



**U.S. Department of Justice**  
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December 21, 2020

**By CM/ECF**

Molly C. Dwyer  
Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
The James R. Browning Courthouse  
95 7th Street  
San Francisco, CA 94103

Re: *Sisley v. U.S. Drug Enforcement Admin.*, No. 20-71433

We write to inform the Court of the D.C. Circuit’s decision in *Zyszkiewicz v. Barr*, No. 20-5213 (D.C. Cir. Dec. 2, 2020). As explained in our answering brief (at 5), Zyszkiewicz filed a petition with DEA to reschedule marijuana from its status as a schedule I controlled substance. DEA denied that petition, and Zyszkiewicz sought judicial review in district court. The district court dismissed that suit explaining that Zyszkiewicz could have, but did not, seek judicial review in the court of appeals as required by 21 U.S.C. § 877. *Zyszkiewicz v. Barr*, 2020 WL 3572908, at \*1 (D.D.C. June 30, 2020). On appeal, the D.C. Circuit affirmed, explaining that Zyszkiewicz “failed to show that the government has a clear duty to alter the controlled substance classification of marijuana,” and that Zyszkiewicz “has an adequate alternative remedy under the Controlled Substances Act.” Judgment at 1.

That judgment is consistent with the proper resolution of this appeal. Petitioners here seek judicial review of a decision by DEA to Zyszkiewicz’s rescheduling petition—a petition they did not participate in and to which they have no concrete or particularized interest. Petitioners have chosen not to pursue the “adequate alternative remedy under the Controlled Substances Act,” and their petition should be dismissed. On the merits, petitioners like Zyszkiewicz have failed to demonstrate error in DEA’s decision.

Sincerely,

*/s/ Daniel Aguilar*  
DANIEL AGUILAR  
U.S. Department of Justice  
Civil Division, Appellate Staff

**CERTIFICATE OF COMPLIANCE**

I certify that this letter complies with the word limits of Fed. R. App. P. 28(j)  
because it contains 221 words.

*/s/ Daniel Aguilar*  
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DANIEL AGUILAR

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 20-5213**

**September Term, 2020**

**1:20-cv-01599-UNA**

**Filed On:** December 2, 2020

Stephen Cameron Zyskiewicz,

Appellant

v.

William Pelham Barr, in his official capacity  
as United States Attorney General, et al.,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Millett and Pillard, Circuit Judges, and Sentelle, Senior Circuit  
Judge

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, as well as the motion to proceed on the original record pursuant to Federal Rule of Appellate Procedure 24(c), it is

**ORDERED** that the motion to proceed on the original record be granted. It is

**FURTHER ORDERED AND ADJUDGED** that the district court's June 30, 2020 order dismissing appellant's petition be affirmed. The district court correctly concluded that appellant failed to demonstrate a clear entitlement to the relief requested, that appellant failed to show that the government has a clear duty to alter the controlled substance classification of marijuana, and that appellant has an adequate alternative remedy under the Controlled Substances Act. See Power v. Barnhart, 292 F.3d 781, 784 (D.C. Cir. 2002). Insofar as appellant sought declaratory relief in his petition, he failed to identify any judicially remediable right warranting such relief. See Ali v. Rumsfeld, 649 F.3d 762, 778 (D.C. Cir. 2011).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk