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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN,	* Case No. CVCV045505
	*
Petitioner,	*
	*
vs.	* TRANSCRIPT OF
	* PROCEEDINGS
IOWA BOARD OF PHARMACY,	*
	*
Respondent.	* January 3, 2014

The above-entitled matter came on for a motion hearing and oral arguments before the Honorable Scott D. Rosenberg, commencing at 9:02 a.m., Friday, January 3, 2014, at the Polk County Courthouse, 500 Mulberry Street, Room 405, Des Moines, Iowa.

A P P E A R A N C E S

For Petitioner:	COLIN C. MURPHY 107 South Fourth Street Clear Lake, IA 50428
For Respondent:	MEGHAN L. GAVIN Office of the Attorney General Hoover State Office Building 1305 East Walnut Street Des Moines, IA 50319

Julie A. Moon, CSR, RPR
Official Court Reporter
Polk County Courthouse, Room 415
515-286-3653

P R O C E E D I N G S

1
2 (The hearing commenced at 9:02 a.m. on the
3 3rd day of January, 2014, with the Court and parties
4 present.)

5 THE COURT: The matter before the Court is
6 CV No. 45505; Carl Olsen, petitioner, versus Iowa Board
7 of Pharmacy, respondent.

8 Is the petitioner present?

9 MR. MURPHY: Yes, Your Honor.

10 THE COURT: Is the respondent present?

11 MS. GAVIN: Yes, Your Honor.

12 THE COURT: Very well. This is the time and
13 date set for argument in this matter. There's also been
14 a motion for leave to amend the petition for judicial
15 review. The Court will take up that matter first.
16 Mr. Murphy.

17 MR. MURPHY: Thank you, Your Honor. In the
18 course of putting together the brief that the Court had
19 ordered, I argued substantial evidence and other grounds
20 for the Court to consider in reversing the -- or the
21 recommendation that the Board has made in challenging
22 that recommendation.

23 And as the attorney general's office pointed
24 out, the original petition did not claim that
25 substantial evidence was a ground on which judicial

1 review is being sought, or the irrational, illogical,
2 wholly unjustifiable ground. That was also not included
3 in the original petition. I will note that the petition
4 was filed pro se by Mr. Olsen before I entered an
5 appearance. And in reviewing that I think that the
6 arguments that petitioner wishes to make are grounded in
7 substantial evidence, arbitrary and capricious action,
8 irrational, illogical and wholly unjustifiable action.
9 And so for those reasons, I think to make the record
10 more complete, I'd ask the Court to amend the original
11 petition to set forth those grounds.

12 I would note that in the Board's brief, they
13 acknowledge these arguments in the alternative. I think
14 that they point out correctly that they were not
15 originally brought forth in the petition for judicial
16 review, but they are arguing, even if the Court
17 considered them, they are not sufficient grounds for
18 reversal; and so I just ask the Court to allow him to
19 amend that petition. I think the leave to amend would
20 be freely given when justice requires, and under the
21 circumstances I think it would be appropriate. Thank
22 you.

23 THE COURT: Very well. Ms. Gavin.

24 MS. GAVIN: Thank you, Your Honor. Well, I
25 guess I have a twofold argument in this respect. As to

1 the illogical or irrational and unjustifiable
2 interpretation of law, I would agree that the Board has
3 argued in the alternative in its brief; and, therefore,
4 I can see no ground on which the Board would be hurt or
5 in any way taxed by allowing the petition to be amended
6 on that ground.

7 The problem, however, Your Honor, lies with
8 the substantial evidence ground, and I don't believe the
9 Board actually argued in the alternative on that point
10 for the simple reason that it could not. No agency
11 record has ever been agreed upon in this case, nor has
12 an agency record been submitted to Your Honor for
13 review. The parties have a disagreement about what the
14 agency record consists of; and despite my attempts to
15 stipulate to a record, we don't have one. Without a
16 record I believe that is both legally and factually
17 impossible for this Court to conduct the substantial
18 evidence review.

19 THE COURT: Mr. Murphy.

20 MR. MURPHY: Your Honor, Ms. Gavin and I did
21 have conversations about the record. I didn't realize
22 that at the time we were discussing the record to put
23 before you. This came up in the context of, I think the
24 Board communicating with Mr. Olsen that the entire
25 record from the 2010 proceedings where the Board made a

1 decision to recommend reclassification, that that
2 record, which includes volumes of testimony, hundreds,
3 if not thousands, of pages of exhibits that were
4 considered. The concern was that those records were
5 going to be destroyed; and so the conversation I recall
6 having with Ms. Gavin was, Can we make a way to preserve
7 that? Let me know what we need to do, if we need to
8 come pick up that record, because if it needs to be
9 presented at a later date, we want the ability to have
10 that because there's no way to re-create it.

