

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MULTIDISCIPLINARY ASSOCIATION  
FOR PSYCHEDELIC STUDIES; LYLE  
CRAKER and VALERIE CORRAL,

Petitioners,

vs.

No. 04-1246

THE UNITED STATES OF AMERICA;  
THE HONORABLE KAREN TANDY,  
Administrator of the DRUG  
ENFORCEMENT ADMINISTRATION,

Respondents.

**ALL PETITIONERS' MOTION TO CONSOLIDATE THIS CASE  
WITH CASE No. 04-1247, MAPS, et al. v. US/THOMPSON, et al.**

All petitioners in this case move pursuant to Fed. R.App.P. 27, that it be consolidated with the pending case of MAPS, et al. v. US/Thompson, et al., filed the same day as this action and numbered 04-1247 (the HHS Case).

**A. Grounds**

As grounds therefor, the petitioners state that the requested consolidation will serve the Court's interests in achieving the most efficient use of its resources, as well as maintaining consistency in its decisions. These interests will be served because both cases involve essentially the same parties or the same, similar, or related issues.

## **B. Legal Argument**

Both cases are brought by petitioner Multidisciplinary Association for Psychedelic Studies (MAPS) as part of its single effort to conduct research in the medical efficacy and safety of the controlled substance marijuana, using a vaporizer delivery system as compared to the product of burned marijuana. MAPS' effort involves applications by its contractors (petitioner Craker and a testing laboratory) for four federal permits: Two in this case, one (by Craker) seeking authorization from the respondent Drug Enforcement Administration (DEA), to domestically manufacture marijuana for research purposes; and the second (by the testing lab) seeking DEA permission to import marijuana for research purposes.

In the HHS case (No. 04-1247, with which this motion seeks consolidation), MAPS' contracted testing lab seeks the other two permits, one (third permit request) to obtain marijuana for research purposes from the respondent National Institute of Drug Abuse ([NIDA] an agency within the Department of Health and Human Services [HHS]); and the other (fourth), an approval by the respondent National Institutes of Health (an agency within HHS) of the research protocol by which MAPS' lab intends to perform vaporizer research on the manufactured, imported and NIDA-supplied marijuana.

The research (to be performed once the four permits are granted) involves no humans. It seeks only to measure and compare the amount of medically beneficial and harmful products, produced by both vaporized and burned marijuana from three sources (Craker, imported and NIDA).

Finally, both cases to be consolidated seek the same relief: An order compelling the agencies, before which the four permit requests are pending, to act on the pending applications (pending for periods of more than one to more than three years). Thus, the underlying legal issues, concerning whether the agencies have an obligation to act on the pending applications, and whether their delay in acting on the pending applications is unreasonable, are at least similar and related if not identical. The petitioners believe that the facts alleged in both cases, concerning the nature of the applications and their dispositional histories before the agencies where they are pending, are not subject to reasonable dispute.

**C. The Relief Sought**

**WHEREFORE**, the petitioners seek the consolidation of this case with case No. 04-1247, or such other relief as deemed proper.

**D. The Movant's Statement of Consent or Opposition.**

Local Rule 27(a)(5) requires the movant to discuss the other parties' intended replies to the motion (consent, opposition or no response) and report those replies herein. The HHS petitioners consent to consolidation. In this case and the HHS case, all respondents are federal agencies which certainly will be represented by counsel in both cases, rather than appearing in this court pro se as the named respondent administrator, secretary or director. No respondent counsel has contacted undersigned petitioners' counsel yet, and it would be unethical for counsel to contact an individual party where he knows or reasonably expects that the party will be represented by counsel. Accordingly, the movant has not discussed this motion and the respondents' intended responses with the party respondent(s) in this case or the HHS case.

THE PETITIONERS

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Lyle E. Craker

**Certificate of Service:** I hereby certify that on this date, I mailed copies of this motion and a cover letter (giving notice of the eight day reply deadline) to the following addressees and addresses, being all respondents in the two cases to be consolidated.

Dated: July 29, 2004

Michael D. Cutler

**DRUG ENFORCEMENT ADMIN.**

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