

UNITED CANNABIS PATIENTS AND CAREGIVERS OF MAINE et al.

v.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES et al.

Argued on April 8, 2021

Decided May 4, 2021

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

United Cannabis, Dawson Julia, and Christian Roney appeal from a judgment of the Superior Court (Kennebec County, *Stokes, J.*) granting the Department's and intervenor Wellness Connection's motions to dismiss, and dismissing United Cannabis's motion for a temporary restraining order and preliminary injunction as moot.

The appellants contend that the court erred in dismissing their anticipatory declaratory judgment action for lack of jurisdiction, lack of standing, and on separation of powers concerns. We disagree and affirm the dismissal for lack of standing.

The appellants sought a declaratory judgment pursuant to 14 M.R.S. § 5954 (2021) enjoining the Department from issuing adult-use cannabis licenses to nonresidents. They contend that the Department's refusal to enforce the residency requirement contained in Maine's Marijuana Legalization Act, 28-B M.R.S. § 202(2) (2021), establishes the particularized injury necessary to give them standing. United Cannabis and the other appellants participate in the medical marijuana market, rather than in the

adult-use market to which the residency requirement applies. Even if they were participating in the adult-use market, however, their only claimed injury is the potential for increased competition, which would not suffice to give them standing. *See Varney v. Look*, 377 A.2d 81, 83 (Me. 1977). Not only must the injury be particular and concrete, but it also must be defined by a legal harm that is “fairly traceable to the challenged action” of the Department. *Collins v. State*, 2008 ME 85, ¶ 6, 750 A.2d 1257; *Berry v. Daigle*, 322 A.2d 320, 326 (Me. 1974); *cf. Lindemann v. Comm’n on Gov’t Ethics & Election Practices*, 2008 ME 187, ¶¶ 16-17, 961 A.2d 538.

Because the appellants could not demonstrate particularized harm and therefore lacked standing to maintain their declaratory judgment action, the court correctly dismissed the claim.

The entry is:

Judgment affirmed.

James G. Monteleone, Esq. (orally), Patrick I. Marass, Esq., David A. Soley, Esq., and J. William McCartney, Esq., Bernstein Shur, Portland, for appellants United Cannabis Patients and Caregivers of Maine, Dawson Julia, and Christian Roney

Aaron M. Frey, Attorney General, Christopher C. Taub, Chief Dep. Atty. Gen., Thomas A. Knowlton, Dep. Atty. Gen., Deanna White, Asst. Atty. Gen., and Paul E. Sutter, Asst. Atty. Gen. (orally), for appellee Department of Administrative and Financial Services

Matthew Warner, Esq. (orally), and Alexandra Harriman, Esq., Preti Flaherty Beliveau & Pachios, LLP, Portland, for appellee NPG, LLC, d/b/a Wellness Connection