

SANTERIA



In this artist's rendering, HSUS Southeast Regional Director Marc Paulhus endures a marathon cross-examination by defense attorney

Jorge Duarte as brothers Ernesto and Fernando Pichardo listen intently. U.S. District Court Judge Eugene Spellman presides in the background.

ON TRIAL

BY MARC PAULHUS

In September of 1987, The Church of Lukumi Babalu-Aye and its religious leader, Ernesto Pichardo, filed suit in federal district court in Miami against the City of Hialeah, Florida, and its entire city council. This lawsuit alleged that Mr. Pichardo's First Amendment rights to freedom of religious expression were being violated by several ordinances designed to prohibit the sacrifice or slaughter of live animals within Hialeah's city limits. These ordinances had been passed with encouragement from The HSUS.

Earlier in 1987, Ernesto Pichardo had announced that he intended to purchase land in Hialeah and establish the first public Santeria church in America. In newspaper interviews, Mr. Pichardo was quoted as saying that it was time to bring this religion out into the open. The rituals of Santeria were practiced in secrecy for some 400 years, and Mr. Pichardo maintained that openness would lead to acceptance. The church would even seek to obtain an incinerator permit to dispose of the bodies of sacrificial animals in a sanitary manner.

In my letters and phone calls to Hialeah officials, I told them The HSUS harbored no doubt that animal sacrifice was cruel and, more importantly, that our attorneys had examined the legal issues and believed that ritual sacrifice was *not* protected under the U.S. Constitution. We urged them to ban animal sacrifice and promised to provide them with a workable draft for an ordinance.

Hundreds of local residents attended the first of three public hearings held by the Hialeah City Council to discuss concerns regarding the opening of the church. The facility was not yet operational due to apparent violations of city building codes. However, the occupancy permit was being withheld only until corrections were completed. Many attending the first and subsequent city council meetings were fearful that the church's visible presence would create the impression that animal sacrifices were officially sanctioned by the community. Council members and the Hialeah mayor were sympathetic but expressed the need to be cautious in dealing with religious beliefs and practices.

Luckily, I had submitted my name early enough to be one of the first speakers to address the city council at its initial hearing. Time limitations would make it unlikely that each of the hundreds of persons present would have the opportunity to offer his comments. Friends had saved me a seat in the front row. We outlined our strategy in order to avoid repeating the same points. I would urge consideration of an HSUS model ordinance to prohibit animal sacrifice and also suggest that the council obtain an attorney general's opinion on whether animal sacrifice was permissible under state law or constitutional guarantees. A tough-as-nails Broward County police officer, Sherry Schleuter, would provide information about Santeria sacrifices and the need for enforceable laws that addressed the problem. Representatives of other animal-protection groups would follow with additional facts and eloquent pleas.

Outside the building, a handful of protestors from a Christian fundamentalist church carried placards and shouted slogans denouncing the beliefs of Santeria practitioners as "demon worship." Such statements betrayed ignorance of the Santeria religion, which traces its origin to slaves who, in an effort to escape persecution, were

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THE JUDGE'S RULING

U.S. District Judge Eugene Spellman's ruling in favor of the City of Hialeah upheld the argument that governments can restrict religious practices. In the case of animal sacrifices, those restrictions are necessary to "prevent cruelty to animals, safeguard the health, welfare, and safety of the community, and to prevent possible adverse psychological effects on children exposed to such sacrifices."

Though the decision is binding only in the case of the City of Hialeah versus the Church of Lukumi Babalu-Aye, other communities should be encouraged to pass similar ordinances outlawing animal sacrifice. Elsewhere, prosecutors presented with cases involving ritualistic killing of animals can now use Judge Spellman's ruling to argue their case more persuasively in court.

The following are excerpts from the final judgment:

Migration has been the lifeblood of this country. As each of the tens of thousands came, they brought with them their unique heritages which were ultimately integrated and woven into the fabric which is America. The strength of that fabric has grown over two centuries.

Those who fled poverty found opportunity; those who were deprived of the opportunity of expression found freedom of speech; and those who were deprived of the opportunity to worship God found freedom of religion. Those newfound freedoms, however, are not unabridged or absolute.

Judge Spellman qualified the expanse of the "freedoms" guaranteed under the U.S. Constitution:

Compelling governmental interests, including public health and safety and animal welfare, fully justify the absolute prohibition on ritual sacrifice at issue here, and any effort to exempt purportedly re-

ligious conduct from the strictures of the city's laws would significantly hinder the attainment of those compelling interests.

Judge Spellman also disputed the Church's contention that the City discriminated against it because of its religion's beliefs:

Although the ordinances are not religiously neutral but were intended to stop the practice of animal sacrifice in the City of Hia-



leah, the ordinances were not passed to interfere with religious beliefs, but rather to regulate conduct.... Although this concern was prompted by the Church's public announcement that it intended to come out into the open and practice its religious rituals, including animal sacrifice, the council's intent was to stop animal sacrifice whatever individual, religion, or cult it was practiced by.

