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   [HN2 - Spreading one's religious beliefs or preaching the Gospel through distribution of religious literature and through personal visitations is an age-old type of evangelism with as high a claim to constitutional protection as the more orthodox types.]

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Results for: **HN2 - Murdock v. Pennsylvania, 319 U.S. 105**

Cases

1. Murdock v. Pennsylvania

Supreme Court of the United States | May 03, 1943 | 319 U.S. 105

Overview: Jehovah's witnesses' door-to-door religious canvassing was not subject to a municipal ordinance that required solicitors to have a license and pay a license tax because the exercise of religious freedom could not be conditioned on payment of a tax.

HN2 - **Spreading one's religious beliefs** or **preaching** the **Gospel** through **distribution** of **religious literature** and through personal **visitations** is an **age-old type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox types.**

HN4 - The states can prohibit the use of the streets for the **distribution** of purely commercial leaflets, even though such leaflets may have a civic appeal, or a moral platitude appended. They may not prohibit the **distribution** of handbills in the pursuit of a clearly **religious** activity merely because the handbills invite the purchase of books for the improved understanding of the religion or because the handbills seek in a lawful fashion to promote the raising of funds for **religious** purposes. But the mere fact that the **religious literature** is sold by itinerant preachers rather than donated does not transform **evangelism** into a commercial enterprise.

HN3 - When a **religious** sect uses ordinary commercial methods of sales of articles to raise propaganda funds, it is proper for the state to charge reasonable fees for the privilege of canvassing.

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2. Jimmy Swaggart Ministries v. Board of Equalization

Supreme Court of the United States | Jan 17, 1990 | 493 U.S. 378

Overview: The California tax board's collection of a generally applicable sales tax imposed no constitutionally significant burden on a religious organization's religious practices or beliefs. Neither the Free Exercise nor Establishment Clauses were offended.

HN4 - **Spreading one's religious beliefs** or **preaching** the **Gospel** through **distribution** of **religious literature** and through personal **visitations** is an **age-old type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox types.**

HN1 - The Free Exercise Clause withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure **religious** liberty in the individual by prohibiting any invasions thereof by civil authority.

HN3 - The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central **religious** belief or practice and, if so, whether a compelling governmental interest justifies the burden.

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3. State ex rel. Singleton v. Woodruff

Supreme Court of Florida | Jun 01, 1943 | 153 Fla. 84

Overview: An ordinance could not be enforced against petitioner, a member of a religious sect, when it levied a heavy tax on the performance of a religious obligation where no question of morals, safety, and convenience was involved.

HN2 - Spreading one's religious beliefs or **preaching** the **gospel** through **distribution** of **religious literature** and through personal **visitations** is an age old **type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox types.**

HN3 - One cannot be prohibited from strewing his **religious** wares up and down the street and from house to house; at the same time one would not be permitted to speak, practice, or distribute under the guise of religion that which endangers public morals or public health nor would one be permitted to speak, practice, or distribute his **religious beliefs** in places or at times that would endanger public safety and convenience. The municipality may still regulate the time, places, and the manner of using its streets or holding meetings thereon in the interest of public safety without invading the Declaration of Rights, Constitution of Florida, or U.S. Const. amend. XIV. This must be by general nondiscriminatory legislation unhampered by the arbitrary will of any one.

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4. Saieg v. Haddad

United States District Court for the Eastern District of Michigan, Southern Division | Jun 07, 2010 | 720 F. Supp. 2d 817

Overview: The public streets on which an annual festival was held were not serving that function during the festival, rather, they comprised part of a fairground. A ban on handbilling in the inner and outer perimeters qualified as a valid time, place, and manner restriction and did not violate plaintiff's First Amendment free speech rights.

HN8 - Spreading one's religious beliefs or **preaching** the **Gospel** through **distribution** of **religious literature** and through personal **visitations** is an **age-old type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox** types of **religious** practices.

HN5 - The First Amendment--which applies to the states through the Fourteenth Amendment--declares, in part that Congress shall make no law abridging the freedom of speech. U.S. Const. amend I. Governmental restrictions on the content of speech pose a **high** risk that the government really seeks to suppress unwelcome ideas rather than achieve legitimate objectives. As a general rule, therefore, the government cannot inhibit, suppress, or impose differential content-based burdens on speech. Nevertheless, courts will uphold such a regulation if necessary to serve a compelling state interest and it is narrowly tailored to the achievement of that end.

HN6 - The First Amendment does not guarantee the right to communicate **one's** views at all times and places or in any manner that may be desired. Laws that do not regulate speech per se, but, rather, restrict the time, place and manner in which expression may occur are treated differently. Such laws burden speech only incidentally, for reasons unrelated to the speech's content or the speaker's viewpoint. In considering such content-neutral, time, place and manner restrictions, the Supreme Court employs intermediate scrutiny, upholding limitations on the time, place, and manner of protected expression as long as they are justified without reference to the content of the regulated speech, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels for communication of the information. Thus, time, place, and manner restrictions are valid so long as they (1) are content-neutral, (2) are narrowly tailored, (3) serve a significant governmental interest, and (4) leave open ample alternative channels for communication.

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5. Peck v. Upshur County Bd. of Educ.

United States District Court for the Northern District of West Virginia | Sep 30, 1996 | 941 F. Supp. 1465

Overview: A teacher and parents were not entitled to a permanent injunction preventing a school board from granting access to public schools to any individual or group desiring to distribute Bibles because school board did not create a public forum, and school board's policy did not violate Establishment Clause under "neutrality" test or "endorsement" test.

HN2 - The **distribution** of Bibles and other **religious** materials by private citizens constitutes protected expression under the First Amendment. The First Amendment, which the Fourteenth Amendment makes applicable to the states, declares that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech. The **distribution** of **religious literature**, in particular, has been recognized by the Supreme Court as a form of protected speech. **Spreading one's religious beliefs** or **preaching** the **Gospel** through **distribution** of **religious literature** is an **age-old type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox types.** Moreover, private **religious** speech, including **religious** proselytizing, is as fully protected under the Free Speech Clause as secular private expression.

HN3 - The Establishment Clause traditionally applied only to words and acts of the government, and, consequently, mistaken conclusions about privately sponsored **religious** expression should be disregarded in a public forum, open to all on an equal basis. However, Justice O'Connor has asserted that an impermissible message of endorsement can be sent in a variety of contexts, not all of which involve direct government speech or outright favoritism. By her analysis, the endorsement test offers an appropriate benchmark by which the courts may evaluate the constitutionality of private **religious** expression on public property.

HN4 - The right to use government property for **one's** private expression depends upon whether the property has by law or tradition been given the status of a public forum, or rather has been reserved for specific official uses.

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6. ## Jimmy Swaggart Ministries v. State Bd. of Equalization

Court of Appeal of California, Fourth Appellate District, Division One | Aug 29, 1988 | 204 Cal. App. 3d 1269

Overview: Sales and use taxes as applied to nonprofit religious corporation were constitutional based on its merchandising of religious and nonreligious materials in the state of California.

HN5 - The hand **distribution** of **religious** tracts is an **age-old** form of missionary **evangelism** - as old as the history of printing presses. This form of **religious** activity occupies the same **high** estate under U.S. Const. amend. I as do worship in the churches and **preaching** from the pulpits. It has the same claim to protection as the more **orthodox** and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press.

HN3 - Neither the California Constitution nor the California Sales and Use Tax Law exempts **religious** organizations generally from sales and use taxes. California's Sales and Use Tax Law does provide a limited exemption from the sales and use tax for the serving of meals by **religious** organizations. Cal. Rev. & Tax. Code § 6363.5.

HN6 - The exemption from a license tax of a preacher who preaches or a parishioner who listens does not mean that either is free from all financial burdens of government, including taxes on income or property. When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith are not to be superimposed on the statutory schemes which are binding on others in that activity. A state may justify a limitation on **religious** liberty by showing that it is essential to accomplish some overriding governmental interest.

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7. ## Wollersheim v. Church of Scientology

Court of Appeal of California, Second Appellate District, Division Seven | Jul 18, 1989 | 212 Cal. App. 3d 872

Overview: Constitutional guarantee of religious freedom did not shield coercive conduct that church leaders knew resulted in mental injury from civil liability, but no liability could be imposed for inadvertent injuries caused by religious practices.

HN16 - Being subject to liability for intentional tortious conduct does not in any way or degree prevent or inhibit practitioners from operating their **religious** communities, worshipping as they see fit, freely associating with one another, selling or distributing **literature**, proselytizing on the street, soliciting funds, or generally **spreading** their message among the population. It certainly does not compel **religious** practitioners to perform acts at odds with fundamental tenets of their **religious beliefs**.

HN8 - While the free exercise clause provides absolute protection for a person's **religious beliefs**, it provides only limited protection for the expression of those **beliefs** and especially actions based on those **beliefs**. Freedom of belief is absolutely guaranteed; freedom of action is not. Thus government cannot constitutionally burden any belief no matter how outlandish or dangerous. However, in certain circumstances it can burden an expression of belief that adversely affects significant societal interests. To do so, the burden on belief must satisfy a four-part test. First, the government must be seeking to further an important--and some opinions suggest a compelling--state interest. Second, the burden on expression must be essential to further this state interest. Third, the **type** and level of burden imposed must be the minimum required to achieve the state interest. Finally, the measure imposing the burden must apply to everyone, not merely to those who have a **religious** belief; that is, it may not discriminate against religion.

HN5 - The application of tort law to activities of a church or its adherents in their furtherance of their **religious** belief is an exercise of state power. When the imposition of liability would result in the abridgement of the right to free exercise of **religious beliefs**, recovery in tort is barred.

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8. Follett v. McCormick

Supreme Court of the United States | Mar 27, 1944 | 321 U.S. 573

Overview: License tax on the selling of books was unconstitutional as applied to ordained minister that proclaimed his religious beliefs from door to door, making his living by selling religious books; it was a privilege of the free exercise of his religion.

HN3 - If a license tax would be invalid as applied to one who preaches the **Gospel** from the pulpit, a license tax against one **preaching** house to house must be reversed. For the Supreme Court of the United States fails to see how such a tax loses its constitutional infirmity when exacted from those who confine themselves to their own village or town and spread their **religious beliefs** from door to door or on the street. The protection of the First Amendment is not restricted to **orthodox religious** practices any more than it is to the expression of **orthodox** economic views. He who makes a profession of **evangelism** is not in a less preferred position than the casual worker.

HN2 - An "itinerant evangelist" does not become a mere book agent by selling the Bible or **religious** tracts to help defray his expenses or to sustain him. Freedom of religion is not merely reserved for those with a long purse. Preachers of the more **orthodox** faiths are not engaged in commercial undertakings because they are dependent on their calling for a living. Whether needy or affluent, they avail themselves of the constitutional privilege of a "free exercise" of their religion when they enter the pulpit to proclaim their faith. The priest or preacher is as fully protected in his function as the parishioners are in their worship. A flat license tax on that constitutional privilege would be as odious as the early "taxes on knowledge" which the framers of the First Amendment sought to outlaw. A preacher has no less a claim to that privilege when he is not an itinerant. The exaction of a tax as a condition to the exercise of the great liberties guaranteed by the First Amendment is as obnoxious as the imposition of a censorship or a previous restraint. For the power to tax the exercise of a privilege is the power to control or suppress its enjoyment.

HN4 - The exemption from a license tax of a preacher who preaches or a parishioner who listens does not mean that either is free from all financial burdens of government, including taxes on income or property. But to say that they, like other citizens, may be subject to general taxation does not mean that they can be

required to pay a tax for the exercise of that which the First Amendment has made a **high** constitutional privilege.

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9. Frantz v. Gress

United States Court of Appeals for the Third Circuit | Dec 30, 2009 | 359 Fed. Appx. 301

Overview: Arrest of an arrestee who was distributing religious leaflets on a sidewalk did not violate the Fourth Amendment, as there was probable cause; a police officer testified that the arrestee was obstructing the sidewalk and refused to move. There was no First Amendment violation, as the arrestee's speech was burdened no more than was necessary.

HN7 - While **spreading one's religious beliefs** or **preaching** the **Gospel** through **distribution** of **religious literature** is an **age-old type** of **evangelism** with as **high** a claim to **constitutional protection** as the more **orthodox** types, the government may impose reasonable restrictions on the time, place, and manner of speech.

HN9 - Philadelphia, Pa., Code §§ 10-723 and 10-723.1(1) apply to commercial and non-commercial handbillers. Philadelphia, Pa., Code § 10-723.1 requires every distributor, **distribution** business, or person who distributes or causes to be distributed commercial or non-commercial handbills upon any public place within the City to dispose of them at the end of the day.

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10. The Gospel Army v. Los Angeles

Supreme Court of California | Nov 20, 1945 | 27 Cal. 2d 232

Overview: An ordinance which regulated solicitation that did not involve any religious test nor unreasonably obstructed or delayed the collection of funds was not a prohibited restraint on the free exercise of religion and was constitutional.

HN11 - The constitutional guarantee of **religious** liberty protects the profession of a **religious** belief by word of mouth or in writing, the dissemination of the doctrines of a **religious** organization by **preaching** from the pulpits or other methods of **evangelism**, or the right to refuse to state **beliefs** against the dictates of **one's** conscience.

HN14 - The requirement that promoters and the solicitors working under them submit proof of their good character and reputation does not discriminate against plaintiff or other **religious** organizations or censor their **religious beliefs**, nor does the regulation vest arbitrary power in the administrative board in authorizing it to withhold a license if it is not satisfied that the applicant is of good character and reputation. The license fee is a reasonable one, covering the expenses of investigations and administration.

HN16 - The provision empowering the Board of Police Commissioners to revoke a license in case of unfair, unjust, inequitable or fraudulent practices of solicitation is neither vague nor uncertain and affords no possibility for the censorship of **religious beliefs**.

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11. New Creation Fellowship of Buffalo v. Town of Cheektowaga

United States District Court for the Western District of New York | Jul 02, 2004 | 2004 U.S. Dist. LEXIS 25431

Overview: Magistrate recommended dismissing plaintiffs' free exercise claim for lack of standing or, alternatively, granting summary judgment for defendants because plaintiffs did not establish that they held beliefs entitled to First Amendment protection.

HN13 - The Free Exercise Clause protects an individual's right to be free of official coercion in matters of **religious** training, teaching and observance, and **one's** choice of **religious beliefs**.

HN43 - The Free Exercise Clause of the First Amendment provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, U.S. Const. amend. I, cl. 1, and is applicable to the states and their subdivisions through the Fourteenth Amendment. The guarantee of free exercise of religion pertains to the right to believe and profess whatever **religious** doctrine one desires, thereby excluding any government regulation of **religious beliefs** as such. Further, the First Amendment prohibits government from compelling a person's affirmation of any **religious** belief, punishing the expression of any **religious** doctrines it believes to be false, imposing special disabilities on the basis of **religious** views or status, or lending its power to one side or another in controversies concerning **religious** authority or dogma. The First Amendment guarantee of free exercise of religion protects against government interference not only **religious beliefs** and the profession of such **beliefs**, but also the performance or abstention from physical acts, and a state's banning of such acts or abstentions when they are engaged in solely for **religious** reasons or for the **religious beliefs** displayed, is equally unconstitutional.

HN44 - An individual's **religious beliefs** and their related exercise do not excuse him from compliance with an otherwise valid law prohibiting conduct that the state is free to regulate. As the United States Supreme Court has observed: Conscientious scruples have not, in the course of the long struggle for **religious** toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of **religious beliefs**. The mere possession of **religious** convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities.

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12. Lickteig v. Landauer

United States District Court for the Eastern District of Pennsylvania | Jul 07, 1992 | 1992 U.S. Dist. LEXIS 9592

Overview: Individuals' § 1983 claims that police interfered with individuals' dissemination of religious information on a city sidewalk were not plead with the requisite specificity and failed to allege a claim of selective enforcement of a police directive.

HN6 - The hand **distribution** of **religious** tracts is an **age-old** form of missionary **evangelism**--as old as the history of printing presses. It has been a potent force in various **religious** movements down through the years. This form of **evangelism** is utilized today on a large scale by various **religious** sects whose colporteurs carry the **Gospel** to thousands upon thousands of homes and seek through personal **visitations** to win adherents to their faith. It is more than **preaching**; it is more than the **distribution** of **religious literature**. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of **religious** activity occupies the same **high** estate under the First Amendment as do worship in the churches and **preaching** from the pulpits. It has the same claim to protection as the more **orthodox** and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press.

HN7 - The liberty to distribute ideology, even **religious** ideology, is not inviolate. It may be constrained by the demands of an orderly society. In this regard, the **distribution** of **religious** tracts and other forms of **religious** expression are categorically identical to other speech, such as political speech, which receives the most complete manifestation of First Amendment protection.

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13. In re State in Interest of Black

Supreme Court of Utah | May 16, 1955 | 3 Utah 2d 315

Overview: Because polygamy was illegal, the parents were guilty of neglect of their children since the parents practiced polygamy as part of a religious belief and taught the children to practice polygamy.

HN16 - The term "religion" has reference to **one's** views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. It is often confounded with the cultus or form of worship of a particular sect, but is distinguishable from the latter. The First Amendment to the Constitution, in declaring that Congress shall make no law respecting the establishment of religion or forbidding the free exercise thereof, is intended to allow every one under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any **religious** tenets, or the modes of worship of any sect.

HN31 - The advocacy of a belief in the practice of polygamy or unlawful cohabitation without overt action is protected by the right of free speech and the right to believe and teach such **religious** doctrines as one sees fit so long as it does not incite to crime; still it does not follow that teaching, **preaching** and advocating the practice of plural marriage and urging their children to teach, preach and advocate the practice would not come within the specific prohibition of Utah Code Ann. § 55-10-6, defining a neglected child as one whose parent neglects or refuses to provide the care necessary for his health, morals or well-being.

HN34 - Utah Code Ann. § 30-1-6 (1953) declares that marriages shall be solemnized by the following persons only: (1) Ministers of the **gospel** or priests of any denomination in regular communion with any

religious society; (2) Justices of the peace, mayors of cities, judges of a city court, of a district court and of the Supreme Court.

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14. ## Proctor v. General Conference of Seventh-Day Adventists

United States District Court for the Northern District of Illinois, Eastern Division | Oct 29, 1986 | 651 F. Supp. 1505

Overview: A bookseller could not force Seventh-day Adventist churches to sell religious literature to him at a discount because his antitrust claims were inapplicable to a religious entity holding a lawful monopoly over its own product.

HN2 - **Literature evangelism** is a formal program of the church and is a means of **spreading** their **gospel** and gaining converts. A **literature** evangelist, or colporteur, is a credentialed representative of the church and is considered to be engaged in a form of ministry.

HN1 - The circulation of **religious literature** is accorded First Amendment protection.

HN3 - The Sherman Act does not apply to the colporteur ministry or to the **distribution** systems established for the purpose of **evangelism**.

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15. ## Church of Scientology v. Commissioner

United States Tax Court | Sep 24, 1984 | 83 T.C. 381

Overview: A church was not entitled to tax-exempt status because it was operated for a substantial commercial purpose, its net earnings benefitted its founder and his family, and it violated well-defined standards of public policy.

HN12 - A taxpayer has no constitutional right under the religion clauses to tax-free **religious** income. The activities shielded by the First Amendment from government interference share a common preferred position in the constitutional scheme. Just as the press is not free from general economic regulation and is apparently subject to an ordinary tax, so, too, the Free Exercise Clause does not immunize the income derived from **religious** activity from taxation. The Free Exercise Clause takes the first step and protects **religious beliefs** and practices from governmental interference. It does not go a second step and require the government to subsidize religion. The Establishment Clause likewise does not compel a **religious** exemption from taxation or, at the very least, allows Congress to interpret the course of "benevolent neutrality" demanded by the religion clauses. A compulsory subsidy of **religious** activity appears to have the primary effect of advancing religion, a result prohibited by the Establishment Clause. An exemption for "**religious** income" is also potentially entangling since it requires church and Government to determine item-by-item what is and is not income derived from and dedicated to **religious** activity. Given these dangers of entanglement and establishment, at the very least, Congress ought to be the body to decide whether **religious** income is deserving of an exemption.

HN22 - Entanglement, per se, is not objectionable. What is objectionable is excessive entanglement. By this is meant a relationship between an arm of Government and a **religious** institution which threatens **religious** liberty by coercing, compromising, or influencing **religious** belief. In its more benign form, an entangling statute is one which establishes some **type** of government surveillance of a **religious** institution's affairs. In its severe form an entangling statute is one which imposes a program of government regulation. I.R.C. § 501(c)(3) does not fall into this second class. It is not a regulatory measure. The determination of a **religious** organization's tax liability does not entail government control over church finances. A church remains free to structure its finances as it sees fit.

HN8 - The inurement restriction of I.R.C. § 501(c)(3) has received a narrow construction. While allowing reasonable expenses as deductions against gross earnings courts hold that any money or benefits flowing to private persons which are not ordinary and necessary business expenses, no matter what the amount, constitute inurement. The "exclusively **religious** purpose" restriction, on the other hand, has not been literally construed. A **religious** organization can have incidental nonreligious purposes and still maintain its exempt status. However, if from its activities it can be inferred that the organization has a substantial commercial purpose, it is ineligible for ex emption. U.S. Treas. Reg. § 1.501(c)(3)-1(c). In addition to meeting these express statutory conditions, the United States Tax Court has ruled that I.R.C. § 501(c)(3) impliedly requires a taxpayer to comply with fundamental standards of public policy derived from charitable trust law.

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16. Anderson v. Watchtower Bible & Tract Soc'y of N.Y., Inc.

Court of Appeals of Tennessee, At Nashville | Jan 19, 2007 | 2007 Tenn. App. LEXIS 29

Overview: Trial court erred by denying motion to dismiss under Tenn. R. Civ. P. 12.02(1) filed by a church and its leaders because all of the former church members' claims seeking damages associated with their expulsion from the church were barred by the First Amendment's protection of purely religious matters from interference by secular courts.

HN31 - In order to determine whether a church employed fraudulent or collusive tactics in choosing a minister, a court would necessarily be forced to inquire into the church's ecclesiastical requirements for a minister. The First Amendment makes such inquiry into **religious beliefs** impermissible. This reasoning applies with equal force to a decision to expel a member. Evaluation of the stated reasons for an ecclesiastical decision, such as choosing a minister or expelling a member, would require the courts to inquire into the motives of the defendants to determine whether the decision was properly made. This **type** of evaluation, inquiry, or determination is prohibited.

HN42 - Other courts have found a fiduciary relationship to exist, but only because a counseling relationship was shown to exist. The counseling relationship that has been found to be a pre-requisite must involve something other than, or additional to, spiritual advice and counsel. That is because courts have declined to impose a duty of care on **religious** or spiritual advisors in view of the problems and constitutional obstacles in establishing a standard of care and determining breaches of that standard. Such an exercise would necessarily involve judicial inquiry into the training, skills, and standards, including adherence to and interpretation of basic **religious beliefs** and practices, of many different religions and **religious** organizations. Because of the differing theological views espoused by the myriad of religions in the state and practiced by church members, it would certainly be impractical, and quite possibly unconstitutional to impose a duty of care on pastoral counselors. Such a duty would necessarily be

intertwined with the **religious** philosophy of a particular denomination or ecclesiastical teachings of the **religious** entity.

HN60 - **Religious** belief, opinion, and interpretation are subject to an additional **constitutional protection**. While statements of opinion in general, such a political opinion, are not actionable, statements of **religious** opinion are doubly protected by the First Amendment. They are not amenable to proof of their truth or falsity, and secular courts have no jurisdiction to determine their truth or falsity.

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17. ## Zummo v. Zummo

Superior Court of Pennsylvania | May 17, 1990 | 394 Pa. Super. 30

Overview: Order prohibiting a divorced father from taking children to non-Jewish religious services during visitation pursuant to an oral prenuptial agreement was constitutionally impermissible because religious freedom may not be bargained away.

HN32 - It is apparent that the government is inherently and constitutionally incompetent to determine whether stability or instability in **religious beliefs** would be in the best interests of a child.

HN33 - While the desire to provide or maintain stability in the already tumultuous context of a divorce is generally a significant factor in custody determinations, courts constitutionally cannot have any interest in the stability of a child's **religious beliefs**.

HN34 - It is clear that neither determination of, nor consideration of, parents' relative devoutness or activeness in **religious** activities has any place in custody determinations. No person can be punished for entertaining or professing **religious beliefs** or disbeliefs, or for church attendance or non-attendance, and the Establishment Clause at the very least, prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Consideration of the parents' relative devoutness does precisely what is forbidden.

