

US court rejects bid to reclassify marijuana (Update 2)

January 22 2013, by Frederic J. Frommer

A U.S. appeals court Tuesday rejected a petition to reclassify marijuana from its current federal status as a dangerous drug with no accepted medical use.

The appeals court panel denied the bid from three medical marijuana groups, including Americans for Safe Access, and several individuals. In 2011, the Drug Enforcement Administration had rejected a petition by medical marijuana advocates to change the classification.

In his majority opinion, Judge Harry T. Edwards wrote that the question wasn't whether marijuana could have some medical benefits, but rather whether the DEA's decision was "arbitrary and capricious." The court concluded that the agency action survived a review under that standard.

The ruling came just months after Colorado and Washington legalized marijuana for recreational use. Last month, President Barack Obama said that federal authorities have bigger priorities than pursuing recreational drug users in those states.

In the federal system, marijuana is classified as a controlled substance, categorized as having a high potential for abuse and no currently accepted medical use, together with drugs like heroin, LSD and ecstasy.

The court noted that the DEA denied the petition to change the classification after the Department of Health and Human Services gave the DEA its evaluation that marijuana lacks a currently accepted medical

use in the United States.

DEA regulations define "currently accepted medical use" to require, among other things, "adequate and well-controlled studies proving efficacy."

Americans for Safe Access cited more than 200 peer-reviewed published studies demonstrating marijuana's efficacy for various medical uses, including a 1999 study by the respected Institute of Medicine, a government adviser on health issues.

"The IOM report does indeed suggest that marijuana might have medical benefits," the court conceded. "However, the DEA fairly construed this report as calling for 'more and better studies to determine potential medical applications of marijuana' and not as sufficient proof of medical efficacy itself."

Joe Elford, chief counsel with Americans for Safe Access, said his group will likely file a petition for rehearing. Failing that, it would seek a rehearing of the full appeals court. If that isn't successful, he said the group would probably appeal to the Supreme Court.

Elford said that while he was disappointed by the ruling, he said it "lays the groundwork for future cases."

"I kind of take it as, 'Come back to us when those studies are completed if they actually demonstrate medical efficacy,' " Elford said.

The DEA referred questions to the Justice Department, which also did not immediately respond.

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