

NO. 22-1326

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

REV. BRYAN A. KRUMM, CNP,

Petitioner,

v.

**U.S. DRUG ENFORCEMENT ADMINISTRATION
ANNE MILGRAM, DIRECTOR**

Respondent.

**Petition for Writ of Mandamus to the United States Drug Enforcement
Agency to Enforce Requirements of the Controlled Substances Act, 21 U.S.C.
801 et. seq.**

MOTION IN OPPOSITION TO DEA MOTION TO DISMISS

Rev Bryan A. Krumm, CNP

Petitioner Pro Se

733 Monroe Street NE

Albuquerque, NM 87110

(505) 414-8120

February 21, 2023

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

FEB 24 2023

RECEIVED

Sadly, although I oppose DEA's motion to dismiss this case, I understand that I incorrectly followed the wrong rule in filing my case, and in all likelihood my case will be dismissed. This dismissal will result in the DEA continuing to keep Cannabis in Schedule 1 of the CSA, which will ensure the suffering of millions of Americans and the death of countless US citizens. Research into the medical use of Cannabis will continue to be restricted. Those who are denied access to this lifesaving medication will continue to suffer needlessly because a clerical error I made and the DEA will be allowed to continue its interference with Medical Practice, Science and the Truth. I have little choice but to argue against DEAs Motion to Dismiss. If this fails I will work to find other legal means of bringing DEA. Into compliance with the laws of The United States and International Law.

The courts have held that the statutory time limits for filing petitions for review of agency actions "are jurisdictional in nature such that if the challenge is brought after the statutory time limit, the Courts are powerless to review the agency's action" and must dismiss for want of jurisdiction. *Texas Mun. Power Agency v. Administrator of the United States Environmental Protection Agency*, 799 F.2d 173, 174-76 (5th Cir. 1986). Thus, absent some tolling provision or other saving device, this Court has no choice but to dismiss. However, the unreasonable, arbitrary and capricious nature of the DEA's rules, including violations of equal protection of the law, in addition to the illegal actions of the DEA by maintaining Schedule 1 placement of Cannabis in violation of both United States and International law provide such a saving device.

Court rules allowing 60 days to file an appeal of an administrative decision from a government agency when the appeal is coming from the District court rather than from an administrative decision of the DEA, deprives me of equal protection under the law. The right to review by the District Court has been denied to me. The District Court has previously instructed me to bring these actions directly to the Court of Appeals and not to the District Court. I face unreasonable and arbitrarily rules that only allow 30 days to appeal directly from an administrative agency, while an appeal from the District Court is allowed 60 days.

Fed.R.App.P. 15(a) provides that petitions for review of agency decisions must be filed with the clerk of the appropriate court of appeals "within the time prescribed by law. However, Fed.R.App.P. 15(a) does not specify what "the time prescribed by law" is, nor does it refer to where that information may be found. Even if 21 U.S.C. § 877 had been referred to in the Rules of the Court, it is not

reasonable to expect a “reasonable person” would know that the Drug Enforcement “Administration” is not an “Administrative Agency”, but rather “The Attorney General”. This is a trap has which has ensnared many well seasoned attorneys, as evidenced by a simple search of the case history cited by the DEA in this case. It is not reasonable to expect a simple layman to understand the complex and arbitrary rules of the US legal system when those rules have been rigged to deprive him of Equal protection of the law.

The only reference to an actual time limit in the Rules for the US Court of Appeals is found in Rule 4(a)(1)

(1) Time for Filing a Notice of Appeal.

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

(B) The notice of appeal may be filed by any party within 60 days after entry of the judgment or order appealed from if one of the parties is:

(ii) a United States agency;

The Drug Enforcement Administration is a United States Agency. Although they operate under the purview of the Attorney General, They are not the Attorney General. Although my appeal was filed on day 61 after I received notice from the DEA, day 60 was a Sunday when mail service was not available. Just as this motion is being filed 16 days after DEA’s Motion to Dismiss because of a National holiday that closed the postal service on Monday as well as Sunday.

Therefore,

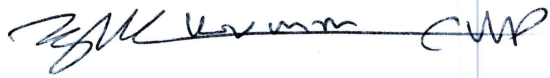
Because Cannabis has accepted medical use, under both the laws of the United States and under International law; and

Because the illegal placement off Cannabis in schedule 1 of the CSA causes unwarranted suffering and death of American Citizens by denying them access to needed medication; and

Because the 30 day limit for filing denies petitioner equal protection of the law;

Petitioner respectfully requests that this court deny DEA's motion to dismiss and order DEA to remove Cannabis fro Schedule 1 of the CSA.

Respectfully submitted this 21'st day of February 2023

A handwritten signature in black ink, appearing to read "Bryan Krumm", followed by a horizontal line and the letters "CNP".

Rev. Bryan Krumm, CNP

CERTIFICATE OF SERVICE

I, Rev. Bryan A. Krumm, CNP

[appellant/petitioner]

hereby certify that on 12/12/22

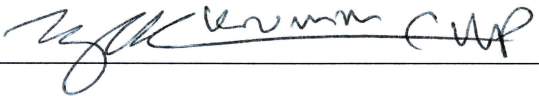
I served a copy of the foregoing Civil Notice of Appeal

to: Anne Milgram, Director DEA

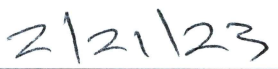
at Drug Enforcement Administration,

8701 Morrisette Drive, Springfield, VA 22152

By certified mail



Signature

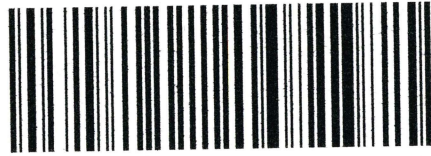


Date

Rev. Bryan K. Summy, CMP
733 Monroe NE
Alb, NM 87110

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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

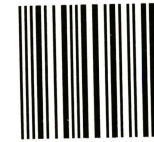
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