UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

CARL OLSEN, Plaintiff, v. MICHAEL MUKASEY, et al., Defendants.	)))))))	No. 4:08-cv-00370

PLAINTIFF'S REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF MATERIAL FACTS

In their Response to the Plaintiff's Statement of Material Fact ("Response" hereafter) the Defendants admit that 12 states have accepted the medical use of marijuana by statute. The Defendants agree with the Plaintiff's that the statute, 21 U.S.C. § 811 and 21 U.S.C. § 812, says what it means and means what it says, but disagree on what it means (which is the sole issue in this case). The Plaintiff replies using the same paragraph numbering as the Motion for Summary Judgment:

1. Plaintiff admits the second sentence in paragraph 1 is immaterial because it was not part of the original complaint. Because the Defendants claim a citation was not provided for the 13th state to accept the medical use of marijuana by statute, the vote totals for Michigan's 2008 medical marijuana ballot initiative are located online at:

http://miboecfr.nictusa.com/election/results/08GEN/90000001.html

The text of Michigan's 2008 medical marijuana ballot initiative is located online at: http://www.michigan.gov/documents/Statewide_Bal_Prop_Status_145801_7.pdf

2. The Plaintiff admits that paragraph 2 is immaterial, because it paraphrases the statutory language of the 12 states that have statutorily accepted the medical use of marijuana listed in paragraph 1. The statutes speak for themselves and those are the material facts.

3. The Plaintiff admits that paragraph 3 is immaterial and the Defendants have accurately described the facts that were alleged in that paragraph.

4. The Plaintiff admits that paragraph 4 is immaterial. Federal preemption of state law is not the issue in this case.

5. The Plaintiff admits that the Defendants do not agree with the Plaintiff as to the meaning of 21 U.S.C. § 811 and 21 U.S.C. § 812.

6. The Plaintiff admits that the Defendants do not agree with the Plaintiff as to who is authorized by law to decide whether a substance has accepted medical use. That paragraph was not written very well. It should say the Administrator of the Drug Enforcement Administration (DEA) and the Secretary of Health and Human Services (HHS) are only authorized to decide whether a substance has accepted medical use if there actually is no currently accepted medical use of a substance in the United States. DEA and HHS obviously need to be able to approve new drugs. At any rate, there is a genuine disagreement between the parties on the interpretation of the statute.

Respectfully submitted:

Carl Eric Olsen, Pro Se
130 E Aurora Ave
Des Moines, IA 50313-3654
(515) 288-5798

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 18, 2008 I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

CHRISTOPHER D. HAGEN, Assistant U.S. Attorney

TAMARA ULRICH, U.S. Department of Justice, Civil Division

Filed Electronically

CARL OLSEN