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Lawsuit challenges animal enterprise terror law as Unconstitutional



Animal activist Sarahjane Blum removing a duck from a farm where it had been raised for foie gras. Blum and four other activists have challenged a domestic terrorism law aimed at animal rights activists. (GourmetCruelty.com)

By Dean Kuipers

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Attorneys with the Center for Constitutional Rights filed a lawsuit Thursday in Massachusetts challenging the constitutionality of the Animal Enterprise Terrorism Act, saying the controversial business protection law has the potential to criminalize many forms of protest that are protected by the First Amendment.

Passed with much fanfare in 2006 as a reaction to attacks on fur farms and other businesses by shadowy animal rights groups such as the Animal Liberation Front and the Earth Liberation Front, the law has not been used as much as initially expected, primarily because of problems defining the criminalized behavior.

"We're filing a federal lawsuit in Massachusetts on behalf of five activists who have devoted years of their lives to animal rights advocacy. We are challenging the Animal Enterprise

Terrorism Act as unconstitutional, in violation of the First Amendment" as well as the constitutional right to due process, said Rachel Meerpel, a staff attorney at the center.

The AETA, as the law is known, prohibits damaging or interfering with an animal enterprise by causing damage or loss of property, by intentionally making some individual fear for his or her safety, or by conspiracy. The allows for domestic terrorism charges and affords extremely severe penalties, including terror sentencing enhancements.

The law was first used against a group of California animal rights activists nicknamed the "AETA 4," who picketed at the homes of researchers who used animals in their work. In 2009, the judge in that case threw out the indictment, saying the alleged threats presented by the defendants were too vague, writing:

"While 'true threats' enjoy no First Amendment protection, picketing and political protest are at the very core of what is protected by the First Amendment. Where the defendants' conduct falls on this spectrum in this case will very likely ultimately be decided by a jury. Before this case proceeds to a jury, however, the defendants are entitled to a more specific indictment setting forth their conduct alleged to be criminal."

Thursday's suit, Blum v. Holder, challenges the statute's profit-loss prong.

"The law criminalizes causing damage or loss to the real or personal property of an animal enterprise," explains Meerpel. "Because those terms aren't defined, you have to take them at their common usage. And under common usage, 'personal property' includes money, includes profits. So that means that the acts can fairly be read to criminalize anyone who causes a business to lose profits. Activists from any social movements could be subject to prosecution as terrorists if their advocacy, if their lawful protest, affects the bottom line of a business."

That could potentially include boycotts or any advocacy that dissuades consumers from buying a company's products – for instance, endorsing vegetarianism.

The five plaintiffs are animal rights activists whose complaint is that they can no longer engage in lawful advocacy out of fear of prosecution under the AETA.

Plaintiffs Sarahjane Blum and Ryan Shapiro, for instance, made a film in 2004 called "Delicacy of Despair" about the farming of ducks whose livers are fattened for fois gras. Both now contend that the AETA has chilled their ability to engage the media or conduct public campaigns for fear of prosecution as terrorists.

"We're asking for the statute to be struck down as unconstitutional, and for defendants to not be allowed to enforce it against anyone, including the plaintiffs," adds Meerpel.

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