

# Court Takes Hard Line on Eagle-Feather Possession

[JONNY BONNER](#) / April 7, 2011

DENVER (CN) - Only American Indians may own eagle feathers - and, strictly for religious purposes - the 10th Circuit ruled, striking down a man's appeal to reclaim a collection of 141 feathers from bald and golden eagles.

Samuel Ray Wilgus says he is an "adopted" member of Utah's Southern Paiute Nation, though he was not born to the race and was raised Baptist. In June 1998, he was arrested for violating the Bald and Golden Eagle Protection Act, which limits possession of eagle feathers to members of Indian tribes who need the feathers for religious purposes.

Wilgus pleaded guilty to two misdemeanors for possessing the feathers and received a \$50 fine and 12 months' probation.

Paiute law, tribal authorities claim, does not allow for adoption of non-Indians.

A glimmer of hope remained for Wilgus in his bid to overturn the ruling, though, as he was allowed to appeal the charges on religious grounds.

Citing the Religious Freedom Restoration Act, Wilgus argued that the limits on legal feather possession substantially burdened his religious practices, which he claimed required him to possess eagle feathers.

The act, passed in 1993, limits the federal government's ability to restrict religious freedoms.

Confronted with two "equally important" federal safeguards, the courts said Wilgus' appeal put them in a tough position.

After U.S. District Judge Dee Benson with the District of Utah initially dismissed Wilgus' argument, the 10th Circuit reversed the decision and ordered a hearing on whether the eagle act was the least restrictive means of serving the government's interests.

On remand, the District Court then held that the feather permitting scheme does, in fact, violate the Religious Freedom Restoration Act, concluding that the government could enforce the law as efficiently by allowing any practitioner of an American Indian religion to apply for feather permits, regardless of their tribal affiliation.

The 10th Circuit reversed Benson's decision, however, and said Wilgus' feather possession was, indeed, illegal.

Requests for feathers and other eagle parts far exceed the supply at the National Eagle Repository in Commerce City, Colo., according to U.S. Fish and Wildlife Service.

If non-tribe members are allowed to apply for parts, American Indians will be negatively affected, Senior Judge David Ebel wrote for the court's three-judge panel.

"We are sensitive to the sincerity of Wilgus' religious beliefs, and we do not question either the authenticity or the weight of his religious experience among Native Americans," Ebel wrote, adding that the court was nonetheless "convinced that, in light of the options before the federal government, the regulations at issue are the least restrictive means available to advance its compelling interests."

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