11 I also realized that, under the
12 circumstances, because this is not a contested case, the
13 agency is not forwarding a copy of the record for the
14 Court's consideration. This is another agency action
15 where I don't think that they forward it, and so --
16 However, there is a petition that Mr. Olsen filed. He
17 attached to that new studies that were not in existence
18 at the time that the Board made the recommendation in
19 2010 for its review, and he also incorporated that prior
20 record by reference.

21 And so to the extent that we need to -- if
22 the Court needs that, you know, I'll certainly stipulate
23 to that record with Ms. Gavin, but I didn't -- I don't
24 want the Court to think that petitioner is sitting back
25 trying to avoid getting a record to the Court. I

1 just -- I didn't realize that that was the conversation,
2 the context that we were having.

3 THE COURT: Anything further?

4 MS. GAVIN: I would just note that this is
5 part of our disagreement about what the record consists
6 of. I certainly agree that any record would most
7 certainly include Mr. Olsen's 2012 petition to the Board
8 and any documents he attached thereto, as well as the
9 Board's decision. What I disagree with is that this
10 automatically includes all the 2010 materials or any
11 material that the Board has ever received on the issue
12 of medical marijuana. This is a discrete agency action.
13 The petition and the accompanying documents were what
14 was before the Board at the time the petition was
15 considered.

16 THE COURT: Anything further?

17 MR. MURPHY: No, Your Honor. Thank you.

18 THE COURT: The motion for leave to amend
19 the petition for judicial review is granted. I'll do an
20 order granting the motion.

21 The Court also believes that the State is
22 correct in that the record before the Court will be
23 whatever has been filed in this matter. There are no
24 other records for the Court to have, and the Court
25 cannot sua sponte conduct its own investigation or

1 review, so, therefore, I will consider that which has
2 been filed. That's going to be the record.

3 Do you wish to present your argument now?

4 MR. MURPHY: Yes, Your Honor. Thank you.

5 THE COURT: Go ahead.

6 MR. MURPHY: And I realize that some of this
7 background information was predicated on what happened
8 in 2010, but if I can briefly describe for the Court
9 what happened then in order to bring us forward to
10 Mr. Olsen's petition in 2012.

11 In 2010, Mr. Olsen petitioned the Board of
12 Pharmacy to reclassify marijuana out of state Schedule I
13 and into another schedule. I believe that the petition
14 may have requested Schedule II at the time -- or it did
15 not request a specific schedule. But the Board
16 ultimately took it upon itself to schedule hearings
17 across the state -- I believe there were four hearings
18 in four different communities -- received testimony,
19 received exhibits in the form of studies and other
20 documents, received information about state statutes
21 for, I believe at the time maybe 15 or so states that
22 had reclassified -- or rescheduled marijuana out of
23 their state Schedule I into state Schedule II or some
24 other schedule so that it could be recommended by a
25 physician for use to alleviate a number of medical

1 conditions. And so that was the evidence that was
2 presented to the Board in 2010.

3 Ultimately, the Board of Pharmacy agreed
4 that it -- marijuana lacked -- or, I'm sorry, that it
5 had accepted medical use and treatment in the United
6 States. And for that reason, under Iowa Code
7 Section 124.203 subpart (1)(b), finding that it had
8 accepted medical use and treatment in the United States,
9 the Board then acted under 124.203 subpart (2), which
10 then triggered a recommendation to the Iowa legislature
11 to reschedule marijuana out of I and into II.

12 Presently, and at the time of that
13 recommendation, marijuana in Iowa is unique in the sense
14 that it is found in both Schedule I and state
15 Schedule II. The classification state Schedule II,
16 however, is when marijuana is used under the rules that
17 the Board would promulgate, and there are no rules at
18 the time; and there were rules in the past, but those
19 rules were rescinded by a sunset provision and are no
20 longer effective. And so even though it appears in two
21 schedules, for all intents and purposes, it is still
22 properly classified before these agency actions were
23 undertaken as in state Schedule I.

