

September 19, 2023

The Honorable James Comer
Chairman,
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, D.C. 20515

Re: H.R. 5040, the Cannabis Users' Restoration of Eligibility (CURE) Act.

Dear Chairman Comer and Ranking Member Raskin:

My name is Anthony Armour. I'm a career law-enforcement officer and former DEA Special Agent that was recently fired for using CBD oil.

I write in support of H.R. 5040, the Cannabis Users' Restoration of Eligibility (CURE) Act. I further support any appropriate measure Congress may consider to reform how federal agencies assess cannabis drug tests and, in particular, those tests in relation to products that are not controlled under the Controlled Substances Act and made legal by the 2018 Farm Bill.

Employment and Personal Background

I attended and played college football at Texas Tech from 1992-96.¹ During my playing career, I was selected team captain and a candidate for the top linebacker in college football.

Out of college, more than 25 years ago, I began my career in law enforcement with the Lubbock Police Department. In my six years as an officer, I received multiple awards, including the Medal of Valor for rescuing families from an apartment fire and a Letter of Commendation for locating a fleeing murder suspect.

From there, I began working for DEA in February 2004. Over 15 years of service, I rose to the rank of criminal investigator. I worked in numerous DEA offices, including its Houston, Phoenix, Panama City, Panama Country, and Lubbock offices. In 13 out of 15 years, DEA rated my job performance as "outstanding."

During my DEA career, I spent a considerable amount of time on the front lines combatting opioid diversion and fighting the opioid crisis. During the height of the opioid crisis, I served as a case agent on matters where DEA successfully seized millions of dollars in forfeited assets, took of prescription opioid painkillers off the streets, and shut down pill-mills that have caused drug abuse issues for millions of Americans. Federal prosecutors praised my work. Also, during my tenure at DEA, I served a 90-day voluntary temporary duty assignment in Baghdad during Operation Iraqi Freedom.

¹ https://texastech.com/news/2002/11/18/Where_Are_They_Now_

My Injuries and Chronic Pain

My motto in 1995 is no different than it is today: “I just try to make plays wherever I can. I’m a football player, and I do whatever I can to get the job done.” But my time as a football player and two decades in law enforcement has taken a significant toll on my body. Dating back to my time as a football player, I have suffered numerous concussions and body injuries to the shoulders, hands, back, and neck. I have had three ACL knee surgeries and one MCL surgery. In November 2016, while conducting a surveillance operation, I was involved in a major collision during which I suffered an acute cervical sprain, back pain, and neck pain. In January 2018, I was diagnosed with chronic pain and low back pain.

I’m certainly able to perform the functions of my former law enforcement jobs, but I often experience pain from these injuries. I have taken over-the-counter medicines to reduce inflammation, but they do not and cannot provide me complete relief. Moreover, gastrointestinal surgery prevents me from taking too many of these drugs. I also considered and quickly rejected obtaining a prescription for opiates to treat my chronic pain. Although, when prescribed by doctors, opiates have an important role in treating patients for severe or acute pain, due to my intimate knowledge of the dangers associated with chronic opioid use from my work, I knew they weren’t a good long-term solution for the chronic pain I endure.

My Use of Non-Addictive CBD Oil Leads to a Positive Drug Test for Marijuana

Seeking non-addictive, non-psychoactive means to obtain additional relief from my chronic pain, in February 2019, I ordered hemp-based cannabidiol (CBD) oil from a reputable online retailer. At the time, CBD oil had not been approved for pain management. But research had shown CBD and other legal cannabis products and cannabinoids to be promising.² Importantly, as DEA and FDA have recognized, CBD, CBD-oil, and hemp oil have no euphoric properties and are not substances with abuse potential. Hemp oil is federally uncontrolled and can be bought over the counter at pharmacies, grocery stores, and even gas stations.

The three products I purchased explicitly stated that they had a THC content of less than .30% or no THC at all. Two of these products were oil drops; the other was a vaporizer. Soon after I began ingesting the CBD products, my symptoms improved. I kept the receipts and packaging of these CBD products in case issues arose related to my use of them, so I could show DEA that the products I was using were legal hemp products.

But while my health improved, months later, my career took a turn for the worse. In May 2019, DEA gave me a random drug test. They collected two urine samples, and sample A tested positive for marijuana. More accurately, that sample showed the presence of THC metabolites. I have since learned that while these tests reliably detect THC metabolites and THC ingestion, they cannot tell where THC came from. In other words, they cannot differentiate between THC in legal hemp products and in illegal marijuana products. Because these drug tests used by DEA and other agencies look for THC metabolites, they’re not reliable indicators of marijuana use.

² See, for example, Vučković S, Srebro D, Vujović KS, Vučetić Č, Prostran M. Cannabinoids and Pain: New Insights From Old Molecules. *Front Pharmacol.* 2018 Nov 13;9:1259.

I did not know much if any of this at the time. Until the time I tested positive for marijuana, DEA had no memos, regulations, directives, or employee guidance that warned employees that use of CBD products carried the risk of testing positive for marijuana. But I had attempted to follow the law by taking personal steps to buy CBD oils that would be .30% or less THC content. Indeed, as I discuss below, my case appears to have the reason DEA issued additional memos, regulations, directives, and employee guidance regarding CBD oil and positive drug tests.

