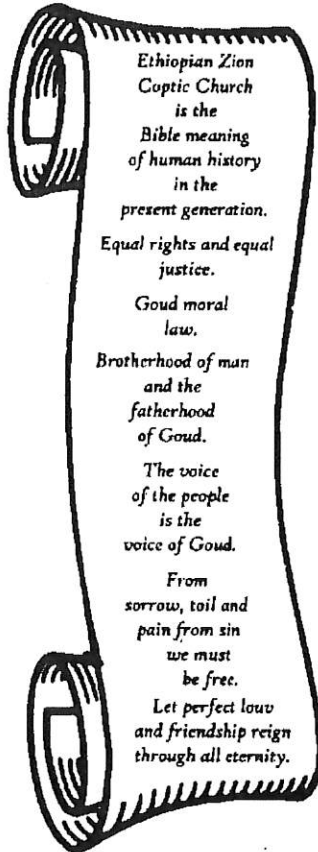
Carl Olsen
Post Office Box 41381
Des Moines, Iowa 50311-0507
(515) 343-9933

Ethiopian Zion Coptic Church

January 4, 2016

Paul Pate
Iowa Secretary of State
Lucas Building, First Floor
Des Moines, IA 50319

Corp. No. 111308
Ref. No.: 263698



Dear Secretary Pate:

Please accept the attached Restated Articles of Incorporation for the Ethiopian Zion Coptic Church.

Pursuant to the letter we received from you dated December 24, 2014, Article VIII has been amended to provide the registered agent.

Pursuant to Iowa Code 504.1005, the attached Restated Articles of Incorporation amend the previous Restated Articles of Incorporation on January 1, 2016, by complete replacement.

Pursuant to Iowa Code 504.1006, the attached Restated Articles of Incorporation consolidate all amendments as of January 1, 2016, into a single document.

Carl Olsen is the sole director of the Ethiopian Zion Coptic Church and is authorized to make these changes.

If you have any questions, please contact Carl Olsen at (515) 343-9933.

Carl Olsen
Ethiopian Zion Coptic Church
130 E. Aurora Ave.
Des Moines, Iowa 50313-3654
515-343-9933
carl-olsen@mchsi.com

FILED
IOWA
SECRETARY OF STATE

1-3-16

9:35am

W01029120

United States of America

United States Patent and Trademark Office

Ethiopian Zion Coptic Church

Reg. No. 5,039,494

Registered Sep. 13, 2016

Int. Cl.: 45

Service Mark

Principal Register

Ethiopian Zion Coptic Church (IOWA CORPORATION)
130 E Aurora Ave
Des Moines, IA 503133654

CLASS 45: Evangelistic and ministerial services

FIRST USE 3-30-1984; IN COMMERCE 3-30-1984

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:
"COPTIC CHURCH"

SEC.2(F)

SER. NO. 86-828,217, FILED 11-21-2015
MIDGE FAE BUTLER, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

IOWA BOARD OF PHARMACY

Petition by Carl Olsen that Iowa Code Chapter 124 does not apply to the religious use of cannabis by Rastafari



ARGUMENT AND MEMORANDUM
IN SUPPORT OF PETITION

Iowa Code § 124.201(2018) authorizes the Iowa Board of Pharmacy to recommend changes to the schedules of controlled substances.

The Board is bound by the state and federal constitutions not to establish any state religion (to treat all religion equally) and not to interfere with the free exercise of religion. State and federal controlled substances acts have been found to interfere with the free exercise of religion.

The federal administrative agency that reviews the federal schedules of controlled substances has an application for religious exemption to the federal controlled substances act on its website.

https://www.deadiversion.usdoj.gov/pubs/rfra_exempt_022618.pdf

An application for religious exemption from Iowa's Controlled Substances Act must begin with an administrative determination, using the process described in Iowa Code § 124.201(2018); regarding two questions: (1) whether there is a compelling interest in restricting the free exercise of religion; and, (2) whether any restriction on free exercise of religion is the least restrictive. *Mitchell County v. Zimmerman*, 810 N.W.2d 1, 16 (Iowa 2012):

The County has the burden to show that the ordinance serves a compelling state interest and is the least restrictive means of attaining that interest.

