

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-1277

September Term, 2002

Stephen B. Elliott,
[731378]

Petitioner

Filed On: February 11, 2003

v.

Drug Enforcement Administration,
Respondent

ON PETITION FOR REVIEW OF AN ORDER OF THE DRUG ENFORCEMENT ADMINISTRATION

BEFORE: Ginsburg, Chief Judge; Sentelle and Rogers,
Circuit Judges

J U D G M E N T

This petition for review of an order of the Drug Enforcement Administration was considered on the briefs and appendix filed by the parties. It is

ORDERED AND ADJUDGED that the petition for review be denied. Petitioner challenges a regulation transferring amphetamine and methamphetamine from Schedule III to Schedule II under the Controlled Substances Act. Although Congress initially placed these drugs on Schedule III, the Act expressly authorizes the Attorney General to “transfer ... any drug” -- not just “new” drugs, as petitioner suggests -- from one schedule to another if certain criteria are met. See 21 U.S.C. § 811(a)(1). This does not represent an unconstitutional delegation of authority, see, e.g., United States v. Gordon, 580 F.2d 827, 837-41 (5th Cir. 1978), nor has petitioner demonstrated that the transfer of amphetamine and methamphetamine from Schedule III to Schedule II is otherwise objectionable. See, e.g., United States v. Lafoon, 978 F.2d 1183, 1184-85 (10th Cir. 1992). The petition for review is therefore denied.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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 disposition 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

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-1277

September Term, 2002