

STATE OF INDIANA) IN THE MARION CIRCUIT COURT
)SS:
COUNTY OF MARION) CAUSE NO. 49C01-1507-MI-

THE FIRST CHURCH OF CANNABIS, INC.,)
BILL LEVIN, HERBERT NEAL SMITH, and)
BOBBI JO YOUNG,)
Plaintiffs,)

v.)
)

STATE OF INDIANA; GOVERNOR MIKE)
PENCE; ATTORNEY GENERAL GREGORY F.)
ZOELLER; INDIANA STATE POLICE)
SUPERINTENDENT DOUGLAS G. CARTER;)
CHIEF RICK HITE, INDIANAPOLIS)
METROPOLITAN POLICE DEPARTMENT;)
INDIANAPOLIS MAYOR GREG BALLARD;)
and MARION COUNTY SHERIFF JOHN)
LAYTON)
Defendants.)

COMPLAINT

I. INTRODUCTION

This is a complaint brought by the Plaintiffs identified below, pursuant to I.C. § 34-13-9-1, *et seq.*, Indiana Trial Rules 57 and 65 and I.C. § 34-26-1-1, *et seq.*, alleging violations of their rights under the Indiana Constitution and the United States Constitution, for which they seek declaratory and injunctive relief challenging as unconstitutional and illegal provisions of Indiana law relating to possession and use of marijuana.

II. JURISDICTION, VENUE, AND CAUSE OF ACTION

1. This Court has jurisdiction over this cause pursuant to I.C. § 34-26-1-3.
2. Venue is proper in this judicial district pursuant to Trial Rule 75(A)(5) and (7).

3. Declaratory relief is authorized pursuant to Indiana Trial Rule 57.

4. Injunctive relief is authorized pursuant to Indiana Trial Rule 65 and I.C. § 34-26-1-1, *et seq.*

5. This action is brought, pursuant to I.C. § 34-13-9-1, *et seq.*, to redress the substantial burden Indiana governmental entities have placed upon Plaintiffs' exercise of their religion as Plaintiffs' rights are secured by Article 1, sections 1, 2, 3, 4, 9, 23, and 31 of the Indiana Constitution and the First Amendment to the United States Constitution as extended to the State of Indiana by the Fourteenth Amendment to the United States Constitution.

III. PARTIES

6. Plaintiff First Church of Cannabis, Inc., (hereinafter "First Church of Cannabis") is a not-for-profit corporation organized under the laws of the State of Indiana and is a religious society with principal place of business at 3400 South Rural Street, Indianapolis, Marion County, Indiana.

7. Plaintiff Bill Levin is a citizen of the State of Indiana, resident of Marion County, and a founder and member of the Church of Cannabis

8. Plaintiff Herbert Neal Smith is a citizen of the State of Indiana, resident of Marion County, and member of the Church of Cannabis.

9. Plaintiff Bobbie Jo Young is a citizen of the State of Indiana, resident of Marion County, and member of the Church of Cannabis.

10. Defendant Michael Pence is the Governor of the State of Indiana, a governmental entity, with principal office located in the City of Indianapolis, Marion County, and as head of the State's executive branch is charged with oversight of the enforcement of the statutes and executive orders of

the State of Indiana, and, at all times relevant herein, has acted under color or title of State law.

11. Defendant Gregory F. Zoeller is the elected Attorney General of the State of Indiana with principal office located in City of Indianapolis, Marion County, and in that capacity is charged with enforcement of the statutes of the State of Indiana, and, at all times relevant herein, has acted under color or title of State law.

12. Defendant Indiana State Police Superintendent Douglas C. Carter is the head office of the Indiana State Police with principal office located in City of Indianapolis, Marion County, and in that capacity is responsible for enforcement of the statutes of the State of Indiana, and, at all times relevant herein, has acted under color or title of State law.