Miami medical examiner Dr. Charles Wetli testified on behalf of the Church that the killing of sacrificial animals is not cruel, however, Judge Spellman discounted the claim:

This Court does not agree. Expert testimony [provided by HSUS Vice President Michael Fox and Southeast Regional Director Marc Paulhus] established that the method of killing is unreliable and not humane, and that the animals, before being sacrificed, are often kept in conditions that produce a great deal of fear and stress in the animal. Often the animals are kept in filthy, overcrowded conditions, and sometimes are not given adequate food or

water. Additionally, the animals perceive both pain and fear during the actual sacrificial ceremony.

Dr. Wetli is not a veterinarian and has no knowledge of any biological differences that might impact on his evaluation. Dr. Wetli testified that, even though the animal might experience pain...the animal's interpretation of the pain may not be the same as a human's. The court finds that the

testimony of Dr. Fox, with his specialized knowledge, is more credible in this area and accepts Dr. Fox's conclusions that the method of sacrificing the animals is not humane, but in fact causes great fear and pain to the animal.

University of Chicago research psychologist Dr. L. Raul Huesmann was a key witness for the city on the effects that viewing animal sacrifices would have on children and

adults. Judge Spellman wrote:

Dr. Huesmann testified that the observation of animal sacrifice, particularly in the circumstances of the initiation rite where a number of animals are sacrificed, would detrimentally affect the mental health of the child and the behavior in such a way that it would be detrimental to the community in which the child resides.... A child's observation of animal sacrifice would be likely to increase the probability that the child will behave aggressively and violently, not just against animals, but against humans.... Based on the expert testimony, the City has shown that the risk to children justifies the absolute ban on animal sacrifice.

While the city has achieved a solid victory in the U.S. District Court Southern District of Florida, the ACLU and the church have already filed a motion for a new trial. If the attempt fails, an appeal will be filed with the eleventh circuit court, in Atlanta. Ultimately, the case will no doubt come before the U.S. Supreme Court, since both sides have vowed not to give up. ■

forced to blend the identities of Christian saints with traditional African tribal deities. I worried that the media might mistakenly attribute the overwhelming community response against animal sacrifice to a dispute over religious beliefs.

The city requested an opinion from Florida Attorney General Bob Butterworth. In his response, Mr. Butterworth argued that constitutional guarantees of religious freedom cover one's beliefs but not always the practice of those beliefs. If the activity conflicts with local, state, or federal laws upholding a compelling public interest, the religious practice can be restrained. Protecting animals from torment or death has long been deemed appropriate for legislative focus.

The attorney general's opinion laid the legal groundwork for the city to enact proscriptions against ritual sacrifice. Several ordinances were voted into law. The American Civil Liberties Union (ACLU), speaking on

behalf of Mr. Pichardo and his church, quickly announced it would bring the issue before the federal courts.

For more than ten years, The HSUS had been investigating religions and cults that sacrifice animals. We hoped to accomplish two things.

First, we wanted to get laws on the books that specifically banned ritual sacrifices. The anti-cruelty statutes of most states are generally too weak or too vague or burdened with verbiage that requires an investigator to prove a wrongdoing is "unnecessary," "unjustified," or conducted with "cruel intent." Prosecutors are reluctant to pursue litigation when the laws are not straightforward and the application isn't clear. Hence, the need for a specific ban.

Our second goal was to see an animal-sacrifice case challenged in federal court on the basis of religious freedom. This would be the only way to resolve the persistent question of whether the Constitution sanc-

tioned ritual killings. Until this question was answered, we would forever encounter difficulty in bringing a ritual sacrifice case to trial.

The Hialeah ordinances addressed both of our concerns at once, but the possibility of success could not altogether alleviate the fear of failure. Santeria and similar Afro-Caribbean religions have hundreds of thousands of followers in the United States. In South Florida alone, there are at least 60,000 believers. If the courts eventually ruled that religious bloodletting was a freedom guaranteed by our Founding Fathers, then perhaps as many as a million animals a year would be denied protection under the law.

It would be many months before the case came to trial, perhaps years until it was finally settled.

On July 31, 1989, U.S. District Judge Eugene Spellman began hearing arguments in the lawsuit filed against the City of Hialeah by the Church of Lukumi Babalu-Aye. Among the expert witnesses called on the city's behalf were The HSUS's Dr. Michael Fox, University of Chicago research psychologist Dr. L. Raul Huesmann, and I. Closing arguments com-

An array of Santeria paraphernalia accumulated by the Fort Lauderdale, Florida, Police Department includes bones, fetishes, and other items designed to propitiate the religion's gods. Police held these materials in their forensic laboratory.



