

WHY NOW:

THE NEW JERSEY CANNABIS EMPLOYMENT DECISION THAT CHANGES EVERYTHING

MONSOUR-POLANCO V. JERSEY CITY (2026)



A Landmark Decision Redefining Workplace Cannabis Policies

In May 2026, the New Jersey Appellate Division issued a landmark ruling in *Monsour-Polanco v. Jersey City* (A-3876-23/A-3886-23), affirming that employers cannot terminate employees solely for lawful off-duty cannabis use or for testing positive for cannabis metabolites when state law provides employment protections.

The decision represents one of the strongest judicial affirmations to date that state employee cannabis protections can supersede broad employer interpretations of conflicting federal laws.

The Case at a Glance

In 2022, Jersey City terminated two police officers after they tested positive for cannabis during random drug testing, despite both officers admitting only to lawful, off-duty cannabis use permitted under New Jersey law.

The city argued that federal firearms restrictions prohibited cannabis users from serving as armed police officers and therefore required termination.

The New Jersey Appellate Division disagreed.

The court upheld prior decisions by the Civil Service Commission and ordered the officers' reinstatement, including:

- ✓ Back pay
- ✓ Benefits restoration
- ✓ Seniority restoration
- ✓ Attorney's fees

CREAMMA Protects Lawful Off-Duty Cannabis Use

The court held that New Jersey's Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMMA) prohibits employers from taking adverse employment action based solely on:

- Lawful off-duty cannabis use
- Positive cannabinoid metabolite test results
- Evidence of legal cannabis consumption outside of work

Federal Law Did Not Override State Employment Protections

Jersey City's argument that federal firearms laws required termination was rejected.

The court found no direct conflict requiring federal law to preempt New Jersey's employee protections under CREAMMA.

Why This Ruling Changes Everything



Positive THC Tests Alone Are Not Enough

The ruling reinforces that employers cannot rely solely on traditional drug testing results to justify discipline or termination when state cannabis employment protections apply.

Employment Decisions Must Be Based on Workplace Impairment

The court emphasized that employers must rely on legally defensible workplace processes and evidence of impairment—not merely the presence of cannabis metabolites.

State Employee Protections Can Override Broad Federal Restrictions

This decision establishes significant appellate precedent rejecting federal preemption arguments as a basis for disciplining employees solely for lawful off-duty cannabis use.

Even Safety-Sensitive Employees Are Protected

Perhaps most notably, the court confirmed that CREAMMA's employment protections extend to sworn law enforcement officers, despite arguments regarding federal firearm restrictions.

Traditional Drug Testing Is No Longer Enough

The ruling reinforces a growing reality facing employers nationwide:

- Drug tests identify past use. They do not establish current workplace impairment.

As more states adopt employment protections for cannabis use, employers must transition from legacy drug-testing policies toward defensible impairment detection and workplace fitness-for-duty processes.

What Employers Should Do Now?

Organizations operating in states with cannabis employment protections should immediately evaluate their workplace policies and procedures, including:

- Drug testing policies
- Reasonable suspicion procedures
- Impairment observation protocols
- Supervisor training programs
- Documentation practices
- Fitness-for-duty decision-making processes

As cannabis employment laws continue to evolve, employers who rely solely on positive THC test results may face increasing legal exposure. Defensible workplace decisions require more than traditional drug testing—they require evidence-based processes, properly trained supervisors, and clear documentation protocols.

This is where Advanced Training Products (ATP) can help. ATP works with employers to develop legally defensible workplace impairment programs through supervisor training, impairment observation protocols, documentation tools, and fitness-for-duty decision-making frameworks designed to help organizations adapt to the changing legal landscape surrounding cannabis in the workplace.

In today's environment, the goal is no longer simply detecting past cannabis use—it's identifying, documenting, and responding appropriately to actual workplace impairment.

Contact Us Today:



Solutions@AdvancedTrainingProducts.com



<http://www.AdvancedTrainingProducts.com/>

References:

- New Jersey Superior Court, Appellate Division. In the Matter of Norhan Mansour and Omar Polanco, Docket Nos. A-3876-23 and A-3886-23 (Consolidated), decided May 1, 2026. Available from the New Jersey Courts.
- New Jersey Civil Service Commission. In the Matter of Norhan Mansour, CSC Docket No. 2023-1987, Decision dated August 2, 2023.
- New Jersey Civil Service Commission. In the Matter of Norhan Mansour, Reconsideration and Enforcement Decision, July 24, 2024.
- New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMMA), N.J.S.A. 24:6I-31 et seq., including employment protections under N.J.S.A. 24:6I-52.
- Federal Gun Control Act of 1968, 18 U.S.C. §§ 922, 925, and 927.
- "New Jersey Court Tests Limits of Police Cannabis Policies," Police1, May 14, 2026.
- "Police Officers Have the Right to Use Cannabis Off Duty and New Jersey Courts Are Enforcing It," Employment Law Worldview, June 2, 2026.
- "N.J. City Was Wrong to Fire Cops Over Off-Duty Cannabis Use, Court Rules," NJ.com, May 2026. (Referenced reporting on the Appellate Division decision.)