Both the state and the federal governments are made up of three branches. An administrative record (administrative branch) is necessary for thorough judicial review (judicial branch) and eventual review by state legislators (legislative branch) which make the final decision.

The legislature has determined that this process begins with the Iowa Board of Pharmacy reviewing a proposed change to the schedules of controlled substances and making a recommendation to the legislature. *State v. Bonjour*, 694 N.W.2d 511, 514 (Iowa 2005):

That procedure is to defer to the Board of Pharmacy Examiners, which is

far better equipped than this court – and the legislature, for that matter – to make critical decisions regarding the medical effectiveness of marijuana use and the conditions, if any, it may be used to treat.

Obviously, the Board has no expertise to determine what is and what is not a religious claim, but the Board can assume for the sake of its purely secular decision making that a religious claim is legitimate unless there is clear evidence to the contrary. There is quite a lot of evidence that Rastafari use cannabis as a religious sacrament, and nothing to the contrary.

STATE AND FEDERAL RELIGIOUS EXEMPTION OF PEYOTE

Iowa Code § 124.204(8) (2018) is a religious exemption currently included in the Iowa schedules:

Peyote. Nothing in this chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto.

Federal law, 21 C.F.R. § 1307.31 (2018), currently authorizes a religious exemption by administrative regulation:

§ 1307.31 Native American Church.

The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of law.

CARL OLSEN HAS STANDING TO PETITION

In 1970, Carl Olsen became associated with a group of Rastafarians who later incorporated in Jamaica as the Ethiopian Zion Coptic Church (Act No. 11, April 2, 1976). See Exhibit #1 attached to this petition.

Carl Olsen was arrested in Iowa for distribution of cannabis in 1978. On appeal, July 18, 1984, the Iowa Supreme Court found:

Olsen is a member and priest of the Ethiopian Zion Coptic Church. Testimony at his trial revealed the bona fide nature of this religious organization and the sacramental use of marijuana within it.

See Exhibit #2 attached to this petition.

On March 30, 1984, Carl Olsen reserved the corporate name Ethiopian Zion Coptic Church in the state of Iowa, Iowa Business No. 93938, showing his address at the time as 43 Star Island, Miami Beach, FL 33139. This corporation was dissolved on August 6, 1984.

On August 29, 1984, Carl Olsen became the registered agent for the Ethiopian Zion Coptic Church in the state of Florida, Document Number P03208, showing his address at the time as 43 Star Island, Miami Beach, FL 33139. This corporation was dissolved on November 1, 1985. See Exhibit #3 attached to this petition.

Carl Olsen was incarcerated for 2 years in state and federal prisons, from August of 1984 to August of 1986.

In 1986, Carl Olsen incorporated the Ethiopian Zion Coptic Church in the state of Iowa, Iowa Business No. 111308, October 15, 1986. This corporation has not been dissolved as of the time of the filing of this petition.

In 2016, after Jamaica recognized the religious use of cannabis by Rastafari in 2015 (Act No. 5, March 20, 2015), Carl Olsen added a statement to the Articles of Incorporation of the Ethiopian Zion Coptic Church explicitly stating that the Ethiopian Zion Coptic Church is a Rastafarian church (January 3, 2016). See Exhibit #4 attached to this petition.

In 2016, Carl Olsen obtained a registered trademark on the name Ethiopian Zion Coptic Church from the United States Patent and Trademark Office (September 13, 2016). See Exhibit #5 attached to this petition.

43 STAR ISLAND, MIAMI BEACH, FLORIDA

In 1979, the Florida Supreme Court, *Town v. State ex rel. Reno*, 377 So.2d 648 (Fla. 1979), found the property at 43 Star Island, Miami Beach, FL 33139, was being used as a church contrary to zoning restrictions on the island and allowed the owner “to worship in her home with family and friends.” *Id.* at 650. The Florida Supreme Court found:

(1) the Ethiopian Zion Coptic Church represents a religion within the first amendment to the Constitution of the United States; (2) the “use of cannabis is an essential portion of the religious practice”; . . .

