

How ritual chicken sacrifices in Miami helped halt Trump's travel ban¹



Animal rights activists in 1996 protest Santería chicken sacrifices at the main entrance of the Dade County Courthouse in Miami. It was not known who left the dead rooster in the foreground. The fowl was there when the protestors arrived.

BY DAVID OVALLE

In ruling against President Donald Trump's "Muslim travel ban," a trio of federal judges relied in part on a distinctly South Florida court case — one that granted religious protections for the ritual sacrifice of chickens and goats.

The unanimous ruling Thursday night upholding a halt to the White House executive order cited a famous 1993 U.S. Supreme Court decision that overturned a Hialeah law banning Santería animal sacrifices. Justices found that the city ordinance infringed on constitutionally protected freedoms.

The ruling by the U.S. Court of Appeals for the Ninth Circuit court made clear that judges can consider outside statements made by elected leaders — in this case, President Donald Trump himself — in trying to figure out if the intent of a government action was to discriminate against a religious group.

"In Hialeah in the 1990s, it was Santería. With Trump, it's Muslims," said University of Virginia law professor Douglas Laycock, an expert on religious liberties who successfully argued the Hialeah case.

Decades ago, the city of Hialeah — a large blue-collar city of mostly Cuban-American immigrants outside Miami — was sued by the Church of the Lukumi Babalu Aye, which wanted to operate a place of worship in an old used-car lot.

The city of Hialeah argued that a 1987 law banning animal killings, which was passed after the church opening, did not target practitioners of the Afro-Cuban religion, which ritually kills chickens and goats as offerings to its deities, ensuring good fortune. Instead, city lawyers argued, the strict reading of the law was just that Hialeah wanted to curb health hazards from animal carcasses left on the streets.

But Supreme Court justices, in a unanimous decision, pointed out that city leaders — in numerous public statements before the law was passed — singled out the religious minority, even if Santería was not mentioned in the ordinance.

¹ Miami Herald, February 10, 2017 <http://www.miamiherald.com/news/local/community/miami-dade/article131983429.html>

As proof, Justice Anthony Kennedy (who is still on the court) said that a Hialeah City Council president, at an emergency meeting asked: “What can we do to prevent the church from opening?” The city also passed a separate resolution that declared: “This community will not tolerate religious practices which are abhorrent to its citizens.”

Fast forward more than two decades, Trump issued an executive order temporarily banning refugees from seven Muslim-majority countries, including Iraq, Iran and Somalia, from coming to the United States. The controversial Jan. 27 order immediately sowed chaos and confusion at airports across the world as officials struggled to figure out who should be denied entry to the United States.

Critics across the nation decried the order as flouting the Constitution and American values by targeting a whole religion. The executive order also spurred widespread protests, including in Miami.

Administration officials insisted Trump was only trying to stop potential terrorists hellbent on causing violence, and the order itself did not target the whole religion of Islam. After the latest court defeat, Trump tweeted, “SEE YOU IN COURT, THE SECURITY OF OUR NATION IS AT STAKE!”

But the state of Washington, in suing to stop the ban, pointed to Trump’s own campaign promise of a “total and complete shutdown on Muslims entering the United States.” They also referenced a recent interview by former New York City Mayor Rudy Giuliani, who revealed that Trump asked him for advice on making his “Muslim ban” legal.

The three-judge appellate panel agreed those outside statements should at least be considered, just as they had been in the Hialeah case. “It is well established that evidence of purpose beyond the face of the challenged law may be considered in evaluating” whether religious freedoms were violated, the judges ruled Thursday.

The ruling by the San Francisco-based appeals court upheld a temporary restraining order that a trial judge placed on the president’s action. More litigation will unfold in the coming weeks.

The Trump administration can appeal to the U.S. Supreme Court, or ask the entire appeals court to reconsider the decision to allow further exploration of the legal dispute.

As for South Florida’s Santería community, the religion — which derived from African faith brought to Cuba and the Americas by slaves and infused with Catholicism — has become more mainstream since the U.S. Supreme Court decision in 1993.

Particularly in the digital age, in which information on the religion is available with just a click, the faith has spawned a cottage industry selling paraphernalia and drawing increasing study from religious scholars.

The religion has also blossomed in countries such as Mexico and Venezuela. Groups of local practitioners have also begun flocking to Nigeria to embrace what some believe is a more pure strain of the ancient Yoruba religion — sometimes spurring tension and clashes with Miami Santería leaders.