



U.S. Department of Justice
Drug Enforcement Administration

Washington, D.C. 20537

JAN 21 1994

Mr. Carl Eric Olsen
Post Office Box 4091
Des Moines, Iowa 50333

Dear Mr. Olsen:

This is in response to your correspondence of December 5, 1993 and December 26, 1993. Since your petition to reschedule marijuana from Schedule I to Schedule II of the Controlled Substances Act is currently before DEA on remand from the United States Court of Appeals for the D.C. Circuit, the Acting Administrator's office has asked that I respond to your inquiries.


In your December 5, 1993, letter you asked whether "marijuana [is] illegal if the delta-9-THC is removed from it." You state that the "reason for asking this question is that [you] heard that coca leaves are not included in the schedules of the Controlled Substances Act once the cocaine is removed from them." The Controlled Substances Act defines coca leaves, a Schedule II controlled substance, as "[c]oca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed." 21 U.S.C. § 802(17)(C). The definition of marijuana does not make a similar distinction for marijuana from which delta-9-THC has been removed. The Controlled Substances Act defines marijuana, a Schedule I controlled substance, as:

"all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination." [21 U.S.C. § 802(16)]

In your letter, you referred to United States v. Walton, 514 F.2d 201 (1975). The issue in that case is whether the Congress meant to prohibit the distribution of all species of marijuana or only the distribution of species *Cannabis sativa* L. In its decision, the court did not address whether marijuana is an illegal substance if the delta-9-THC is removed from it.

As you are aware, the United States Court of Appeals for the District of Columbia granted the Drug Enforcement Administration's motion for remand of your petition to reschedule marijuana from Schedule I to Schedule II of the Controlled Substances Act. As a result, your petition has been accepted for filing and review by DEA. Pursuant to 21 CFR 1308.44, the Administrator will determine whether to deny your petition or initiate proceedings in this matter. If the Administrator chooses to initiate proceedings, then the proceedings that you request in your December 26, 1993 correspondence will be initiated. The Administrator will rule on your petition no later than 90 days after the United States Court of Appeals decision in Alliance for Cannabis Therapeutics v. DEA, (D.C. Cir. argued October 1, 1993).

Sincerely,


Dennis F. Hoffman
Chief Counsel 