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SCOTUS Rules in Favor of Trucker Fired for Accidentally Consuming THC

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The U.S. Supreme Court [ruled Tuesday in favor of a New York trucker](#) who lost his job as a result of unwittingly consuming THC.

The justices ruled 5-4 in favor of Douglas Horn, who sued Medical Marijuana Inc. after he consumed a Dixie X product that claimed to contain only CBD and zero THC. Horn failed a random drug test after consuming the product and lost his job.

The ruling means Horn can proceed with his lawsuit seeking damages from the company.

Justice Amy Coney Barrett wrote the majority opinion, joined by Sonia Sotomayor, Elena Kagan, Neil Gorsuch and Ketanji Brown Jackson, who wrote a concurring opinion. Justice Clarence Thomas wrote a dissenting opinion, as did Brett Kavanaugh, who was joined by John Roberts and Samuel Alito.

The background: The case dates back to 2012, when Horn got into an accident while working as a commercial truck driver. He suffered from chronic pain — and traditional medicine and physical therapy failed to provide relief. Horn discovered the Dixie X product while researching alternatives for pain relief, which was advertised as a CBD tincture containing “0% THC.”

Horn knew that testing positive for THC could cost him his job, and he even called the company to confirm that the product had no THC. But after he began taking the product, he tested positive for THC during a random drug test. After losing this job, Horn purchased more of the product and sent it to a third-party lab for testing. The lab found that the product indeed contained THC.

Horn filed a Civil Racketeer Influenced and Corrupt Organizations Act [suit against Medical Marijuana Inc.](#) in the U.S. District Court for the Western District of New York in August 2015. The District Court tossed out his lawsuit, finding that Horn's [loss of earnings aren't recoverable through civil RICO](#) as a result of personal injury. But the 2nd Circuit Court of Appeals reversed, concluding that Horn had been “injured in his business” and therefore could seek triple damages under RICO.

The Supreme Court heard [oral arguments in the case last October](#).

More context: While RICO laws were developed to prosecute organized crime, the law has been used more broadly — including to target state-legal cannabis companies for trafficking in a federally illegal substance.

For example, Colorado property owners [sued their cannabis-cultivating neighbor under RICO](#), alleging that the cannabis grow diminished their property value. The plaintiffs lost in 2018 in one of the first cannabis RICO rulings.

SCOTUS ruling: There is a split in the courts over whether personal injuries are eligible for damages under RICO, and the majority opinion emphasized that it is not deciding whether Horn was “injured” or whether his firing amounted to a loss of business under RICO laws.

“The only question we address is the one squarely before us: whether civil RICO bars recovery for all business or property harms that derive from a personal injury,” Barrett wrote.

The majority opinion ruled that people can in fact sue under civil RICO laws as a result of personal injury.

In his dissent, Thomas argued that it didn't make sense for the court to decide this question without first determining whether Horn suffered a personal injury. And Kavanaugh expressed concern that the ruling will “federalize many traditional personal injury” lawsuits and “produce significant confusion and litigation in the lower courts, all of which is wasteful and unnecessary.”

The majority, however, concluded that if there is a problematic proliferation of RICO suits, Congress should address it by changing the law.

What's next: Now that the Supreme Court has decided that Horn can proceed with his suit, it now goes back to the district court to decide on the merits of the case.

"There is still a very high burden to prove these kinds of cases," said Zack Kobrin, a partner at Saul Ewing who specializes in cannabis law. Horn will need to prove at court that Medical Marijuana Inc. was committing a crime as part of a larger criminal enterprise.

The impact: Kobrin thinks that there could more more people who take advantage of this ruling to sue because they took CBD and then tested positive for THC and lost their jobs. While he says hemp companies should be aware of the ruling, he doesn't believe that it will open the floodgates of litigation against them.