

CLIENT ALERT

JULY 2, 2018

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CANNABIS

COURT FINDS THAT “MARIJUANA” IS DISTINCT AND SEPARATE FROM “CANNABIS”

This week in *State of Arizona v. Rodney Christopher Jones*, the Arizona Court of Appeals held in a 2-1 decision that marijuana concentrates do not fall under the protections of the Arizona Medical Marijuana Act (AMMA). The court determined that the AMMA, by not specifically including a form of extracted resin, namely Hashish, within its description of marijuana, adopts a distinction between marijuana and its concentrates that the Arizona Supreme Court made in the seventies. See *State v. Bollander*, 110 Ariz. 84 (1973). In essence, the Appellate Court found that “marijuana” is distinct and separate from “cannabis,” which the court believes includes extracts. The court did, however, carve out “consumables” from the prohibited cannabis extracts. The protected consumables combine marijuana with non-marijuana elements and include “brownies and the like.”

We recognize the confusion this decision causes. This appellate ruling is inconsistent with the interpretation and function of the AMMA since its enactment and the Arizona Department of Health Services’ own regulations of the AMMA—a fact that the dissent in this case recognized. The court does not seem to understand the various forms and production of marijuana; —the distinction the court makes between concentrates and other forms of marijuana allowed by the AMMA is simply not tenable. Marijuana concentrates are not only a mainstream and acceptable present-day use of medical marijuana, they are also the most effective form of treatment for certain ailments.

At present, indications from the Arizona Department of Health Services appear to be that concentrates still fall under the AMMA. Still, we are engaging with the issues evolving from this decision and are presently conducting analysis regarding its implications. We are also considering legal recourse, including involvement in a reconsideration of the opinion and an appeal to the Arizona Supreme Court.

This client alert is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the field of cannabis law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in here.

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