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7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF ARIZONA**

10 The Church of the Eagle and the Condor, et  
11 al,

12 Plaintiffs,

13 v.

14 Merrick Garland, Attorney General of the  
United States, et al,

15 Defendants.

Case No.: CV-22-01004-PHX-SRB

**Declaration of Martha J. Hartney in  
Support of Plaintiffs' Opposition to  
Defendants' Motion to Dismiss**

**Judge: Honorable Susan R. Bolton**

16 \_\_\_\_\_ /  
17 I, Martha J. Hartney, do hereby declare under penalty of law that the following facts are  
18 true and correct:

19 1. I am an attorney licensed to practice in Colorado since 2010. I make this declaration  
20 based on my personal knowledge, unless otherwise stated, and I am competent to testify to the  
21 matters set forth herein. I make this Declaration in support of Plaintiffs' Opposition to  
22 Defendants' Motion to Dismiss.

23 2. With full knowledge of prior ayahuasca prosecutions Defendants challenge Plaintiffs  
24 to provide this court evidence of those past prosecutions. (Doc. 23, p. 15, lns 1-4).

25 3. As Defendants well know, there has been a history of past federal enforcements and a  
26 substantial record of past and current involvement in state and local prosecutions of ayahuasca  
27 use. Defendants have investigated, made arrests, and prosecuted ayahuasca use directly, and

1 have coordinated with state and local law enforcement officers to arrest and prosecute behavior  
2 related to the use of ayahuasca.

3 4. Plaintiffs have attempted to ascertain more specific information about the seizure and  
4 destruction of its sacrament by filing FOIA submissions with Defendants. DEA failed to  
5 respond to the FOIA request, and CBP failed to fully comply with the request. Neither  
6 provided information on prior enforcements as requested. The following list of prior  
7 enforcement is incomplete due to the obstructive and unlawful behavior of Defendants.

8 5. On or about May 20, 1999, federal authorities raided the home of Jonathan Goldman  
9 in Ashland, Oregon, in full SWAT regalia with guns drawn and in the presence of his minor  
10 children. Authorities arrested Mr. Goldman and seized his church's *Daime*—a tea identical to  
11 the ayahuasca in this case. Mr. Goldman was and remains a leader of the Church of the Holy  
12 Light of the Queen, a Santo Daime church in Oregon. This arrest ultimately resulted in a  
13 holding in favor of the church and Goldman in the federal district court case *Church of the*  
14 *Holy Light of the Queen v. Mukasey*, 615 F.Supp.2d 1210 (D.Or. 2009). Exhibit A, p. 1 to this  
15 declaration is a true and accurate reproduction of Judge Panner's Second Amended Judgment.

16 6. On or about May 21, 1999, federal authorities intercepted a shipment of *hoasca tea* sent  
17 to Mr. Jeffrey Bronfman of Sante Fe, New Mexico. Federal authorities executed a search  
18 warrant of Mr. Bronfman's office housing the administrative offices of O Centro Espirita  
19 Beneficiente Uni o do Vegetal ("UDV"), a religious organization using *hoasca tea* as its  
20 sacrament—a tea identical to the ayahuasca in this case. This seizure resulted in the Supreme  
21 Court ruling applicable in this case. *Gonzales v. O Centro Espirita Beneficiente Uni o Do*  
22 *Vegetal*, 546 U.S. 418 (2006).

23 7. On January 24, 2002, federal authorities indicted Mr. Alan Shoemaker for possession  
24 with intent to distribute a Schedule I controlled substance—DMT. Mr. Shoemaker had been  
25 importing *banisteriopsis caapi* vine which is a legal, non-regulated plant and *diplopterys*  
26 *cabrerana* leaves which contain trace amounts of the prohibited substance DMT and which are  
27 similar to the *psychotria viridis* leaves brewed in Plaintiffs' ayahuasca tea. Mr. Shoemaker was

1 charged with possession of the entire weight of all the plant materials shipped to the U.S.—450  
2 kilos including the weight of the legal plant material *b. cappi*. Mr. Shoemaker was held in  
3 prison for 59 days and bonded out, fleeing to South America where he has lived ever since. Mr.  
4 Shoemaker has never been able to return to the United States due to his religious use of and  
5 commitment to ayahuasca—which he stands by to this day. Exhibit A, p. 2 to this declaration  
6 is a true and accurate reproduction of the Order Granting Motion to Destroy Bulk Evidence.  
7 Exhibit A, p. 3 to this declaration is a true and accurate reproduction of a Screenshot of  
8 PACER search result for case 1:02-cr-00046-UNA-JEM.