13. Defendant Rick Hite is the Chief of the Indianapolis Metropolitan Police Department with principal office located in City of Indianapolis, Marion County, and in that capacity is responsible for enforcement of the statutes of the State of Indiana and ordinances of the City of Indianapolis and Marion County, and, at all times relevant herein, has acted under color or title of State law.

14. Defendant Gregory Ballard is the elected Mayor of the City of Indianapolis with principal office located in City of Indianapolis, Marion County, and, as head of the executive branch of the city, in that capacity is responsible for oversight of enforcement of the statutes of the State of Indiana within the City of Indianapolis and the ordinances of the City of Indianapolis, and, at all times relevant herein, has acted under color or title of State law.

15. Defendant John Layton is the elected Sheriff of Marion County with principal office located in City of Indianapolis, Marion County, and in that capacity is responsible for enforcement of the statutes of the State of Indiana within the City of Indianapolis and the ordinances of the City of

Indianapolis within Marion County, and, at all times relevant herein, has acted under color or title of State law.

IV. FACTS

16. Plaintiff First Church of Cannabis is recognized as a not-for-profit religious organization by the United States Internal Revenue Service and is a religious society.

17. Plaintiff First Church of Cannabis advocates a religious belief that involves ultimate ideas, metaphysical beliefs, a moral or ethical system, a comprehensiveness of beliefs, and accoutrements of religion.

18. Among the accoutrements of religion referenced in the previous paragraph are important writings, a gathering place, keepers of knowledge, ceremonies and rituals, a structure and organization, holidays, tenets concerning diet and appearance, and proselytizing.

19. *Cannabis sativa* also known as marijuana or Cannabis, “the Healing Plant,” is the sacrament of the First Church of Cannabis; members of the Church believe cannabis “brings us closer to ourselves and others. It is our fountain of health, our love, curing us from illness and depression. We embrace it with our whole heart and spirit, individually and as a group.”

20. I.C. §§ 35-48-4-19 and -11 define “marijuana”; I.C. §35-48-4-11 makes possession of marijuana an offense punishable as a misdemeanor or felony; and I.C. §35-48-4-13 makes the act of visiting a place where marijuana is used a misdemeanor or felony, dependent upon the circumstances.

21. The aforementioned statutes have substantially burdened and may substantially burden Plaintiffs’ exercise of religion in that Plaintiffs are in a position to be prosecuted for the described offenses for use of the sacrament of their religion, even though such burden of Plaintiffs’ religion results

from rules of general applicability.

22. One or more of said Defendants cannot demonstrate application of the burden on Plaintiffs' exercise of religion either is in further of a compelling governmental interest or is the least restrictive means of furthering any compelling government interest.

23. Said Defendants have placed impermissible burdens on Plaintiffs, under I.C. § 34-13-9-1, *et seq.*, and Plaintiffs are entitled to relief.

WHEREFORE, Plaintiffs respectfully request declaratory relief or injunctive relief that prevents, restrains, corrects, or abates the violations as described in this Complaint, and for all other proper relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Mark Small, hereby certify that a copy of the foregoing has been served upon Michael Pence, Governor, State of Indiana, Statehouse, 200 East Washington Street, Indianapolis, Indiana 46204, Gregory Ballard, Office of the Mayor of Indianapolis, 2501 City-County Building, 200 East Washington Street, Indianapolis, Indiana 46204; Gregory Zoeller, Office of the Indiana Attorney General, 219 Statehouse, 200 West Washington Street, Indianapolis, Indiana 46204, Indianapolis Metropolitan Police Chief Rick Hite, Suite 211 City-County Building, 200 East Washington Street, Indianapolis, Indiana 46204; Sheriff John Layton, Marion County Jail, 50 South Alabama Street, Indianapolis, Indiana 46204, and Indiana State Police Superintendent Douglas G. Carter, Suite 100, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204, by Civil

Sheriff with summons and by deposit in the United States mail, first-class postage pre-paid, this 8th day of July, 2015.

Mark Small