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18. ## Catholic Charities of Sacramento, Inc. v. Superior Court

Court of Appeal of California, Third Appellate District | Jul 02, 2001 | 90 Cal. App. 4th 425

Overview: Act requiring coverage for women's contraceptives had a secular purpose, did not advance or inhibit religion, and did not foster excessive government entanglement with religion; thus the act did not violate constitutional religious guarantees.

HN9 - The legislature defined "**religious** employer" narrowly as an entity whose purpose is the inculcation of **religious** values, who employs and serves primarily persons who share the entity's **religious** tenets, and who is a nonprofit organization pursuant to a particular tax code section. Cal. Health & Safety Code §1367.25(b); Cal. Ins. Code §10123.196(d). The legislature had a rational, nondiscriminatory reason to limit the exemption in this fashion in order to reduce the concomitant infringement on employees' rights resulting

from the **religious** accommodation, which serves to impose the employer's faith upon the employees, thereby burdening their **religious beliefs**. To say that the employees may work elsewhere is to deny them the full choice of employment opportunities enjoyed by others in the workforce.

HN10 - The "**religious** employer" exemption to the Women's Contraception Equity Act under Cal. Health & Safety Code §1367.25(b) and Cal. Ins. Code §10123.196(d) is neutral and generally applicable to all religions. It does not discriminate among religions, but applies to all faiths in the same manner, exempting some but not all parts of all **religious** organizations. Accordingly, strict scrutiny does not apply and the incidental effect that the prescription contraceptive coverage statutes have on the **religious beliefs** of an employer does not violate the Free Exercise Clause of the United States Constitution.

HN14 - The secular purpose of the prescription contraceptive coverage provisions in the Women's Contraception Equity Act is to prevent discrimination against women in healthcare insurance, and the "**religious** employer" exemption is limited so as not to discriminate among religions or restrict **religious** practices, but to ensure the viability of this statutory purpose as well as to protect employees from the imposition of their employer's **religious beliefs**. Accordingly, the exemption was not carefully gerrymandered in order to burden only the Catholic Church, while exempting all other religions. In other words, it is neutral and generally applicable.

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19. Legacy Church, Inc. v. Kunkel

United States District Court for the District of New Mexico | Jul 13, 2020 | 2020 U.S. Dist. LEXIS 122542

Overview: Plaintiff was unlikely to succeed on the merits of its claim that public health orders issued in response to COVID-19 violated Free Exercise or Freedom of Assembly clauses, as there was no evidence that religious animus motivated the orders, they were generally applicable and narrowly tailored, and they left open alternative channels of expression.

HN28 - Practically, a free exercise clause challenge, or **religious** exemption claim, is grounded on the theory that the imposing of certain civil duties upon persons whose **religious beliefs** purportedly compel noncompliance infringes in their free exercise rights. Once it has looked at the religiousness and centrality of the conduct, and the sincerity of the motivating belief, a court must identify the nature and magnitude of the governmental interest in burdening the **religious** organization. The court will then balance the **religious** and state interests, and where the **religious** claims prevail, the court will deem them deserving of **constitutional protection**. In the end, the court decides, as a legislature would, how significant the governmental interest is and the extent to which it could be realized if the court carved out an exemption for the **religious** party.

HN26 - Despite the view that **religious** freedom has eroded since the Warren and Burger Courts, some principles from Reynolds remain consistent to this day. The Burger Court recognized that the Free Exercise Clause does not protect against every burden on **religious** practice incident to living in a well-ordered society. In Lee, the United States Supreme Court held that the Free Exercise Clause does not entitle an Old Order Amish employer to forgo filing federal tax returns because of his **religious beliefs**. The Supreme Court noted that it had been sensitive to the needs flowing from the Free Exercise Clause, but every person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice **religious beliefs**. Similarly, in Bowen the Supreme Court held that the Free Exercise Clause does not compel the United States to accommodate a **religious** objection to statutory requirements that the government use

Social Security numbers for applicants seeking welfare benefits. The Supreme Court concluded that the First Amendment does not require the Government itself to behave in ways that the individual believes will further his or her spiritual development or that of his or her family.

HN27 - In Lyng, the United States Supreme Court held that not all governmental actions which make it more difficult to practice certain religions but which have no tendency to coerce individuals into acting contrary to their **religious beliefs**, require government to bring forward a compelling justification for its otherwise lawful actions. The First Amendment's key word, the Supreme Court concluded, is "prohibit" because the Free Exercise Clause is written in terms of what the government cannot do to the individual, not in terms of what the individual can exact from government.

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20. State v. Van Daalan

Supreme Court of South Dakota | Oct 30, 1943 | 69 S.D. 466

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21. Church of Scientology Flag Servs. Org. v. City of Clearwater

United States District Court for the Middle District of Florida, Tampa Division | Feb 04, 1991 | 756 F. Supp. 1498

Overview: An ordinance requiring that charitable groups file disclosure statements was not overbroad where it had built in safeguards to prevent unnecessary disclosure, and the requirement of judicial review before action was taken.

HN22 - The freedom to hold **religious beliefs** and opinions is absolute. The government may not evaluate the benefits of **religious** practice including the truth or falsity of statements about the benefits of **religious** practices under any circumstances.

HN23 - While freedom to believe is absolute, freedom to act pursuant to **one's** religion cannot be. The government has the inherent police power to regulate **religious** activities in a reasonable and nondiscriminatory manner, to protect the safety, peace, order, and comfort of society. Although the state cannot punish **religious** views and **beliefs**, the state can punish the external manifestation of those views if the resulting conduct is a clear and present danger to the safety, morals, health or general welfare of the community and is violative of laws enacted for their protection.

HN32 - An ordinance imposing a flat license tax for the privilege of canvassing or soliciting within a municipality is unconstitutional when the tax is applied to the dissemination of **religious beliefs** through the sale of **religious** books and pamphlets by solicitation from house to house.

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22. EEOC v. Preferred Mgmt. Corp.

United States District Court for the Southern District of Indiana, Indianapolis Division | Mar 01, 2002 | 216 F. Supp. 2d 763

Overview: The EEOC presented sufficient evidence to raise a genuine issue of material fact that the work environment was hostile and abusive for the named complainants and to support its pattern or practice claim.

HN27 - There is a "compelling government interest" in creating a burden of **religious beliefs**: the eradication of employment discrimination based on the criteria identified in Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., including religion.

HN28 - Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., provides a uniform approach to eradicating employment discrimination in its various manifestations. Its religion provisions include two kinds of employee protection: it requires employers to make a "reasonable accommodation" for employees' **religious beliefs** and practices; and it prohibits discrimination on the basis of **religious** criteria. It provides for a systematic approach to U.S. Equal Employment Opportunity Commission investigation and conciliation. And it provides a uniform method for filing complaints and lawsuits both on behalf of the public in general and on behalf of individuals.

HN31 - A piece of evidence is relevant if its introduction makes some fact at issue in the case more or less likely. Fed. R. Evid. 401. It follows that a decision maker's **religious beliefs** and statements -- particularly those expressed in the work place and about employment -- are relevant to a lawsuit alleging discrimination on the basis of religion.

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23. Ark Encounter, LLC v. Parkinson

United States District Court for the Eastern District of Kentucky, Central Division | Jan 25, 2016 | 152 F. Supp. 3d 880

Overview: Awarding tax incentives under the Kentucky Tourism Development Act, Ky. Rev. Stat. Ann. § 148.850 et seq., for a Noah's Ark tourist attraction that was to be built by a religious organization would not violate the Establishment Clause because there was no endorsement of religion, advancement of religion, or excessive entanglement with religion.

HN19 - Under the second prong of the Lemon test, as revised by Agostini, the government program at issue does not have the primary effect of either advancing or inhibiting religion if it: (1) does not result in government indoctrination of religion; (2) does not define its recipients by reference to religion; or (3) create an excessive government entanglement with religion. First, a government program could have the primary effect of advancing religion if it leads to **religious** indoctrination that could reasonably be attributed to government action. Government inculcation of **religious beliefs** has the impermissible effect of advancing religion. As long as the government provides tax incentives to **religious** and secular entities alike and allocates the benefits based on criteria that have nothing to do with religion, the government could adequately demonstrate that it neither endorsed nor approved of **religious** teachings. No government indoctrination occurs if the government, seeking to further some legitimate secular purpose, offers aid on the same terms, without regard to religion, to all who adequately further that purpose.

HN39 - The Free Exercise Clause protects not only the right to hold a particular **religious** belief, but also the right to engage in conduct motivated by that belief. This freedom means that government may neither compel affirmation of a repugnant belief nor penalize or discriminate against individuals or groups because

they hold **religious** views abhorrent to the authorities nor employ the taxing power to inhibit the dissemination of particular **religious** views. When a government entity seeks to regulate or inhibit conduct based on **religious beliefs**, the government must show that any incidental burden on free exercise is justified by a compelling state interest in the regulation of a subject within the State's constitutional power to regulate. When a plaintiff claims that the government has violated his rights under the Free Exercise Clause, the state may justify a limitation on **religious** liberty by showing that it is essential to accomplish an overriding governmental interest.

HN45 - Where the state conditions receipt of a benefit or denies a benefit based upon conduct mandated by **religious** belief, thus putting substantial pressure on an adherent to modify his behavior in a way that violates his **religious beliefs**, a burden upon religion and an infringement upon free exercise exist.

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24. Slater v. Salt Lake City

Supreme Court of Utah | May 14, 1949 | 115 Utah 476

Overview: A salesman was not entitled to enjoin the police department from enforcing an ordinance that required the salesman to obtain a license before he was allowed to sell magazines on the streets and sidewalks.

HN15 - Salt Lake City, Utah, Revised Ordinances § 3652 is not unconstitutional because it does not prohibit **religious** organizations from dispensing **religious literature** in the prohibited area.

HN16 - The state can prohibit the use of the street for the **distribution** of purely commercial leaflets, even though such leaflets may have a civic appeal, or a moral platitude appended. They may not prohibit the **distribution** of handbills in the pursuit of a clearly **religious** activity merely because the handbills invite the purchase of books for the improved understanding of the religion or because the handbills seek in a lawful fashion to promote the raising of funds for **religious** purposes.

HN17 - When dealing with **religious** liberty, it is necessary to embrace two concepts. Freedom to believe and freedom to act. The first is absolute and this right is protected. The constitution guarantees the right to speak freely on **religious** subjects and protects the person who spreads the doctrines of a **religious** organization whether the person preaches from the pulpit or from the soap box or disseminates the information by leaflet, booklet, or tract subject to reasonable regulation.

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25. Catholic Charities of Sacramento, Inc. v. Superior Court

Supreme Court of California | Mar 01, 2004 | 32 Cal. 4th 527

Overview: The court rejected an employer's challenge to the Women's Contraception Equity Act because the Act was facially neutral towards religion and under either the rational basis or strict scrutiny test, the Act passed constitutional muster.

HN11 - Religious beliefs do not excuse compliance with otherwise valid laws regulating matters the state is free to regulate. The government may not regulate **religious beliefs** as such by compelling or punishing their affirmation. Nor may it target conduct for regulation only because it is undertaken for **religious** reasons. But the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes). To permit **religious beliefs** to excuse acts contrary to law would be to make the professed doctrines of **religious** belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself.

HN8 - The exception to the Women's Contraception Equity Act, Cal. Health & Safety Code § 1367.25 and Cal. Ins. Code § 10123.196, accommodates **religious** exercise by relieving statutorily defined **religious** employers, Cal. Health & Safety Code § 1367.25(b), of the burden of paying for contraceptive methods that violate their **religious beliefs**. The United States Supreme Court has long recognized that the alleviation of significant governmentally created burdens on **religious** exercise is a permissible legislative purpose that does not offend the Establishment Clause. Such legislative accommodations would be impossible as a practical matter if the government were forbidden to distinguish between the **religious** entities and activities that are entitled to accommodation and the secular entities and activities that are not. In fact, Congress and the state legislatures have drawn such distinctions for this purpose, and laws embodying such distinctions have passed constitutional muster.

HN9 - Whatever certain case law might purport to hold, the decision could not supersede the United States Supreme Court's repeated holding that the government may constitutionally exempt **religious** organizations from generally applicable laws in order to alleviate significant governmentally imposed burdens on **religious** exercise. The court's conclusion that the government may properly distinguish between secular and **religious** entities and activities for the purpose of accommodating **religious** exercise does not mean that any given statute purporting to draw such distinctions necessarily passes muster under the free exercise clause. A law targeting **religious beliefs** as such is never permissible, and a court must survey meticulously the circumstances of governmental categories to eliminate, as it were, **religious** gerrymanders.

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26. Versatile v. Johnson

United States District Court for the Eastern District of Virginia, Richmond Division | Oct 26, 2011 | 2011 U.S. Dist. LEXIS 124541

Overview: Claim that prison officials unlawfully impeded inmate's exercise of his religion, the Nation of Gods and Earths (NGE), by banning its texts and periodicals was unsuccessful because, for limited purposes of case at bar, inmate did not establish beyond a preponderance of evidence that NGE was a "religion" such that it triggered RLUIPA's protections.

HN5 - Although a determination of what is a **religious** belief or practice entitled to **constitutional protection** may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his or her own standards on matters of conduct in which society as a whole has important interests. This is especially true in the context of prison administration, where in the absence of such an inquiry, prisoners would be free to assert false **religious** claims that are actually attempts to gain special privileges or disrupt prison life. A religion need not be based on a belief in the existence of a supreme being (or beings, for polytheistic faiths), nor must it be a mainstream faith. Moreover, **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others. A system of **religious**

beliefs, however, is distinct from a way of life, even if that way of life is inspired by philosophical **beliefs** or other secular concerns.

HN6 - Determining whether a system of **beliefs** is **religious** in nature is particularly difficult when the asserted belief is a new or exotic one outside the mainstream of traditional, clearly established, **religious beliefs** held and practiced. The United States Court of Appeals for the Fourth Circuit has explained that courts must avoid any predisposition toward conventional religions so that unfamiliar faiths are not branded mere secular **beliefs**. Lower courts should rely on objective criteria to determine whether the belief system occupies a place in the lives of its members parallel to that filled by the **orthodox** belief in God in religions more widely accepted in the United States.

HN4 - As with the Free Exercise clause, the **Religious** Land Use and Institutionalized Persons Act applies only to **beliefs** that are sincerely held and that are **religious** in nature.

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27. Congregation Rabbinical Coll. of Tartikov, Inc. v. Vill. of Pomona

United States District Court for the Southern District of New York | Dec 07, 2017 | 280 F. Supp. 3d 426

Overview: Plaintiffs, who sought to build a rabbinical college, successfully challenged zoning and environmental ordinances as unconstitutional and in violation of the RLUIPA and the FHA where, inter alia, the challenged laws substantially burdened plaintiffs' religious exercise and defendants offered no compelling governmental interest justifying the laws.

HN19 - The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA) defines "**religious** exercise" to include any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief, and provides further that the use, building, or conversion of real property for the purpose of **religious** exercise shall be considered **religious** exercise. 42 U.S.C.S. § 2000cc-5(7)(A), (B). "**Religious** exercise" under RLUIPA is defined broadly to the maximum extent permitted by the terms of this chapter and the Constitution. 42 U.S.C.S. § 2000cc-3(g). It is not for a court to say that plaintiffs' **religious beliefs** are mistaken or insubstantial. Instead, the court's narrow function in this context is to determine whether the line drawn reflects an honest conviction.

HN33 - At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. It is not a violation of the Free Exercise Clause, however, to enforce a generally applicable rule, policy, or statute that incidentally burdens a **religious** practice, as long as the government can demonstrate a rational basis for [the enforcement of the rule, policy, or statute, and the burden is only an incidental effect, rather than the object, of the law. Thus, to state a free exercise claim under the United States Supreme Court's Lukumi standard, a plaintiff must establish that the object of the challenged law is to infringe upon or restrict practices because of their **religious** motivation, or that the law's purpose is the suppression of religion or **religious** conduct. Such a law is subject to strict scrutiny review, and it will survive strict scrutiny only in rare cases. A plaintiff alleging such a "**religious** gerrymandering" claim, must be able to show the absence of a neutral, secular basis for the lines the government has drawn.

HN35 - Where a challenged law is facially neutral, then absent evidence of discriminatory intent, only intermediate scrutiny would apply. To succeed on a Free Exercise Clause claim, plaintiffs must show that

their **religious beliefs** are sincerely held, that the challenged law burdens plaintiffs' **religious** practice, and that the challenged Law was enacted to infringe upon or restrict **religious** practices because of their **religious** motivation.

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28. Chula Vista v. Pagard

Court of Appeal of California,fourth Appellate District, Division One | Oct 11, 1979 | 97 Cal. App. 3d 627

Overview: A residential zoning ordinance rationally served a legitimate societal function and did not unconstitutionally impinge upon the religious freedoms of a group who lived in communal households as a part of their religious beliefs.

HN12 - Certain aspects of **religious** exercise cannot, in any way, be restricted or burdened by either federal or state legislation. Compulsion by law of the acceptance of any creed or the practice of any form of worship is strictly forbidden. The freedom to hold **religious beliefs** and opinions is absolute. However, the freedom to act, even when the action is in accord with **one's religious** convictions, is not totally free from legislative restrictions. Legislative power over mere opinion is forbidden but it may reach people's actions when they are found to be in violation of important social duties or subversive of good order, even when the actions are demanded by **one's** religion. This freedom to believe guaranteed by U.S. Const. amend. I is absolute; freedom to act cannot, in the nature of things, be absolute. Conduct remains subject to regulation for the protection of society.

HN11 - Police measures may be adopted if they do not affect merely **beliefs** and especially if the actions so affected are not of a **religious** character, even though conscientiously believed to be so, but are rather of a purely secular nature.

HN15 - A legislative body may regulate conduct for the protection of society, and insofar as their regulations are directed towards a proper end and are not unreasonably discriminatory, they may indirectly affect **religious** activity without infringing the constitutional guarantee. The **constitutional protection** of **religious** freedom, while it insures **religious** equality, on the other hand does not provide immunity from compliance with reasonable civil requirements imposed by a city. The individual cannot be permitted, on **religious** grounds, to be the judge of his duty to obey the regulatory laws enacted by a city in the interests of the public welfare. The mere fact that such a claim of immunity is asserted because of **religious** convictions is not sufficient to establish its constitutional validity.

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29. Hope Evangelical Lutheran Church v. Iowa Dep't of Revenue & Fin.

Supreme Court of Iowa | Nov 21, 1990 | 463 N.W.2d 76

Overview: The consumer use tax assessed upon the church was upheld because the tax did not violate the Free Exercise Clause or the church's right to freedom of the press, and there was no showing that the church was exempt from the tax.

HN8 - Iowa Admin. Code 701-17.1(4) states in relevant part that there is no authority in the Iowa Code to grant a nonprofit corporation any **type** of blanket sales or use tax exemption on its purchases because the organization is exempted from federal or state income taxes, and that nonprofit corporations and educational, **religious**, or charitable organizations can be held responsible for the payment of sales and use taxes as would any other individual, retailer, or corporation. Therefore, all nonprofit organizations not specifically exempted from the payment of sales or use tax based solely on the nature of their organization can be held accountable for the payment of such a tax on their purchases as would any other individual, retailer, or corporation unless the purchases fall directly under a specific exemption statute.

HN5 - The Free Exercise Clause withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure **religious** liberty in the individual by prohibiting any invasions thereof by civil authority. In fact, a regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion. The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central **religious** belief or practice and, if so, whether a compelling governmental interest justifies the burden.

HN9 - Iowa Code § 422.45 (1977) provides in part that: There are hereby specifically exempted from the provisions of this division and from the computation of the amount of tax imposed by it: the gross receipts from sales of educational, **religious**, or charitable activities, where the entire proceeds therefrom are expended for educational, **religious**, or charitable purposes; and the gross receipts of all sales of goods, wares, or merchandise, or services, used for educational purposes to any private nonprofit educational institution in this state. Likewise, the "use" of such tangible personal property is exempt from Iowa use tax by virtue of Iowa Code § 423.4(4)(1977), which also provides in part that: The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this chapter: Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of § 422.45.

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30. Smith v. Raleigh Dist. of the N.C. Conf. of the United Methodist Church

United States District Court for the Eastern District of North Carolina, Western Division | Jul 27, 1999 | 63 F. Supp. 2d 694

Overview: Former secular employees of a church employer were permitted to sue for hostile environment sexual harassment under Title VII of the Civil Rights Act of 1964 where the claims did not intrude upon the employer's spiritual functions.

HN14 - While U.S. Cons. amend. I's Free Exercise Clause protects **religious beliefs** and a church's management of its internal affairs, it does not uniformly sanction all **religious** conduct, nor does it protect all actions taken within the context of a **religious** environment.

HN17 - The church-minister exception bars claims brought by lay employees of **religious** institutions whose primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual and worship.

HN10 - Although Title VII of the Civil Rights Act of 1964, § 702, 42 U.S.C.S. § 2000e-1, permits **religious** institutions to discriminate based on religion or **religious** preferences, Title VII does not permit **religious** organizations to discriminate on the basis of race, sex, or national origin.

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31. United States v. Silberman

United States District Court for the Middle District of Florida, Jacksonville Division | Feb 09, 1979 | 464 F. Supp. 866

Overview: Defendant was entitled to an acquittal of charges that he knowingly and willfully solicited business on federal property without a permit by selling flowers because he was charged under an incorrect regulation and did not commit the charged offense.

HN6 - The state can prohibit the use of streets for the **distribution** of purely commercial leaflets, even though such leaflets may have a civic appeal, or a moral platitude appended. They may not prohibit the **distribution** of handbills in the pursuit of a clearly **religious** activity merely because the handbills invite the purchase of books for the improved understanding of the religion or because the handbill seeks in a lawful fashion to promote the raising of funds for **religious** purposes." But the mere fact that the **religious literature** is "sold" by itinerant preachers rather than "donated" does not transform **evangelism** into a commercial enterprise.

HN7 - The freedom to adhere to **religious beliefs** is absolute. The freedom to express or exercise **religious beliefs**, on the other hand, is not absolute. The expression and exercise of religion, like speech and assembly, may be regulated and restricted in the time, place, and manner in which they occur.

HN8 - Because the freedom to exercise **religious beliefs**, like freedom of speech, freedom of press, and freedom of assembly, is "among the fundamental personal rights and liberties" protected by the First Amendment a compelling interest must be shown to justify regulating or restricting them. Since there is a presumption against restraints on First Amendment freedoms, the specific means of regulating or limiting those freedoms must be the least restrictive ones possible and needed to accomplish the compelling public purpose. It is not constitutionally adequate or acceptable to show that the particular means selected are one rational way of achieving the governmental purpose. The burden is on the government to demonstrate that the chosen means are the minimum restrictive ones necessary.

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32. Christofferson v. Church of Scientology

Court of Appeals of Oregon | May 03, 1982 | 57 Ore. App. 203

Overview: Scientology was a religion, and an ex-Scientologist did not show that actions of separate Scientologist organizations were fraudulent or outrageous.

HN12 - A defense based on the Free Exercise Clause of U.S. Const. amend. I presents particular difficulties in an action for fraud. To establish fraud, a plaintiff must ordinarily prove that the representations

made are false. However, when **religious beliefs** and doctrines are involved, the truth or falsity of such **religious beliefs** or doctrines may not be submitted for determination by a jury.

HN17 - The trial court should remove from the jury's consideration only those items which make "purely **religious**" appeals, reserving a presentation of the other **literature** for determination under instructions differentiating the secular from the **religious**.

HN21 - Although a determination of what is a "**religious**" belief or practice entitled to **constitutional protection** may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.

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33. Al Ghashiyah v. Dep't of Corr.

United States District Court for the Eastern District of Wisconsin | Mar 04, 2003 | 250 F. Supp. 2d 1016

Overview: That portion of RLUIPA that applied to inmates was unconstitutional where its primary effect was to advance religion and foster an excessive entanglement of government with religion; as such, the inmate's RLUIPA claim was dismissed.

HN27 - 42 U.S.C.S. § 2000cc-1 of the **Religious** Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc-1 et seq., creates a broad-based right that **religious** inmates may invoke whenever generally applicable prison rules impact their subjective **religious beliefs**.

HN22 - Absent the most unusual circumstances, **one's** religion ought not affect **one's** legal rights or duties or benefits. But under 42 U.S.C.S. § 2000cc-1 of the **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc-1 et seq., **one's** religion does affect **one's** rights and benefits. The RLUIPA compelling state interest test privileges **religious** inmates by giving them an ill-defined and potentially sweeping right to claim exemption from generally applicable laws, while comparably serious secular commitments receive no such legal solicitude.

