

THE WALL STREET JOURNAL.

Regulators of a Feather

March 12, 2015

By Editorial Staff

This week, nine years after a federal agent infiltrated a religious ceremony to seize an American Indian tribe's sacred objects, pastor Robert Soto finally got his feathers back. But the feds are still threatening civil and criminal penalties against Mr. Soto if he shares his feathers with anyone. And the government intends to seize them again upon his death. In the annals of government abuse, the federal "Operation Powwow" is one for the ages.

As long ago as 2005 gumshoes from the Interior Department's Fish and Wildlife Service started sniffing around Mr. Soto's Lipan Apache Tribe of Texas and the McAllen Grace Brethren Church, where he leads the exercise of traditional American Indian worship. In 2006 a special agent made his not-so-daring move.

He attended the ceremony, asking questions about the feathers but identifying himself as a federal investigator only after encouraging a worshipper to share information. The government eventually confiscated dozens of eagle feathers that were being used in the peaceful exercise of religion.

Mr. Soto and his flock consider eagles "a great gift from God our Creator," he says. And thus he says they would never kill them. But the feathers, most of them from a golden eagle and given to him in 1971, are illegal to possess without a permit under the Migratory Bird Treaty Act. Unlicensed possession can result in fines and even jail time. Two of the offending feathers were from a bald eagle. Mr. Soto says they

had been given to his brother-in-law by an American Indian soldier who was deployed to Iraq and Afghanistan.

Not that it's easy to get a feather license, even if one accepts Washington's authority to regulate such things. Mr. Soto says it can take years. Designated Native Americans receive feathers for religious purposes from the government-run National Eagle Repository. We kid you not.

The problem for Mr. Soto is that he is Native American under federal law but his particular tribe, while recognized by the State of Texas, is not recognized by Washington. Under current federal regulations, it is therefore illegal for Mr. Soto to practice his faith. So with the help of the Becket Fund for Religious Liberty, he filed a civil suit against Interior Secretary Sally Jewell.

Last year Mr. Soto won his appeal in the Fifth Circuit Court of Appeals. Crucial to his victory was last summer's landmark *Hobby Lobby* decision affirming religious freedom—another Becket case. So Fish and Wildlife has now returned Mr. Soto's feathers, but he still can't give the feathers to other worshippers.

Perhaps regulators will now stake out the Grace Brethren Church. Secretary Jewell, can't you find something better for these guys to do?