24 And so in 2010, the Board makes the
25 recommendation to reschedule. There was legislation

1 that was put forward to the legislature that was
2 considered by the House and the Senate. My
3 understanding is the House did not vote on the
4 recommendation by the Board or rejected the
5 recommendation by the Board, but the Senate, however, I
6 believe that that action is still pending in a Senate
7 subcommittee.

8 So that brings us forward to 2012.
9 Mr. Olsen files a petition for agency action requesting
10 that the Board make an annual recommendation under
11 Section 124.201. And that section reads, "The board
12 shall administer the regulatory provisions of this
13 chapter." And the important language for petitioner's
14 position is, "Annually, within thirty days after the
15 convening of each regular session of the general
16 assembly, the board shall recommend to the general
17 assembly any deletions from, or revisions in the
18 schedules of substances, enumerated in" -- for our
19 purposes -- "section 124.204, which it deems necessary
20 or advisable."

21 And so Mr. Olsen, I think, correctly says to
22 the Board, You've already made the recommendation to
23 reschedule marijuana from Schedule I into Schedule II,
24 and so now the law requires you to make that
25 recommendation annually. So he files the petition, and

1 the Board ultimately considers it. And I believe that
2 that was an exhibit, the Board's ruling to the petition.
3 And what the Board essentially says is that supporting
4 documentation did not contain sufficient new scientific
5 information to warrant recommending the reclassification
6 of marijuana this year.

7 And I think that that reasoning is what
8 we're challenging today for a few reasons. One is that
9 I think that the Board is acknowledging that it has an
10 annual duty to make recommendations by referencing this
11 year. The Board, however, says that no new scientific
12 information was presented. In the petition, the
13 attachments to the petition, Mr. Olsen had presented
14 maybe ten, probably fewer than a dozen, studies that had
15 been medical studies, some peer-reviewed, since 2010
16 that continue to show the medical efficacy of marijuana,
17 continue to show that it had accepted medical use and
18 treatment in the United States.

19 In addition to that, he also provided to the
20 Board the three or four, I think at the time, additional
21 states that, when considering this issue, had also made
22 a decision to reschedule out of their state Schedule I
23 into another schedule that would allow physicians to
24 make recommendations.

25 MR. OLSEN: The AMA and the Iowa Medical

1 Society.

2 MR. MURPHY: And that there were other
3 recommendations from the American Medical Association
4 and the Iowa Medical Society that also approved of the
5 rescheduling -- approved of the, essentially the
6 medicinal use of marijuana. And so that would be
7 additional information that he provided to the Board in
8 the 2012 petition.

9 And so when we look at the reason for the
10 Board saying that no new additional information was
11 provided that would warrant reclassification at this
12 time, the Board's position up to this point had been
13 reclassification. And so this is where I think that the
14 wholly unjustifiable, illogical or irrational ground for
15 challenging the agency action comes in, because how is
16 the Board in a position to say, We previously
17 recommended rescheduling of marijuana; we've made no
18 other recommendation to reverse that, so it's -- 2012,
19 it's still the Board's position that it should be
20 rescheduled. And yet, in denying his petition, the
21 Board says, no additional information was presented that
22 would warrant reclassification this year.

23 We think that under 124.201, once the
24 finding is made -- and clearly, the Board made the
25 finding in 2010 -- that annually it has to continue to

1 make that recommendation, because otherwise, what is the
2 Board saying? That it no longer believes that marijuana
3 should be rescheduled? They have not said that
4 publicly, and it hasn't been part of any order. So
5 petitioner takes the position that the Board still --
6 the official position of the Board up until the 2012
7 petition was to recommend rescheduling.

8 And so the reason stated by the Board that
9 no new additional information was presented to warrant
10 rescheduling at this time, I don't think it makes sense.
11 I think it's irrational. I think it's unjustifiable
12 because the Board doesn't say, marijuana now belongs in
13 state Schedule I; the Board's not saying anything, but
14 we don't have additional information.

15 And I think that the reason that it's
16 irrational and unjustifiable is because there's no other
17 information that the Board considered as part of the
18 petition that said that marijuana somehow lacked
19 accepted medical use and treatment in the United States
20 at the time; and so once it made that finding in 2010
21 that marijuana has accepted medical use, it takes it out
22 of state Schedule I. It's no longer properly
23 classified. And so in 2012, when Mr. Olsen makes the
24 request to petition, I think that the Board is required.
25 124.201 uses the word "shall" make that recommendation.

