

5. **O Centro Espirita v. Ashcroft**, 389 F.3d 973, at 984 (November 12, 2004)

6. The question presented for review by this Court in **Gonzales** is:

"Whether the Religious Freedom Restoration Act of 1993, 42 U.S.C. sec. 2000bb et seq. requires the government to permit the importation, distribution, possession and use of a Schedule I hallucinogenic controlled substance, where Congress has found that the substance has a high potential for abuse, it is unsafe for use even under medical supervision, and its importation and distribution would violate an international treaty."

7. The **O Centro** court rulings under review in **Gonzales** state that under RFRA the **Sherbert** and **Yoder** tests must be applied to the drug laws on a factual basis and that the government must prove that an illegal use of a drug by the church members has caused a palpable and demonstrable threat to public health and safety. In **O Centro vs. Ashcroft**, 282 F.Supp. 1236, it states on page 1254:

"Under RFRA, Congress mandated that a court **may not limit its inquiry** to general observations about the operation of a statute. Rather, 'a court is to consider whether the 'application of the burden' to the claimant 'is in furtherance of a compelling interest' and 'is the least restrictive means of furthering that compelling governmental interest.'"

From page 1255 thru 1269 the **O Centro** court reports an exhaustive examination of the facts of the church's use of hoasca tea conducted in pre-trial hearings. The tea contains Dimethyltryptamine (DMT hereafter). DMT is a Schedule I drug that is similar in effect to LSD or Mescaline. In fact, DMT is classified as a powerful hallucinogen. Another ingredient in the hoasca tea is an MAO inhibitor, which can possibly cause a toxic reaction to foods eaten within 24 hours of ingesting the tea.

The point is that the federal district court is devoting 14 pages to an examination of the testimony and facts submitted into evidence. Those 14 pages of evidence and argument show us the application of the **Sherbert** and **Yoder** tests exactly the way that Congress intended the RFRA to be adjudicated.