

# ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



## The Church of the Celestial Heart et al v. Garland et al, No. 1:2023cv00545 - Document 25 (E.D. Cal. 2024)

United States District Court, Eastern District of California, Magistrate Judge Stanley A. Boone, 9 January 2024

Defendant motion to dismiss action seeking relief pursuant to the Religious Freedom Restoration Act for a holy tea containing trace amounts of ayahuasca, a Schedule I restricted chemical.

**Key words: Nonprofit Religious Organisation, United States, California, Freedom of Religion, Drug Enforcement, Motion To Dismiss, Standing, Arguable Case**

1. The Church of the Celestial Heart (Celestial Heart) is a California non-profit religious corporation that has approximately 350 members.
2. Celestial Heart was formed to expand the Santo Daime religion and offer its teachings to an English-speaking audience.
3. Santo Daime is a Brazilian religion, founded in the 1930s by Mestre Raimundo Irineu Serra, which makes use of elaborate ordering principles, techniques, and symbology to shape and direct the effects of the hallucinogenic plant ayahuasca, usually taken as a tea.
4. Unlike the Brazilian Santo Daime religion, Celestial Heart is a syncretic religion (i.e. one using two or more distinct belief systems fused to create a new religion that incorporates several religions and spiritual traditions). Celestial Heart incorporates esoteric Catholicism, Kardecist Spiritism, Brazilian Candomblé, Umbanda and Umbandaime, the mediumistic teachings of the Brazilian Chico Xavier, and the indigenous Brazilian shamanism as brought forth by the Kaxinawa and Yawanawa indigenous tribes of Acre, Brazil.
5. Celestial Heart, and members of Celestial Heart, sought to import and use their sacramental tea which contains trace amounts of ayahuasca, a Schedule I chemical under the [Controlled Substances Act](#) (CSA), into the United States for religious ceremonies.
6. In early August 2021, a package of tea, imported from outside the US, was sent to a church member by courier.

7. On 13 August 2021, this package was seized by agents of the defendant Department of Homeland Security (DHS). The package was tested for controlled substances, returning a positive test result for N, N-Dimethyltyptamine (DMT), which ayahuasca is known to contain.
8. The plaintiffs alleged this confiscation and testing were undertaken without providing any due process to them before or after their 'holy tea' was seized.
9. Following the execution of a search warrant by the Sheriff's Department, the church member was arrested on suspicion of violating [California Health and Safety Code § 11377](#) (possession of any compound or substance containing DMT), and [California Health and Safety Code § 11378](#) (possession of DMT for sale).
10. No formal charges ensued.
11. The plaintiffs' stated claim was for relief pursuant to the Religious Freedom Restoration Act (RFRA), [42 U.S.C. § 2000bb-1\(c\), 2000bb\(4\)](#).
12. The RFRA "provides that [the] '[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability,' unless the government 'demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest'.
13. The plaintiffs sought declaratory and injunctive relief against, including:
  - a) a declaratory judgment that the actions described in the complaint violated the plaintiffs' rights under RFRA;
  - b) a declaratory judgment that the defendants' actions described in this complaint, including the interception of Celestial Heart's sacramental tea, and the continuing threat of prosecution of the plaintiffs and Celestial Heart's members in the United States who wish to engage in taking the sacrament, violate the RFRA, 42 U.S.C. § 2000bb-2000bb(4);
  - c) a preliminary and permanent injunction enjoining the defendants from arresting, prosecuting, or threatening the plaintiffs and members of Celestial Heart with arrest, prosecution and or imprisonment for importing, distributing, possessing, and ingesting Celestial Heart's sacramental tea solely at Celestial Heart services; and
  - d) an order that within thirty (30) days after the date of issuance of declaratory relief, the parties presented the Court with a plan to effectuate the importation, distribution, possession, and accounting for Celestial Heart's sacramental tea consistent with the rights of Celestial Heart's members to use their sacramental tea in ceremonies; and fees and costs.
14. The defendants filed a motion to dismiss, which was the subject of this hearing. The request for an order to dismiss was based on lack of standing, and on failure to state a claim. In the alternative, the defendants sought to dismiss the case without prejudice or staying the litigation until the plaintiffs applied to the US Drug Enforcement Administration (DEA) for a religious-based exemption to the Controlled Substances Act.
15. Following a substantial discussion on the issues, the Court denied the defendants' motion to dismiss. There was no lack of standing, and no failure to state a claim. Moreover, the alternative ground to dismiss was not clear as to its result for the plaintiffs.

16. On standing, the Court said that the plaintiffs' case was important, and that there was substantial case law underlying it. In addition, there were clearly issues of due process involved, and government intimidation used to interfere with the free exercise of religion. Thus, the case was arguable as stated.
17. The alternative ground to dismiss was unclear because the outcome of an application for an exemption to use the tea was not known, and could, at the choice of the government, be removed at any time.
18. Thus the plaintiffs were permitted to pursue their case further.

## COMMENT



There have been many cases concerning the use of controlled substances in religious ceremonies in the US. We reported on one involving ayahuasca in 2023: see [Lowaska Church of Healing v. United States of America, et al.](#)

Ayahuasca is a South American psychoactive and entheogenic (an entheogen is a neologism to designate psychoactive substances employed in culturally sanctioned visionary experiences in ritual or religious contexts) brewed drink traditionally used both socially and as a ceremonial or shamanic spiritual medicine among the indigenous peoples of the Amazon basin.

In the US, religious communities can apply to use ayahuasca (or other controlled substances) and receive a religious exemption from the DEA under provisions of the CSA. This is possible pursuant to the US Supreme Court's decision in *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 439 (2006), concerning the Religious Freedom Restoration Act.

However, government authorities, including the DEA (citing the use of controlled substances), the DHS (citing the necessity to control cross border importation of controlled substances), the IRS (which can refuse charities tax exemption because of use of controlled substance in their ceremonies), have resisted this outcome, as in this case.

The possession, use, making, selling, importing or exporting of ayahuasca is prohibited in Australia because its active ingredient (N, N-Dimethyltyptamine or DMT) is a scheduled prohibited substance: see [Therapeutic Goods \(Poisons Standard—October 2023\) Instrument 2023](#), Schedule 9 - Prohibited Substances.

## VIEW THE CASE



This case may be viewed at:

<https://law.justia.com/cases/federal/district-courts/california/caedce/1:2023cv00545/426464/25/>

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