1 MR. OLSEN: 203.

2 MR. MURPHY: Or 203. I'm sorry. And the
3 language is very similar in 124.201 and 124.203. They
4 use different words about -- Like, for example, 124.201
5 talks about things that are "necessary or advisable."
6 124.203 uses words like "as appropriate." I think that
7 the -- in the context, though, what the Board says is,
8 as long as we make a finding that it has no accepted
9 medical use, then we have to recommend it rescheduled,
10 so they make that finding. Then annually, it triggers
11 their duty to make that recommendation to the
12 legislature. And the legislature chose to use the word
13 "shall" in determining when that duty must be followed.
14 And so because the statute uses "annually" and makes the
15 recommendation mandatory, that's what Mr. Olsen asked
16 for in -- that is what Mr. Olsen is asking for in 2012.

17 And so I think as far as it being irrational
18 action, that's the explanation for irrational. The same
19 would hold true for arbitrary and capricious action. We
20 tried -- When Mr. Olsen and I review the language that
21 the Board uses in the ruling, I think that there is no
22 explanation other than they just don't want to recommend
23 rescheduling.

24 MR. OLSEN: They never talk about 203 here.

25 MR. MURPHY: And part of Mr. Olsen's

1 argument is that the ruling that the Board issued, the
2 order, only references Iowa Code Section 124.201. It
3 never mentions Iowa Code 124.203, which discusses
4 accepted medical use and treatment. So as far as we
5 know, the Board is still taking the position that
6 marijuana has accepted medical use and treatment in the
7 United States. If that is still the finding of the
8 Board, I think that the law requires them to make that
9 recommendation annually. And I think that that's the
10 gist of the argument that petitioner is making.

11 Now, the Board, in its brief, has made a
12 couple of claims that are somewhat different than the
13 rationale that the Board uses in the ruling. They're
14 stating that the Board does not have to take action if
15 it thinks that the legislature is not going to act on
16 it, and in the alternative that the Board doesn't have
17 to take any action for any reason at all if it doesn't
18 want to; and I think that that is contradicted by the
19 language in the statute itself. They have to take
20 action. The legislature says it shall make the
21 recommendations.

22 And so I think under those circumstances the
23 action taken by the Board in the ruling is arbitrary and
24 capricious, and for that reason we're asking the Court
25 to either enter an order that would require the Board to

1 make the recommendation to the legislature. And that
2 probably still could be done this year because the
3 statute requires it be done within 30 days of the
4 beginning of the legislative session. Or, if the Court
5 believes that additional explanation is required from
6 the Board in order to rule on this case, perhaps the
7 case could be remanded to the Board for a more thorough
8 explanation as to why the additional information that
9 was provided as part of the petition in 2012 was not
10 sufficient to compel the Board to continue to make its
11 recommendation. Thank you, Your Honor.

12 THE COURT: Thank you. Ms. Gavin.

13 MS. GAVIN: Thank you, Your Honor. The D.C.
14 Court of Appeals looked at a very similar case when a
15 number of petitioners, including Mr. Olsen, sought to
16 compel the DEA to initiate proceedings to reschedule
17 marijuana at the federal level. And as the district
18 court -- the D.C. Circuit wrote in its opinion, the
19 question before the Court is not whether marijuana could
20 have some medicinal benefits, not whether it believed
21 that to be true or whether petitioners believed that to
22 be true, but whether the DEA's decision declining to
23 initiate those proceedings was arbitrary and capricious,
24 and I believe that we are in the same position here
25 today.

1 Turning to what is in the record before the
2 Court: The only piece of the record before the Court is
3 the single-page agency decision that was attached to the
4 petition for judicial review. I believe it's Exhibit 1
5 on the original petition. And that is an agency order
6 from January 16th of last year.

7 The Board certainly agrees that under
8 Chapter 124 it has an annual duty to make
9 recommendations to the legislature. That's a mandatory
10 duty. We're not here to dispute that fact. The
11 question I believe is under the statute how much
12 discretion the Board is entitled to when it makes those
13 recommendations.

14 You'll notice, and the petitioner is
15 correct, there are two statutory subsections which are
16 most relevant here, and that is 124.201(1) and 124.203,
17 I believe. Now, both of those subsections refer to the
18 Board's duty to make annual recommendations, but they
19 also include peculiar language. In 201 it's, the Board
20 shall make recommendation which it deems necessary and
21 advisable. In 203 it's recommendations -- I'm getting
22 confused on the language, Your Honor -- as appropriate.
23 Both of -- The inclusion of that language in both of
24 those subsections, the Board believes, gives it some
25 discretion, limited, of course, by 17A, of what types of

1 recommendations it can choose to make to the legislature
2 and does not have to make all recommendations to the
3 legislature every year. The Board has some discretion
4 in this area, and I believe the Board exercised that
5 last year.