HN35 - Under 42 U.S.C.S. § 2000cc-1 of the **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc-1 et seq., prison officials are placed in the business of counting the number of trinkets in each inmate's cell, dividing them into **religious** and non-**religious** stacks, then subtracting the surplus from the secular pile. While RLUIPA forces prison administrators and courts to make distinctions between **religious** and secular property, recall that the **religious** item need not even be central to the inmate's system of **religious** belief. 42 U.S.C.S. § 2000cc-5(7)(A). Moreover, the prison official must, as an initial matter, determine whether the inmate practices a religion, entitling him to heightened protection. The legal test for determining what is a religion looks primarily to the subjective views of the individual seeking protection. Therefore, if the inmate holds a sincere belief that occupies the same place in his life as an **orthodox** belief in God, id., the prison official must pause before treating that inmate like any other.

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34. Greater Bible Way Temple v. City of Jackson

Supreme Court of Michigan | Jun 27, 2007 | 478 Mich. 373

Overview: Church sought to build apartment complex across from church property, which was surrounded by single family residences. City did not violate Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., because city did not coerce church to act in a way contrary to church's religious beliefs.

HN38 - **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc et seq. applies to burdens imposed by governmental bodies on "**religious** exercises" in the course of implementing land use regulations under which "individualized assessments" may be made of the proposed uses for the land. An "individualized assessment" is an assessment based on **one's** particular or specific circumstances. A decision concerning a request to rezone property does not involve an "individualized assessment." A "**religious** exercise" constitutes "any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief." 42 USC 2000cc-5(7)(A). However, something does not become a "**religious** exercise" just because it is carried out by a **religious** institution. A "substantial burden" on **one's** "**religious** exercise" exists where there is governmental action that coerces one into acting contrary to **one's religious beliefs** by way of doing something that **one's** religion prohibits or refraining from doing something that **one's** religion requires. A mere inconvenience or irritation does not constitute a "substantial burden"; similarly, something that simply makes it more difficult in some respect to practice **one's** religion does not constitute a "substantial burden."

HN16 - "**Religious** exercise" is defined as "any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief." 42 U.S.C.S. § 2000cc-5(7)(A). The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc et seq. specifically provides that the use, building, or conversion of real property for the purpose of **religious** exercise shall be considered to be **religious** exercise of the person or entity that uses or intends to use the property for that purpose. 42 U.S.C.S. § 2000cc-5(7)(B). A "**religious** exercise" consists of a specific **type** of exercise, an exercise of religion, and this is not the equivalent of an exercise-- any exercise-- by a **religious** body. The term "religion" has reference to **one's** views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. The exercise of religion often involves not only belief and profession but the performance of physical acts such as assembling with others for a worship service or participating in sacramental use of everence for his being and character, and of obedience to his will.

HN30 - A substantial burden on **one's religious** exercise exists where there is governmental action that coerces one into acting contrary to **one's religious beliefs** by way of doing something that **one's** religion prohibits or refraining from doing something that **one's** religion requires. That is, a "substantial burden" exists when one is forced to choose between violating a law (or forfeiting an important benefit) and violating **one's religious** tenets. A mere inconvenience or irritation does not constitute a substantial burden. Similarly, something that simply makes it more difficult in some respect to practice **one's** religion does not constitute a substantial burden. Rather, a substantial burden is something that coerces individuals into acting contrary to their **religious beliefs**.

35. Guinn v. Church of Christ of Collinsville

Supreme Court of Oklahoma | Jan 17, 1989 | 1989 OK 8

Overview: A church's disciplinary decisions against a willing parishioner were protected from judicial scrutiny, but the parishioner's subsequent withdrawal from the church made certain post-withdrawal disciplinary methods actionable.

HN13 - Conduct conforming to and motivated by **one's religious beliefs** is not always immune from governmental regulation: a determination of what is a "**religious**" belief or practice entitled to **constitutional protection** may present a most delicate question, but the very concept of ordered liberty precludes allowing every person to make her own standards on matters of conduct in which society as a whole has important interests.

HN10 - Just as freedom to worship is protected by the First Amendment, so also is the liberty to recede from **one's religious** allegiance. Neither a state nor the federal government can force or influence a person to go or to remain away from church against **one's** will or to profess a belief or disbelief in any religion. The First Amendment clearly safeguards the freedom to worship as well as the freedom not to worship.

HN11 - The key to maintaining a strong government while fostering the growth of cherished and respected forms of **religious** belief is to preserve the freedom to choose **one's** individual genre of worship.

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36. Welsh v. Boy Scouts of Am.

United States District Court for the Northern District of Illinois, Eastern Division | Aug 09, 1990 | 742 F. Supp. 1413

Overview: Allegations that a scouting organization denied membership to individuals who refused to profess a belief in God sufficiently stated a claim of religious discrimination under Title II of the Civil Rights Act.

HN19 - The Bill of Rights, in order to secure individual liberty, must afford protection from unjustified governmental interference to certain kinds of highly personal relationships. Most obvious among those relationships are those that involve family bonds, such as marriage, procreation, education, and cohabitation with relatives. This is because family relationships, by their nature, involve deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and **beliefs** but also distinctively personal aspects of **one's** life. Although freedom of intimate association may extend beyond family relationships, it generally includes only relationships that, like family relationships, are distinguished by such attributes as relative smallness, a **high** degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship. In determining the protection provided to a particular **type** of association, a court must assess where that relationship's objective characteristics locate it on a spectrum from the most intimate to the most attenuated of personal attachments. Factors that are relevant to this assessment include size, purpose, policies, selectivity, congeniality, and other characteristics that in a particular case may be pertinent.

HN25 - The Free Exercise Clause of the First Amendment of the United States Constitution precludes governmental regulation of **religious beliefs** themselves. Accordingly, the government may not compel affirmation of **religious** belief, punish the expression of **religious** doctrines it believes to be false, impose special disabilities on the basis of **religious** views or **religious** status, or lend its power to one or the other

side in controversies over **religious** authority or dogma. The government may not ban performance of physical acts (including assembling with others) if the ban is imposed only when the acts are performed for **religious** reasons or if the ban is imposed because of the **religious beliefs** displayed. Government prohibitions of certain conduct may burden **religious** practices even though the practices may otherwise be legitimately prohibited aside from their **religious** aspects. However, an individual's **religious beliefs** do not excuse him from compliance with an otherwise valid law prohibiting conduct that the state is free to regulate.

HN3 - The individual freedom of conscience protected by the First Amendment embraces the right to select any **religious** faith or none at all.

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37. Founding Church of Scientology v. United States

United States Court of Appeals for the District of Columbia Circuit | Feb 05, 1969 | 409 F.2d 1146

Overview: A verdict that literature related to instruments used by a church was "false and misleading labeling" under the Food, Drug and Cosmetic Act was overturned because the First Amendment prohibited the trial of the truth or falsity of religious beliefs.

HN12 - The First Amendment prohibits trial of the truth or falsity of **religious beliefs**. Regulation of **religious** action that involves testing in court the truth or falsity of **religious** belief is barred by the First Amendment.

HN14 - The word "accompanying" in the Food, Drug and Cosmetic Act, 21 U.S.C.S. § 301 et seq., is construed to give broad remedial effect to the purposes of the Act. In order to be considered "labeling" of a drug, promotional pamphlets need not be shipped together with the drug. One article or thing is accompanied by another when it supplements or explains it, in the manner that a committee report of the Congress accompanies a bill. No physical attachment one to the other is necessary. **Literature** designed for use in the **distribution** and sale of a drug or device can be false and misleading. The fact that the **literature** is sold does not prevent it from being "labeling" if the **literature** and the drugs or devices are nonetheless interdependent and are parts of an integrated **distribution** program. The Act cannot be circumvented by the easy device of a "sale" of the advertising matter where the advertising performs the function of labeling.

HN17 - Not every enterprise cloaking itself in the name of religion can claim the **constitutional protection** conferred by that status. It might be possible to show that a self-proclaimed religion is merely a commercial enterprise, without the underlying theories of man's nature or his place in the universe that characterize recognized religions. Though litigation of the question whether a given group or set of **beliefs** is or is not **religious** is a delicate business, our legal system sometimes requires it so that secular enterprises may not unjustly enjoy the immunities granted to the sacred.

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38. Employment Div. v. Smith

Supreme Court of the United States | Apr 17, 1990 | 494 U.S. 872

Overview: A state controlled substance law which prohibited the use of sacramental peyote did not violate the Free Exercise Clause and could be used to deny unemployment benefits when employees were fired for sacramental peyote use.

HN2 - The Free Exercise Clause of U.S. Const. amend. I, which has been made applicable to the states by incorporation into the U.S. Const. amend. XIV, provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. amend. I. The free exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires. Thus, the First Amendment obviously excludes all governmental regulation of **religious beliefs** as such. The government may not compel affirmation of **religious** belief, punish the expression of **religious** doctrines it believes to be false, impose special disabilities on the basis of **religious** views or **religious** status, or lend its power to one or the other side in controversies over **religious** authority or dogma.

HN4 - An individual's **religious beliefs** do not excuse him from compliance with an otherwise valid law prohibiting conduct that the state is free to regulate.

HN5 - Conscientious scruples do not, in the course of the long struggle for **religious** toleration, relieve the individual from obedience to a general law not aimed at the promotion or restriction of **religious beliefs**. The mere possession of **religious** convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities. Laws are made for the government of actions, and while they cannot interfere with mere **religious** belief and opinions, they may with practices.

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39. Lickteig v. Landauer

United States District Court for the Eastern District of Pennsylvania | Aug 14, 1991 | 1991 U.S. Dist. LEXIS 11450

Overview: Citizens could not enjoin police officers from interfering with their First Amendment rights; Free Exercise and Free Speech Clauses could be abridged where a government entity had a legitimate and significant governmental interest.

HN5 - Where a state has in place a system of individual exemptions, it may not refuse to extend that system to cases of "**religious** hardship" without compelling reason." The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, cannot depend on measuring the effects of a governmental action on **religious beliefs**, except where the state's interest is "compelling"--permitting him, by virtue of his **beliefs**, "to become a law unto himself --contradicts both constitutional tradition and common sense.

HN13 - The hand **distribution** of **religious** tracts has the same claim to protection as the more **orthodox** and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press. The freedom to act religiously is not absolute. A state may by general and non-discriminatory legislation regulate the times, the places, and the manner of soliciting upon its streets, and of holding meetings thereon; and may in other respects safeguard the peace, good order and comfort of the community, without unconstitutionally invading the liberties protected by the Fourteenth

Amendment incorporating the First Amendment against the states. The right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability.

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40. ## Sherr v. Northport-East Northport Union Free School Dist.

United States District Court for the Eastern District of New York | Oct 21, 1987 | 672 F. Supp. 81

Overview: A school district and a state commissioner of education were enjoined from applying a religious exemption from vaccination to children based on whether their families were members of a "recognized religious organization" rather than on their beliefs.

HN8 - Abstention is especially inappropriate in circumstances where not only is the state law issue not particularly unsettled but the delay that abstention necessarily entails would be highly prejudicial to the plaintiffs' interests in obtaining a judicial determination that they hope will allow them to conduct their affairs in conformance with their purportedly **religious beliefs** and allow their children to continue their formal education without further obstacles. Abstention operates to require piecemeal adjudication in many courts, thereby delaying ultimate adjudication on the merits for an undue length of time, a result quite costly where what is at stake is the exercise of First Amendment freedoms.

HN20 - Any form of governmental investigation into the "objective truth" of a person's **religious beliefs**, be it in a judicial form or otherwise, in essence puts the individual on trial for heresy. While the "truth" of a belief is not open to question, there remains the significant question whether it is "truly held." This is the threshold question of sincerity, which must be resolved in every case. It is, of course, a question of fact.

HN23 - The United States Constitution mandates that, if New York wishes to allow a religiously-based exclusion from its otherwise compulsory program of immunization of school children, it may not limit this exception from the program to members of specific **religious** groups, but must offer the exemption to all persons who sincerely hold **religious beliefs** that prohibit the inoculation of their children by the state.

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41. ## Heritage Village Church & Missionary Fellowship, Inc. v. State

Supreme Court of North Carolina | Mar 05, 1980 | 299 N.C. 399

Overview: Certain provisions of the Solicitation of Charitable Funds Act were found to be unconstitutional because they imposed more rigid requirements on certain religious organizations thereby depriving the Act of neutrality toward religion.

HN6 - It matters not that an entity's **evangelism** may fall outside the pale of more established orthodoxies; **religious** freedom is constitutionally extended to the unorthodox as well.

HN1 - The North Carolina Supreme Court holds that Section 75.7(a)(1) of the Solicitation of Charitable Funds Act (Act), specifically N.C. Gen. Stat. § 108-75.7(a)(1), which exempts from compliance all **religious** organizations except those whose financial support is derived primarily from contributions solicited from

persons other than its own members deprives the Act of that neutrality toward religion required by the Establishment Clause of the First Amendment of the United States Constitution, U.S. Const. amend. I, and N.C. Const. art. I, § 13 and 19. The court also holds that other provisions of the Act generally cause the state to become excessively entangled with religion so as to violate these same constitutional provisions.

HN5 - Charitable organizations subject to the provisions of the Solicitation of Charitable Funds Act, N.C. Gen. Stat. § 108-75.1 et seq., include those organizations operated for "**religious**" purposes. N.C. Gen. Stat. § 108-75.3(1) and (2). However, N.C. Gen. Stat. § 75.7(a)(1) specifically exempts from the licensing requirements: A **religious** corporation, trust, or organization incorporated or established for **religious** purposes, or other **religious** organizations which serve religion by the preservation of **religious** rights and freedom from persecution or prejudice or by the fostering of religion, including the moral and ethical aspects of a particular **religious** faith: Provided, however, that such **religious** corporation, trust or organization established for **religious** purposes shall not be exempt from filing a license application if its financial support is derived primarily from contributions solicited from persons other than its own members, excluding sales of printed or recorded **religious** materials.

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42. Friedman v. Southern California Permanente Medical Group

Court of Appeal of California, Second Appellate District, Division Five | Sep 13, 2002 | 102 Cal. App. 4th 39

Overview: A vegan denied an employment opportunity for refusing to be vaccinated with the mumps vaccine failed to show discrimination in violation of the California Fair Employment and Housing Act; veganism was not a religious creed.

HN9 - Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.

HN5 - Cal. Gov't Code § 12940(l) defines **religious** belief as follows: **Religious** belief or observance includes, but is not limited to, observance of a Sabbath or other **religious** holy day or days, and reasonable time necessary for travel prior and subsequent to a **religious** observance.

HN14 - Cal. Code Regs. tit. 2, § 7293.1, requires something more than a strongly held view of right and wrong. In order to secure protection from **religious** discrimination under the California Fair Employment and Housing Act, Cal. Gov't Code § 12940, the **beliefs**, observances, or practices must occupy in the person's life a place of importance parallel to that of traditionally recognized religions. The test is objective. The belief system in question, to qualify as a religion, must parallel the belief systems of traditional religions.

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43. International Soc. for Krishna Consciousness, Inc. v. Rochford

United States District Court for the Northern District of Illinois, Eastern Division | Jan 21, 1977 | 425 F. Supp. 734

Overview: While airport regulations purported to balance public's rights with those of persons seeking to enjoy First Amendment freedoms in airports' public areas, they were unconstitutional as they were municipal mode of regulating and controlling speech.

HN4 - Hand **distribution** of **religious** tracts is an **age-old** form of missionary **evangelism** and is more than **preaching** or the **distribution** of **religious literature**. Thus, as a form of **religious** activity, it occupies the same estate under the First Amendment as do worship in churches and **preaching** from pulpits. And the mere fact that **religious literature** is sold, or contributions solicited, does not put such form of **evangelism** outside the pale of **constitutional protection**.

HN5 - A municipality has the power to protect its citizens from undue annoyance by regulating the solicitation of contributions and canvassing for **religious** converts.

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44. International Soc. for Krishna Consciousness, Inc. v. Colorado State Fair & Industrial Exposition Com.

Supreme Court of Colorado | Mar 03, 1980 | 199 Colo. 265

Overview: When a religious corporation sought to enjoin enforcement of resolution that prevented corporation from soliciting donations and distributing literature at state fair, court held that resolution was unconstitutional violation of freedom of religion.

HN1 - The federal constitution, through the First and Fourteenth Amendments, establishes that neither Congress nor the legislature of a state, can make any law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. U.S. Const. amends. I, XIV. Implementing this rule of the constitution, it has been recognized that hand **distribution** of **religious** tracts is an **age-old** form of missionary **evangelism**; it is more than **preaching**; it is more than **distribution** of **religious literature**. Its purpose is as evangelical as the revival meeting; and as a form of **religious** activity, it occupies the same estate under the First Amendment as do worship in churches and **preaching** from pulpits. And the mere fact that **religious literature** is sold, or contributions solicited, does not put this form of **evangelism** outside the pale of **constitutional protection**.

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45. Smith v. Fair Employment & Housing Com.

Court of Appeal of California, Third Appellate District | May 26, 1994 | 39 Cal. App. 4th 877

Overview: A statute prohibiting discrimination on the basis of marital status was unconstitutional as applied to a person whose religious convictions forbade her from renting to an unmarried couple.

HN5 - The **constitutional protection** accorded free exercise of religion is not limited to **beliefs** which are shared by all members of a **religious** sect. If there is any fixed star in the constitutional constellation, it is that no official, **high** or petty, can prescribe what shall be **orthodox** in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. However, not every claim of

religious belief warrants free exercise protection. One can easily imagine an asserted claim so bizarre, so clearly nonreligious in motivation, as not to be entitled to free exercise protection.

HN4 - It is not within the judicial function and judicial competence to determine whether a plaintiff or the government has the proper interpretation of faith; courts are not the arbiters of scriptural interpretation. The determination of what is a "**religious**" belief or practice is more often than not a difficult and delicate task. However, the resolution of that question is not to turn upon a judicial perception of the particular belief or practice in question; **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit free exercise protection.

HN26 - California has no compelling interest in prohibiting housing discrimination against unmarried couples such as would outweigh plaintiff's state constitutional free exercise claim. A plaintiff may not be forced to violate her **religious beliefs** in order to advance the state's interest in eradicating discrimination in housing against unmarried couples.

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46. Coulee Catholic Sch. v. Labor & Indus. Review Comm'n

Supreme Court of Wisconsin | Jul 21, 2009 | 2009 WI 88

Overview: Because a Catholic school was committed to a religious mission - the inculcation of the Catholic faith and worldview - and respondent's teaching position was important and closely linked to that mission, her age discrimination claim under the Wisconsin Fair Employment Act unconstitutionally impinged upon her employer's right to religious freedom.

HN4 - The right to practice **one's** religion according to the dictates of conscience is fundamental to our system of government. The United States is a nation committed to and founded upon **religious** freedom.

HN5 - The right to practice **one's** religion according to the dictates of conscience is fundamental in a court of law not because **religious** freedom is broadly understood to be a basic human right, but because our nation's founders recognized and enshrined this right in our nation's Constitution. Roughly 60 years later, Wisconsinites saw fit to include more specific and more extensive protections for **religious** liberty in its state Constitution.

HN15 - A functional analysis of the ministerial exception has two steps. The first step is an inquiry into whether the organization in both statement and practice has a fundamentally **religious** mission. That is, does the organization exist primarily to worship and spread the faith? Any inquiry will be highly fact-sensitive. It may be, for example, that one religiously-affiliated organization committed to feeding the homeless has only a nominal tie to religion, while another religiously-affiliated organization committed to feeding the homeless has a religiously infused mission involving teaching, **evangelism**, and worship. Similarly, one **religious** school may have some affiliation with a church but not attempt to ground the teaching and life of the school in the **religious** faith, while another similarly situated school may be committed to life and learning grounded in a **religious** worldview.

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47. Turner v. Church of Jesus Christ of Latter-Day Saints

Court of Appeals of Texas, Fifth District, Dallas | May 25, 2000 | 18 S.W.3d 877

Overview: The First Amendment's Establishment Clause barred plaintiffs' claims concerning defendants' missionary and training programs, as reaching these issues would constitute active government involvement in religious activities.

HN12 - The Free Exercise Clause prohibits all governmental regulation of **religious beliefs** as such. The Free Exercise Clause also protects acts for **religious** purposes, including proselytizing. Likewise, the Free Exercise Clause prohibits the government from intervening in a dispute concerning **religious** authority or dogma. The government may not impose a regulation that would substantially burden a **religious** practice based on sincerely held **religious beliefs** unless the lack of the regulation would significantly hinder a compelling state interest. Such "compelling state interests" exist when the conduct regulated would invariably pose a substantial threat to the public safety, peace, or order. This last prohibition bars government involvement in disputes concerning the structure, leadership, or internal policies of a **religious** institution.

HN11 - Government aid to **religious** institutions does not violate the Establishment Clause where the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion, and is made available to both **religious** and secular beneficiaries on a nondiscriminatory basis.

HN13 - The United States Supreme Court states that civil courts are bound to accept the decisions of the highest judicatories of a **religious** organization of hierarchical polity in matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law. This principle protects **religious** institutions from government interference in their internal management and supervision. It also prohibits courts from considering claims by ministers against their **religious** organization concerning employment practices.

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48. Church of Lukumi Babalu Aye v. City of Hialeah

Supreme Court of the United States | Jun 11, 1993 | 508 U.S. 520

Overview: Ordinances passed by respondent city prohibiting animal sacrifice were found unconstitutional under the Free Exercise Clause because they were not neutral nor of general application and could not survive strict scrutiny.

HN2 - Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit protection under U.S. Const., amend. I.

HN4 - At a minimum, the protections of the Free Exercise Clause, U.S. Const., amend. I, pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons.

HN5 - Although a law targeting **religious beliefs** as such is never permissible, if the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral, and it is

invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest. There are many ways of demonstrating that the object or purpose of a law is the suppression of religion or **religious** conduct. To determine the object of a law, a court must begin with its text, for the minimum requirement of neutrality is that a law not discriminate on its face. A law lacks facial neutrality if it refers to a **religious** practice without a secular meaning discernible from the language or context.

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49. Heritage Village Church & Missionary Fellowship, Inc. v. State

Court of Appeals of North Carolina | Apr 03, 1979 | 40 N.C. App. 429

Overview: A religious organization was entitled to relief from a denial of a license to solicit funds under a state statute because it constituted a prior restraint on the exercise of religion and was violative of due process and equal protection rights.

HN1 - When a **religious** sect uses ordinary commercial methods of sales of articles to raise propaganda funds, it is proper for the state to charge reasonable fees for the privilege of canvassing. Situations will arise where it will be difficult to determine whether a particular activity is **religious** or purely commercial. The distinction at times is vital. The state can prohibit the use of the streets for the **distribution** of purely commercial leaflets, even though such leaflets may have a civic appeal, or a moral platitude appended. They may not prohibit the **distribution** of handbills in the pursuit of a clearly **religious** activity merely because the handbills invite the purchase of books for the improved understanding of the religion or because the handbills seek in a lawful fashion to promote the raising of funds for **religious** purposes. But the mere fact that the **religious literature** is sold by itinerant preachers rather than donated does not transform **evangelism** into a commercial enterprise. The constitutional rights of those **spreading** their **religious beliefs** through the spoken and printed word are not to be gauged by standards governing retailers or wholesalers of books. A **religious** organization needs funds to remain a going concern.

HN6 - The specified organizations are exempt from complying with the licensing provisions of the N.C. Gen. Stat. § 108-75.3(17) defines **religious** purposes as follows: **Religious** purposes shall mean maintaining or propagating religion or supporting public **religious** services, according to the rites of a particular denomination.

HN13 - N.C. Gen. Stat. § 108-75.3(17) provides: Definitions. Unless a different meaning is required by the context, the following terms as used in this Part shall have the meanings hereinafter respectively ascribed to them: (17) **Religious** purposes shall mean maintaining or propagating religion or supporting public **religious** services, according to the rites of a particular denomination.

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50. Christ Church Pentecostal v. Tenn. State Bd. of Equalization

Court of Appeals of Tennessee, At Nashville | Mar 21, 2013 | 428 S.W.3d 800

Overview: Evidence did not preponderate against State Board of Equalization's finding that bookstore/cafe area contained in church family life center facility did not qualify for tax exemption under

former Tenn. Code Ann. § 67-5-212 because bookstore/cafe area was nothing short of retail establishment housed within walls of center.

HN10 - The First Amendment prohibits the regulation of **religious beliefs** by the government, or governmental interference in matters of church doctrine or the dissemination of **religious** ideas. Thus, the courts have long held that, under the First Amendment, a state may not interfere with matters of faith, doctrine, or government of **religious** institutions. The constitutional right to **religious** liberty encompasses the right to **one's** belief and the right to profess **one's religious** doctrine, and the right to act in a manner that is consistent with **one's religious beliefs**. Both the First Amendment and the Tennessee Constitution require the State to pursue a neutral course toward religion, one that does not favor one religion over another or **religious** adherents collectively over nonadherents.

