

Friday, February 6, 2004

Court Tells DEA it Cannot Regulate Naturally-Occurring THC in Hemp Food Landmark Decision Opens Way for Expansion of Hemp Food Industry

Hemp Industries Association

SAN FRANCISCO, California — U.S. COURT of APPEALS for the NINTH CIRCUIT: The Hemp Industries Association (HIA), representing over 200 hemp companies in North America won their 2 1/2-year old lawsuit today against the Drug Enforcement Administration (DEA) in a decision that permanently blocks DEA regulations that attempted to ban nutritious hemp foods such as waffles, bread, cereal, vegetarian burgers, protein powder, salad dressing and nutrition bars.

"The decision in HIA v. DEA is a huge boost to the hemp food market, and we expect to see many more hemp food products on store shelves," says David Bronner Chair of the HIA Food and Oil Committee. "The three judge panel agreed with our main argument that the DEA's 'Final Rule' ignores Congress's specific exemption in the Controlled Substances Act (CSA) under the definition of marihuana that excludes hemp seed and oil from control along with hemp fiber. Based on today's decision, the court reasonably views trace insignificant amounts of THC in hemp seed in the same way as it sees trace amounts of opiates in poppy seeds," says Bronner.

A Video News Release will be broadcast via satellite for free and unrestricted use. The 15-minute VNR contains footage of popular hemp food products and the manufacturing process; statements from nutritionist Dr. Andrew Weil; and key background on the landmark decision.

Broadcast times: 3:45PM EASTERN TIME, 4:15 PM EST; Broadcast Date: Today! 2-6-2004
Coordinates: SBS6 Transponder: K8 Downlink Freq 11896 Vertical and Audio 6.1 and 6.8 Tech
Assistance Call Julia at 1-800-354-6397

Background on the Hemp Food Court Decision

Today's Ninth Circuit decision permanently invalidates the DEA's "Final Rule," issued on March 21, 2003, that was virtually identical to an "Interpretive Rule" issued by the DEA on October 9, 2001 that was invalidated by a Ninth Circuit court order issued on June 30, 2003. Please visit www.votehemp.com to view the Ninth Circuit ruling.

In the decision, Judge Betty Fletcher wrote, "[T]hey (DEA) cannot regulate naturally-occurring THC not contained within or derived from marijuana-i.e. non-psychoactive hemp is not included in Schedule I. The DEA has no authority to regulate drugs that are not scheduled, and it has not followed procedures required to schedule a substance. The DEA's definition of "THC" contravenes the unambiguously expressed intent of Congress in the CSA and cannot be upheld."

During the final oral arguments held in San Francisco on September 17, 2003, the HIA argued that the DEA's "Final Rule" banning nutritious hemp foods misinterprets the CSA. The judges were completely unconvinced by DEA attorney Daniel Dormont's arguments that Congress did not exempt hemp seed from the CSA even if the seed contains insignificant amounts of naturally-occurring THC. According to the hearing transcript available at www.votehemp.com, Dormont was read back the section of the CSA dealing with the hemp seed exemption on three occasions by Judge Alex Kozinski. By the third reading, a frustrated Kozinski stated "I tried to say it once before. What this tells me is Congress knew full well that stalks and seeds and fiber could be carriers of some level of tetrahydrocannabinol (THC). They were aware of that. Nevertheless, it said unless you do the extracting part they are not marihuana under the definition. That is what it says to me." Near the end of the DEA's arguments, Judge Kozinski asked Dormont, "Can you tell me how you are going to save the [poppy seed] bagel?" The question drew laughter from the packed courtroom, but is a serious issue considering that the irrational logic behind the DEA's attempted hemp food ban could easily be applied to poppy seed bagels.

DEA Admitted Hemp Food Does Not Pose Any Harm, Leading Nutritionist Agrees

During final arguments, the DEA acknowledged that hemp foods have no abuse potential, stating "The concern of the Drug Enforcement Administration isn't particularized to the particular products that these Petitioners make. The DEA has never said, has never focused on the particular products and said anyone can get high from them, or that they pose a harm to people." According to Nutritionist and best selling author Dr. Andrew Weil, "There is absolutely no health concern about trace amounts of THC in Hemp foods. I think the federal court decision is great."

Public Outrage Against DEA Attempted Ban

In regard to widespread outrage over the DEA's "Final Rule" — 115,000 public comments, a letter from the Canadian government, and a letter from Congress co-signed by 22 Representatives submitted to DEA opposed to the hemp food ban — Ninth Circuit Chief Judge Mary Schroeder asked the DEA: "Did you take into account the objections of people who might say that this doesn't make a lot of sense?" Dormont admitted the rule "wasn't popular." Protests were organized by Vote Hemp against DEA's attempts to ban hemp foods. In December 2001 and again in April 2003, at more than 50 DEA offices nationwide, activists gave away hemp foods, poppy seed bagels and orange juice that contain trace THC, opiates and alcohol respectively to highlight the absurdity of DEA's rules. These "Hemp Food Taste Tests" generated public outrage and forced former DEA Administrator Asa Hutchinson to debate Vote Hemp Director Eric Steenstra on National Public Radio.

Eating Hemp Food Does Not Cause Failed Drug Tests

U.S. hemp food companies voluntarily observe reasonable THC limits similar to those adopted by European nations as well as Canada and Australia. These limits protect consumers with a wide margin of safety from workplace drug-testing interference (see hemp industry standards regarding trace THC at www.testpledge.com). The DEA has hypocritically not targeted food manufacturers for using poppy seeds (in bagels and muffins, for example) even though they contain far higher levels of trace opiates. The recently revived global hemp market is a thriving commercial success. Unfortunately, because the DEA's Drug War paranoia has confused non-psychoactive industrial hemp varieties of cannabis with psychoactive "marihuana" varieties, the U.S. is the only major industrialized nation to prohibit the growing of industrial hemp.

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