

authority where the Ninth Circuit specifically ruled in the published **Bauer** decision that **Leary** is invalid where relied upon for authority in a religious use of marijuana case

12. In addition, this Court should find the cases cited in **Brown** are irrelevant under RFRA because the lower courts in **Brown** and the cases cited in **Brown**, have failed to follow the federal drug statute and the federal Administrative Procedure Act as Congress wrote them and intended them to be adjudicated.

a. Appendix #C attached is a copy of the federal DEA Administrative Law Judge decision and recommended ruling in the matter of rescheduling marijuana for medical use. That document was introduced into evidence in **Brown**.

b. The DEA Rescheduling Decision is authorized by Title 21 U.S.C. section 802(1)(5)(25), section 811(a)(b)(c) and (d), Title 5 U.S.C. sec. 551 et seq..

c. This federal Drug Enforcement Agency document was introduced into evidence to the **Brown** pre trial court record, but the trial, appellate court, and all other courts have refused to consider it.

d. The Court will note that on page 1 of the report the Administrative Law Judge states that:

"This is a rulemaking pursuant to the **Administrative Procedure Act, 5 USC sec. 551 et seq.**, to determine whether the marijuana plant (*Cannabis Sativa L*) considered as a whole may lawfully be transferred from Schedule I to Schedule II of the schedules established by the Controlled Substances Act (the Act), **21 USC sec. 801 et seq.**"

e. Congress established administrative procedures by statute for the purpose of enabling the federal government to function in a regular, open and reliable manner.

f. Congress wrote the federal drug control statutes to provide for public health and safety in a regular, open and reliable manner.