HN17 - Religious institutions are not above the law. Although the law may not interfere with **religious beliefs**, they may interfere with conduct that is religiously motivated. The government cannot enact laws that have no purpose other than to prohibit particular **religious** practices unless these laws are justified by a compelling interest and are narrowly tailored to advance that interest. Likewise, the government cannot enact laws that discriminate against some or all **religious beliefs** or that regulate or prohibit conduct simply because it is undertaken for **religious** reasons. Finally, the government cannot interpret, apply, or enforce facially neutral laws in a discriminatory manner.

HN5 - Pursuant to the authority granted to it by the Tennessee Constitution, the General Assembly has exempted from taxation properties that are owned and occupied by **religious**, charitable, scientific or nonprofit educational institutions and used by them purely and exclusively for carrying out one or more of the purposes for which the institution was created and exists. Tenn. Code Ann. § 67-5-212. The former Tenn. Code. Ann. § 67-5-212(a)(1)(A) (2003) (now § 67-5-212(a)(3)(B) (2011)) provided no property shall be totally exempted, nor shall any portion thereof be pro rata exempted, unless such property or portion thereof is actually used purely and exclusively for **religious**, charitable, scientific or educational purposes. Unlike similar exemptions granted in other states, the exemption granted by the Tennessee statute is construed liberally in favor of the **religious**, charitable, scientific or educational institution. Nevertheless, the one claiming such exemption has the burden of showing his right to it. The purposes of the exemption must be balanced against the need for an equitable **distribution** of the tax burden.

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51. Hale v. Everett

Superior Court of Judicature of New Hampshire | Dec 01, 1868 | 53 N.H. 9

Overview: Majority of members of religious society could not use meeting-house for teaching of doctrine which opposed Unitarian Christian doctrine because meeting-house was held in trust to be used for inculcation of fundamental Unitarian doctrine.

HN2 - By N.H. Const. arts. XIV, XXIX, XLII, and LXI (1792), a **religious** test is instituted as a qualification for holding certain civil offices. Every member of the house of representatives shall be of the Protestant religion. No person shall be capable of being elected a senator or councillor who is not of the Protestant religion. And no person shall be eligible to the office of governor unless he shall be of the Protestant religion.

HN3 - Each **religious** sect, whether Christian, Jew, Mohammedan, or deist, wishes its own **religious** teacher to assist in the public worship of God, or publicly to teach the doctrines of its creed; and so long as they confine themselves to the requirements of N.H. Const. art. V as to disturbing others, and do not violate any other provision of law, they have an inalienable right to employ and support them, provided they do it at their own expense.

HN4 - The right of the people, which is declared in N.H. Const. art. VI, to support, and to empower the legislature to authorize towns and **religious** societies to support, teachers of the Protestant religion, is, in substance, only the same right which it is declared in N.H. Const. art. V that every individual has a natural and unalienable right to do, in regard to the teachers of any and all other religions or systems of **religious** doctrine. People of the Protestant faith would have had just the same **religious** rights and been entitled to the same **religious** privileges by virtue of the general provisions of art. V, that they are declared to be entitled to in art. VI. There is nothing, then, in art. VI that can be construed as forbidding, by any implication, the exercise or enjoyment of any right which is declared and asserted as belonging to all men equally in art. V.

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52. ## Marria v. Broaddus

United States District Court for the Southern District of New York | Jul 31, 2003 | 2003 U.S. Dist. LEXIS 13329

Overview: Inmate's sincerely-held religious beliefs were entitled to protection where there was ample evidence of inmate's sincerity in his beliefs and Department of Corrections failed to establish that complete ban furthered a compelling security interest.

HN1 - The United States Court of Appeals for the Second Circuit has set forth the scope of a court's inquiry into a plaintiff's **religious beliefs** by emphasizing the limited function of the judiciary in determining whether **beliefs** are to be accorded first amendment protection as follows: it cannot be gainsaid that the judiciary is singularly ill-equipped to sit in judgment on the verity of an adherent's **religious beliefs**. Mindful of this profound limitation, our competence properly extends to determining whether the **beliefs** professed by a claimant are sincerely held and whether they are, in his own scheme of things, **religious**.

HN3 - Ultimately, the point of sincerity analysis is to provide a rational means of differentiating between those **religious beliefs** that are held as a matter of conscience and those that are animated by motives of deception and fraud.

HN9 - Like its predecessor the **Religious** Freedom Restoration Act, the **Religious** Land Use and Institutionalized Persons Act of 2000 requires a plaintiff to demonstrate that his right to free exercise of religion has been substantially burdened. The United States Supreme Court has defined a substantial burden in this context as where the state denies an important benefit because of conduct mandated by **religious** belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his **beliefs**. While the compulsion may be indirect, the infringement upon free exercise in nonetheless substantial.

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53. Blackwelder v. Safnauer

United States District Court for the Northern District of New York | Jun 16, 1988 | 689 F. Supp. 106

Overview: A state's regulation of homeschools did not violate the parents' constitutional rights because their religious rights were subject to proper regulation of childrens' education, and on-site inspections were not unreasonable searches.

HN38 - In cases in which a governmental regulatory system requires some modification of an individual's behavior in contravention of sincerely held **religious beliefs**, that individual can find refuge in the first amendment if he demonstrates that the governmental action constitutes a sufficient burden on the free exercise of his **religious beliefs** to require the protections of the free exercise clause. If such a burden is shown, the action will not sustain judicial scrutiny unless the government establishes that a compelling governmental interest warrants the burden, and that less restrictive means to achieve the government's ends are not available.

HN43 - Any regulation of the manner in which parents rear their children raises serious concerns about the power of the state to intrude upon even the most intimate aspects of family life. The family, as an institution, has historically served as a latent counterweight to central authority. It is with trepidation that a court interferes with the traditional interest of parents with respect to the **religious** upbringing of their children, particularly when the **religious beliefs** of the parents are unfashionable or out of step with the prevailing views of the majority.

HN39 - The courts distinguish between incidental governmental burdens on **religious** conduct and those governmental actions that constitute the **type** of burden on core **religious** freedom rising to the level of a violation of the free exercise clause. The United States Supreme Court has stressed that the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.

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54. International Soc. for Krishna Consciousness, Inc. v. Barber

United States District Court for the Northern District of New York | Aug 25, 1980 | 506 F. Supp. 147

Overview: Religious devotees' rights to freedom of speech and of religion were not violated by a state fair regulation that confined their solicitation of contributions to a booth because the regulation was a reasonable time, place, and manner restriction.

HN11 - The First Amendment assures the broadest tolerable exercise of free speech, free press, and free assembly, not merely for **religious** purposes, but for political, economic, scientific, news, or informational ends as well. When limits are reached which such communications must observe, can one go farther under the cloak of **religious evangelism**? Does what is obscene, or commercial, or abusive, or inciting become less so if employed to promote a **religious** ideology? The rights of secular and nonreligious communications are not more narrow or in any way inferior to those of avowed **religious** groups.

HN12 - A common-sense test as to whether a court has struck a proper balance of rights is to ask what the effect would be if the right given to plaintiff **religious** devotees should be exercised by all sects and

denominations. If each competing sect in the United States went after the householder by the same methods, the court should think it intolerable. If a minority can put on this kind of drive in a community, what can a majority resorting to the same tactics do to individuals and minorities? Can a court give to one sect a privilege that we could not give to all, merely in the hope that most of them will not resort to it? **Religious** freedom in the long run does not come from this kind of license to each sect to fix its own limits, but comes of hard-headed fixing of those limits by neutral authority with an eye to the widest freedom to proselyte compatible with the freedom of those subject to proselytizing pressures.

HN2 - The right of a citizen to form, hold, and express opinions and **beliefs** in a public forum is so essential to our democracy that it is considered to be fundamental. This proposition is reflected in the fact that wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens discussing public questions. At the same time, these First Amendment rights are not absolute. While the government has no power to regulate communication or belief because of its content, it may restrict the exercise of First Amendment rights if justified by compelling public interests. Still, even when regulations are justified because of a compelling public interest, the regulations must be written as to reasonably restrict the time, place, and manner of the right involved. The U.S. Supreme Court has often approved restrictions on time, place and manner provided that they are justified without reference to the content of the regulated speech, that they serve a significant governmental interest, and that in so doing they leave open ample channels for communication of the information.

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55. Brown v. City of Pittsburgh

United States District Court for the Western District of Pennsylvania | Feb 22, 2008 | 543 F. Supp. 2d 448

Overview: Abortion protestor was not entitled to a preliminary injunction prohibiting enforcement of Pittsburgh, Pa., Code of Ordinances §§ 623.03 and 623.04, as the restrictions on protest activities near health care facilities had not been shown to violate the First or Fourteenth Amendments or the Pennsylvania Religious Freedom Protection Act.

HN65 - A local law or ordinance will be found to substantially burden a person's free exercise of religion under the Pennsylvania **Religious** Freedom Protection Act only if it does any of the following: (1) significantly constrains or inhibits conduct or expression mandated by a person's sincerely held **religious beliefs**; (2) significantly curtails a person's ability to express adherence to the person's **religious** faith; (3) denies a person a reasonable opportunity to engage in activities which are fundamental to the person's religion; (4) compels conduct or expression which violates a specific tenet of a person's **religious** faith. 71 Pa. Stat. Ann. § 2403 (2007).

HN66 - In order to meet the burden of proof required by 71 Pa. Stat. Ann. § 2404 of the Pennsylvania **Religious** Freedom Protection Act (RFPA), it is not enough that the challenged action has some de minimus, tangential or incidental impact or is at odds with a plaintiff's **religious beliefs**. A tangential burden does not equate with a substantial infringement on **religious** practice. On the contrary, a person asserting a claim pursuant to the RFPA must prove by clear and convincing evidence that his or her free exercise of religion has or will be burdened; only then may a court award such a person injunctive relief.

HN61 - Free exercise protections are triggered when a law discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. When a statute or

regulation is applied in a discriminatory fashion based upon **religious beliefs**, strict scrutiny is triggered. The nature of the challenged action determines whether a free exercise claim prompts either strict scrutiny or rational basis review. A law that is neutral and that is of general applicability does not need to be justified by a compelling interest even if the law has the incidental effect of burdening a particular **religious** practice.

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56. Montrose Christian Sch. Corp. v. Walsh

Court of Appeals of Maryland | Apr 12, 2001 | 363 Md. 565

Overview: Montgomery County, Maryland, ordinance prohibiting employment discrimination based on religion violated the First Amendment and was ruled unconstitutional. Offensive language limiting exception for religious organizations was severable.

HN32 - Although **religious** activities may ordinarily be subject to neutral laws of general applicability, the First Amendment excludes all governmental regulation of **religious beliefs** as such.

HN31 - In addressing the **constitutional protection** for free exercise of religion, a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice.

HN35 - The Free Exercise Clause of the First Amendment reflects a spirit of freedom for **religious** organizations, an independence from secular control or manipulation -- in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no improper methods of choice are proven, must be said to have federal **constitutional protection** as a part of the free exercise of religion against state interference.

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57. Chandler v. James

United States District Court for the Middle District of Alabama, Northern Division | Mar 12, 1997 | 958 F. Supp. 1550

Overview: School prayer statute was unconstitutional as it unreasonably restricted the private speech and religion rights of public school students, was not enacted for a secular purpose, and had the primary effect of endorsing religion.

HN6 - The Free Exercise Clause protects absolutely the right to believe whatever we choose. This right, coupled with our right to freedom of speech found in U.S. Const. amend. I, allows people to espouse their **beliefs**, including their **religious beliefs**, in any public forum limited only by reasonable time, place and manner restrictions. Children attending public school are "constitutional people," possessed of constitutional rights and entitled to constitutional protections. Therefore, subject to some limitations, children attending public school have the right to espouse their **religious beliefs**.

HN10 - Whether a student's free speech rights attach, such that he or she is able to freely espouse his or her **religious beliefs**, is necessarily a factual inquiry.

HN2 - Although the Free Exercise Clause guarantees complete freedom of belief, the guarantee does not extend to protect all **religious** activity.

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58. State ex rel. Tate v. Cubbage

Superior Court of Delaware, New Castle | May 07, 1965 | 210 A.2d 555

Overview: Inmates were denied equal protection of the law by prison officials who denied the inmates' request for religious services and prohibited the inmates from wearing symbols of the Black Muslim religion.

HN2 - The **constitutional protection** of **religious** freedom is not restricted to **orthodox religious** practices any more than it is to expressions of **orthodox** economic views, it includes freedom of **religious** belief and embraces the right to maintain **religious** theories which may be regarded as rank heresy to those who follow **orthodox religious** teachings.

HN1 - It is no business of courts to say that what is a **religious** practice or activity for one group is not religion under the protection of the First Amendment. Nor is it in the competence of courts under our constitutional scheme to approve, disapprove, classify, regulate, or in any manner control sermons delivered at **religious** meetings.

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59. Smith v. Board of Sch. Comm'rs

United States District Court for the Southern District of Alabama, Southern Division | Mar 04, 1987 | 655 F. Supp. 939

Overview: Teachers and parents of students were granted injunctive relief prohibiting the advancement of secular humanism in violation of the First Amendment in public schools. Secular humanism was held to be a religion.

HN4 - Overt sponsorship that, as much for appearances as in reality, seems to place the state's imprimatur on specific **religious** acts, contravenes the establishment clause. Laws of general application that incidentally agree with or assist a particular religion are a legitimate acknowledgment of the central importance of **religious** free exercise to our history and present society. Any state action generally designed to encourage free exercise or allow **religious** expression in an open, public forum does not equal an establishment of religion. Finally, the government should not accept or deny the validity of **religious beliefs**, regardless of the nature of them. This has been expressed a number of times by stating that the government may not "establish" a religion or a secular belief system hostile to religion.

HN3 - First, the requirement of neutrality means that the Constitution protects every **religious** belief without regard to its theological foundations or idiosyncrasies. Second, what is **religious** is largely dependent on the way people in America currently think of religion, and this is a product of our past as a people. Third, the government cannot hinder or prohibit the growth of new **beliefs** by its definition of religion, since this growth is a product of the fundamental rights guaranteed by the first amendment. Fourth, the government is still obligated to perform its essential functions, thus reasonable boundaries may circumscribe acts performed in the name of **religious** freedom.

HN5 - A state may not decide the question of what constitutes a religion under the First Amendment by reference to the validity of the **beliefs** or practices involved. Any content-based decision must inevitably result in showing favoritism to some religions and disapproval of others. The purpose of the first amendment, particularly as expressed by the free exercise clause, would be thwarted. The state must instead look to factors common to all **religious** movements to decide how to distinguish those ideologies worthy of the protection of the religion clauses from those which must seek refuge under other constitutional provisions.

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60. State ex rel. Comm'r of Transp. v. Eagle

Court of Appeals of Tennessee, Middle Section, At Nashville | Jul 11, 2001 | 63 S.W.3d 734

Overview: Addition of State Indian Affairs Commission and several Native Americans to State Transportation Department's suit to terminate use of property near road, containing newly-discovered ancient Native American graves, as a cemetery, was reversed.

HN39 - It is not the courts' prerogative to inquire into the truth, validity, or reasonableness of Native Americans' professed **religious beliefs**. **Religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others to merit **constitutional protection**. Nor must **religious** groups be numerically strong or their **religious** practices be consistent with prevailing views.

HN33 - First, **religious** liberty includes the right to believe and to profess whatever **religious** doctrine one desires. Second, it includes the right to act, or to refrain from acting, in a manner consistent with **one's religious beliefs**. The federal and Tennessee constitutions place the freedom of belief (or rights of conscience) beyond government control or interference. Accordingly, under the Free Exercise Clause of the First Amendment and Tenn. Const. art. I, § 3 the freedom of belief is absolute and inviolate.

HN35 - While laws cannot interfere with **religious beliefs** and opinions, they may interfere with religiously motivated conduct. Thus, the freedom to engage in religiously grounded conduct is not absolute. Some **religious** acts and practices by individuals must yield to the common good. The free exercise protections in the federal and state constitutions are intended to apply to the widest possible scope of **religious** conduct. They do not, however, permit every citizen to become a law unto himself, and they do not require the government to conduct its affairs in ways that comport with the **religious beliefs** of particular citizens. Government simply cannot operate if it were required to satisfy every citizen's **religious** needs and desires. Claims based on **religious** convictions or rights of conscience do not automatically entitle persons to establish unilaterally the terms and conditions of their relations with the government.

61. People v. Hodges

Appellate Division, Superior Court of California, San Diego County | Aug 21, 1992 | 10 Cal. App. 4th Supp. 20

Overview: A pastor and assistant pastor who were also president and principal of a private, church-affiliated school violated the state's child abuse reporting law in not reporting to state authorities an incident of child molestation of a school student.

HN11 - General regulations having an otherwise valid object are not necessarily rendered invalid by reason of some incidental effect on **religious beliefs** or observances; a balancing test is employed.

HN12 - Although a determination of what is a "**religious**" belief or practice entitled to **constitutional protection** may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his or her own standards on matters of conduct in which society as a whole has important interests.

HN9 - U.S. Const. amend. I guarantees two types of **religious** freedom: the freedom to believe and the freedom to act. It is well settled that the freedom to believe is absolute, while the freedom to act is not.

62. Zhang Jingrong v. Chinese Anti-Cult World Alliance

United States District Court for the Eastern District of New York | Apr 23, 2018 | 311 F. Supp. 3d 514

63. Congregation Kol Ami v. Abington Twp.

United States District Court for the Eastern District of Pennsylvania | Aug 12, 2004 | 2004 U.S. Dist. LEXIS 16397

Overview: Zoning ordinance that prevented location of a synagogue in a town's residential areas did not meet the free exercise substantial burdens test, as it did not restrict plaintiffs' beliefs, but only their conduct. However, it did violate the RLUIPA.

HN29 - The **Religious** Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., by its own terms, has done nothing to actively advance religion. All it has done is advance the ability of people to engage in the free exercise of their **religious beliefs** without unnecessary government burdens. This fact does not make it unconstitutional.

HN33 - The **Religious** Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., only requires a zoning board to consider whether the reasons behind their decisions are the least restrictive means of achieving a compelling government interest. This determination is not entanglement because that decision turns purely on the government's secular motivation and means. It neither requires oversight of **religious beliefs** nor creates situations where the government could be accused of endorsing particular **religious beliefs** or religion in general.

HN2 - Because the First Amendment only forbids the making of laws which "prohibit" free exercise, it is a basic precept of free exercise jurisprudence that not every governmental act that effects religion violates the First Amendment. The First Amendment is only offended if there is a substantial burden on **religious** exercise. In deciding what burdens amount to a prohibition of free exercise, the nature and centrality of the **religious** activity is a major consideration. The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central **religious** belief or practice and, if so, whether a compelling governmental interest justifies the burden. Free exercise is substantially burdened, in a First Amendment context, when the government coerces a person not to engage in activity that is warranted by a fundamental tenet of his **religious beliefs**. There is no substantial burden when the plaintiffs are neither compelled to engage in conduct proscribed by their **religious beliefs**, nor forced to abstain from any action which their religion mandates that they take.

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64. Warner v. City of Boca Raton

United States District Court for the Southern District of Florida, Northern Division | Aug 31, 1999 | 64 F. Supp. 2d 1272

Overview: City's viewpoint neutral and reasonable ordinances prohibiting vertical grave decorations did not violate the Florida Religious Freedom Restoration Act of 1998 or the plaintiffs' freedom of speech or religious exercise.

HN8 - The Florida **Religious** Freedom Restoration Act of 1998, Fla. Stat. ch. § 761.01 et seq., defines the exercise of religion as an act or refusal to act that is substantially motivated by a **religious** belief, whether or not the **religious** exercise is compulsory or central to a larger system of **religious beliefs**. Fla. Stat. ch. § 761.02(3).

HN12 - In order to establish a cognizable claim under the Florida **Religious** Freedom Restoration Act of 1998 (Florida RFRA), a plaintiff must demonstrate a substantial burden on conduct that, while not necessarily compulsory or central to a larger system of **religious beliefs**, nevertheless reflects some tenet, practice or custom of a larger system of **religious beliefs**. Conduct that reflects a purely personal preference regarding **religious** exercise will not implicate the protections of the Florida RFRA. Fla. Stat. ch. § 761.01 et seq.

HN14 - In deciding whether a particular practice reflects some tenet, custom or practice of a larger system of **religious beliefs**, or whether the practice reflects a matter of purely personal preference regarding **religious** exercise, a court's inquiry is extremely limited and purely factual: does the practice in question reflect some tenet, custom or practice of a larger system of **religious beliefs**?

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65. Freedom from Religion Found. v. McCallum

United States District Court for the Western District of Wisconsin | Jan 07, 2002 | 179 F. Supp. 2d 950

Overview: A state workforce grant to a faith-based substance-abuse program violated the establishment clause of the First Amendment because it constituted unrestricted, direct state funding of an organization that engaged in religious indoctrination.

HN7 - In assessing whether a publicly funded program imposes governmental indoctrination in religion in violation of the establishment clause of the First Amendment, a plaintiff must establish that the public funding constitutes indoctrination or results in it and that such indoctrination is attributable to the government. Not every governmental action that results in indoctrination constitutes "governmental indoctrination." However, direct state funding of persons who actively inculcate **religious beliefs** crosses the line between permissible and impermissible government action under the First Amendment.

HN8 - The establishment clause of the First Amendment prohibits government-financed or government-sponsored indoctrination into the **beliefs** of a particular **religious** faith. It is inappropriate to presume inculcation of religion. The First Amendment applies to any **religious** activity or institution, whatever it may be called, or whatever form it may adopt to teach or practice religion.

HN2 - Plaintiffs can meet the standing requirement of U.S. Const. art. III by showing that, as taxpayers, their tax dollars have gone to support an allegedly unconstitutional program that contributes unrestricted cash grants to **religious** programming.

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66. Combs v. Homer Ctr. Sch. Dist.

United States District Court for the Western District of Pennsylvania | Dec 08, 2005 | 2005 U.S. Dist. LEXIS 32007

Overview: In an action regarding enforcement of Pennsylvania's compulsory school attendance law, initial ruling was made that the state's home schooling law, Pa. Stat. Ann. tit. 24, § 13-1327.1, did not facially violate state's Religious Freedom Protection Act or the First Amendment's Free Exercise of Religion Clause.

HN38 - Under the Pennsylvania **Religious** Freedom Protection Act (RFPA), Pa. Stat. Ann. tit. 71 §§ 2401-2407, a person claiming a "substantial burden" must notify the offending state agency of the manner in which the exercise of the governmental authority burdens the person's free exercise of religion. Pa. Stat. Ann. tit. 71, § 2405(b)(3). The RFPA defines "substantial burden" as agency action which (1) significantly constrains or inhibits conduct or expression mandated by a person's sincerely held **religious beliefs**; (2) significantly curtails a person's ability to express adherence to the person's **religious** faith; (3) denies a person a reasonable opportunity to engage in activities which are fundamental to the person's religion; or (4) compels conduct or expression which violates a specific tenet of a person's **religious** faith. Pa. Stat. Ann. tit. 71, § 2403(4).

HN39 - The burdens contemplated by Pa. Stat. Ann. tit. 71, § 2403 are not abstract or theoretical; they are, instead, restrictions or impairments on a person's ability to exercise, practice, express or act in conformity with their **religious beliefs**. Similarly, the burdens contemplated by § 2403 concern the negative impact on **one's religious** exercise, practice, expressions and conduct, not "secular" concerns such as an individual's health and expenditures of time and energy.

HN40 - A plaintiff challenging legislation or agency action under the Pennsylvania **Religious** Freedom Protection Act (RFPA), Pa. Stat. Ann. tit. 71 §§ 2401-2407, must meet the threshold burden of showing, by clear and convincing evidence, that there is or will be denial or substantial infringement of conduct or expression which violates a specific tenet of his or her **religious** faith, not simply that the legislation or agency action has some de minimus, tangential or incidental impact or is at odds with their **religious beliefs**.

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67. Colo. Christian Univ. v. Weaver

United States Court of Appeals for the Tenth Circuit | Jul 23, 2008 | 534 F.3d 1245

Overview: Colo. Rev. Stat. §§ 23-3.5-105, 23-3.3-101(3)(d), and 23-3.7-104's exclusion of students of pervasively sectarian universities from receiving scholarships was unconstitutional where they discriminated among religions without constitutional justification, and the criteria for doing so involved unconstitutional scrutiny of religious beliefs.

