

DRUG ENFORCEMENT ADMINISTRATION

Petition by Carl Olsen)
for the rescheduling of marijuana)
pursuant to 21 U.S.C. § 811)
and 21 C.F.R. § 1308)

**PETITION FOR
MARIJUANA
RESCHEDULING**

May 12, 2008

Administrator,
Drug Enforcement Administration
Department of Justice
Washington, DC 20537

Dear Sir:

The undersigned Carl Olsen hereby petitions the Administrator to initiate proceedings for the amendment of a regulation pursuant to section 201 of the Controlled Substances Act.

Marijuana, 21 U.S.C. § 812, Schedule I(c)(10), is incorrectly classified in 21 C.F.R. § 1308.11(d)(22) because it no longer fits the criteria for inclusion in Schedule I as set forth in 21 U.S.C. § 812(b)(1)(A)-(C):

Schedule I. -

- (A) The drug or other substance has a high potential for abuse.
- (B) The drug or other substance has no currently accepted medical use in treatment in the United States.
- (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

GROUND S FOR RESCHEDULING

Twelve states accept the safety of marijuana for medical use, Alaska Statutes § 17.37 (2007), California Health & Safety Code § 11362.5 (2006), Colorado Constitution Article XVIII, Section 14 (2006), Hawaii Revised Statutes § 329-121 (2006), 22 Maine Revised Statutes § 2383-B (2005), Montana Code Annotated § 50-46-101 (2006), Nevada Constitution Article 4 § 38 (2006) - Nevada Revised Statutes Annotated § 453A.010 (2006), New Mexico Statutes Annotated § 30-31C-1 (2007), Oregon Revised Statutes § 475.300 (2006), Rhode Island General Laws § 21-28.6-1 (2006), 18 Vermont Statutes Annotated § 4471 (2006), Revised Code Washington (ARCW) § 69.51A.005 (2006). All of these states allow medical marijuana use, possession, and cultivation.

Federal drug law, 21 U.S.C. § 903, gives the states the authority to determine accepted medical use. See, ***Gonzales v. Oregon***, 546 U.S. 243, 269-270 (2006):

The statute and our case law amply support the conclusion that Congress regulates medical practice insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood. Beyond this, however, the statute manifests no intent to regulate the practice of medicine generally. The silence is understandable given the structure and limitations of federalism, which allow the States "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons." *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475, 116 S. Ct. 2240, 135 L. Ed. 2d 700

(1996) (quoting *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 756, 105 S. Ct. 2380, 85 L. Ed. 2d 728 (1985)).

"The Government, in the end, maintains that the prescription requirement delegates to a single Executive officer the power to effect a radical shift of authority from the States to the Federal Government to define general standards of medical practice in every locality. The text and structure of the CSA show that Congress did not have this far-reaching intent to alter the federal-state balance and the congressional role in maintaining it."

Gonzales v. Oregon, 546 U.S. at 275.

Safety for use under medical supervision was, 21 U.S.C. § 812(b)(1)(C), was considered In The Matter of Marijuana Rescheduling, DEA Docket No. 86-22, September 6, 1988 (attached as Exhibit #1), which resulted in a finding that, "Marijuana, in its natural form, is one of the safest therapeutically active substances known to man." Id. at pages 58-59.

Please note that Carl Olsen was one of the petitioners in the DEA rescheduling petition.

Because no state accepted marijuana's medical use in 1988, the DEA Administrator was able to reject the conclusion of the Administrative Law Judge in DEA Docket No. 86-22 that marijuana must be transferred from schedule 1 to schedule 2 of the federal controlled substances act.

Carl Olsen, May 12, 2008

Because no state accepted marijuana's medical use in 1988, this petition is not barred by collateral estoppel.

Because marijuana now has currently accepted medical use in 12 states, because federal law defines accepted medical use to be whatever the states say it is, and because the DEA's own Administrative Law Judge has already determined that marijuana is safe for use under medical supervision, the federal definition for a schedule I controlled substance, 21 U.S.C. § 812(b)(1)(A)-(C), no longer applies to marijuana and federal law must be amended to reflect these changes.

All notices to be sent regarding this petition should be addressed to:
Carl Olsen, 130 E Aurora Ave, Des Moines, IA 50313-3654.

Respectfully yours,

Carl Olsen
130 E Aurora Ave
Des Moines, IA 50313-3654
515-288-5798

Dated this 12th day of May, 2008.

Certified Mail Receipt No. 7005 3110 0003 2963 1320