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menced near the end of August.

On the sixth day of the trial, I took the stand. Under direct examination, I testified about the sacrificial rituals associated with Santeria. I explained that many different types of animals are killed, sometimes quickly, sometimes not, as offerings to the Santeria deities. Chickens, pigeons, goats, sheep, bulls, and turtles are frequently used; less often, many other species of domestic or wild creatures are sacrificed as may be dictated by the gods' presumed tastes or the practitioner's secret knowledge.

The killings are done for many ceremonial purposes. There are initiation rituals such as the "asiento," in which dozens of animals may be sacrificed in order to entice one of the saint/gods, called an orisha, to physically possess and accept an applicant into the lowest level of priesthood, that of santero. There are sacrifices conducted to implore favors of the orishas, to cast spells or hexes, to insure good health and fortune, or to harm an enemy. There are even sacrificial rites intended to provide for certain victory in a court case.

I testified about the many mutilated animals and headless, decomposing carcasses I, and other HSUS investigators, found in public parks where daily offerings are placed near sacred trees or left by the water's edge. Our photographs of these atrocities were entered into evidence, as were photographs of supply farms housing hundreds of live animals in filthy and overcrowded conditions.

I compressed more than a decade's worth of cult investigations into a two-hour recitation of our findings.* I knew, however, that

*Inaccurate media reports have frequently labeled any animal sacrifice or spiritualist cult activities to be the work of Satanists. That is precisely what happened following the tragic killing of a medical student in Matamoros, Mexico, by a gang of drug smugglers. Important evidence was either overlooked, misinterpreted, or ignored. Amidst the carnage in Matamoros were reportedly found numerous items characteristic of Santeria and a similar, more sinister Afro-Caribbean cult, Palo Mayombe. Adolfo Constanzo, the cult leader, was later discovered to be a santero who originated from Miami. His initial interest in Santeria allegedly shifted to Palo Mayombe as he became immersed in the violent drug underworld.



HSUS/PAULHUS

Freshly sacrificed chickens line the hallway of a house where the ceremony of an "asiento," the initiation of a new "santero," is taking place. Such sacrifices are considered illegal in Florida, according to a recent federal court decision.

in a couple of days I would have to return to face cross-examination by the attorneys for the Santeria church.

The *Miami Herald*, news wire services, and local television stations provided daily coverage of the trial. A feature article in a regional news magazine devoted many pages to defending Santeria and its sacrificial practices while denigrating "The Humane Society in the person of Marc Paulhus, that tireless defender of chicken rights."

When I took the stand for cross-examination, Jorge Duarte, the attorney for the Church of Lukumi Babalu-Aye, clicked his heels, raised a stiff-armed salute, and shouted "Sieg Heil" in a passable imitation of a loyal Gestapo officer. The city's attorneys, Richard Garrett and Stewart Singer, jumped up to register an objection, and, a fraction of a second later, Judge Spellman bellowed his outrage. He warned Mr. Duarte that he had better demonstrate some justification for his offensive conduct.

Mr. Duarte was apparently trying to link The HSUS with the Third Reich as fascists

bent on denying people their personal freedoms.

The remainder of my nearly six hours under cross-examination was consumed by Mr. Duarte's questioning of HSUS policy statements. If there was a point to it, I wasn't clever enough to figure it out, but it did give me the chance to show that The HSUS is consistent in its opposition to cruelty whether it is found in fur trapping, rodeo, hunting, on factory farms, or within religious rituals.

At the court's insistence, Mr. Duarte apologized to me as I left the stand.

Nearly two months after the trial in Miami, I sat in a Macon, Georgia, motel room preparing to deliver a sermon on "Reverence for Life." The occasion was a "blessing for the animals" ceremony coinciding with the birthday of St. Francis of Assisi.

The motel phone rang. Judge Spellman had just issued his ruling in the Santeria trial. The City of Hialeah and the animals we sought to protect had won a decisive victory. The animal-sacrifice ordinances were upheld,

and Judge Spellman's final judgment forcefully argued that the religious or ritual killing of animals is not protected under the U.S. Constitution.

An hour later, I had the honor of announcing the favorable verdict at the conclusion of my sermon. A hundred people applauded as scores of animals barked, howled, meowed, and chirped.

In my thirteen years with The HSUS, my scrutiny of animal-sacrifice cults has been the longest and, I believe, the most important investigation I have pursued. The numbers of animals involved are staggering; their deaths are unconscionable. There will be appeals and new trials, and it may take several years longer before the issues are, at last, fully resolved.

Still, I feel a tremendous sense of relief. The animals have won this round and there is ample cause to feel optimistic about the future. As for me, I can't help thinking: "Not bad for a 'tireless defender of chicken rights.'" ■

Marc Paulhus is regional director of The HSUS's southeast regional office.