HN12 - Even assuming that it might, in some circumstances, be permissible for states to pick and choose among eligible **religious** institutions, United States Supreme Court precedents preclude their doing so on the basis of intrusive judgments regarding contested questions of **religious** belief or practice. The inquiry into the recipient's **religious** views required by a focus on whether a school is pervasively sectarian is not only unnecessary but also offensive. It is well established, in numerous other contexts, that courts should refrain from trolling through a person's or institution's **religious beliefs**. Most often, that principle has been expressed in terms of a prohibition of excessive entanglement between religion and government. At first the prohibition on entanglements was formulated as an independent requirement of the Establishment Clause, later as one element of determining the effect of the law in advancing or inhibiting religion. Properly understood, the doctrine protects **religious** institutions from governmental monitoring or second-guessing of their **religious beliefs** and practices, whether as a condition to receiving benefits or as a basis for regulation or exclusion from benefits.

HN16 - It is not for the state to decide what Catholic, or evangelical, or Jewish policy is on educational issues. That is a question of **religious** doctrine on which the state may take no position without entangling itself in an intrafaith dispute. Asking whether a university's educational policy on a given issue has the image or likeness of a particular religion, is thus unconstitutional. It is no business of the state to decide what policies are entailed by or reflect the institution's **religious beliefs**.

HN3 - It is settled that the Establishment Clause of the First Amendment permits evenhanded funding of education, **religious** and secular, through student scholarships. It is therefore undisputed that federal law does not require a state to discriminate against a pervasively secretarian institution in its funding programs. The United States Court of Appeals for the Tenth Circuit finds that the state may not choose to exclude pervasively sectarian institutions, as defined by state law, even when not required to.

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68. Molko v. Holy Spirit Assn.

Supreme Court of California | Oct 17, 1988 | 46 Cal. 3d 1092

Overview: Former members' suit against church for deceptive recruiting practices was not barred by the First Amendment and survived summary judgment because they presented a factual issue regarding brainwashing prior to being told the church's identity.

HN8 - The religion clauses of Cal. Const., art. I, § 4, and U.S. Const. amend. I, protect only claims rooted in **religious** belief. The free exercise clause protects **religious beliefs** absolutely. While a court can inquire into the sincerity of a person's **beliefs**, it may not judge the truth or falsity of those **beliefs**. The government may neither compel affirmation of a **religious**, nor penalize or discriminate against individuals or groups because of their **religious beliefs**, nor use the taxing power to inhibit the dissemination of particular **religious** views.

HN9 - While **religious** belief is absolutely protected, religiously motivated conduct is not. Such conduct remains subject to regulation for the protection of society. Government action burdening **religious** conduct is subject to a balancing test, in which the importance of the state's interest is weighed against the severity of the burden imposed on religion. The greater the burden imposed on religion, the more compelling must be the government interest at stake. A government action that passes the balancing test must also meet the further requirements that (1) no action imposing a lesser burden on religion would satisfy the government's interest and (2) the action does not discriminate between religions, or between religion and nonreligion.

HN10 - While judicial sanctioning of tort recovery constitutes state action sufficient to invoke the same constitutional protections applicable to statutes and other legislative actions, **religious** groups are not immune from all tort liability. It is well settled, for example, that **religious** groups may be held liable in tort for secular acts. In appropriate cases courts will recognize tort liability even for acts that are religiously motivated.

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69. State v. Bontrager

Court of Appeals of Ohio, Third Appellate District, Hardin County | Oct 18, 1996 | 1996 Ohio App. LEXIS 4819

Overview: Defendant's conviction for failure to wear hunter orange while hunting during deer season was affirmed. Although he held religious beliefs sincerely, regulation did not infringe upon Amish religious practices, and the state had compelling interests.

HN2 - The test to ascertain the sincerity of a defendant's **religious beliefs** is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God. Although this is an encompassing definition, satisfaction requires more than a personal or philosophical belief.

HN11 - The First Amendment applies to the states by incorporation into the Fourteenth Amendment. The test to apply to a regulation allegedly violating the free exercise of religion is either a test announced in case law, or that articulated in the **Religious** Freedom Restoration Act, 42 U.S.C.S. §§ 2000bb-2000bb4. According to case law, a neutral law with general applicability is valid despite the fact the law proscribes conduct the religion does not. In such a case, the free exercise clause does not relieve the person of the obligation to comply with the law. The claim that a law infringes upon a claimants' free exercise of religion is

rejected where an individual's **religious beliefs** do not excuse compliance with an otherwise valid law prohibiting conduct which the state may regulate.

HN1 - The proper standard to review a regulation asserted to be violative of the free exercise of religion is the tripartite test enunciated by the United States Supreme Court and later adopted by the Ohio Supreme Court. This test is first, whether a defendant's **religious beliefs** are sincerely held; second, whether the regulation at issue infringes upon a defendant's constitutional right to freely engage in the **religious** practices, and; third, whether the state has demonstrated a compelling interest for enforcement of the regulation and that the regulation is written in the least restrictive means.

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70. O Centro Espirita Beneficente Uniao Do Vegetal v. Ashcroft

United States District Court for the District of New Mexico | Aug 12, 2002 | 282 F. Supp. 2d 1236

Overview: Church members were likely to succeed on their Religious Freedom Restoration Act claim's merits, as banning a hallucinogenic tea used in worship did not further interests in protecting church members' health and preventing illicit use of the tea.

HN51 - In the context of application for preliminary injunction, Tenth Circuit law indicates that the violations of the **religious** exercise rights protected under the **Religious** Freedom Restoration Act of 1993 (RFRA), 42 U.S.C.S. §§ 2000bb-2000bb-4, represent irreparable injuries. The United States Court of Appeals for the Tenth Circuit have observed that courts have held that a plaintiff satisfies the irreparable harm analysis by alleging a violation of RFRA. In support of this proposition the Kikumura court quoted the United States Court of Appeals for the Second Circuit, which has held that although the plaintiff's free exercise claim is statutory rather than constitutional, the denial of plaintiff's right to the free exercise of his **religious beliefs** is a harm that cannot be adequately compensated monetarily.

HN3 - The United States Supreme Court has observed that in addressing the **constitutional protection** for free exercise of religion, its cases establish the general proposition that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. In contrast, a law that is not neutral and is not generally applicable must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest.

HN49 - Under **Religious** Freedom Restoration Act of 1993 (RFRA), 42 U.S.C.S. §§ 2000bb-2000bb-4, the Government must establish not only that a burden placed on an individual's **religious** practice is in furtherance of a compelling governmental interest, but also that the burden is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000bb-1(b).

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71. Mohammad v. Sommers

United States District Court for the Eastern District of Michigan, Northern Division | Jul 30, 1964 | 238 F. Supp. 806

Overview: The police officers had a right and a duty to be present at the individual's gathering, and the individual had no right to require them to accept his practices or beliefs in the name of religion. The individual's complaint was dismissed.

HN1 - **Religious** activities which concern only members of the faith are and ought to be free - as nearly absolutely free as anything can be. But in the interest of the public weal, there are many limitations which bound **religious** freedom. Generally it can be said that these limitations begin to operate whenever activities in the name of religion affect or collide with the liberties of others or of the public, or violate public policy. Witness this but partial list of instances of such conflicts which have all been resolved against the claims of freedom of religion: Sunday closing, spiritualist readings, selective service, parading in the streets, practice and advocacy of polygamy, vending periodicals in the streets, fluoridation of water, compulsory school attendance, child labor regulations, compulsory vaccination, blood transfusion, surgery and medical attention.

HN5 - **Religious** liberty does not include the right to introduce and carry out every scheme or purpose which persons see fit to claim as a part of their **religious** system. No one can stretch his liberty so as to interfere with that of his neighbor, or violate police regulations or the penal laws of the land, enacted for the good order and general welfare of all the people. Liberty founded by the fathers was not license unrestrained by law. Even if the purposes of an organization are **religious** in their nature, it is difficult to see how the practice of giving "readings" or telling fortunes concerning the mating inclinations of men and women could be **religious**, in any sense.

HN3 - Even the family is not beyond regulation in the public interest, as against a claim of **religious** liberty. Perhaps the most dramatic application of the rule of law that regulation and control in the public interest is valid as against the claim of **religious** freedom occurs in cases involving children and parents. Neither rights of religion nor rights of parenthood are beyond limitation. Acting to guard the general interest in youth's well being, the state as parens patriae may restrict the parent's control by requiring school attendance, regulating or prohibiting the child's labor, and in many other ways. Its authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience. Thus, he cannot claim freedom from compulsory vaccination for the child more than for himself on **religious** grounds. The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.

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72. ⚠ International Soc. for Krishna Consciousness, Inc. v. Barber

United States Court of Appeals for the Second Circuit | Jun 03, 1981 | 650 F.2d 430

Overview: State fair rule prohibiting the solicitation of funds from persons other than booth licensees was unconstitutional because it substantially infringed upon a religious group's right to the free exercise of its religion.

HN1 - The availability of a free exercise defense cannot depend on the objective truth or verity of a defendant's **religious beliefs**. Courts will investigate an adherent's sincerity and will then invoke free exercise analysis where a belief is asserted and acted upon in good faith. One consequence of the adoption of the subjective test is the abandonment of any requirement that the religion include a traditional concept of "God."

HN2 - The test for identifying an individual's belief in a relation to a Supreme Being is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God by other persons. A functional, phenomenological investigation of an individual's "religion" applies. In the absence of a requirement of "God," this approach treats an individual's "ultimate concern" whatever that concern be as his "religion." A concern is "ultimate" when it is more than "intellectual." A concern is more than intellectual when a believer would categorically disregard elementary self-interest in preference to transgressing its tenets.

HN3 - Sincerity analysis seeks to determine the subjective good faith of an adherent in performing certain rituals. The goal is to protect only those **beliefs** which are held as a matter of conscience. Human nature being what it is, however, it is frequently difficult to separate this inquiry from a forbidden one involving the verity of the underlying belief. People find it hard to conclude that a particularly fanciful or incredible belief can be sincerely held. Therefore, this analysis is most useful where extrinsic evidence is evaluated.

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73. Legacy Church, Inc. v. Kunkel

United States District Court for the District of New Mexico | Apr 17, 2020 | 455 F. Supp. 3d 1100

Overview: A church's motion for a TRO against a public health order restricting gatherings at places of worship was denied as the Eleventh Amendment prohibited the suit against New Mexico, it was not substantially likely to succeed on the merits of its Free Exercise or assembly claims, and it had not met the other requirements for a TRO.

HN10 - Not all governmental actions which make it more difficult to practice certain religions but which have no tendency to coerce individuals into acting contrary to their **religious beliefs**, require government to bring forward a compelling justification for its otherwise lawful actions. The First Amendment's key word is prohibit because the Free Exercise Clause is written in terms of what the government cannot do to the individual, not in terms of what the individual can exact from government.

HN15 - Government may not impose special disability or withhold government benefits on the basis of **one's** religion. Only compelling governmental interests justify withholding generally available services on the basis of religion. On a broader reading, judicial precedent provides that the Free Exercise Clause now protects individuals' and institutions' status as **religious**. Thus, the distinction between what a **religious** institution is and what a **religious** institution does is erased for the governmental services' purposes. In other words, the fact of having **beliefs** cannot be a setback where government services and benefits are concerned.

HN17 - Recent judicial precedent under the Free Exercise Clause reflects the United States Supreme Court's long-standing aversion to laws and regulations that allow officials' subjective, case-by-case determinations. Similarly, a law may not be generally applicable where it has built-in exemptions that it does not extend to accommodate **religious** exercise. Where the State has in place a system of individual exemptions, it may not refuse to extend that system to cases of **religious** hardship without compelling reason. Such instances require government to weigh **religious** freedom against governmental interest. Accordingly, where government regulates within its prerogative, it may enact general laws and apply them neutrally without inquiry into the extent to which the law incidentally burdens **religious** exercise. Only where the government acts with **religious** animus or requires case-by-case determination of the merits or sincerity

of **religious beliefs** as a condition of governmental benefits or exemption from legal requirements will the government violate the First Amendment.

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74. ## County of Allegheny v. ACLU

Supreme Court of the United States | Jul 03, 1989 | 492 U.S. 573

Overview: Where respondents challenged petitioners' display of a creche and a Chanukah menorah and alleged violations of the Establishment Clause, the display of the menorah was permitted because it was a symbol that was secular.

HN2 - Government may not promote or affiliate itself with any **religious** doctrine or organization, may not discriminate among persons on the basis of their **religious beliefs** and practices, may not delegate a governmental power to a **religious** institution, and may not involve itself too deeply in such an institution's affairs.

HN3 - The establishment of religion clause of the First Amendment, U.S. Const. amend. I, means at least this: neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing **religious beliefs** or disbeliefs, for church attendance or non-attendance. No tax in any amount can be levied to support any **religious** activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any **religious** organizations or groups and vice versa.

HN8 - The government's use of **religious** symbolism is unconstitutional if it has the effect of endorsing **religious beliefs**, and the effect of the government's use of **religious** symbolism depends upon its context.

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75. ## Malicki v. Doe

Supreme Court of Florida | Mar 14, 2002 | 814 So. 2d 347

Overview: Florida Supreme Court adopted majority view that First Amendment protections of religious freedom did not insulate church from liability for harm to adult or child parishioners arising from sexual assault or battery by church's clergy.

HN5 - The Free Exercise Clause guarantees first and foremost, the right to believe and profess whatever **religious** doctrine one desires. Moreover, at a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. The Free Exercise Clause embraces two concepts -- freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. Thus, the First Amendment has never been interpreted to mean that when otherwise prohibitable conduct is accompanied by **religious**

convictions, not only the convictions but the conduct itself must be free from government regulation. Government regulation includes both statutory law and court action through civil lawsuits.

HN6 - Before the constitutional right to free exercise of religion is implicated, the threshold inquiry is whether the conduct sought to be regulated was "rooted in **religious** belief." Further, in order to launch a free exercise challenge, it is necessary to show the coercive effect of the enactment as it operates against the individual in the practice of his religion. If it is demonstrated that the conduct at issue was rooted in **religious beliefs**, then the court must determine whether the law regulating that conduct is neutral both on its face and in its purpose. If the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral, and it is invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest. The State may, however, regulate conduct through neutral laws of general applicability. Thus, a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice.

HN22 - The Free Exercise Clause does not bar a claim for negligent supervision against a church for the sexual misconduct of its priest. The court's determination of an action against defendants based upon their alleged negligent supervision of a priest would not prejudice or impose upon any of the **religious** tenets or practices of the religion. Rather, such a determination would involve an examination of the defendants' possible role in allowing one of its employees to engage in conduct which they, as employers, as well as society in general expressly prohibit. The Free Exercise Clause does not relieve an individual from obedience to a general law not aimed at the promotion or restriction of **religious beliefs**.

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76. Watchtower Bible & Tract Soc. v. Metropolitan Life Ins. Co.

Supreme Court of New York, Special Term, New York County | Mar 12, 1947 | 188 Misc. 978

Overview: A landlord's rules restricting tenant solicitation by a religious society did not violate First Amendment speech, press, or religious rights, because the rule was not unreasonable, arbitrary, capricious, or unduly burdensome.

HN4 - When the owner of a house rents it to another he thereby confers upon the tenant the right to use the building, or such part of it as is rented, and this includes an easement of ingress and egress by the usual way. This easement, however, is for the tenant, and third parties, except upon the invitation, either express or implied, of the landlord or tenant, have no more right to enter the building than they would if it were vacant. There is no invitation, either express or implied, to the public to enter into the common hallways of an apartment house for the purpose of using them as a forum in which to air **one's** views on any subject, be it **religious**, political or anything else.

HN5 - Landlord rules that leave to each tenant the right to determine for himself whether he wishes to receive visits or **literature** at his home from Jehovah's Witnesses, that require such wish be in writing and either furnished or exhibited to the landlord's resident manager, are not unreasonable, arbitrary or capricious, and do not impose any undue burdens upon either the Jehovah's Witnesses or any tenant desiring visits from them.

77. ## America Press, Inc. v. Lewisohn

Supreme Court of New York, New York County | Jun 13, 1973 | 74 Misc. 2d 562

Overview: The property owned by petitioner was tax-exempt, and petitioner was entitled to an order commanding respondents to remove property from city's tax roll because property was devoted solely to religious purpose and not alone to Bible, tract or mission.

HN4 - **Distribution** by sale of **literature** as a method of **spreading** the distributor's **religious beliefs** has been held to be an exercise of religion under the First Amendment.

HN6 - The policy of the law has been, in New York, to encourage, foster and protect corporate institutions of **religious** and literary character, because the **religious**, moral and intellectual culture afforded by them were deemed, as they are in effect, beneficial to the public, necessary to the advancement of civilization, and the promotion of the welfare of society. At least the **distribution** of **literature** for money does not preclude a conclusion that such **distribution** is an exercise of religion within the United States Constitution First Amendment. Error is rampant when a myriad of activities considered in relation to **religious** exercise are held by mere ipse dixit to be mutually exclusive. The church, temple and synagogue are not so confined. The categories of dedication of use of real property enumerated in N.Y. Real Prop. Tax Law § 421(1)(b) and in New York, N.Y., Local Law No. 46 (1971) are not mutually exclusive. This holding is the only way by which the constitutionality and validity of the statutes can be upheld. There is no necessary incompatibility of dedication and use of real property simultaneously for "**religious**," "bible," and "missionary" purposes, for 'hospital," and "infirmary" purposes, for "charitable" and "benevolent" purposes, or for "educational" "scientific," "literary," and "library" purposes.

HN1 - N.Y. Real Prop. Tax Law § 421(1)(a) (1972), entitled "Non-profit organizations," reads in part: Real property owned by a corporation or association organized or conducted exclusively for **religious**, charitable, hospital, educational, moral or mental improvement of men, women or children or cemetery purposes, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association or by another such corporation or association as hereinafter provided shall be exempt from taxation as provided in § 421(1)(a).

78. ## Freedom from Religion Found., Inc. v. Lew

United States District Court for the Western District of Wisconsin | Nov 21, 2013 | 983 F. Supp. 2d 1051

Overview: 26 U.S.C.S. § 107(2) violates the Establishment Clause because the exemption provides a benefit to religious persons and no one else, even though doing so was not necessary to alleviate a special burden on religious exercise.

HN34 - It violates the Establishment Clause to single out **religious beliefs** for preferential treatment without providing a similar benefit to secular individuals or groups.

HN23 - A tax exemption limited to the sale of **religious literature** by **religious** organizations violates the Establishment Clause because it results in preferential support for the communication of **religious**

messages. A statutory preference for the dissemination of **religious** ideas offends the most basic understanding of what the Establishment Clause is all about and hence is constitutionally intolerable.

HN26 - Because a primary function of a minister of the **gospel** is to disseminate a **religious** message, a tax exemption provided only to ministers results in preferential treatment for **religious** messages over secular ones.

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79. Barghout v. Mayor of Baltimore

United States District Court for the District of Maryland | Sep 30, 1993 | 833 F. Supp. 540

Overview: The fraud ordinance, designed to prevent the intentional mislabeling of kosher foods, was held to be unconstitutional where its primary effect was to advance or inhibit religion and it created an excessive government entanglement with religion.

HN6 - The ordinance, Baltimore, Md., City Code art. 19, §§ 49, 50, establishes a six-person Bureau of Kosher Meat and Food Control (bureau) whose duties include inspecting the premises, records, equipment, and products of all places engaged in the manufacture, preparation, sale, or **distribution** of food, which is represented to the public as "kosher." Baltimore, Md., City Code art. 19, § 49(e). The bureau must consist of three duly ordained **orthodox** Rabbis and three laymen who are selected from a list submitted by the Council of **Orthodox** Rabbis of Baltimore and the **Orthodox** Jewish Council of Baltimore. Baltimore, Md., City Code art. 19, § 49(a). The Mayor of Baltimore appoints all six bureau members, and they receive no compensation for their services. § 49(a). Pursuant to statute, they must be chosen for their expert knowledge and interest in the **orthodox** Hebrew rules, regulations, and requirements pertaining to the sale, manufacture, **distribution**, and preparation of kosher food. Baltimore, Md., City Code art. 19, § 49(b). In "administering and enforcing" the ordinance, the bureau may hire an inspector for the proper performance of the bureau's duties and enforcement of the law. Baltimore, Md., City Code art. 19, §§ 49(e), 49(g). The bureau shall report any violations of the ordinance to the mayor and/or other law enforcement authority. Baltimore, Md., City Code art. 19, § 49(h).

HN19 - Religious rules and regulations do not become "neutral" principles simply because they are clear or universally held. Whether settled or not, a **religious** law remains a **religious** law, and a court cannot be called upon either to interpret or to apply such a standard. Accordingly, Baltimore, Md., City Code art. 19, §§ 49, 50, which mandates an **orthodox** Hebrew standard for kosher, is "inextricably intertwined" with secular law and government entities.

HN21 - Prohibited government practices include those having the effect of communicating a message of government endorsement or disapproval of any religion or **religious beliefs**. This position stems from a fear that endorsement sends a message to non-adherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

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80. In re Westboro Baptist Church

Court of Appeals of Kansas | Jul 25, 2008 | 40 Kan. App. 2d 27

Overview: Church truck used to transport signs to various religious and political events was not exempt from taxation under Kan. Stat. Ann. § 79-201 because the truck was not used for only religious activities when the church truck transported the signs to political conventions so that its members could picket before convention attendees.

HN23 - Because Kan. Stat. Ann. § 79-201(2) does not define **religious** use, Kansas case law has attempted to define the statutory term. Kansas case law definitions have not discussed the content of a **religious** organization's doctrinal **beliefs**. Kansas case law has recognized **preaching** ministry and evangelical outreach as **religious** uses within the meaning of the tax exemption statute. Kansas has rejected characterization of a use as **religious** if it involves commercial activity. Moreover, Kansas has not sanctioned political action or activities as a **religious** activity.

HN27 - Although a church in this free country can adopt any belief it desires, this **religious** freedom has limits. Nowhere has it been held that one may, solely by virtue of his **religious beliefs**, exonerate himself from the payment of taxes. Neither has it been held that a church may proclaim that property it owns is exempt from taxation solely because the payment of such taxes would be offensive to its **religious** doctrines. Again, the reason why such exemptions have been narrowly proscribed by taxing authorities is quite sound. Governments depend upon tax revenues to furnish services essential for the welfare of all people. If churches or individuals could, by self-proclamation avoid the payment of taxes, good order in this country would be in jeopardy.

HN30 - When a party asserts a belief that seems to be far more the product of a secular philosophy than of a **religious** orientation, a free exercise claim can not be maintained. As a result, the attachment of a **religious** belief onto an otherwise secular activity, such as politics, does not establish a free exercise claim. For example, if a **religious** organization could latch onto a secular activity and incorporate that activity into its **religious** activities based simply upon its members' sincerely held **religious beliefs**, the scope of free exercise claims would be stretched to an untenable degree.

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81. ## Fellowship of Humanity v. County of Alameda

Court of Appeal of California, First Appellate District, Division One | Sep 11, 1957 | 153 Cal. App. 2d 673

Overview: Church's practice of humanism, under which belief in and reverence of God was not essential to membership, qualified as religion for tax exemption purposes under objective test.

HN8 - Under the constitutional provision the state has no power to decide the validity of the **beliefs** held by the group involved. Men may believe what they cannot prove. They may not be put to the proof of their **religious** doctrines or **beliefs**. The only valid test a state may apply in determining the tax exemption is a purely objective one. Once the validity or content of the belief is considered, the test becomes subjective and invalid. Thus the only inquiry in such a case is the objective one of whether or not the belief occupies the same place in the lives of its holders that the **orthodox beliefs** occupy in the lives of believing majorities, and whether a given group that claims the exemption conducts itself the way groups conceded to be **religious** conduct themselves. The content of the belief, under such test, is not a matter of governmental concern.

HN4 - Cal. Const. art. XIII, § 1c provides that in addition to other exemptions in the constitution the legislature may exempt from taxation all or any portion of property used exclusively for **religious**, hospital or charitable purposes and owned by corporations organized and operated for **religious**, hospital or charitable purposes, not conducted for profit.

HN6 - Under the provisions of Cal. Const. art. IV, § 30, all government tax agencies are prohibited from making any appropriation from any public fund, or from granting anything to or in aid of any **religious** sect, church, creed, or sectarian purpose.

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82. McRae v. Califano

United States District Court for the Eastern District of New York | Jan 15, 1980 | 491 F. Supp. 630

Overview: Hyde-Conte amendment to Medicaid Act that forbade use of federal funds for abortions except where life of mother was endangered was irrational in not being based on medical standards and violated indigent women's fundamental right of choice.

HN16 - The national policy, to the extent formulated, encourages family planning, 42 U.S.C.S. §§ 300, et seq., 300a-21, et seq., 42 U.S.C.S. § 1396d(a)(4), excludes use of abortion as a family planning method, 42 U.S.C.S. § 300a-6 and establishes safeguards against involving health service personnel and recipients of family planning assistance in violation of their **religious beliefs**, 42 U.S.C.S. §§ 300a-7, 300a-8.

