LAW NOTES

THE HSUS, ALDF SUE USDA

On August 7, 1990, The HSUS and the Animal Legal Defense Fund (ALDF) filed suit against the U.S. Department of Agriculture (USDA), which enforces the Animal Welfare Act (AWA), to compel the agency to begin protecting birds, mice, and rats whenever these animals are used in biomedical research. Turning to the courts is the last in an escalating series of moves to compel the USDA to extend protection offered these species by the AWA. In November of 1989, The HSUS and ALDF filed a petition asking that regulations for birds, rats, and mice be drawn up (see the Winter 1990 HSUS News). The USDA denied the petition on the grounds that the Secretary of Agriculture has the discretion to decide which research animals are covered and which are not. The ALDF and The HSUS contend that the AWA itself mandates coverage of all warm-blooded animals used in biomedical research but that the USDA has ignored the wishes of Congress for the past twenty years by failing to promulgate humane standards for birds, mice, and rats—which are mired in an historic moment of human sacrifice.

HSUS FILES BRIEF IN SANTERIA CASE

In a case that pits animal protection against free exercise of religion, The HSUS has filed an appellate brief in support of the Church of the Lukumi Babalu-Aye's appeal of the District Court's decision to uphold the ban on ritual sacrifice. In September the Office of the General Counsel prepared and filed a brief amicus curiae (as a friend of the court) with the Court of Appeals opposing the Church of the Lukumi Babalu-Aye's appeal of the District Court's decision. The HSUS argued that animal protection is a compelling societal interest and an important public policy established since colonial times and currently embodied in animal cruelty statutes in force in every state, in a battery of federal statutes, and in an unusual and widespread system of dual enforcement that commits the responsibility for protecting animals not only to governmental agencies but also to private human societies and SPCAs. The HSUS argued that animals are not only subjected to torment, fear, and death, but also to the burden upon the Santeria religion imposed by the ban on ritual sacrifice.

The judges of the eleventh circuit in their deliberations must weigh the interests of protecting animals from torment and death, served by the ordinances, against the burden upon the Santeria religion imposed by the ban on ritual sacrifice.

Particularly noteworthy is the fact that the district court ruled that the city has a compelling interest in the protection of animals from cruelty and unnecessary killing. Thanks to the expert testimony provided by HSUS staff members Marc Paulus and Dr. Michael Fox, Judge Eugene Spellman of the District Court found the Santeria Church's method of killing the animals to be inexcusable. The animals, before being sacrificed, are often kept in conditions that produce a great deal of fear and stress. Often sacrificial animals are kept in filthy, overcrowded conditions and sometimes are in both inadequate and inhumane state.

The HSUS argued that the clash of values that this case presents is less over religious concepts than over how animals should be treated and what uses of animals are justifiable. The brief concluded that Santeria's fundamental attitudes toward animal life and uses of animals are mired in an historic moment of human sacrifice.

The Santeria church in its brief argued that the Hialeah ordinances are unconstitutional because they were enacted for no neutral, secular purpose but rather specifically target and suppress religious practices. The brief also denied any compelling governmental interest in protecting animals from ritual sacrifice, especially in view of the government's tolerance of suffering inflicted upon animals in hunting, trapping, vermin extermination, and biomedical research. The judges of the eleventh circuit in their deliberations must weigh the interests of protecting animals from torment and death, served by the ordinances, against the burden upon the Santeria religion imposed by the ban on ritual sacrifice.

The Santeria Church's appeal of the district court's decision is expected until next year; a further appeal to the Supreme Court of the United States is unlikely.

The Law Notes are written by HSUS General Counsel Roger Kinder and Senior Counsel Mardchaug Stuart Madden.

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