9 8. On October 19, 2010, Taita Juan Bautista Agreda Chindoy, a Kametsa traditional healer  
10 and Colombian national, was stopped at Customs at the Houston International Airport where  
11 he was searched, arrested, and detained for possession of ayahuasca. Exhibit A, p. 4-7 to this  
12 declaration is a true and accurate reproduction of the Federal Criminal Complaint against  
13 Chindoy, U.S. Federal District Court, Southern District of Texas.

14 9. On November 29, 2017, Mr. Gustavo Alberto Vargas was arrested and prosecuted  
15 federally for possession of ayahuasca. Mr. Vargas was sentenced to twelve (12) months of  
16 probation, 100 hours of community service, and mandatory drug testing. Exhibit A, p. 8-9 to  
17 this declaration is a true and accurate reproduction of the Criminal Minutes and Sentencing  
18 Memo for Gustavo Alberto Vargas from Case No. 8:18-cr-00296-MSS-AAS.

19 10. In February 2019, U.S. Customs and Border Protection seized three bottles of ayahuasca  
20 from Canadian Bumper Fisher as he came across the border from Canada to the United States.  
21 Mr. Fisher was turned over to Buffalo Police for processing and prosecution. Exhibit A, p. 10  
22 to this declaration is a true and accurate reproduction of the CBP website press release dated  
23 02/09/2018. [https://www.cbp.gov/newsroom/local-media-release/cbp-seizes-hallucinogenic-](https://www.cbp.gov/newsroom/local-media-release/cbp-seizes-hallucinogenic-drug-hidden-shampoo-bottles)  
24 [drug-hidden-shampoo-bottles](https://www.cbp.gov/newsroom/local-media-release/cbp-seizes-hallucinogenic-drug-hidden-shampoo-bottles) (last visited December 6, 2022).

25 11. In September 2020, a shipment of ayahuasca from Dr. Tafur's spiritual center in Iquitos,  
26 Peru to Dr. Tafur was interdicted by CBP. Plaintiffs' ayahuasca shipment was destroyed  
27 summarily. The shipping box containing the ayahuasca was forwarded to Dr. Tafur at the

1 receiving address with the Notice as averred in the Complaint.

2 12. In March 2022, a Denver woman, Ms. Tina Kat Courtney, an ayahuasquera trained in  
3 the Shipibo lineage was arrested after a shipment of ayahuasca was seized by Customs,  
4 transferred to HSI, which then transferred primary investigation and prosecution authority to  
5 local police. Discovery materials in Ms. Courtney’s case show law enforcement’s ability to  
6 recognize ayahuasca on sight and knowledge of its religious use. Exhibit A, p.11 - 12 to this  
7 declaration is a true and accurate reproduction of Department of Homeland Security’s Custody  
8 Receipt for Seized Property and Evidence form tracking the interdicted package from CBP to  
9 Homeland Security Investigations then to local police. Exhibit A, p. 13-15 to this declaration  
10 is a true and accurate reproduction of the Affidavit and Application for Arrest Warrant and the  
11 Arrest Warrant for Tina Marie Courtney.

12 13. On March 18, 2021, Dearborn, MI Narcotics Unit, in direct cooperation with Homeland  
13 Security Investigations (“HSI”) searched the home of a deidentified suspect after CBP  
14 interdicted a shipment of ayahuasca from Peru. The suspect took a plea deal for two years’  
15 probation. Exhibit A, p.16–19 to this declaration is a true and accurate reproduction of the  
16 Wayne County Prosecuting Attorney’s Recommendation. Exhibit A, p. 20 to this declaration  
17 is a true and accurate reproduction of People’s Settlement Offer.

