
VETERANS ACTION COUNCIL



UNITED STATES OF AMERICA

25 November 2024

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT
333 Constitution Avenue, NW
Washington, DC 20001-2866
Phone: 202-216-7000 | Facsimile: 202-219-8530

Re: Schedules of Controlled Substances: Rescheduling of Marijuana
[Docket No. DEA-1362; A.G. Order No. 5931-2024]

Dear United States Court of Appeals,
Veterans Action Council [VAC] hereby calls upon the court to overturn the final rule of DEA and allow our group to participate in the hearings around the proposed rulemaking on cannabis rescheduling.

Our group requested standing in the public hearing within the deadline provided in the federal register. Please see attachment - PDF copy of VAC electronic submission to DEA with time and date stamps. [1]

In our request we made it clear that VAC, collectively and individually representing United States military service Veterans, would be injured by the proposed rulemaking moving cannabis to schedule III and we make it clear why only a move to schedule V would alleviate our injury.

VAC never received any response from DEA however the Honorable John Mulrooney II, Administrative Law Judge, made it clear to us that we were formally denied access to this hearing by DEA and that this "issue may not be altogether settled" and that the decision from DEA "bears the hallmarks of a final order within the meaning of the Administrative Procedure Act and the Controlled Substances Act. 5 U.S.C. § 704; 21 U.S.C. § 877." Judge Mulrooney continues: " That said, the issue may not be altogether settled. See *Miami-Luken, Inc. v. DEA*, 900 F.3d 738, 743 (6th Cir. 2018) (The court held that a subpoena decision is not rendered final merely because the agency's highest authority issued the decision prior to an ultimate disposition of the case.)." Please see attached - copy of preliminary order from Judge Mulrooney - ORDER REGARDING REQUEST FROM A NON-PARTICIPANT (Veterans Action Council)

[2]

VAC respectfully submits that we appreciate the hard work of the DEA, FDA and HHS on this rescheduling process and feel that schedule III, as proposed, would be very helpful to military Veterans however, as we articulated in our request to DEA, we argue that schedule V would be the necessary conclusion of a fair hearing on this proposed rule. VAC has immense experience in this field and three of the chosen hearing participant organizations are run by or were previously run by colleagues and / or council members of our Veterans Action Council. Our council, based upon what we know of proposed participants, contends that there will be no participant making this specific case for schedule V as a unique solution providing relief to injury from the proposed rulemaking and given the available evidence. It is for this reason we make the case that this proposed hearing will not be fair and hereby appeal to this tribunal for relief.

According to 21 U.S.C.S. § 877 Registrants seeking to appeal the DEA's final order or decision may obtain review of the decision in the United States Court of Appeals for the District of Columbia within 30 days of denial. Since we never received an actual denial letter from DEA we are going on 30 days from the date the DEA announced their participants list that excluded VAC which was 28 October 2024. Please see attachment to the attachment - preliminary order from Judge Mulrooney - copy of DEA letter to Judge Mulrooney dated 28 October 2024. [3]

Referring to Judge Mulrooney's "ORDER REGARDING STANDING, SCOPE, AND PREHEARING PROCEDURES On Standing" We call attention to the fact that no participant makes the case that we intend to make, that we are aggrieved by the proposed rule and intend to make an argument for schedule 5. Further notice that there wasn't any argument proposed by any of the participants in favor of a schedule greater than III. We also call the attention of the court to the fact that the DEA only put forward one participant that isn't arguing against the proposed rule in favor of a more strict schedule I or schedule II placement to be actually granted standing. These facts certainly raise a serious doubt on the process DEA employed while creating this participants list from the many like VAC that applied and also gives rise to suspicion that the DEA may have cherry picked from those requesting standing hoping for just such an outcome, a list of participants with standing almost exclusively speaking the language of drug prohibition. Given these facts along with the chiding the DEA received from Judge Mulrooney in his preliminary order for DEA not stating whether the proposed participants for the hearing were even claiming to be aggrieved, we feel there is more than enough evidence to warrant further investigation by this tribunal. Please see attached - copy Order from Judge Mulrooney: ORDER REGARDING STANDING, SCOPE, AND PREHEARING PROCEDURES On Standing. [4] Please see attached - Copy of preliminary order from Judge Mulrooney chiding DEA for not stating whether the proposed participants for the hearing were even claiming to be aggrieved by proposed rule. [5]

Thank you for your consideration.

Yours Truly,

Michael Krawitz

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Veterans Action Council – <https://www.veteransactioncouncil.com>

Attachments:

- 1] PDF copy of VAC electronic submission to DEA with time and date stamps
- 2] Copy of preliminary order from Judge Mulrooney - ORDER REGARDING REQUEST FROM A NON-PARTICIPANT (Veterans Action Council)
- 3] Copy of preliminary order Judge Mulrooney from 31 Oct 2024 "Attachment 1" - copy of US DOJ- DEA letter to Judge Mulrooney dated 28 October 2024
- 4] Copy of Order from Judge Mulrooney: ORDER REGARDING STANDING, SCOPE, AND PREHEARING PROCEDURES On Standing
- 5] Copy of preliminary order from Judge Mulrooney, 31 Oct 2024 page #2, chiding DEA for not including whether the proposed participants for the hearing were even claiming to be aggrieved by the proposed rule.

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