Further, the Ethiopian Zion Coptic Church is not a new church or religion but the record reflects it is centuries old and has regularly used cannabis as its sacrament.

Id. at 649.

OLSEN’S PEYOTE EQUAL PROTECTION CLAIM IN 1990

Carl Olsen’s equal protection claims based on state and federal exemptions for the religious use of peyote were conclusively denied by the state and federal courts prior to the decision in *Employment Division v. Smith*, 494 U.S. 872 (1990).

In the *Smith* case, the United States Supreme Court found that the First Amendment did not require the state of Oregon to allow the religious use of peyote as long as the Oregon controlled substances act was neutral toward religion and generally applicable (in other words, no other exceptions for use of peyote were allowed by the state). See *Employment Division v. Smith*, 494 U.S. 872, 889 (1990) (citing *Olsen v. DEA*, 878 F.2d 1458 (D.C. Cir. 1989), as an example of a religious claim that could be denied as long as the law was neutral toward religion and generally applicable).

At the time the *Smith* case was decided, Oregon did not allow “any” use of peyote, so it’s denial of a religious exemption was not aimed at a particular religion and was generally applicable to everyone without exception.

A religious claim for cannabis would have failed in Oregon at that time for the same reason, because in 1990 there was no state law in Oregon authorizing the medical or recreational use of cannabis (there were no exceptions). Oregon authorized medical use of cannabis in 1998, Measure 67, and recreational use of cannabis in 2014, Measure 91. Oregon also authorized the religious use of peyote in 2014, Measure 91.

JAMAICA RECOGNIZED RASTAFARI’S RIGHT TO CANNABIS IN 2015

In 2015, Jamaica amended its Dangerous Drugs Act by including an exemption for the religious use of cannabis by Rastafari, Act No. 5, March 20, 2015.

Section 6(b) of the 2015 act amended Section 7C(2) of the Dangerous Drugs Act to read:

Subsection (1) shall not apply to the possession of ganja for . . .
(a) religious purposes as a sacrament in adherence to the Rastafarian faith; . . .

Section 7 of the 2015 act amended Section 7D of the Dangerous Drugs Act to read:

7D(6) The Minister responsible for justice may by order published in the Gazette authorize any—
(a) person who has attained the age of eighteen years and who the Minister is satisfied is an adherent of the Rastafarian faith or any group of such persons; or
(b) organization that the Minister is satisfied is comprised of such persons,
to cultivate, on lands designated by the Minister in the order and in accordance with such regulations as the Minister may prescribe for that purpose, ganja for use for religious purposes as a sacrament in adherence to the Rastafarian faith.

7D(8) The Minister responsible for justice may by order published in the Gazette declare an event to be an exempt event for the purposes of subsection (9), if the Minister is satisfied that the event is—
(a) promoted or sponsored by—
(i) a person who is an adherent of the Rastafarian faith or any group of such persons; or
(ii) any organization that is comprised of such persons, whether alone or in association with other persons who are not such adherents; and
(b) primarily for the purpose of the celebration or observance of the Rastafarian faith.

Section 7 of the 2015 act also created a new Section 7H to the Dangerous Drugs Act, as follows:

7H(1) The Minister may make regulations—
(a) prescribing the procedure and criteria for registration of places of Rastafarian worship for the purposes of the definition of "public place" set out in the First Schedule;

CANNABIS EQUAL PROTECTION CLAIM

Currently, there are 46 states that allow some form of medical use of cannabis, and 9 states that allow recreational use of cannabis. This petition is being filed in Iowa, so this national information is just provided as general background information showing a change in social acceptance of cannabis occurring since 1990.

Just to draw a comparison, peyote hasn't been accepted for medical or recreational use since the current drug laws were written in 1970 (1971 in Iowa). No change in peyote's social acceptance has occurred during that same time period.

Specifically, in Iowa, the 2014 Iowa Medical Cannabidiol Act authorized Iowans under certain conditions to possess extracts of cannabis with up to 3% THC obtained from an out-of-state source. Iowa Code Chapter 124D (2014), 2014 Iowa Acts Chapter 1125, S.F. 2360.

