

Post Office Box 4091
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September 21, 1993

Ms. Constance L. Dupre
Clerk, United States Court of Appeals
for the District of Columbia Circuit
United States Courthouse
Room 5423
3rd and Constitution Avenue, N.W.
Washington, D.C. 20001

Re: Carl Eric Olsen v. Drug Enforcement Administration
D.C. Cir. No. 93-1109

Dear Ms. Dupre:

Enclosed please find for filing in the above-captioned case a substituted original and four substituted copies of the petitioner's Reply to Motion for Remand. I made an error on page two of the first set. If I can be of further assistance, please do not hesitate to contact me at 515-243-7351.

Sincerely,

Carl E. Olsen
Pro Se

Enclosures

cc: Lena D. Mitchell
Trial Attorney
Narcotic and Dangerous Drug Section
Criminal Division
P.O. Box 27312
Washington, D.C. 20530

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CARL ERIC OLSEN,

Petitioner,

-vs-

No. 93-1109

DRUG ENFORCEMENT ADMINISTRATION,

Respondent.

RESPONSE TO MOTION FOR REMAND

I, Carl Eric Olsen, petitioner in the above-captioned petition for review of a final administrative order, hereby respond to the respondent's Motion for Remand to the Administrator of the Drug Enforcement Administration, and state as follows:

1. On September 6, 1992, I filed a petition with the Administrator requesting that marijuana be rescheduled from Schedule I to Schedule II of the Controlled Substances Act. In support of this petition, I filed a statement of grounds for rescheduling in compliance with 21 C.F.R. § 1308.44(b)(B).

2. On October 23, 1992, the Administrator responded by refusing to accept my petition for filing and by ruling on its merits. Contrary to what the respondent says in paragraph two of the Motion for Remand, the Administrator did review the grounds upon which I relied and did make a ruling on the merits of my petition.

3. Pursuant to the 21 C.F.R. § 1308.44(c), respondent is required to accept a petition for filing absent some defect in format. As the respondent now admits, this requirement was not met, and respondent now claims it is requesting this Court to remand the matter so that it may accept my petition for filing in accordance with regulations. However, since the respondent ruled on the merits of my petition, it is questionable whether the respondent actually refused to accept my petition for filing.

4. Respondent claims to make the Motion for Remand in the interests of fairness and judicial economy and not with the intent of causing unnecessary delay. However, the respondent fails to mention that the Drug Enforcement Administration (DEA) has been developing a pattern of unfairness, waste of judicial resources and unnecessary delay. The respondent mentions one example in the Motion for Remand, NORML v. Ingersoll, 497 F.2d 654 (D.C. Cir. 1974), but fails to mention another case where a petition was not accepted for filing, Carl Eric Olsen v. Drug Enforcement Administration, 878 F.2d 1458 (D.C. Cir 1989). Between 1983 and 1985, I filed several petitions which the DEA refused to accept, until a mandamus action was filed in the U.S. District Court. Id. 878 F.2d at 1459. Then, after review of the DEA's denial of the petition on its merits was sought, the DEA asked this Court "to remand the matter for renewed agency consideration." Id. 878 F.2d at 1460. This is exactly what the DEA is doing now.

5. Since the DEA has already ruled on the merits of my petition, the only possible reason for a remand would be because

the DEA didn't make a reasonable decision on the merits of my petition and now wants to hold an administrative hearing before an administrative law judge to correct its error. If the DEA simply plans to deny the petition again after it is accepted for filing, then there is no reason for a remand, because a final ruling has already been made and such a remand would simply be a waste of judicial resources and an unnecessary delay.

6. Respondent now requests this Court to order the Administrator upon remand to accept my petition for filing and to make a ruling upon the matter within 90 days of the date of this Court's final order in the related cases of Alliance for Cannabis Therapeutics v. Drug Enforcement Administration, No. 92-1168 and Drug Policy Foundation v. Drug Enforcement Administration, No. 92-1179. Both of these cases are scheduled for oral argument on October 1, 1993. I strongly oppose my case being delayed for these two cases. The grounds upon which I seek rescheduling are entirely unrelated to the grounds relied upon in these two cases, and, if this Court decides to remand this matter, I think this Court should set a time frame that is unrelated to them.

Respectfully submitted,

Carl E. Olsen