HN31 - The Hyde-Conte amendments clearly operate to the disadvantage of one suspect class, that is to the disadvantage of the statutory class of adolescents at a **high** risk of pregnancy defined in 42 U.S.C.S. § 300a-21(a).

HN43 - That the Hyde amendments reflect, if imperfectly, one **religious** view, if it were true, would not be decisive.

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83. Salvation Army v. Department of Community Affairs

United States Court of Appeals for the Third Circuit | Nov 05, 1990 | 919 F.2d 183

Overview: The court remanded appellant's action seeking an exemption from the requirements of the New Jersey Rooming and Boarding House Act of 1979 for exploration of whether appellant had a valid claim based on a right to association for free speech purposes.

HN1 - It is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith.

HN5 - The Free Exercise Clause does not apply to statutes of general applicability that are not specifically directed to **religious** practices.

HN6 - Laws are made for the government of actions, and while they cannot interfere with mere **religious** belief and opinions, they may with practices. Can a man excuse his practices to the contrary because of his **religious** belief? To permit this would be to make the professed doctrines of **religious** belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself.

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84. Westchester Day Sch. v. Mamaroneck

United States District Court for the Southern District of New York | Mar 02, 2006 | 417 F. Supp. 2d 477

Overview: School entitled to relief under the Religious Land Use and Institutionalized Persons Act where a major portion of the proposed facilities would be used for religious education and practice or were inextricably integrated with, and necessary for the school's ability to provide, religious education and practice--i.e., engage in "religious exercise."

HN11 - 42 U.S.C.S. § 2000cc-3(g) makes clear that the **Religious** Land Use and Institutionalized Persons Act (RLUIPA) is to be construed in favor of a broad protection of **religious** exercise, to the maximum extent permitted by the terms of the Act and the Constitution. 42 U.S.C.S. § 2000cc-3(g). To that end, RLUIPA broadly defines "**religious** exercise" as any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief, including the use, building, or conversion of real property for the purpose of **religious** exercise. 42 U.S.C.S. § 2000cc-5(7)(A). Accordingly, under RLUIPA, courts no longer need to analyze whether a claimed **religious** activity is an integral part of **one's** faith.

HN17 - A particular **religious** practice need not be central to **one's** faith to be protected under the **Religious** Land Use and Institutionalized Persons Act.

HN8 - Section 2(a)(1) of the **Religious** Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.S. § 2000cc et seq., provides that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the **religious** exercise of a person, including a **religious** assembly or institution, unless the government demonstrates that imposition of the burden is the least restrictive means of advancing a compelling governmental interest. 42 U.S.C.S. § 2000cc(a)(1). Under the statute, plaintiff carries the initial burden of proving that defendants' conduct satisfies at least one of RLUIPA's jurisdictional prerequisites, and that the conduct imposes a "substantial burden" on plaintiff's "**religious** exercise." 42 U.S.C.S. § 2000cc(a)(1); 42 U.S.C.S. § 2000cc-1(b). If plaintiff carries its burden, the burden shifts to defendants to prove that imposition of a substantial burden on plaintiff's **religious** exercise is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000cc(a)(1); 42 U.S.C.S. § 2000cc-2(b).

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85. Roman Catholic Archbishop of Los Angeles v. Superior Court

Court of Appeal of California, Second Appellate District, Division Three | Jul 25, 2005 | 131 Cal. App. 4th 417

Overview: Documents made in the course of “troubled-priest interventions” by an archdiocese had to be disclosed in a grand jury investigation into allegations of child molestation by priests. The documents were not privileged under Cal. Evid. Code § 1032 because both parties to the original communications knew they would be transmitted to a third person.

HN3 - The first of the two religion clauses of the First Amendment, commonly called the Establishment Clause, commands a separation of church and state. The second, the Free Exercise Clause, requires government respect for, and noninterference with, the **religious beliefs** and practices of our Nation's people. The First Amendment safeguards the free exercise of the chosen form of religion. Thus the amendment embraces two concepts, freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society.

HN7 - The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, cannot depend on measuring the effects of a governmental action on a **religious** objector's spiritual development. To make an individual's obligation to obey such a law contingent upon the law's coincidence with his **religious beliefs**, except where the State's interest is compelling -- permitting him, by virtue of his **beliefs**, to become a law unto himself -- contradicts both constitutional tradition and common sense.

HN6 - In addressing the **constitutional protection** for free exercise of religion, U.S. Supreme Court cases establish the general proposition that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. A law failing to satisfy these requirements must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest.

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86. Dayton Christian Sch. v. Ohio Civil Rights Comm'n

United States Court of Appeals for the Sixth Circuit | Jun 26, 1985 | 766 F.2d 932

Overview: The U.S. Constitution's First Amendment proscribed application of the Ohio Civil Rights Act to religious employer as it placed an undue burden on its religious beliefs and there were less drastic means to further the state's interest.

HN6 - The U.S. Supreme Court has repeatedly recognized parents' special interest in guiding and providing the education of their children consonant with their own **religious beliefs**.

HN10 - Consideration of a challenge to governmental action under the Free Exercise Clause requires that first a court identify the nature and extent to which the state action interferes with or burdens the free exercise of appellants' **religious beliefs**. A regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion. Second, the state may justify a limitation on **religious** liberty by showing that it is essential to accomplish an overriding governmental interest. Inherent in determining whether the limitation is essential to the governmental interest is consideration of whether accommodation by the state would unduly interfere with fulfillment of the governmental interest, and whether the governmental regulation is the least restrictive means of promoting the governmental interest.

HN2 - Whether or not adherence to a particular philosophy constitutes a **religious** belief entitled to **constitutional protection** is a question of fact.

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87. Grace United Methodist Church v. City of Cheyenne

United States District Court for the District of Wyoming | Dec 16, 2002 | 235 F. Supp. 2d 1186

Overview: Genuine issues existed as to whether a church's proposed day care facility was a religious exercise, and if so, whether it was substantially burdened by a city's denial of a license; other claims failed because there was only an incidental burden.

HN13 - Under the **Religious** Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.S. § 2000cc et seq., the substantial burden imposed by the local government must be on a "sincere" exercise of religion. Whether **religious beliefs** are sincerely held is a question of fact. A **religious** belief is sincere if it is truly held and **religious** in nature. A mere allegation of sincere **religious** belief is insufficient to preclude summary judgment.

HN11 - The United States Supreme Court has articulated the substantial burden test differently over the years. It has stated that for a governmental regulation to substantially burden **religious** activity, it must have a tendency to coerce individuals into acting contrary to their **religious beliefs**. Conversely, a government regulation does not substantially burden **religious** activity when it only has an incidental effect that makes it more difficult to practice the religion. Thus, for a burden on religion to be substantial, the government regulation must compel action or inaction with respect to the sincerely held belief; mere inconvenience to the **religious** institution or adherent is insufficient.

HN17 - The Free Exercise Clause provides absolute protection to **religious beliefs** and opinions. However, Congress and local governments may validly regulate **religious** conduct. The Free Exercise Clause does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).The Supreme Court's Free Exercise cases firmly establish the general proposition that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. A law failing to satisfy these requirements (i.e., is not neutral or generally applicable) must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest.

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88. Luken v. Brigano

Court of Appeals of Ohio, Twelfth Appellate District, Warren County | Sep 29, 2003 | 154 Ohio App. 3d 531

Overview: Policy instituted by agency prohibiting employee from growing his hair long did not violate his right of conscience. There was no such right separate from protection afforded to religious rights; employee admitted that his belief was not religious.

HN9 - In the context of Ohio Const. art. I, § 7, the first sentence defines the right intended, namely, the natural and indefeasible right to worship Almighty God which precludes an interpretation that a right of conscience unconnected with religion is intended to be protected by Ohio Const. art. I, § 7. The word "conscience" is to be taken in a **religious** context, not a secular context. The word "conscience" denotes a sense of moral goodness as to which conduct is right and which is wrong. In a secular sense, such intellectual feelings may vary from person to person, but they are protected by Ohio Const. art. I, § 7 only when predicated upon bona fide **religious beliefs**, even though the word "conscience" in a secular sense necessarily includes moral and philosophical views not within the confines of established religion. Such secular concepts of "conscience" may have some **constitutional protection**, but such protection is not afforded by Ohio Const. art. I, § 7.

HN10 - A determination of what is a "**religious**" belief or practice entitled to **constitutional protection** presents a most delicate question. However, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests. One test used in Ohio to determine whether **beliefs** are **religious** in nature is whether a given belief occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God. Although this is an encompassing definition, more than a personal or philosophical belief is required. A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation if it is based on purely secular considerations; to have the protection of the religion clauses, the claims must be rooted in **religious** belief. In discussing this issue, the United States Supreme Court has analogized personal **beliefs** to that of Thoreau's choice to isolate himself from the social values of his time and found that Thoreau's choice was philosophical and personal rather than **religious**, and such belief does not rise to the demands of the religion clauses.

HN6 - In the context of freedom of religion under the Ohio Constitution, before analyzing the state action with the a test regarding neutral, evenly applied governmental actions, a person must state a prima facie free exercise claim by establishing that his **religious beliefs** are truly held and that the governmental enactment had a coercive affect against him in the practice of his religion.

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89. Grove v. City of York

United States District Court for the Middle District of Pennsylvania | Jun 09, 2004 | 342 F. Supp. 2d 291

Overview: Police officers violated plaintiffs' rights to free speech, assembly, and free exercise of religion by confiscating signs containing pictures of aborted fetuses that plaintiffs carried along a parade route.

HN16 - The Free Exercise Clause means that individuals have the right to profess and believe whatever **religious beliefs** they desire. The free exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires.

HN26 - It is clear that a government actor may not infringe upon free assembly rights absent a compelling government interest and, then, only to the extent that its action is narrowly tailored to that interest. It is immaterial whether the **beliefs** sought to be advanced by association pertain to political, economic, **religious** or cultural matters, and state action which may have the effect of curtailing the freedom to assemble is subject to the closest scrutiny. The same is true under the Free Exercise Clause. The government may not burden conduct motivated by a sincerely held **religious** belief unless the government acts by the least restrictive means to further a compelling state interest.

HN7 - The First Amendment protects speech and other expressive activity in public places. The degree of protection depends upon the **type** of forum at issue.

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90. Wiley Mission v. New Jersey, Dep't of Cmty. Affairs

United States District Court for the District of New Jersey | Aug 25, 2011 | 2011 U.S. Dist. LEXIS 96473

Overview: Strict scrutiny applies regarding plaintiff church's freedom-of-association claim because it was an "expressive association," and, as defendant state presented no evidence that N.J. Stat. Ann. § 52:27D-345(e) was narrowly tailored to protect senior citizens, the court permanently enjoined the state from enforcing the statute against the church.

HN11 - When a party challenges a law because it interferes with a **religious** practice, the Supreme Court's First Amendment jurisprudence has two divergent branches. First, the First Amendment obviously prohibits direct governmental regulation of **religious beliefs** as such. The government may not compel affirmation of **religious beliefs**, punish the expression of **religious** doctrine it believes to be false, impose special disabilities on the basis of **religious** views or **religious** status, or lend its power to one or the other side in controversies over **religious** authority or dogma. Thus, the First Amendment protects churches' power to decide for themselves, free from state interference, matters of church government. The state may not directly regulate the internal organization of **religious** organizations. Such laws are unconstitutional unless they are narrowly tailored to advance a compelling governmental interest. Second, a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. Such laws are constitutional if they satisfy the Fourteenth Amendment's universal requirement that laws be rationally related to a legitimate governmental purpose.

HN13 - In determining whether a law is neutral and of general applicability, the U.S. Supreme Court has held that a law is not neutral if the object of the law is to infringe upon or restrict practices because of their **religious** motivation. There are, of course, many ways of demonstrating that the object or purpose of a law is the suppression of religion or **religious** conduct. To determine the object of a law, a court must begin with its text, for the minimum requirement of neutrality is that a law not discriminate on its face. A law lacks facial neutrality if it refers to a **religious** practice without a secular meaning discernible from the language or context. Facial neutrality is not determinative. The Free Exercise Clause, like the Establishment Clause, extends beyond facial discrimination. The Clause forbids subtle departures from neutrality, and covert suppression of particular **religious beliefs**. Official action that targets **religious** conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality. The Free Exercise Clause protects against governmental hostility which is masked as well as overt. The court must survey meticulously the circumstances of governmental categories to eliminate, as it were, **religious** gerrymanders.

HN22 - The right to intimate association emanates from general constitutional principles of individual liberty and applies only to certain kinds of highly personal relationships such as marriage and family relationships, which are essential to the ability independently to define **one's** identity that is central to any concept of liberty. Neither the U.S. Supreme Court nor the United States Court of Appeals for the Third Circuit has held that the relationship between persons who choose to associate for **religious** purposes is an intimate association entitled to **constitutional protection**.

91. Stevens v. Berger

United States District Court for the Eastern District of New York | Mar 03, 1977 | 428 F. Supp. 896

Overview: Denying to parents and their children public assistance benefits for which they otherwise qualified solely because they refused, for religious reasons, to obtain social security numbers for the children was improper. Injunctive relief was warranted.

HN6 - Under the United States Constitution, an individual's right to believe in anything he or she chooses is unquestioned. **Religious beliefs** are not required to be consistent, or logical, or acceptable to others. Governmental questioning of the truth or falsity of the **beliefs** themselves is proscribed by the First Amendment. A **religious** belief can appear to every other member of the human race preposterous, yet merit the protections of the Bill of Rights. Popularity, as well as verity, are inappropriate criteria.

HN7 - Freedom of thought, which includes freedom of **religious** belief, is basic in a society of free men. It embraces the right to maintain theories of life and of death and of the hereafter which are rank heresy to followers of the **orthodox** faiths. Heresy trials are foreign to the United States Constitution. Men may believe what they cannot prove. They may not be put to the proof of their **religious** doctrines or **beliefs**. **Religious** experiences which are as real as life to some may be incomprehensible to others. The Fathers of the Constitution were not unaware of the varied and extreme views of **religious** sects, of the violence of disagreement among them, and of the lack of any one **religious** creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his **religious** views.

HN9 - In order to determine if First Amendment rights of free exercise of religion have been or are being infringed upon, a court must initially determine whether or not a religion or **religious beliefs** are actually involved. The task is, of course, greatly simplified where an historically established and recognized religion such as Islam, Judaism or Catholicism is involved. But where a newly established allegedly legitimate religion is involved the court is necessarily put to the difficult task of determining whether a religion or **religious** activity is in fact involved.

92. Smith v. Fair Employment & Hous. Com

Supreme Court of California | Apr 09, 1996 | 12 Cal. 4th 1143

Overview: Requiring landlord to comply with the Fair Employment and Housing Act's antidiscrimination provisions by renting to unmarried couples did not substantially burdened her religious exercise right.

HN14 - Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit U.S. Const. amend. I, protection. Instead, all that is necessary to establish the required sincerity is "an honest conviction" that **one's** religion prohibits the conduct required by law.

HN13 - Read together, the **Religious** Freedom Restoration Act (RFRA), 42 U.S.C.S. § 200bb et seq., the decisions interpreting RFRA, and the decisions interpreting the free exercise clause prescribe the following analysis for cases in which a neutral, generally applicable law is claimed to burden the exercise of religion: (1) The burden must fall on a **religious** belief rather than on a philosophy or a way of life. (2) The burdened **religious** belief must be sincerely held. (3) The plaintiff must prove the burden is substantial or, in other words, legally significant. (4) If all of the foregoing are true, the government must demonstrate that application of the burden to the person is in furtherance of a compelling governmental interest; and is the least restrictive means of furthering that compelling interest. 42 U.S.C.S. §§ 2000bb-1(b).

HN17 - Where the state conditions receipt of an important benefit upon conduct proscribed by a **religious** faith, or where it denies such a benefit because of conduct mandated by **religious** belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his **beliefs**, a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.

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93. Peterson v. Wilmur Communs., Inc.

United States District Court for the Eastern District of Wisconsin | Jun 03, 2002 | 205 F. Supp. 2d 1014

Overview: Employee demoted after he was interviewed in a local newspaper about his white supremacist beliefs was granted summary judgment on his Title VII religious discrimination claims where his demotion immediately followed the newspaper's publication.

HN7 - A test has emerged to determine whether **beliefs** are a religion for purposes of Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. § 2000e et seq. The test requires courts take a functional approach and ask whether a belief "functions as" religion in the life of the individual before the court. Stated another way, the court should find **beliefs** to be a religion if they occupy the same place in the life of the individual as an **orthodox** belief in God holds in the life of one clearly qualified. To satisfy this test, the plaintiff must show that the belief at issue is "sincerely held" and **religious** in his or her own scheme of things. In evaluating whether a belief meets this test, courts must give "'great weight'" to the plaintiff's own characterization of his or her **beliefs** as **religious**. To be a religion under this test, a belief system need not have a concept of a God, supreme being, or afterlife, or derive from any outside source. Purely "moral and ethical **beliefs**" can be **religious** so long as they are held with the strength of **religious** convictions. Courts also should not attempt to assess a belief's "truth" or "validity." So long as the belief is sincerely held and is **religious** in the plaintiff's scheme of things, the belief is **religious** regardless of whether it is "acceptable, logical, consistent, or comprehensible to others.

HN9 - Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. § 2000e et seq., proscribes two different types of **religious** discrimination--discrimination on the basis of a **religious** observance or practice and discrimination on the basis of pure belief. 42 U.S.C.S. § 2000e(j). These two types of discrimination are analyzed differently. When an employee shows that her employer took an adverse employment action against her on the basis of a **religious** observance or practice, the employer can avoid liability by showing either that it reasonably accommodated the employee's observance or practice, or that accommodation of the observance or practice would result in an undue hardship for the employer. However, when an employee shows that her employer took an adverse action against her on the basis of her **religious beliefs**, and not because of an observance or practice, the employer is liable. 42 U.S.C.S. § 2000e(j).

HN13 - Under the Free Exercise Clause, it is well-established that pure belief is absolutely protected. The free exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires. Thus, U.S. Const. amend. I obviously excludes all governmental regulation of **religious beliefs** as such.

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94. Freedom from Religion Found., Inc. v. Obama

United States District Court for the Western District of Wisconsin | Apr 15, 2010 | 705 F. Supp. 2d 1039

Overview: Statute creating the National Day of Prayer, 36 U.S.C.S. § 119, violated the Establishment Clause of the First Amendment because it went beyond mere acknowledgment of religion as its sole purpose was to encourage all citizens to engage in prayer, an inherently religious exercise that served no secular function in that context.

HN2 - When the government associates one set of **religious beliefs** with the state and identifies nonadherents as outsiders, it encroaches upon the individual's decision about whether and how to worship.

HN4 - **Religious** freedom under the First Amendment contains two components, the right to practice **one's** religion without undue interference under the Free Exercise Clause and the right to be free from disfavor or disparagement on account of religion under the Establishment Clause. All three branches of government engage in a constant struggle to balance these competing rights, to protect **religious** freedom without denigrating any particular **religious** viewpoint. While the two Clauses express complementary values, they often exert conflicting pressures.

HN15 - Government may not promote or affiliate itself with any **religious** doctrine or organization, may not discriminate among persons on the basis of their **religious beliefs** and practices, may not delegate a governmental power to a **religious** institution, and may not involve itself too deeply in such an institution's affairs.

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95. Simpson v. Chesterfield County Bd. of Supervisors

United States District Court for the Eastern District of Virginia, Richmond Division | Nov 13, 2003 | 292 F. Supp. 2d 805

Overview: County board's policy of letting only representatives of what it defined as American civil religion, which referred only to monotheistic faiths of Judeo-Christian tradition, to offer invocations violated Wiccan's rights under Establishment Clause.

HN19 - The government's use of **religious** symbolism is unconstitutional if it has the effect of endorsing **religious beliefs**, and the effect of the government's use of **religious** symbolism depends upon its context. When evaluating the effect of government conduct under the Establishment Clause, a court must ascertain whether the challenged governmental action is sufficiently likely to be perceived by adherents of the

controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual **religious** choices.

HN7 - "Legislative prayer," is prayer authorized by a governing body that is typically intended to instill a sense of purpose and solemnity over its proceedings and actions or for other comparable motivational objectives. Legislative prayer is not unconstitutional, per se: In light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke Divine guidance on a public body entrusted with making the laws is not, in these circumstances, an "establishment" of religion or a step toward establishment; it is simply a tolerable acknowledgment of **beliefs** widely held among the people of this country.

HN9 - There are limitations to legislative prayer, including the caveat that a governmental policy or practice providing for legislative prayer cannot be promulgated or maintained on the basis of impermissible motive. The concept of "impermissible motive" in the context of legislative prayer includes a prohibition against utilizing prayer to proselytize or advance any particular religion by sanctioning a preference for a particular set of **beliefs** as well as a prohibition against the disparagement of other faiths and **beliefs**. The purpose for such a prohibition is, at a minimum, to preclude a governmental body from establishing a particular religion as the sanctioned or official religion of the legislative body.

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96. DeBruin v. St. Patrick Congregation

Supreme Court of Wisconsin | Jul 12, 2012 | 2012 WI 94

Overview: A court could not review a claim that a church improperly terminated its ministerial employee because the church's choice of who was to serve as its ministerial employee was a matter of church governance protected from state interference by the First Amendment and by Wis. Const. art. I, § 18.

HN16 - The First Amendment grants a church free choice in deciding that a ministerial employee should be terminated because it is that **type** of employee who will preach **religious** institutions' **beliefs**, teach their faith, and carry out their mission. When a ministerial employee sues her **religious** employer to contest the validity of the reason for which she was fired, the First Amendment has struck the balance. The church must be free to choose those who will guide it on its way. Stated otherwise, the First Amendment restrains the state from invalidating the institution's reasons that underlie its choice.

HN20 - The First Amendment does not permit the state to interfere with a church's free exercise of the choice of **religious** minister for its **religious beliefs**.

HN1 - The term "ministerial employee" refers to a certain **type** of employee of a **religious** institution whose work is fundamentally tied to the institution's **religious** mission.

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97. Bible Believers v. Wayne County

United States Court of Appeals for the Sixth Circuit | Oct 28, 2015 | 805 F.3d 228

Overview: At Arab festival in which plaintiffs engaged in Christian proselytizing, defendants violated plaintiffs' First Amendment rights because deputies impermissibly effectuated heckler's veto by cutting off plaintiffs' protected speech in response to hostile crowd's reaction and placed undue burden on exercise of religion solely due to views espoused.

HN5 - The First Amendment offers sweeping protection that allows all manner of speech to enter the marketplace of ideas. This protection applies to loathsome and unpopular speech with the same force as it does to speech that is celebrated and widely accepted. The protection would be unnecessary if it only served to safeguard the majority views. In fact, it is the minority view, including expressive behavior that is deemed distasteful and highly offensive to the vast majority of people, that most often needs protection under the First Amendment. If it is the speaker's opinion that gives offense, that consequence is a reason for according it **constitutional protection**. **Religious** views are no different. After all, much political and **religious** speech might be perceived as offensive to some. Accordingly, the right to free speech includes the right to attempt to persuade others to change their views, and may not be curtailed simply because the speaker's message may be offensive to his audience. Any other rule would effectively empower a majority to silence dissidents simply as a matter of personal predilections.

HN22 - The right to free exercise of religion includes the right to engage in conduct that is motivated by the **religious beliefs** held by the individual asserting the claim. The government cannot prohibit an individual from engaging in **religious** conduct that is protected by the First Amendment.

HN17 - In a balance between two important interests—free speech on one hand, and the state's power to maintain the peace on the other—the scale is heavily weighted in favor of the First Amendment. Maintenance of the peace should not be achieved at the expense of the free speech. The freedom to espouse sincerely held **religious**, political, or philosophical **beliefs**, especially in the face of hostile opposition, is too important to our democratic institution for it to be abridged simply due to the hostility of reactionary listeners who may be offended by a speaker's message. If the mere possibility of violence were allowed to dictate whether our views, when spoken aloud, are safeguarded by the Constitution, surely the myriad views that animate our discourse would be reduced to the standardization of ideas by the dominant political or community groups. Democracy cannot survive such a deplorable result.

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98. ⚠ Archdiocese v. Moersen

Court of Appeals of Maryland | Jun 14, 2007 | 399 Md. 637

Overview: Free Exercise Clause and Md. Const. Decl. Rights art. 36 did not preclude organist's employment discrimination claims under Title VII of Civil Rights Act of 1964. Organist was not covered by ministerial exceptions under 42 U.S.C.S. §§ 2000e-1(a) and 2000e-2(e) as his role did not involve church governance, or require spreading of faith.

HN1 - The First Amendment provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. amend. I. These **religious** prohibitions are applied to the States through the Fourteenth Amendment. The Free Exercise Clause prohibits government regulation of **religious beliefs**. Legitimate claims to free exercise, however, can be outweighed by government interests, albeit only those of the highest importance.

