

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Kenney v. Rhode Island Cannabis Control Commission

No. 25-1173 · No. 25-1173 · Decided November 25, 2025

SUMMARY

The United States Court of Appeals for the First Circuit held that the district court prematurely dismissed John Kenney's dormant Commerce Clause challenges to Rhode Island's cannabis licensing requirements on ripeness grounds. The court concluded that the claims were ripe, not moot, and supported by standing, and it reversed and remanded for prompt consideration of the merits and declaratory-relief claim.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Lynch, Circuit Judge; Gelpí, Circuit Judge; Howard, Circuit Judge
JURISDICTION	United States Court of Appeals for the First Circuit
DECIDED	November 25, 2025
DOCKET	25-1173
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the district court's dismissal without prejudice for lack of ripeness.
STANDARD OF REVIEW	De novo review of the district court's dismissal on ripeness and subject-matter-jurisdiction grounds.
PRECEDENTIAL VALUE	Published First Circuit opinion
PARTIES	John Kenney v. Rhode Island Cannabis Control Commission, Kimberly Ahern, in her official capacity

TOPICS

- ripeness
- mootness
- standing
- dormant commerce clause
- appellate procedure

PRACTICE AREAS

- appellate procedure
- constitutional law
- administrative law
- federalism

QUESTIONS PRESENTED

1. Whether the district court erroneously dismissed Kenney's dormant Commerce Clause challenges as unripe before the Rhode Island Cannabis Control Commission promulgated final retail-cannabis licensing rules.
2. Whether the claims became moot after the Commission issued final licensing rules during the appeal.
3. Whether Kenney had standing to challenge the Rhode Island Cannabis Act provisions.

HOLDINGS

1. The district court erroneously dismissed Kenney's dormant Commerce Clause claims on ripeness grounds.
2. Kenney's claims were not moot.
3. Kenney had standing to pursue the challenge.

KEY QUOTATIONS

“As the merits panel, we now hold the district court erroneously dismissed this case on ripeness grounds, that these claims are not moot, and that the plaintiff Kenney has standing.” (at 3)

“We reverse and remand for prompt consideration and resolution of the merits of plaintiff's claims of unconstitutionality of the Act and his claim for declaratory judgment.” (at 3)

FACTUAL BACKGROUND

John Kenney, a Florida resident, sought to qualify for a Rhode Island retail cannabis license as a social equity applicant. He alleged that he had a District of Columbia social equity cannabis license and past nonviolent marijuana convictions in Maryland and Nevada. He challenged Rhode Island's residency and local-ownership requirement for license applicants and the statutory definition of a social equity applicant, alleging that the definition recognized only qualifying Rhode Island marijuana offenses.

PROCEDURAL HISTORY

Kenney filed a challenge to Rhode Island cannabis-licensing provisions under the dormant Commerce Clause. The district court dismissed the action on ripeness grounds because the Rhode Island Cannabis Control Commission had not yet promulgated final licensing rules. After final rules were issued during the appeal, the First Circuit held that the claims were ripe, not moot, and brought by a plaintiff with standing; it reversed and remanded for consideration of the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must promptly consider and resolve the merits of Kenney's claims that the Rhode Island Cannabis Act is unconstitutional and his claim for declaratory judgment. The district court was instructed to

issue its rulings at least forty-five days before the date on which the Commission intends to issue retail licenses under the Act.

CASES CITED

- Jensen v. Rhode Island Cannabis Control Commission, No. 25-1132

OPINION

PER CURIAM.

United States Court of Appeals For the First Circuit No. 25-1173 JOHN KENNEY, Plaintiff, Appellant, v. RHODE ISLAND CANNABIS CONTROL COMMISSION; and KIMBERLY AHERN, in the official capacity, Defendants, Appellees. APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND [Hon. Melissa R. DuBose, U.S. District Judge] Before Gelpí, Lynch, and Howard, Circuit Judges.

Aaron L. Weisman and Pannone Lopes Devereaux & O'Gara LLC on brief for appellant. Chelsea Baittinger, Special Assistant Attorney General, Rhode Island, and Peter F. Neronha, Rhode Island Attorney General, on brief for appellees. November 25, 2025 LYNCH, Circuit Judge. This appeal is a companion case to Jensen v. Rhode Island Cannabis Control Commission (No.

25-1132). It involves a challenge to the district court's dismissal on ripeness grounds of Kenney's dormant Commerce Clause challenges to the Rhode Island Cannabis Act ("Act"), R.I. Gen. Laws § 21-28.11-1, et seq. We refer the reader to our opinion in Jensen issued on this date.

We reverse the district court's dismissal order and remand for the reasons given in Jensen. John Kenney, a Florida resident, states that he seeks a Rhode Island retail cannabis license as a social equity applicant. His complaint alleges that he is a "social equity recipient under District of Columbia law," which we take to mean the recipient of a social equity cannabis license in the District of Columbia, and that he would otherwise qualify under the Act as a social equity applicant because he has convictions for nonviolent marijuana offenses in Maryland and Nevada.

Kenney challenges two provisions of the Act: (1) the Act's requirement that all applicants for licenses must be Rhode Island residents or business entities with a principal place of business in Rhode Island and in which at least fifty-one percent of equity is held by Rhode Island residents, id. § 21-28.11-3(3), and (2) the Act's definition of a "social equity applicant," which allows an applicant to qualify by virtue of a past conviction "for any offense that is eligible for expungement under this chapter," id. § 21-28.11-3(39)(ii).

As in the Jensen - 2 - case, Kenney challenges these provisions under the dormant Commerce Clause, but unlike in Jensen, he does not bring an equal protection challenge. Kenney claims that the Act bars him from qualifying as a social equity applicant, despite his past nonviolent marijuana convictions, because the Act "contemplates Rhode Island nonviolent marijuana offenses only."

Kenney sought a declaratory judgment that these two provisions violate the dormant Commerce Clause, and brought his suit against the Rhode Island Cannabis Control Commission ("Commission"), the body created by the Act to, inter alia, oversee the licensing of retail cannabis businesses, id. § 21-28.11-4(a), and Kimberly Ahern, the Commission's director. Kenney filed his initial complaint on June 26, 2024, and he filed an amended complaint on September 25, 2024.

Defendants moved to dismiss the case for failure to state a claim and for lack of subject matter jurisdiction on November 8, 2024, which plaintiff opposed. On February 6, 2025, the district court entered a brief text order dismissing the case on ripeness grounds, holding that the "Commission ha[d] yet to promulgate [final] rules and regulations pertaining to retail cannabis business licenses" and that it "cannot and will not speculate as to when" that would occur.

The three sentences of reasoning in the district court's order are identical to the district court's dismissal order in the companion case, Jensen, and the orders were entered on the same - 3 - day. The district court entered judgment dismissing the action without prejudice, and Kenney timely appealed the judgment.

On April 11, 2025, the Commission issued final rules and regulations for retail cannabis business licenses to become effective on May 1, 2025. In light of that change, in this appeal Kenney asked that the case be remanded to the district court. This court denied the motion without prejudice and referred the question for reconsideration to the merits panel.

As the merits panel, we now hold the district court erroneously dismissed this case on ripeness grounds, that these claims are not moot, and that the plaintiff Kenney has standing. We reverse and remand for prompt consideration and resolution of the merits of plaintiff's claims of unconstitutionality of the Act and his claim for declaratory judgment.

We instruct the district court to issue its rulings at least forty-five days before the date on which the Commission intends to issue retail licenses pursuant to the Act. So ordered. - 4 -