

January 25, 2021

The Honorable Pedro Pierluisi
Governor of Puerto Rico
La Fortaleza, P.O. Box 9020082
San Juan, Puerto Rico 00902-0082

Dear Governor Pierluisi,

Congratulations on your election as Governor of the Commonwealth of Puerto Rico. With your very considerable political experience, and know-how in the Commonwealth and in Washington, D.C., you bring the background needed to lead Puerto Rico forward in the months and years ahead.

We know you have an overflowing docket of issues to address, but we do want to urge you to devote some attention to the subject of cockfighting and steer Puerto Rico in the right direction on the question.

Earlier this month, you took the oath of office, swearing to defend the U.S. Constitution and that of the Commonwealth, more than a year after a U.S. District Court in San Juan affirmed the constitutionality of a federal law banning cockfighting and more than a week before the U.S. Court of Appeals affirmed it.

With these unambiguous rulings – where cockfighting interests pleaded their case and acknowledged the authority of the U.S. courts to adjudicate this matter -- there can be no doubt that the United States has the authority under the Commerce Clause to halt this form of animal cruelty, which is intertwined with gambling, electronic promotions, and other instrumentalities of interstate commerce.

Whatever your views about cockfighting – whether approval or antipathy – we urge you to act in a way that promotes adherence to the law. Your predecessor encouraged disobeying the law, signing a sham measure that had no legal effect but gave the Commonwealth’s blessing to staged animal fights a day after a federal court decided the issue. As a former Secretary of Justice for the Commonwealth, you built your career around respect for the law (a fact that a signer of this letter witnessed firsthand during overlapping service as chief law enforcement officers in their respective jurisdictions).

The animal fighting law does not single out Puerto Rico. It is a national ban, and Congress’s first act of law-making on the subject came in 1976 when six states and five territories had legal cockfighting. That original federal law addressed the interstate movement of fighting animals, and in the 21st century, despite the objections of cockfighters throughout the U.S., Congress has methodically strengthened that law five times, including by adopting Section 12616 of the Agriculture Improvement Act of 2018. As the United States made plain in its pleadings before the First Circuit, the federal law has long applied to Puerto Rico:

Section 12616 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 12616, 132 Stat. at 5015-16, is only the latest step in this progression. It eliminates the two remaining exceptions for jurisdictions like Puerto Rico that do not prohibit cockfighting, that is, the 2156(a)(3) exception and the 2156(d) exception.... Thus, § 12616 had the practical effect of prohibiting the sponsorship or exhibition of a bird for cockfighting in Puerto Rico, 7 U.S.C. § 2156(a)(1), and the use of the postal service or other interstate instrumentalities for promoting or furthering cockfighting, id. § 2156(c). All of the other prohibitions and regulations in § 2156, including attending cockfights; buying, selling, or possessing game cocks; or buying and selling

knives and gaffes for cockfighting, applied equally to Puerto Rico prior to the passage of § 12616 and continue with the same force and effect following its implementation.

We understand that many politicians in Puerto Rico think it is the Commonwealth's prerogative to decide this issue, and that has a similar ring to the states' rights arguments advanced by cockfighters throughout our nation. These verbal protests in and outside Puerto Rico morphed into legal proceedings to press their arguments, and result was that every challenge to the law, whether in federal district courts or appellate courts, has been decided in favor of the United States.

During the debate in Congress, lawmakers heard objections from the Delegate Commissioner from Puerto Rico. In spite of her plea, lawmakers chose to apply the federal law throughout the United States. Not a single U.S. Representative or U.S. Senator spoke out publicly in favor of cockfighting or against the proposed strengthening of the federal law.

The Congress did, however, choose to give Puerto Rico and other U.S. territories a year to come into compliance with Section 12616 of the Agriculture Improvement Act. In May 2019, cockfighting clubs filed a case in the U.S. District Court in San Juan urging that the newest provisions of the law be stayed. In October 2019, Judge Gustavo Gelpí sided with the United States, declaring that "[n]either the Commonwealth's political status, nor the Territorial Clause, impede the United States Government from enacting laws that apply to all citizens of this Nation alike, whether as a state or territory."

The cockfighters appealed to the Court of Appeals for the First Circuit, seeking an emergency stay. The Court denied that request. Then, a year later, on January 14, 2021, Judge Sandra L. Lynch, on behalf of a panel for the court, wrote that "[w]e affirm the district court's decision and hold that Section 12615 is a valid exercise of Congress's Commerce Clause power and does not violate plaintiffs' individual rights."

Politicians and citizens can criticize federal policy actions, but they cannot opt out of federal laws on their whim. As a separate matter, we also do not believe that a rousing defense of territorial prerogative when it comes to cockfighting is a line of argument consistent with broader claims for greater representation in Congress or for statehood for Puerto Rico. No person agrees with all the laws of the United States, but it is the duty of every individual to abide by those laws.

We hope you will send a clear message to cockfighters in Puerto Rico to stop gathering at fighting venues, to lay down the knives and gaffs they affix to the birds' legs, and to cease any staging of animal fights anywhere in the Commonwealth. Should they continue with felony-level violations of the law, they will put their freedom at risk. It's our hope that all political leaders in Puerto Rico discourage behavior that could result in such an adverse and potentially life-altering outcome for violators of the law.

Sincerely,



Wayne Pacelle
President
Animal Wellness Action



Drew Edmondson
Co-Chairman, National Law Enforcement Council
Former Oklahoma Attorney General (1994-2010)