HN9 - The Maryland Court of Appeals, in addition to recognizing the Title VII exception insulating **religious** organizations from sanction for discrimination when making employment decisions, based on **religious beliefs**, even with respect to the protected classes of race, color, sex, and national origin, the other protected classes, has recognized that under Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. § 2000e et seq. (1964), the Free Exercise Clause of the First Amendment precludes the application of these Title VII provisions to employment decisions by **religious** organizations concerning ministers, teachers, and other employees whose duties are "integral to the spiritual and pastoral mission" of the **religious** organization. Other courts have done so as well. In other words, engrafting a ministerial exception onto the Title VII protected classes allows the church significant latitude in its employment decisions when the employee in question has duties that are integral to the **religious** mission.

HN4 - Under the Free Exercise Clause, strict scrutiny is used to evaluate whether laws target **religious** practices or impose burdens, motivated by **religious** belief, on conduct. Moreover, the United States Supreme Court has noted a spirit of freedom for **religious** organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no improper methods of choice are proven, must be said to have federal **constitutional protection** as a part of the free exercise of religion against state interference.

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99. United States v. Kahane

United States District Court for the Eastern District of New York | May 07, 1975 | 396 F. Supp. 687

Overview: Defendant, who was an orthodox Jewish rabbi, was entitled to an order accompanying his sentence that allowed him to conform to his Jewish dietary laws.

HN13 - The government is entitled to make some effort to determine the sincerity of **religious beliefs** where obligations and rights flow from that determination. But such inquiry must proceed cautiously since the state should generally avoid placing itself in the position of deciding which **religious** claims are meritorious.

HN14 - The state, through the establishment clause, cannot require persons to worship in particular ways and cannot aid, endorse, or promote particular religions. But where the government has total control over people's lives, as in prisons, a niche has necessarily been carved into the establishment clause to require the government to afford opportunities for worship. The free exercise clause embraces both the freedom to believe and the freedom to act according to those **beliefs**. The government, in its control of prisons, is precluded from denying **religious** observance to inmates. Its obligation to permit **religious** observances is an extension of the position that no one can be burdened or punished by the state for having the wrong **religious beliefs**. Thus, in the prison setting the establishment clause has been interpreted in the light of the affirmative demands of the free exercise clause.

HN15 - The door of the Free Exercise Clause, U.S. Const. amend. I, stands tightly closed against any governmental regulation of **religious beliefs** as such.

100. Bandstra v. Covenant Reformed Church

Supreme Court of Iowa | Jun 01, 2018 | 913 N.W.2d 19

Overview: Summary judgment was properly granted on all the defamation claims because the claimants had not adduced any evidence to demonstrate the elders were negligent in their communications or otherwise responsible for the story ultimately ending up in the press.

HN17 - Whether a church reasonably should have foreseen the risk of harm to third parties is a neutral principle of tort law. The right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes). The First Amendment does not categorically insulate **religious** relationships from judicial scrutiny, for to do so would necessarily extend **constitutional protection** to the secular components of these relationships. Categorical immunity impermissibly places a **religious** leader in a preferred position in our society.

HN6 - The United States and Iowa Constitutions instruct that governing bodies shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. Amend. I; Iowa Const. art. I, § 3. The Free Exercise Clause preserves the right to believe and profess whatever **religious** doctrine one desires. The government therefore may not compel affirmation of **religious** belief, punish the expression of **religious** doctrines it believes to be false, impose special disabilities on the basis of **religious** views or **religious** status, or lend its power to one or the other side in controversies over **religious** authority or dogma.

HN7 - The Establishment Clause forbids an official purpose to disapprove of a particular religion or of religion in general. The Establishment Clause guards against sponsorship, financial support, and active involvement of the sovereign in **religious** activity.

101. State v. Cordingley

Court of Appeals of Idaho | Mar 21, 2013 | 154 Idaho 762

Overview: The denial of defendant's motion to dismiss changes for possession of marijuana and paraphernalia against him on the basis his right to religious freedom under the Idaho Free Exercise of Religion Protected Act was proper because he failed to show his use of marijuana as a member of a cognitive therapy church comprised n exercise of "religion."

HN10 - The fact the **Religious** Freedom Restoration Act (RFRA) was held to be unconstitutional as applied to the states is irrelevant; it continues to be applicable as to federal law, and we specifically noted in White that the caselaw interpreting the RFRA is instructive in interpreting the Idaho Free Exercise of Religion Protected Act (FERPA), Idaho Code Ann. §§ 73-401 to 73-404, given that the Idaho legislature explicitly indicated it intended to adopt the RFRA's compelling interest test. Just because an individual has claimed that his impetus for smoking marijuana is **religious**, does not make it so for the purposes of the FERPA. To establish a free exercise defense, a defendant must first show that his religion is bona fide and, by extension, that his conduct is actually motived by statutorily-recognized **religious beliefs**.

HN12 - Courts may not consider whether the party's purportedly **religious beliefs** are true or false. U.S. Const. amend. I does not select any one group or any one **type** of religion for preferred treatment. It puts them all in that position. The United States Supreme Court has held that **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit U.S. Const. amend. I protection. If there is any doubt about whether a particular set of **beliefs** constitutes a religion, the court will err on the side of freedom and find the **beliefs** are a religion.

HN20 - A hallmark of **religious** ideas is that they are comprehensive. More often than not, such **beliefs** provide a telos, an overreaching array of **beliefs** that coalesce to provide the believer with answers to many, if not most, of the problems and concerns that confront humans. **Religious beliefs** generally are not confined to one question or a single teaching.

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102. State v. Bontrager

Court of Appeals of Ohio, Third Appellate District, Hardin County | Oct 17, 1996 | 114 Ohio App. 3d 367

Overview: Although defendant held his religious beliefs sincerely, the hunter orange deer hunting requirement did not infringe upon his religious practices, and the State did have inherent compelling interests involved in regulating firearms.

HN5 - The test to ascertain the sincerity of defendant's **religious beliefs** is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God. Although this is an encompassing definition, satisfaction requires more than a personal or philosophical belief.

HN4 - This test to review a regulation under the Free Exercise Clause of the Ohio Constitution is first, whether a defendant's **religious beliefs** are sincerely held; second, whether the regulation at issue infringes upon a defendant's constitutional right to freely engage in the **religious** practices, and; third, whether the state has demonstrated a compelling interest for enforcement of the regulation and that the regulation is written in the least restrictive means.

HN6 - When one is forced to choose between following the precepts of the religion and forfeiting governmental benefits, on one hand, and abandoning one of the precepts of the religion in order to accept work, on the other hand, free exercise of religion has been impaired. In other words, government cannot condition benefits or privileges on conduct which causes an individual to violate **religious beliefs**.

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103. Douglas County v. Anaya

Supreme Court of Nebraska | Mar 25, 2005 | 269 Neb. 552

Overview: Trial court did not err in denying that Neb. Rev. Stat. § 71-519 (2002), requiring testing of newborns for treatable genetic disorders, violated parents' religious freedoms as State had interest in

health and welfare of children born in state, § 71-519's purpose to protect that health and welfare had rational basis, and § 71-519 was constitutional.

HN8 - To be found constitutional, a neutral law of general applicability does not require demonstration of a compelling governmental interest. In addressing the **constitutional protection** for free exercise of religion, cases establish the general proposition that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice.

HN17 - Neb. Rev. Stat. § 71-519 (2002), requiring testing of newborns for treatable genetic disorders, is a neutral law of general applicability. It is generally applicable to all babies born in the state and does not discriminate as to which babies must be tested. Its purpose is not directed at **religious** practices or **beliefs**.

HN3 - The free exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires. The exercise of religion involves not only belief and profession but the performance of (or abstention from) physical acts.

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104. Cantrell v. Rumman

United States District Court for the Northern District of Illinois, Eastern Division | Feb 09, 2005 | 2005 U.S. Dist. LEXIS 9512

Overview: State regulations requiring citizens to obtain permits for distribution of leaflets or exhibits at government buildings were in violation of the First Amendment on their face because they contained content-based restrictions that were not narrowly tailored to protect only compelling state interests and left too much discretion for permit denials.

HN5 - The hand **distribution** of **religious** tracts is an **age-old** form of missionary **evangelism**--as old as the history of printing presses. It has been a potent force in various **religious** movements down through the years. This form of **religious** activity occupies the same **high** estate under the First Amendment as do worship in the churches and **preaching** from the pulpits.

HN1 - A permanent injunction is not a remedy which issues as of course or to restrain an act the injurious consequences of which are merely trifling. In determining whether to grant permanent injunctive relief, a court must consider four factors: (1) whether the plaintiff has succeeded on the merits; (2) whether the plaintiff has an adequate remedy at law or will be irreparably harmed if denied the injunction; (3) whether the injury to the plaintiff is greater than the harm the injunction will inflict on the defendants; and (4) whether granting the injunction will harm the public interest. The plaintiff's burden in demonstrating that he is entitled to a permanent injunction is particularly **high** because a permanent injunction is not provisional or temporary in nature, but rather stands as a final judgment.

HN4 - Private **religious** speech is at the core of First Amendment protections. Indeed, in Anglo-American history, at least, government suppression of speech has so commonly been directed precisely at **religious** speech that a free-speech clause without religion would be Hamlet without the prince. Accordingly, we have not excluded from free-speech protections **religious** proselytizing or even acts of worship.

105. Potter v. Murray City

United States District Court for the District of Utah, Central Division | Apr 27, 1984 | 585 F. Supp. 1126

Overview: A police officer who was fired for committing polygamy did not have a constitutional right to retain his employment under the circumstances because the state had a compelling interest in prohibiting polygamy.

HN21 - There appear to be no reasonable alternatives to the prohibition of the practice of polygamy to meet the compelling state interest found in the maintenance of the system of monogamy upon which its social order is now based. Any broad exception to that prohibition in cases of polygamy sincerely practiced as a "**religious**" belief would engulf the prohibition itself with ever extending and complicating exceptions based largely on subjective claims, irremediably eroding the police power of the state and its compelling interest. To maintain an organized society that guarantees **religious** freedom to a great variety of faiths requires that some **religious** practices yield to the common good. While **religious** action as well as **religious beliefs** can often be accommodated, there is a point at which accommodation would radically restrict the operating latitude of the legislature.

HN3 - Where a legislative classification works to the disadvantage of a constitutionally sensitive class, based for example, on race, nationality, alienage or **religious** affiliation, the courts may uphold the classification only if it is precisely tailored to serve a compelling governmental interest. If the legislative classification impinges upon the exercise of a fundamental personal right, the classification must meet the same exacting "compelling interest" standard. If the legislative classification neither impinges on a fundamental personal right nor employs an inherently suspect classification, the courts will generally uphold the classification if it is rationally related to a legitimate state interest.

HN7 - Perfect toleration of **religious** sentiment is guaranteed. No inhabitant of this state shall ever be molested in person or property on account of his or her mode of **religious** worship; but polygamous or plural marriages are forever prohibited. Utah Const. art. III.

106. Gibson v. Brewer

Court of Appeals of Missouri, Western District | Mar 05, 1996 | 1996 Mo. App. LEXIS 347

Overview: Civil claims of negligent hiring against the diocese violated the First Amendment because of excessive entanglement with religion, but the diocese had a duty to supervise the priest who allegedly touched the minor in a sexual manner.

HN2 - **Religious** institutions are not immune from tort liability, the doctrine of **religious** or charitable immunity having been abolished in Missouri. Likewise, the First Amendment is not construed to create blanket tort immunity for **religious** institutions or their clergy. When protection is sought under the Free Exercise Clause of the First Amendment, a court must determine whether the defendant's conduct involves

religious beliefs or practices. If no legitimate **religious beliefs** or practices are at issue, then the free-exercise defense becomes frivolous.

HN3 - The First Amendment does not protect inappropriate physical contact between a priest and a minor. Such conduct is not in any way related to the teachings, **beliefs** or practices of the Catholic Church. Conduct or actions, which pose some substantial threat to public safety, peace, or order may be subject to governmental regulation, even though prompted by **religious beliefs** or principles.

HN5 - A diocese, although a **religious** organization, is also a member of society at large and can be bound to neutral laws of general applicability without offending the First Amendment. Its activities, as opposed to **beliefs**, cannot be totally autonomous from the state when it comes to matters of **high** order, such as health, safety, and public peace.

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107. Petruska v. Gannon Univ.

United States Court of Appeals for the Third Circuit | May 24, 2006 | 448 F.3d 615

Overview: District court erred in dismissing Title VII of the Civil Rights Act of 1964 claims brought by a former employee of a Catholic university who alleged that she was demoted based on sex and not for any religious reason; the Title VII ministerial exception did not apply where an employment decision was not motivated by religious belief or doctrine.

HN2 - The United States Court of Appeals for the Third Circuit adopts a carefully tailored version of the ministerial exception to Title VII of the Civil Rights Act of 1964. Where otherwise illegal discrimination is based on **religious** belief, **religious** doctrine, or the internal regulations of a church, the First Amendment exempts **religious** institutions from Title VII. In such cases, restricting a church's freedom to select its ministers would violate the Free Exercise Clause of the First Amendment by inhibiting the church's ability to express its **beliefs** and put them into practice. Furthermore, questions about **religious** matters would pervade litigation, entangling courts in ecclesiastical matters and violating the Establishment Clause of the First Amendment. But where a church discriminates for reasons unrelated to religion, the U.S. Constitution does not foreclose Title VII suits.

HN20 - **Religious** organizations are bound by neutral laws of general applicability that do not require inquiry into **religious** doctrine.

HN28 - If a **religious** employer fires a ministerial employee for reasons related to faith, doctrine, or internal regulation, a judgment against the church would punish the church for expressing its **beliefs**. But where an employment decision is devoid of **religious** or doctrinal content, and is based solely on sexism, the United States Court of Appeals for the Third Circuit fails to see how the decision relates to the free exercise of religion.

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108. Cambodian Buddhist Soc'y of CT., Inc. v. Newtown Planning & Zoning Comm'n

Superior Court of Connecticut, Judicial District of Danbury, At Danbury | Nov 18, 2005 | 2005 Conn. Super. LEXIS 3158

Overview: Religious society did not show zoning commission placed substantial burden on its exercise of religion, as required to show violations of Religious Freedom Act, Conn. Gen. Stat. § 52-571b, and Religious Land Use and Institutionalized Persons Act, 42 U.S.C.S. § 2000cc(a)(1), when it denied special exception for society to build place of worship.

HN22 - A substantial burden is a direct coercion that forces adherents to forgo **religious** precepts. The "substantial burden" requirement under the **Religious** Land Use and Institutionalized Persons Act sets a **high** threshold for aggrieved parties attempting to establish a prima facie case. A government regulation imposes a substantial burden on **religious** exercise only if it pressures or forces a choice between following **religious** precepts and forfeiting certain benefits, on the one hand, and abandoning one or more of those precepts in order to obtain the benefits, on the other.

HN14 - To establish a prima facie case under the **Religious** Land Use and Institutionalized Persons Act, a **religious** group must allege facts sufficient to show that the zoning commission's conduct in denying an application: (1) imposes a substantial burden; (2) on the **religious** exercise; (3) of a person, institution or assembly.

HN16 - To invoke the protection of **Religious** Land Use and Institutionalized Persons Act, a plaintiff bears the burden of first demonstrating that the denial of its application substantially burdens its **religious** exercise. If the plaintiff makes such a showing, then the burden shifts to the local government to demonstrate that the challenged imposition or implementation of the land use regulation is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000cc(a)(1)(A)-(B).

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109. Tenafly Eruv Ass'n v. Borough of Tenafly

United States Court of Appeals for the Third Circuit | Oct 24, 2002 | 309 F.3d 144

Overview: A borough's selective, discretionary application of an ordinance not allowing lechis to remain on utility poles in order to form an eruv violated plaintiff Orthodox Jews' Free Exercise rights; allowing the lechis would be neutral, not an endorsement.

HN26 - Neither the United States Supreme Court nor the United States Court of Appeals for the Third Circuit has intimated that only compulsory **religious** practices fall within the ambit of the Free Exercise Clause. To the contrary, the Third Circuit has said in an en banc decision that conduct implicates the Free Exercise Clause if it is motivated by **beliefs** which are both sincerely held and **religious** in nature without regard to whether it is mandatory.

HN6 - The First Amendment's Free Speech Clause provides that Congress shall make no law abridging the freedom of speech. U.S. Const. amend. I. "Speech" is not construed literally, or even limited to the use

of words. **Constitutional protection** is afforded not only to speaking and writing, but also to some nonverbal acts of communication, viz., "expressive conduct" (or "symbolic speech").

HN10 - The United States Supreme Court's unanimous 1995 opinion, Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, modified somewhat the test for determining when conduct constitutes "speech." A narrow, succinctly articulable message is not a condition of **constitutional protection**, which if confined to expressions conveying a particularized message, would never reach the unquestionably shielded painting of Jackson Pollak, music of Arnold Schoenberg, or Jabberwocky verse of Lewis Carroll. By establishing that a private speaker does not forfeit **constitutional protection** simply by combining multifarious voices, or by failing to edit their themes to isolate an exact message as the exclusive subject matter of the speech, Hurley eliminated the "particularized message" aspect of the Spence-Johnson test.

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110. Elsinore Christian Ctr. v. City of Lake Elsinore

United States District Court for the Central District of California | Aug 21, 2003 | 291 F. Supp. 2d 1083

Overview: Section 2(a) of the Religious Land Use and Institutionalized Persons Act exceeded Congress's power under the Fourteenth Amendment and the Commerce Clause and was therefore unconstitutional.

HN36 - Under the **Religious** Land Use and Institutionalized Persons Act of 2000, 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), a church's status as a **religious** institution entitles it to strict scrutiny review of any governmental action restricting its **religious** use of land, regardless of the degree to which that action fails to take account of **religious** hardship, or relates to or impinges upon the church's central **religious beliefs** or mission.

HN13 - Under established free exercise jurisprudence, the question whether state action imposes a "substantial burden on **religious** exercise" turns largely on whether the conduct curtailed or mandated by the state would cause an adherent to modify his behavior and to violate his **beliefs**. In other words, a "substantial burden on **religious** exercise" accrues only where compliance with governmentally dictated or proscribed behavior would cause a **religious** adherent to trespass on a central **religious** belief or practice. Because zoning regulations and decisions rarely bear upon central tenets of **religious** belief, those regulations and decisions have not generally been held under these standards to impose a substantial burden on **religious** exercise. The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.) was intended to and does upset this test. By explicitly prescribing that the centrality of a **religious** belief is immaterial to whether or not that belief constitutes "**religious** exercise," 42 U.S.C.S. § 2000cc-5(7)(A), and by definitionally equating land use with "**religious** exercise," § 2000cc-5(7)(B), RLUIPA establishes an entirely new and different standard than that employed in prior Free Exercise Clause jurisprudence.

HN41 - Section 2(a) of the **Religious** Land Use and Institutionalized Persons Act of 2000, 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), does place a nearly, even if not entirely, insuperable barrier before states and municipalities attempting to justify actions that, far more often than not, are neither motivated by **religious** bigotry nor burdensome on central **religious** practice or **beliefs**.

111. Littlefield v. Forney Indep. Sch. Dist.

United States District Court for the Northern District of Texas, Dallas Division | Aug 03, 2000 | 108 F. Supp. 2d 681

Overview: Section 1983 constitutional challenge to school boards' implementation of a school uniform policy was denied; uniform policy met rational basis test; no due process, or free speech rights impinged upon.

HN27 - The free exercise of religion clause of the U.S. Const. amend. I affords absolute protection to **religious beliefs**. The clause also extends, to a limited extent, to conduct based upon **religious beliefs**. The United States Supreme Court observed, cases have long recognized a distinction between the freedom of individual belief, which is absolute, and the freedom of individual conduct, which is not absolute. In defining the limits of protection afforded by that constitutional provision, the Supreme Court explained that the free exercise clause holds an important place in our scheme of ordered liberty, but the Supreme Court has steadfastly maintained that claims of **religious** conviction do not automatically entitle a person to fix unilaterally the conditions and terms of dealings with the government. Not all burdens on religion are unconstitutional.

HN32 - The United States Supreme Court has never held that an individual's **religious beliefs** excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.

HN33 - The establishment clause of the U.S. Const. amend. I prohibits the government from promoting or affiliating itself with any **religious** doctrine or organization, discriminating against persons on the basis of their **religious beliefs** or practices, delegating a governmental power to a **religious** institution, or entangling itself in a **religious** institution's affairs. The United States Supreme Court has fashioned a three-part inquiry to determine whether a particular governmental action does not offend the establishment clause: first, the statute or regulation must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; third, the statute or regulation must not foster an excessive entanglement with religion. Thus, each value judgment under the Religion Clauses must therefore turn on whether the particular acts in question are intended to establish or interfere with **religious beliefs** and practices or have the effect of doing so.

112. Commack Self-Service Kosher Meats, Inc. v. Hooker

United States Court of Appeals for the Second Circuit | May 10, 2012 | 680 F.3d 194

Overview: New York's Kosher Law Protection Act of 2004 did not violate the Establishment Clause because they had a secular purpose extending to the general public (protecting against fraud in the market), did not foster an excessive government entanglement with religion, and neither advanced nor impeded religion.

HN36 - The New York State Legislature enacted the Kosher Law Protection Act of 2004 (Kosher Law), N.Y. Agric. & Mkts. Law §§ 201-a through 201-d, to further consumer protection for a particular **type** of food purchased by individuals of many different **religious beliefs**; nothing in the text or legislative history of the

amended Kosher Act demonstrates that the object of the Kosher Law was to infringe upon or restrict practices because of their **religious** motivation.

HN32 - At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. Nonetheless, the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes). If the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral, and it is invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest. However, a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice.

HN35 - Factors demonstrate that the New York Legislature is not attempting to challenge **religious beliefs** and that there is a neutral, secular purpose for the Kosher Law Protection Act of 2004 (Kosher Law), N.Y. Agric. & Mkts. Law §§ 201-a through 201-d,.

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113. EEOC v. Roman Catholic Diocese

United States District Court for the Eastern District of North Carolina, Western Division | Apr 30, 1999 | 48 F. Supp. 2d 505

Overview: A plaintiff's sexual discrimination action against a church and diocese was dismissed for lack of subject matter jurisdiction where her complaints excessively entangled the state with the church's employment decisions.

HN8 - While an individual's **religious beliefs** cannot excuse him from compliance with an otherwise valid law of general applicability, a church's belief can provide an excuse for the church's actions.

HN5 - While the Free Exercise Clause of the United States Constitution deepens courts' reluctance to become involved in the affairs of the church, some circumstances warrant intrusion. However, the ministerial exception will foreclose any intrusion if an employee's primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, supervision or participation in **religious** ritual, and worship.

HN9 - If an employee's primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual and worship, he or she should be considered clergy. Consequently, whether the ministerial exception applies turns on the primary duties of the employee.

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114. Roman Catholic Diocese v. Morrison

Supreme Court of Mississippi | May 05, 2005 | 905 So. 2d 1213

Overview: First Amendment did not shield church administration from civil claims of sexual abuse by priests because there was nothing religious about such reprehensible conduct and plaintiffs' claim of negligent hiring, retention and supervision of priest was simply a negligence claim.

HN8 - At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons.

HN9 - The U.S. Supreme Court has never held that an individual's **religious beliefs** excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate. On the contrary, the record of more than a century of free exercise jurisprudence contradicts that proposition. Conscientious scruples have not, in the course of the long struggle for **religious** toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of **religious beliefs**. The mere possession of **religious** convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities.

HN5 - Lemon is the current guidance for application of the Establishment Clause to claims of governmental intrusion into **religious** territory. Lemon provides a three-pronged test for governmental restrictions on **religious** activity. To test negative for an Establishment Clause violation, the governmental action must (1) have a secular purpose; (2) not have the primary effect of enhancing or inhibiting religion; and (3) avoid excessive entanglement with religion. As to the "excessive entanglement" prong of the Lemon test, courts are provided yet another test to determine when entanglement becomes excessive; that is, they are instructed to examine the character and purposes of the institutions that are benefitted, the nature of the aid that the state provides, and the resulting relationship between the government and the **religious** authority.

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115. ## Commonwealth v. Phillips

Common Pleas Court of Montgomery County, Pennsylvania | Oct 20, 1950 | 1950 Pa. Dist. & Cnty. Dec. LEXIS 381

Overview: An ordinance that required door-to-door solicitors to register and be licensed was not a violation of the first amendment right to freedom of religion. Members of a religious group could be required to register before evangelistic work.

