

### Is The Government Allowed to Criminalize Animal Sacrifice?

*Church of the Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520 (1993).*

The Church of the Lukumi Babalu Aye began doing public services in Hialeah, Florida in the 80's. This church practiced the Afro-Caribbean-based religion of Santeria, which used animal sacrifice as a form of worship. Sometimes they would eat the animal, and other times not. Shortly after the church began doing these animal sacrifices, the city government of Hialeah passed several ordinances forbidding the "unnecessary" killing of "an animal in a public or private ritual or ceremony not for the primary purpose of food consumption" during an emergency public session on June 9, 1987. They justified this resolution by saying it was inconsistent with public morals, and the Christian Bible (they brought Christianity up because the practiced religion of the church, Santeria, had incorporated Roman Catholic principles into their religion), and some noted that people who practiced this particular religion were imprisoned in Cuba (because the United States definitely wants to follow in Cuba's footsteps...). The ordinances they passed provided many exceptions for other groups regarding killing of animals, including Kosher slaughterhouses, regular slaughterhouses, hunting, fishing, pest extermination, euthanasia of stray animals, and feeding live rabbits to greyhounds.

The Church sued in United States District Court for the Southern District of Florida, where the judge granted absolute immunity to the mayor and city council members of Hialeah (1988), and a year later gave the city summary judgement (moving forward to a decision without a full trial; if a summary judgement is granted by the judge it normally indicates that that particular party is going to win the case). Judge Spellman held that: "(1) ordinances were not preempted by state slaughter or anti cruelty laws; (2) ordinances did not impermissibly infringe on plaintiffs' freedom of religion; and (3) plaintiffs failed to state claim against the city under § 1983." The Church of Lukumi Babalu Aye then appealed the decision, and in 1991 the United States Court of Appeals for the Eleventh Circuit affirmed their appeal on the basis that Judge Spellman used stricter standards than employed in the case he used to back his decision (*Employment Division v. Smith, 1990*, where it was held that Native Americans could be fired from their jobs for their ritual use of peyote; the Eleventh Circuit noted that in this case, the judge cited judge Spellman's own rhetoric as a source of authority to decide that case as well). The Church's petition to receive a review of their lower court ruling from the Supreme Court of the United States was granted (this is called a *certiorari*).

Hence, the case was taken to the United States court, in the *Church of the Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520 (1993)*. The question was of the constitutionality of the City of Hialeah's ordinances in consideration of the Free Exercise Clause (Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...). The plaintiff (the Church of Lukumi Babalu Aye) argued that the ordinances were directed at their religion, and that the law restrained their right to exercise their freedom. In a unanimous decision, the Supreme Court on June 11 1993, reversed the appeal's court's decision, ruling that

ordinances passed in Hialeah were unconstitutional. Justice Anthony Kennedy wrote the decision, and no dissent was made as the decision was unanimous.

The law that was argued was the *Employment Div., Dept. of Human Resources of Ore. v. Smith* decision, which “requires a compelling governmental interest if a law is not of neutral and general applicability” (*strict scrutiny*). What this means, is that if a governmental law is specifically restrictive towards a religious activity, then there must be a strong compelling reason for it (such as a crucial State Interest), and the law must be absolutely necessary by being the only way for achieving the State’s interest. Justice Kennedy led the way stating that the law seemed neutral at face, but that with all of the exceptions they were truly aimed at only religious animal killings, the prevention of which was not necessary to achieve a compelling state interest. In the decision that Justice Kennedy wrote, he summarized that ultimately the city's laws suppressed more religious activity than was necessary to achieve those interests, and that the “interests” themselves were not compelling, and were designed to oppress the religious practices of the Lukumi Babalu Aye Church, thereby violating the Free Exercise Clause.

Hence the Church of Lukumi Babalu Aye Church is allowed to do animal sacrifice.