Specifically, in Iowa, the 2017 Iowa Medical Cannabidiol Act authorized Iowans under certain circumstances to possess extracts of cannabis with up to 3% THC obtained from an in-state source. Iowa Code Chapter 124E (2017), 2017 Iowa Acts Chapter 162, H.F. 524. The 2017 act also authorized in-state cultivation and distribution of cannabis for these purposes.

ARGUMENT

Religion is highly protected and a fundamental right in Iowa and in the nation. See the Constitution of the state of Iowa, Article I:

Religion. SEC. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building

See the Constitution of the United States, Amendment 1:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Rastafarians are entitled to equal or greater protection under the law in Iowa. At a minimum, Rastafarians should be able to possess extracts of cannabis with up to

3% THC from an out-of-state source or from an in-state source (depending on availability). No compelling state interest can be shown in denying equal or greater protection to religious use than the use currently allowed under the Iowa Medical Cannabidiol Act.

Signed by Carl Olsen this 5th day of July, 2018.

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Iowa Board of Pharmacy

ANDREW FUNK, PHARM.D.
EXECUTIVE DIRECTOR

July 16, 2018

Carl Olsen
PO Box 41381
Des Moines, IA 50311

Sent via email only to: carl@carl-olsen.com and ccmurphy@grllaw.com

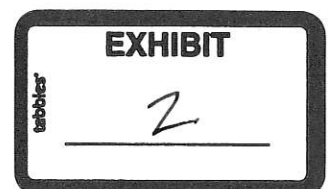
RE: Petition for Scheduling Recommendation

Mr. Olsen,

On July 5, 2018, you submitted a Petition for Scheduling Recommendation to the Board, which asked the Board to make a recommendation to the Iowa general assembly to exempt bona fide religious use of cannabis by Rastafari from Iowa Code chapter 124. On July 6, 2018, you indicated that attorney Colin Murphy was representing you regarding this Petition. The Board has not received any documentation from Mr. Murphy. The Iowa Administrative Procedure Act (Iowa Code chapter 17A) does not establish a right or a procedure for an individual to petition for agency action of this nature.

Specifically, your Petition asks the Board to recommend the following new section be added after Iowa Code section 124.204(8): "Nothing in this chapter shall apply to the bona fide religious use of cannabis by Rastafari; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of cannabis, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto."

Iowa Code section 124.204(8) states: *"Peyote.* Nothing in this chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto." This language is nearly identical to the language in DEA regulations that also contain this exemption. See 21 C.F.R. § 1307.31.



Iowa Code section 124.201(1) states:

The board shall administer the regulatory provisions of this chapter. Annually, within thirty days after the convening of each regular session of the general assembly, the board shall recommend to the general assembly any deletions from, or revisions in the schedules of substances, enumerated in section 124.204, 124.206, 124.208, 124.210, or 124.212, which it deems necessary or advisable. In making a recommendation to the general assembly regarding a substance, the board shall consider the following:

- a. The actual or relative potential for abuse;
- b. The scientific evidence of its pharmacological effect, if known;
- c. State of current scientific knowledge regarding the substance;
- d. The history and current pattern of abuse;
- e. The scope, duration, and significance of abuse;
- f. The risk to the public health;
- g. The potential of the substance to produce psychic or physiological dependence liability; and
- h. Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

As the factors demonstrate, any recommendations made by the Board would be based on scientific and medical evidence, and not based on religious practices. The Board does not have any expertise in analyzing the use of controlled substances for religious purposes. Therefore, it would be inappropriate for the Board to make any scheduling recommendations that are specific to any religion. In addition, there is no exemption in DEA regulations for religious use of cannabis by Rastafari. Ultimately, any change to Iowa Code section 124.204 must be made by the legislature. The Iowa legislature is the appropriate body to lobby for the change to Iowa Code section 124.204 that you are seeking. The board declines to take any action in response to your Petition.

Sincerely,



Andrew Funk, Pharm.D.
Executive Director
Iowa Board of Pharmacy