

Summarized by the Forest Legality Alliance

*U.S. v. One Afghan Urial Ovis Orientalis Blanfordi Fully Mounted Sheep.* (1992).

Background:

The claimant, a Joel Pat Latham, hunted, killed, and skinned the sheep (an Afghan Urial *ovis orientalis blanfordi*) in Baluchistan, Pakistan, in November 1987. Latham then transported the horns and hide to Germany through an export permit issued specifically by the province of Baluchistan. After taking the horns and hide from Germany to Spain, he then had them shipped to his home address in Arlington, Texas.

Acting under the Lacey Act, US Fish and Wildlife Services raided the cabinet shop in which the horns and hide were being stored and began forfeiture proceedings against them. Criminal charges were considered against Latham, but ultimately never brought. The “respondent sheep” was then seized and notice given of the forfeiture proceedings.

Repealing the Forfeiture:

Latham proceeded to claim the forfeited sheep, admitting that he took it out of Pakistan and into the United States. In order to justify the forfeiture of the sheep, the US government only needed to prove that importation of the sheep violated the laws of Pakistan (“probable cause” for forfeiture is only that there is “belief of a violation supported by less than prima facie proof but more than mere suspicion”).

Latham argued that as he possessed an export permit from the province of Baluchistan, he was entitled to remove the sheep from Pakistan. He also argued that despite the presence of a federally issued permit to export the sheep, the “Pakistani national government ‘ratified’ his provincial hunting and export permit when its customs official allowed him to leave the country with the sheep in his personal baggage.”

Ruling:

The National Assembly of Pakistan, which has constitutional power to control imports and exports, passed an Export Trade Order in 1987 under its Imports and Exports Control Act of 1950 that prohibits the export of any Schedule 1 good. Included within Schedule 1 goods are “wild animal skins and garments made from such skins, products or derivatives of such skins.”

In accordance with the Lacey Act, the district court disagreed with Latham’s claim, arguing that the exportation of the sheep was in violation of Pakistan’s national laws, which superseded those of the province. As the court argued, this trumped Latham’s argument that he had an export permit from Baluchistan; “according to the Pakistan Constitution, the National Parliament may make laws for the whole country and a province may make laws for the province.” Therefore: “the... export permit authorizes removal of the... sheep from the province; it does not authorize export from the country.”

The court also argued that “ratification” by customs agents is not mentioned in the Imports and Exports Act, so Latham’s argument here is irrelevant. The Lacey Act requires that the foreign law “need only ‘relat[e] or refer to’ wildlife and need not have been enacted for its protection.”