Before the trial began, the UDV moved for a preliminary injunction, requesting that its members be permitted to import and use hoasca in their religious ceremonies. The government opposed the preliminary injunction on the ground that hoasca is an illegal mixture containing DMT and hence any use of it was prohibited by the federal Controlled Substances Act. The UDV replied that the Religious Freedom Restoration Act (RFRA) protected their use of hoasca.

The UDV had previously filed a federal lawsuit against the Attorney General seeking a court order that the government return the hoasca and permit the UDV to import and use hoasca in their religious ceremonies. A hearing was held and the district court refused to allow the hoasca through, and threatened to destroy it, the UDV filed a federal lawsuit against the Attorney General seeking a court order that the government return the hoasca and permit the UDV to import and use hoasca in their religious ceremonies.

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On May 21, 1999, inspectors at US Customs intercepted a shipment of three drums marked as holding “herbal tea extract.” A test of the brown liquid indicated that it contained the Schedule I substance dimethyl-tryptamine (DMT). The tea, known as hoasca or ayahuasca, was destined for the American branch of the Brazilian-based União do Vegetal (UDV), whose members drink hoasca as a sacred communion. When Customs refused to allow the hoasca through, and threatened to destroy it, the UDV filed a federal lawsuit against the Attorney General seeking a court order that the government return the hoasca and permit the UDV to import and use hoasca in their religious ceremonies.

By Richard Glen Boire, Esq.

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very small number of members in the US branch (said to number about 130). Nevertheless, the decision is groundbreaking because it is the first entheogen case to reach the Supreme Court after the Court’s grim holding in Department of Human Resources of Oregon v. Smith, where the Supreme Court held that the First Amendment’s Free Exercise Clause did not protect the Native American Church’s use of peyote.

The UDV case established that in future entheogen cases where RFRA is applicable, the federal government will not be able to win simply by asserting that the use of a particular entheogen was prohibited by the Controlled Substances Act. Instead, each case will be judged on a case-by-case basis with an eye to the specifics of the entheogen used, and the specific reasons and evidence offered by the government as to why no accommodation is possible.


Richard Glen Boire has a private law practice (www.convictionfree.com) focused on obtaining post-conviction relief in entheogen cases. He is also co-founder and a Senior Fellow of the Center for Cognitive Liberty & Ethics (www.cognitiveliberty.org).