18 14. As evidence that Defendants know of the existence of ayahuasca and its religious use,  
19 Plaintiffs present two press releases from CBP’s own website.

20 15. Exhibit A, p. 21 to this declaration is a true and accurate reproduction of the press  
21 release titled, “60 Pounds of Dimethyltryptamine Seized by CBP Officers,” dated 06/23/2020  
22 [https://www.cbp.gov/newsroom/local-media-release/60-pounds-dimethyltryptamine-seized-](https://www.cbp.gov/newsroom/local-media-release/60-pounds-dimethyltryptamine-seized-cbp-officers)  
23 [cbp-officers](https://www.cbp.gov/newsroom/local-media-release/60-pounds-dimethyltryptamine-seized-cbp-officers). Last visited December 7, 2022. The press release states, “The history of human  
24 experience with DMT probably goes back several hundred years since DMT usage is  
25 associated with a number of religious practices and rituals.”

26 16. Exhibit A, p. 22 to this declaration is a true and accurate reproduction of the press  
27 release titled, “Memphis Seizes 6 Kilos of DMT en route to Arkansas,” dated 07/26/2021.

1 [https://www.cbp.gov/newsroom/local-media-release/memphis-seizes-6-kilos-dmt-en-route-](https://www.cbp.gov/newsroom/local-media-release/memphis-seizes-6-kilos-dmt-en-route-arkansas)  
2 [arkansas](https://www.cbp.gov/newsroom/local-media-release/memphis-seizes-6-kilos-dmt-en-route-arkansas). Last visited December 7, 2022. The press release states, “DMT is generally smoked  
3 or consumed orally in brews like Ayahuasca.”

4 17. In addition to direct enforcement, Defendants operate in close cooperation with federal,  
5 state and local law enforcement, freely sharing information between law enforcement agencies.  
6 DEA funds state and local law enforcement of the Controlled Substances Act through the  
7 HIDTA (High Intensity Drug Trafficking Areas program).

8 DEA’s website ([www.dea.gov/operations/hidta](http://www.dea.gov/operations/hidta)) states:

9 High Intensity Drug Trafficking Areas (HIDTA) program, created by  
10 Congress with the Anti-Drug Abuse Act of 1988, provides assistance to  
11 Federal, state, local, and tribal law enforcement agencies operating in areas  
12 determined to be critical drug-trafficking regions of the United States. This  
13 grant program is administered by the Office of National Drug Control  
14 Policy (ONDCP). There are currently 33 HIDTAs, and HIDTA-designated  
15 counties are located in 50 states, as well as in Puerto Rico, the U.S. Virgin  
16 Islands, and the District of Columbia. The DEA plays a very active role and  
17 has more than 1,500 authorized special agent positions dedicated to the  
18 program. At the local level, the HIDTAs are directed and guided by  
19 Executive Boards composed of an equal number of regional Federal and  
20 non-Federal (state, local, and tribal) law enforcement leaders. The 2021  
21 HIDTA annual budget is \$290 millio. <https://www.dea.gov/operations/hidta>  
22 (last visited December 7, 2022).

16 18. One of the HIDTAs is located in Maricopa County, where Plaintiffs are located, and  
17 was connected to the arrest and indictment of Clay Villanueva—a practitioner local to by  
18 Plaintiffs. Mr. Villanueva was subjected to a raid by HIDTA, after a referral was made from  
19 the DEA to Maricopa County Sheriff’s Office (“MCSO”) See Case 3:20-cv-03098-WHO. On  
20 August 22, 2021, upon departure to Peru, Mr. Villanueva was detained, arrested and jailed in  
21 Los Angeles County based on an indictment executed on June 9, 2021. Exhibit A, p. 23 to this  
22 declaration is a true and accurate reproduction of the Arrest Report from Los Angeles Police  
23 Department. Mr. Villanueva died on April 1, 2022.

24 I declare under the penalty of perjury pursuant to the laws of the United States, that the  
25 statements made in this declaration are true and correct to the best of my recollection.  
26 Executed this 11th day of December, 2022 at Boulder, Colorado.

27   
Martha J. Hartney