Due to the Positive Drug Test for Cannabis, DEA Fires Me

After the positive drug test, DEA initiated an investigation. I immediately turned over the products I had purchased and used to DEA, and I fully cooperated with its investigation. I proactively reached out to the Health Services Unit Chief to explain that I had used CBD oil products, not illegal marijuana, which may have resulted in the positive test. I willingly gave investigators the three CBD products I had used.

The agency tested those products. Accounting for margins of uncertainty, two tested as having THC below .30%. The third, called CBD Drop 2500, tested as inconclusive. The test returned a result of .35% THC with a scientific margin of uncertainty of $\pm 0.08\%$. As a scientific matter, that meant the product could have been above or below the .30% THC line that divides legal hemp from illegal marijuana. Of course, I had purchased all these products believing them all to be under .30% THC, as they were advertised.

A month after the positive test, in June 2019, the then-Special Agent in Charge of the Houston Field Division e-mailed all Houston personnel strongly discouraging the use of CBD products and that if anyone used a CBD product, they could stand a good chance of testing positive for THC. The next month, SAMHSA issued a memo warning that reusing hemp and CBD products could risk a positive marijuana test. The next day, DEA sent employees a 10-page e-mail warning that CBD oils could result in a positive urine test for THCA, as had been the case with me. Additional warnings came in November 2019 and April 2020—again, after the positive test.

In the agency proceeding that followed, a medical review officer told DEA inspectors that no test available could differentiate between a positive urinalysis result caused by legal CBD products containing THC and a positive urinalysis result caused by smoking marijuana. DEA's Drug and Chemical Evaluation Section Chief told inspectors that THC's pooling in a user's body could cause concentrations to increase and result in a positive urinalysis test. Thus, the inspectors did not have reliable evidence that the positive THC urinalysis test result was due to using marijuana use. There was no evidence that I had knowingly consumed marijuana or that I had been warned that consumption of CBD oils could lead to a charge of illegally using drugs.

And yet, due to the positive drug test, the inconclusive product test, and my admitted use of the tested products, the agency fired me. In all, the agency and Board considered my conduct to be "extreme" and that I was on "very clear notice" of the risk of using hemp products.

The Aftermath

I appealed DEA's decision to an Administrative Law Judge, who upheld DEA's determination and the penalty of termination. I have taken a second appeal to the United States Court of Appeals for the Federal Circuit, which is now pending. My hope is that the appeals court will reverse the agency decision, or at minimum, that it will require DEA to recalculate my penalty.

But much of the damage is done and some is irreversible. Since DEA terminated me more than three years ago, I have gone through personal hell. I lost my government pension. I have been unable to secure employment. My credit is maxed out. My credit rating has gone from good to poor. I have six-figure legal bills that far exceeds a year's worth of my salary. The stress on my family has been extreme. In brief, faced with outdated drug testing policies related to cannabis use—including legal hemp products—and little guidance available to me at the time, my decision to use a cannabis product marketed to me as legal cost me everything.

Regardless of how my appeal turns out, I accept responsibility for the decisions I made. If I could go back in time and make different decisions, certainly I would. Despite the agency urging otherwise in the litigation surrounding my termination, it was never my intention for my conduct to reflect poorly on DEA. I simply did not believe that taking openly marketed and sold CBD products for chronic pain was inconsistent my mission at DEA to take dangerous drugs, like opiates, off the streets—and nobody told me otherwise.

Conclusion

My story shows a need to reform how drug testing and cannabis use is viewed by federal agencies. The CURE Act, as originally introduced, would benefit federal employees in my situation and prevent others from having to endure the hardships I have faced because of these outdated policies. Even so, I do and will continue to support this legislation, even if it is limited to ensuring that people who have used cannabis in the past are not denied the opportunities I have had to serve my country and make our streets safer.

The CURE Act begins to undo a system and policies that cost our country. Talented Americans ought to have the opportunity to serve. They should not be disqualified due to past cannabis use and outdated drug testing policies. These individuals can help take far more dangerous drugs off-the-streets, such as opiates, or assist in other important matters, such as national security.

Federal drug testing policies—and importantly, attitudes about drug testing—have not caught up with the times. I'm not the only career law enforcement officer in this country with chronic pain, nor am I the only law enforcement officer that has turned to legal cannabis products to address pain. Nobody should have to choose between suffering pain and serving our country.

Drug testing policies exist to help create safer workplaces and avoid the dangers of drug abuse. As to cannabis use, however, these policies no longer align with these goals. Rather than

take drugs off the street and dissuade illegal drug use, too often they take qualified individuals out of the federal workforce and dissuade talented individuals from applying.

I appreciate the opportunity to write in support of the CURE Act and encourage Congress to pass this legislation and any other that addresses the flaws of cannabis drug tests.

Sincerely,

A handwritten signature in black ink, consisting of two stylized, cursive letters 'A' and 'A' followed by a horizontal line.

Anthony Armour