6 As everyone in the room is well aware, this
7 is a hotly-contested political issue. Bills are pending
8 before the Iowa Legislature currently. People are on
9 record that they intend to introduce legislation in the
10 upcoming session. This is a political decision that is
11 emerging in Iowa and is likely to emerge around the
12 nation and continue to do so in the upcoming years.

13 I believe that the Board was clear in its
14 decision that it made the recommendation in 2010. The
15 legislature didn't act upon it. The Board did not see a
16 reason, based on the documentation that Mr. Olsen
17 presented, to make that recommendation again in 2012 --
18 or it would have been 2013, the legislative session.

19 THE COURT: In fact, it made no opposite
20 recommendation; is that correct?

21 MS. GAVIN: That's correct, Your Honor. The
22 Board has not taken any public position since this 2010
23 recommendation.

24 And I would note, one of the concerns about
25 the petitioner's argument, Your Honor, is that the Board

1 is static, and once it makes a recommendation, the Board
2 is obligated to make the affirmative recommendation
3 every year thereafter.

4 The 2014 version of the Iowa Board of
5 Pharmacy is different than the 2010 Iowa Board of
6 Pharmacy. We have different members. They have
7 different backgrounds. Perhaps they have different
8 viewpoints on medicinal marijuana. I don't believe that
9 that's clear from the record in either respect, but it
10 is composed of a different group of personnel. And I
11 don't think anything in Chapter 124 or 17A prevents new
12 members of the Board of Pharmacy from having a different
13 opinion than the old board. I think that boards freely
14 change their mind on different positions and are
15 expected to do so, especially on issues that, frankly,
16 are controversial and the medical evidence and political
17 evidence is quite diffuse.

18 The discretion argument, Your Honor, really
19 goes to whether or not the Board's interpretation of its
20 obligations under Chapter 124 are illogical, irrational
21 or unjustifiable. And the Board submits it is not, it
22 does retain that discretion, and it exercised it
23 appropriately.

24 Turning to the next question is whether or
25 not the Board's action was arbitrary, capricious or an

1 abuse of discretion. You know, a number of the grounds
2 under 17A.19(10) bleed into each other, and generally,
3 something is not arbitrary, capricious or an abuse of
4 discretion if reasonable minds can differ on a subject.

5 As was noted by Mr. Olsen in his petition,
6 medical marijuana is lawful or has been codified into
7 state law in, I believe, 19 jurisdictions. It might be
8 21 now. I'm not sure how good my math is on that since
9 it's ever-changing. So, clearly, it is an almost -- we
10 are almost in equipoise here in the United States, but
11 it is right now a substantial minority of states do have
12 some lawful jurisdiction. A majority of states -- it
13 might be a bare majority -- do not. I don't know if
14 there's a clearer demonstration that reasonable minds
15 differ on this subject. Some people are in favor of it
16 for recreational purposes. Some are not. Some are in
17 favor for religious purposes. Some are not. Some for
18 medical. Some for not. And it's clear throughout the
19 United States in these different avenues and the
20 different legalization that people have different views
21 on this subject. And the Board's view may or may not be
22 different from Mr. Olsen, but its decision not to
23 recommend the rescheduling of marijuana is not
24 unreasonable under these circumstances.

25 I would also note, something is irrational,

1 arbitrary if it's not supported by substantial evidence.
2 And as I discussed when we were talking about the motion
3 to amend, since we don't have a record, it's quite
4 difficult to make a substantial evidence challenge. I
5 do believe that cuts against Mr. Olsen and that under
6 the Supreme Court's precedence cited in the Board's
7 brief, this Court can only overturn the Board's decision
8 on that ground if, on its face, the Board's ruling is
9 wholly unreasonable, and I don't believe that that is
10 the case, Your Honor.

11 If the Court is curious, the citation for
12 the D.C. Circuit case is 706 F.3d, 438. That decision
13 was rendered in January of last year.

14 THE COURT: Thank you.

15 MS. GAVIN: Just one further point,
16 Your Honor. I would note that I agree if remand -- if
17 this Board -- or if this Court -- sorry, Your Honor --
18 was to overturn the Board's decision, I think remand is
19 the only appropriate remedy in this case to allow the
20 Board to offer a more substantive analysis of its
21 decision to recommend or not recommend under
22 Chapter 124. Thank you.

23 THE COURT: Mr. Murphy, you have the final
24 word.

25 MR. MURPHY: Thank you, Your Honor. And

1 after hearing the argument that the Board is making that
2 this is a different Board than the one that decided the
3 issue in 2010, the Board could put that in the ruling,
4 that, you know, we've got several new members, you know,
5 the majority from 2010 is no longer on the Board.
6 That's not the decision that they placed in the ruling.
7 The decision is that, We're not going to recommend
8 rescheduling because no new additional information was
9 presented to warrant rescheduling this year.

10 And, again, the only information that the
11 Board had was kind of the history of the petition that
12 brought us to 2012 and the ruling that marijuana would
13 be rescheduled from state Schedule I into state
14 Schedule II and the additional information that
15 Mr. Olsen presented, which were studies that continue to
16 promote the efficacy of marijuana.

17 And so the actual ruling that the Board gave
18 I think is not rational because they have not taken the
19 position that marijuana no longer has accepted medical
20 use and treatment. If it's still the position that
21 marijuana has accepted medical use and treatment in the
22 United States, then the Board has not said otherwise.
23 If it's still -- that's the position, then Mr. Olsen
24 believes their recommendation has to follow annually.

25 And so if there is remand, I think that the

1 Board will have to justify -- and maybe they say that we
2 no longer believe that marijuana should be rescheduled
3 into state Schedule II. I think they're leaving the
4 door open that this is a year-to-year issue that needs
5 to be raised with the Board because of the language,
6 didn't contain sufficient new scientific information to
7 warrant recommending the reclassification of marijuana
8 this year.

9 And so if people in Mr. Olsen's position
10 need to petition the Board annually and ask for hearings
11 and re-present the same information that was considered
12 in 2010, perhaps that's what it takes, but that's not
13 what the Board has said. The Board has said that the
14 additional information provided didn't warrant
15 rescheduling. They didn't consider any other
16 information. There were no additional public hearings
17 where people could come out and state their position
18 that marijuana should not be rescheduled. It was all
19 pro rescheduling for lack of a better word. And so, you
20 know, under those circumstances I think that it's an odd
21 way to say that the Board has changed their mind when
22 they haven't taken the opposite position.

23 And in terms of the citation to the federal
24 case that dealt with rescheduling under federal law, I
25 would just note that that is a completely different

1 issue than what is before the Board based on the
2 differences in the language in the federal statutes
3 regarding rescheduling. That involves medical
4 information that has to be provided by, I believe,
5 Health and Human Services. It is a petition that goes
6 to the Drug Enforcement Agency where there is input from
7 the attorney general's office. And the standard under
8 which rescheduling takes place on the federal level is
9 much different. And that has been an issue that has
10 been pending since 1970.

11 MR. OLSEN: '72.

12 MR. MURPHY: 1972, ongoing for decades. So
13 what is different between what's happened on the federal
14 level and what's happened in the state of Iowa is the
15 state of Iowa actually -- or the Board, who is given the
16 discretion and given the authority, essentially, to make
17 these scheduling recommendations to the legislature, our
18 Board of Pharmacy has actually gone through that process
19 and found that it has accepted medical use; and so I
20 don't know how relevant the action on the federal level
21 would be, but --

22 MR. OLSEN: The record in that case was from
23 2002.

24 MR. MURPHY: And, as Mr. Olsen has pointed
25 out -- And I know this isn't before the Court, but if

1 you do read that case, that petition had been pending
2 for a very long time, and the record before the DEA that
3 was considered was from 2002; very different landscape
4 than we have today where there are, as the Board has
5 correctly pointed out, perhaps 20 states or 21 in the
6 District of Columbia, that have said that marijuana
7 deserves rescheduling.

8 So that's all I wanted to add, Your Honor.
9 Thank you.

10 THE COURT: Anything else before the record
11 is closed?

12 MS. GAVIN: No, Your Honor.

13 THE COURT: Very well. Mr. Murphy and
14 Ms. Gavin, thank you very much for your presentations.
15 Well done. The matter is now submitted. I will try to
16 get a ruling out as soon as I can. Thank you.

17 MS. GAVIN: Thank you.

18 MR. MURPHY: Thank you.

19 (Hearing concluded at 9:37 a.m., on the 3rd
20 day of January, 2014.)

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