HN2 - The right to worship God and preach the **gospel** according to **one's** conscience is not an absolute right to be enjoyed without regard for the rights and privileges of others, free of all restraint and responsibility. On the other hand, the freedom to believe and think on **religious** matters is absolute for no law can impose its will in the realm of the mind. But actions based upon **beliefs** are subject to regulation. However sincere the belief and great the zeal, the conduct involved may not always find shelter beneath the pavilion that is the first amendment. Proponents of ideas cannot choose the time, place and manner for their **evangelism** as though they lived in a vacuum, any more than the authorities may arbitrarily suppress the publication and dissemination of ideas which are contrary to their own. Neither a fanatical minority nor the representatives of a placid majority should be allowed freedom to injure the other. The balance necessary to protect rights of both may be difficult to obtain, yet municipal authorities must ever seek it.

HN3 - No one would contest the proposition that a State may not, by statute, wholly deny the right to preach or to disseminate **religious** views. Plainly such a previous and absolute restraint would violate the terms of the guarantee. It is equally clear that a State may by general and non-discriminatory legislation regulate the times, the places, and the manner of soliciting upon its streets, and of holding meetings thereon; and may in other respects safeguard the peace, good order and comfort of the community, without unconstitutionally invading the liberties protected by the Fourteenth Amendment.

HN4 - The general regulation, in the public interest, of solicitation, which does not involve any **religious** test and does not unreasonably obstruct or delay the collection of funds, is not open to any constitutional objection, even though the collection be for a **religious** purpose. Such regulation would not constitute a prohibited previous restraint on the free exercise of religion or interpose an inadmissible obstacle to its exercise.

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116. DeHart v. Horn

United States Court of Appeals for the Third Circuit | Sep 08, 2000 | 227 F.3d 47

Overview: In § 1983 action against prison officials for failure to provide inmate with a diet consistent with his Buddhist religious beliefs, court reversed summary judgment for prison officials and remanded case for further development of record.

HN6 - The mere assertion of a **religious** belief does not automatically trigger U.S. Const. amend. I protections. To the contrary, only those **beliefs** which are both sincerely held and **religious** in nature are entitled to **constitutional protection**. The relevant case law in the free exercise area suggests that two threshold requirements must be met before particular **beliefs**, alleged to be **religious** in nature, are accorded first amendment protection. A court's task is to decide whether the **beliefs** avowed are (1) sincerely held, and (2) **religious** in nature, in the claimant's scheme of things. If either of these two requirements is not satisfied, the court need not reach the question, often quite difficult in the penological setting, whether a legitimate and reasonably exercised state interest outweighs the proffered first amendment claim.

HN13 - Where a prison regulation limits an inmate's ability to engage in a particular **religious** practice, the second prong of Turner requires an examination of whether there are other means available to the inmate for expressing his **religious beliefs**. If the prison does afford the inmate alternative means of expressing his **religious beliefs**, that fact tends to support the conclusion that the regulation at issue is reasonable.

HN11 - It is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds. Courts must not presume to determine the place of a particular belief in a religion or the plausibility of a **religious** claim.

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117. A Woman's Friend Pregnancy Res. Clinic v. Harris

United States District Court for the Eastern District of California | Dec 18, 2015 | 153 F. Supp. 3d 1168

Overview: Preliminary injunction against enforcement of Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act, Cal. Health & Safety Code. § 123472, which required notice of availability of free or low-cost public family planning services, was not warranted as the balance of hardships favored the State's public health interest.

HN36 - The Free Exercise Clause of the First Amendment provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const., amend. I. The right to exercise **one's** religion freely, however, does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes, or prescribes, conduct that his religion prescribes, or proscribes. Indeed, an individual's **religious beliefs** do not excuse him from compliance with an otherwise valid law prohibiting conduct that the state is free to regulate.

HN3 - A facility covered by the Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act is required to disseminate a notice to clients: (2) The information shall be disclosed in one of the following ways:(A) A public notice posted in a conspicuous place where individuals wait that may be easily read by those seeking services from the facility. The notice shall be at least 8.5 inches by 11 inches and written in no less than 22-point **type**. (B) A printed notice distributed to all clients in no less than 14-point **type**. (C) A digital notice distributed to all clients that can be read at the time of check-in or arrival, in the same point **type** as other digital disclosures. A printed notice as described in subparagraph (B) shall be available for all clients who cannot or do not wish to receive the information in a digital format. (3) The notice may be combined with other mandated disclosures. Cal. Health & Safety Code § 123472.

HN26 - Although the State may at times prescribe what shall be **orthodox** in commercial advertising by requiring the dissemination of purely factual and uncontroversial information, outside that context it may not compel affirmance of a belief with which the speaker disagrees. Indeed this general rule, that the speaker has the right to tailor the speech, applies not only to expressions of value, opinion, or endorsement, but equally to statements of fact the speaker would rather avoid, subject, perhaps to the permissive law of defamation. Purely commercial speech is more susceptible to compelled disclosure requirements.

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118. Womens Servs., P. C. v. Thone

United States District Court for the District of Nebraska | Nov 09, 1979 | 483 F. Supp. 1022

Overview: The court ruled that a statute that required women seeking abortions to wait for 48 hours before undergoing the procedure was unconstitutional because it placed an undue burden upon their freedom to terminate their pregnancy.

HN7 - To have the protection of the Religion Clauses of the First Amendment, the claims must be rooted in **religious** belief. Although a determination of what is a **religious** belief or practice entitled to **constitutional protection** may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.

HN13 - The state may not interfere with the practice of a legitimate **religious** belief unless it is necessary to do so in order to serve an interest of the highest order. To qualify for protection under the Free Exercise Clause, a belief and practice may not be merely a matter of personal preference, but must be one of deep

religious conviction, shared by an organized group, and intimately related to daily living. In addition, the practice must stem from **one's** faith, and be fundamental to that faith.

HN6 - Neither a state nor the federal government can constitutionally force a person to profess a belief or disbelief in any religion. Neither can they constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different **beliefs**.

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119. Smith v. White

Court of Appeals of Ohio, Second Appellate District, Montgomery County | Jan 17, 2014 | 2014-Ohio-130

Overview: Dismissal of an action by church members against the church and related individuals, arising from alleged misconduct by the pastor, was proper because the dispute between the parties did not involve secular matters but instead, was within the ecclesiastical abstention doctrine, and the limited fraud and collusion exception thereto was inapplicable.

HN7 - The Supreme Court of the United States stressed that there is a spirit of freedom for **religious** organizations, an independence from secular control or manipulation - in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no improper methods of choice are proven, must now be said to have federal **constitutional protection** as a part of the free exercise of religion against state interference.

HN4 - It is well established that civil courts lack jurisdiction to hear or determine purely ecclesiastical or spiritual disputes of a church or **religious** organization. Generally, the question of who will preach from the pulpit of a church is an ecclesiastical question, review of which by the civil courts is limited by the First and Fourteenth Amendments to the United States Constitution, U.S. Const. amends. I and XIV.

HN6 - A congregational form of government exists when a **religious** congregation, by the nature of its organization, is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority. In the congregational form, each local congregation is self-governing. However, regardless of whether a church organization is self-governing or is hierarchical, courts have limited ability to intervene.

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120. Walker v. Maschner

United States District Court for the Southern District of Iowa, Central Division | May 31, 2000 | 2000 U.S. Dist. LEXIS 21528

Overview: Inmate established that prohibition on his attendance at Jewish services violated freedom of religion and refusal to permit him to order a Torah violated freedom of religion and speech; prison officials were immune from monetary damages.

HN11 - "Religion" is not defined in the United States Constitution. The concept is to be given a wide latitude in order to ensure that state approval may never become a prerequisite for the practice of **one's** faith. This wide latitude results in **constitutional protection** being extended to many **religious beliefs** far outside the mainstream. **Religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection. Courts must therefore be cautious in attempting to separate real from fictitious **religious beliefs**. At the same time there are boundaries. **Constitutional protection** does not extend to obvious shams and absurdities devoid of **religious** sincerities, or to purely secular views or personal preferences. On the other hand, a belief which is **religious** in nature is not outside **constitutional protection** merely because it is also secular, as the two may coincide.

HN13 - The opportunity to attend **religious** services is generally recognized as central to the practice of most **religious beliefs**. Restrictions which prohibit an inmate from doing so impose a substantial burden. Likewise limitations on the ability to possess written material essential to the understanding and practice of **one's** religion usually impose a substantial burden.

HN8 - In order to be considered a "substantial" burden, the governmental action must significantly inhibit or constrain conduct or expression that manifests some central tenet of a person's individual **religious beliefs**; must meaningfully curtail a person's ability to express adherence to his or her faith; or must deny a person reasonable opportunities to engage in those activities that are fundamental to a person's religion.

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121. Bienenfeld v. Bennett-White

Court of Special Appeals of Maryland | Apr 29, 1992 | 91 Md. App. 488

Overview: Evidence of the religious views of appellant mother was properly considered by the court in making a custody determination where the religious practices of appellant had an impact on the children's visitation with appellee father.

HN7 - The First Amendment of the Constitution of the United States, which is made applicable to the states through the Fourteenth Amendment, prevents the government from preferring one religion over another and safeguards the free exercise of religion. Freedom of religion means the right to pursue **one's religious beliefs** without interference from any other religion, non-religion or the government. It has been recognized that freedom of religion includes the right to direct the **religious** upbringing of **one's** children.

HN10 - A court must not blind itself to evidence of **religious beliefs** or practices of a party seeking custody which may impair or endanger the child's welfare.

HN14 - The free exercise clause of the U.S. Constitution bars government regulation of **religious beliefs** as such, or interference with the dissemination of **religious** ideas. To meet the constitutional mandates established by the free exercise clause, the application of a rule either (1) must not interfere with, burden, or deny the free exercise of a legitimate **religious** belief or (2) must be justified by a state interest of sufficient magnitude to override the interest claiming protection under the free exercise clause.

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122. Callahan v. Woods

United States Court of Appeals for the Ninth Circuit | Oct 05, 1981 | 658 F.2d 679

Overview: Even though a person's specific religious beliefs were not generally shared by others in his church or framed in sophisticated terms, those beliefs, if sincere, were constitutionally inviolate under the First Amendment.

HN6 - In applying the free exercise clause of the First Amendment, courts may not inquire into the truth, validity, or reasonableness of a claimant's **religious beliefs**.

HN9 - The guarantee, in the First Amendment, of free exercise of religion is not limited to **beliefs** which are shared by all of the members of a **religious** sect.

HN11 - Once sincerity of **religious** belief is shown, the appropriate course for a trial court is to determine the extent to which the claimant's protected **beliefs** are burdened by a government regulation requiring use of social security numbers in connection with the receipt of certain governmental benefits, to consider whether the government has a compelling interest in doing so, and to decide if that interest may be satisfied by some less restrictive means.

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123. People v. Woody

Supreme Court of California | Aug 24, 1964 | 61 Cal. 2d 716

Overview: Defendants were improperly convicted of illegal possession of peyote because no compelling interest justified a state law's substantial infringement on the free exercise of defendants' religion in which they had an honest, good faith belief.

HN10 - The trier of fact need inquire only into the question of whether the defendant's belief in a **religious** practice is honest and in good faith. Although judicial examination of the truth or validity of **religious beliefs** is foreclosed by the First Amendment, the courts of necessity must ask whether the claimant holds his belief honestly and in good faith or whether he seeks to wear the mantle of **religious** immunity merely as a cloak for illegal activities. Suffice it to say that trial courts will have to determine in each instance, with whatever evidence is at hand, whether or not the assertion of a belief which is protected by the First Amendment is in fact a spurious claim.

HN4 - Although the prohibition against infringement of **religious** belief is absolute, the immunity afforded **religious** practices by the First Amendment is not so rigid. But the state may abridge **religious** practices only upon a demonstration that some compelling state interest outweighs the defendants' interests in **religious** freedom.

HN7 - A State must produce evidence that spurious claims of **religious** immunity would in fact preclude effective administration of the law or that other "forms of regulation" would not accomplish the State's objectives in order to justify infringing upon the free exercise of religion.

124. Midrash Sephardi, Inc. v. Town of Surfside

United States Court of Appeals for the Eleventh Circuit | Apr 21, 2004 | 366 F.3d 1214

Overview: Including private clubs and lodges as permitted business district uses while excluding religious assemblies violated RLUIPA's neutrality and general applicability principles. RLUIPA was a proper exercise of Congress's Fourteenth Amendment powers.

HN61 - The United States Court of Appeals for the Eleventh Circuit agrees with the observation that the Religion Clauses--the Free Exercise Clause, the Establishment Clause, the **Religious** Test Clause, and the Equal Protection Clause as applied to religion--all speak with one voice on this point: Absent the most unusual circumstances, **one's** religion ought not affect **one's** legal rights or duties or benefits. On the face of the equal terms provision of **Religious** Land Use and Institutionalized Persons Act of 2000, 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), the echoes of these constitutional principles are unmistakable. Simply put, to deny equal treatment to a church or a synagogue on the grounds that it conveys **religious** ideas is to penalize it for being **religious**. Such unequal treatment is impermissible based on the precepts of the Free Exercise, Establishment and Equal Protection Clauses.

HN69 - Under Lemon's third prong, a statute must not result in excessive entanglement between church and state. The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), does not require "pervasive monitoring" to prevent the government from indoctrinating religion. RLUIPA does not call on the government to supervise land use regulations to make sure governmental funds do not sponsor **religious** practice, nor does it require state or local officials to develop expertise on **religious** worship or to evaluate the merits of different **religious** practices or **beliefs**. RLUIPA requires only that states avoid discriminating against or among **religious** institutions. As such, RLUIPA passes muster under Lemon's third prong.

HN23 - The general rule of the **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), is that state action substantially burdening "**religious** exercise" must be justified as the least restrictive means of furthering a compelling governmental interest. 42 U.S.C.S. §§ 2000cc(a)(1), 2000cc-1(a). To invoke the protection of § (a) of RLUIPA, plaintiffs bear the burden of first demonstrating that the regulation substantially burdens **religious** exercise. 42 U.S.C.S. § 2000cc-2(b).

125. Bruker v. City of New York

United States District Court for the Southern District of New York | Sep 29, 2004 | 337 F. Supp. 2d 539

Overview: Issues of fact existed as to whether a child welfare caseworker and a Catholic-affiliated boarding home made reasonable efforts to accommodate a Jewish child's religious upbringing. State was required to make some effort to supervise foster parent.

HN2 - The right to control the **religious** upbringing of **one's** children is a well-recognized component of the free exercise right protected by the First Amendment. Although the right of parents to determine their

children's **religious** upbringing is limited when their children are placed or taken into the custody of the state, parents' wishes with regard to their children's **religious** training while in state custody are afforded some **constitutional protection**.

HN3 - So long as the state makes reasonable efforts to assure that the **religious** needs of the children are met during the interval in which the state assumes parental responsibilities, the free exercise rights of the parents and their children are adequately observed.

HN4 - When a child is placed in foster care, the state cannot reasonably be expected to duplicate the standard of **religious** practice in the parents' home or satisfy the parents' every request with respect to the children's **religious** instruction. While a state should attempt to accommodate parents' **religious** preferences in selecting a foster care placement, such effort need only be reasonable.

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126. Commonwealth v. Devoute

Common Pleas Court of Montgomery County, Pennsylvania | Jan 10, 1978 | 1978 Pa. Dist. & Cnty. Dec. LEXIS 46

Overview: Given its interest in providing a comprehensive accident compensation system, a compulsory car insurance law was a valid exercise of a state's police power that outweighed a defendant's religious beliefs; his conviction related thereto was proper.

HN1 - The United States Constitution, through the First and Fourteenth Amendments, assures freedom to exercise **one's** chosen **religious** convictions, but the free exercise of religion is not absolute. Rather, even the exercise of religion may be at some slight inconvenience in order that a state may protect its citizens from injury. Freedom to believe is protected absolutely, but freedom to act, even when the action is premised upon **one's religious** convictions, is not entirely free of restriction.

HN3 - A legislature can create an indirect burden on **religious** practice provided it does not interfere with convictions or **beliefs**.

HN2 - Can a man excuse his practices to the contrary of society because of his **religious** belief? To permit this would be to make the professed doctrines of **religious** belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.

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127. Grosz v. Miami Beach

United States Court of Appeals for the Eleventh Circuit | Dec 19, 1983 | 721 F.2d 729

Overview: Law prohibiting organized, publicly attended religious services in single-family residential zone protected zoning interest by least restrictive means, where there was total inconsistency between government policy objectives and resident's conduct.

HN4 - Before a court balances competing governmental and **religious** interest, the challenged government action must pass two threshold tests. The first test distinguishes government regulation of **religious beliefs** and opinions from restrictions affecting **religious** conduct. The government may never regulate **religious beliefs**; but, the United States Constitution does not prohibit absolutely government regulation of **religious** conduct. Given a regulation's focus on conduct, government action passes this first threshold. The second threshold principle requires that a law have both a secular purpose and a secular effect to pass constitutional muster. First, a law may not have a sectarian purpose; governmental action violates the Constitution if it is based upon disagreement with **religious** tenets or practices, or if it is aimed at impeding religion. Second, a law violates U.S. Const. amend. I. if the "essential effect" of the government action is to influence negatively the pursuit of **religious** activity or the expression of **religious** belief.

HN9 - **Religious** doctrine may exist, to a large extent, as a reflection of individual adherents' interpretations. Reliable indicia of the importance of particular **religious** conduct may be hard to find. Courts, therefore, often restrict themselves to determining whether the challenged conduct is rooted in **religious** belief or involves only secular, philosophical or personal choices. Only conduct flowing from **religious** belief merits free exercise protection; no weight measures on the side of religion unless the government action ultimately affects a **religious** practice. Finer distinctions, as to the weight of the burden, must usually be based upon the degree of interference element in the formula.

HN2 - The United States Constitution's protection of **religious** freedom derives most directly, of course, from the First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. amend. I. The free exercise clause of the First Amendment, relevant in this case, gains application to state and local governments through the Fourteenth Amendment's due process clause. U.S. Const. amends. I and XIV.

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128. People v. Cole

Supreme Court of New York, Appellate Division, First Department | Jul 10, 1914 | 163 A.D. 292

Overview: Christian Science prayer treatments to cure disease, offered for a fee, did not come within the religious tenet exception to the public health law that required examination and licensing for the practice of medicine.

HN6 - A Kansas statute provided that any person shall be regarded as practicing medicine who represents that he is authorized to or does treat the sick or others afflicted with bodily infirmities, but nothing in this act shall be construed as interfering with any **religious beliefs** in the treatment of diseases. Kansas Gen. Stat. 1909, § 8090.

HN8 - A Colorado statute defines the "practice of medicine" to be holding **one's** self out to the public as being engaged in the diagnosis and treatment of diseases or injuries of human beings; or the suggestion, recommendation or prescribing of any form of treatment for the intended palliation, relief or cure of any physical or mental ailment of any person, with the intention of receiving therefor, either directly or indirectly,

any fee, gift or compensation whatsoever; or the maintenance of any office for the reception, examination and treatment of any persons suffering from disease or injury of body or mind, or attaching any word or abbreviation to **one's** name indicative that he is engaged in the treatment or diagnosis of the diseases or injuries of human beings. It further provides: nothing in this act shall be construed to prohibit the practice of the **religious** tenets or general **beliefs** of any church whatsoever, not prescribing medicine or administering drugs. Colo. Rev. Stat. § 6069 (1908).

HN3 - N.Y. Pub. Health Law § 173, (1909), construction of this article, provides in part that this article shall not be construed to affect the practice of the **religious** tenets of any church.

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129. ## Church of Scientology of Ga., Inc. v. City of Sandy Springs

United States District Court for the Northern District of Georgia, Atlanta Division | Feb 10, 2012 | 843 F. Supp. 2d 1328

Overview: Upon cross motions for summary judgment in a church's action under RLUIPA, genuine issues of material fact existed because it was unclear whether the city's conditional approval of the church's rezoning application effectively barred the church's use of its property for the practice of its religion as mandated by its scriptures.

HN20 - In the context of the **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. § 2000cc et seq., the implementation of a land use regulation that completely bars the use of property for **religious** exercise may constitute a substantial burden. On the other hand, no substantial burden is imposed where the government action may make **religious** exercise more expensive or difficult but does not place substantial pressure on a **religious** institution to violate or forego its **religious beliefs** and does not effectively bar a **religious** institution from using its property in the exercise of its religion.

HN22 - In applying the **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. § 2000cc et seq., the court is not concerned simply with the inadequacy of a plaintiff's current location or the adequacy of the proposed location. Instead, the court is required to determine whether a defendant's application of a land use regulation has imposed pressure so significant as to require the plaintiff's congregation to forego their **religious beliefs**.

HN1 - The **Religious** Land Use and Institutionalized Persons Act prohibits governments from implementing land use regulations that impose a "substantial burden" on **religious** exercise or that discriminate against any **religious** assemblies or institutions on the basis of **religious** denomination. 42 U.S.C.S. § 2000cc(a) & (b)(2).

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130. ## Erdman v. Chapel Hill Presbyterian Church

Supreme Court of Washington | Oct 04, 2012 | 175 Wn.2d 659

Overview: Respondent's claims of negligent supervision and retention against a church were foreclosed as a matter of law. Allowing these claims to go forward would violate the church's First Amendment right to select and supervise its ministers and its First Amendment right to deference to decisions made by its ecclesiastical tribunals.

HN27 - Courts must avoid encroaching on a **religious** organization's First Amendment rights, and must ensure that when a cause of action is permitted it does not infringe on the rights of the **religious** organization to define and manage matters of **religious** faith, doctrine, discipline, and custom. Tort claims may be foreclosed because, in many instances, the freedom to exercise a particular faith and hold particular **religious beliefs** without government intrusion must prevail over individual tort claims.

HN5 - The Constitution mandates that **religious** organizations must retain the power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. The First Amendment protection of **religious** freedom requires that courts remain neutral in matters concerning **religious** doctrine, **beliefs**, organization, and administration.

HN11 - Claims of negligent retention and supervision pose serious First Amendment concerns that often weigh against allowing a tort claim to proceed in a civil court. Negligent retention and supervision claims implicate a **religious** organization's First Amendment right to select its clergy. Questions of hiring, ordaining, and retaining clergy necessarily involve interpretation of **religious** doctrine, policy, and administration. A minister's employment concerns internal church discipline, faith, and organization, all of which are governed by ecclesiastical rule, custom, and law. **Religious** organizations each have their own intricate principles of governance, as to which the state has no rights of visitation, and it would therefore be improper for a civil court to determine after the fact that the ecclesiastical authorities negligently supervised or retained a minister. Pastoral supervision is an ecclesiastical prerogative.

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131. Holy Name Soc'y v. Horn

United States District Court for the Eastern District of Pennsylvania | Aug 21, 2001 | 2001 U.S. Dist. LEXIS 12756

Overview: In inmates' suit against prison officials, barring inmates from participating in fellowship meals, fundraisers, and annual banquets did not violate the inmates' rights to freely exercise their religion or their equal protection rights.

HN5 - Inmates challenging prison regulations on constitutional bases have the burden of demonstrating that a constitutionally protected interest is at stake. A simple assertion of a **religious** belief does not automatically trigger First Amendment protections. Only those **beliefs** which are both sincerely held and **religious** in nature are entitled to **constitutional protection**.

HN9 - The second prong of the Turner test places the burden of proof on the inmate to show that there are adequate alternative means of expression available to the inmate. Where the regulation leaves no alternative means of exercising the asserted right, the inmate's interest in engaging in constitutionally protected activity is entitled to greater weight in the balancing process. However, the court must inquire whether the inmates have alternative means of exercising their **religious beliefs** generally (e.g., by prayer, worship, meditation, scripture study, etc.). If the prison does afford the inmate alternative means of

expressing his **religious beliefs**, that fact tends to support the conclusion that the regulation at issue is reasonable.

HN8 - In applying the second prong of the Turner test, courts must examine whether an inmate has alternative means of practicing his or her religion generally, not whether an inmate has alternative means of engaging in the particular practice in question. Courts should not inquire into the "orthodoxy" of the belief, as it would be inconsistent with a long line of United States Supreme Court precedent to accord less respect to a sincerely held **religious** belief solely because it is not held by others. However, the second Turner factor is directed solely to evaluating the interest of the inmate in having his request accommodated. The holding with respect to the impropriety of disregarding a sincerely held belief solely because it is not an **orthodox** one relates specifically to the issue of whether alternative means of expression are available to the inmate.

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132. Ex parte Walrod

Court of Criminal Appeals of Oklahoma | Dec 23, 1941 | 1941 OK CR 186

Overview: A municipal ordinance making it illegal to distribute religious pamphlets was unconstitutional and therefore void, and a petitioner who was imprisoned for violation of the statute and sought a writ of habeas corpus was entitled to a discharge.

HN12 - Municipal authorities, as trustees for the public, have the duty to keep their communities' streets open and available for movement of people and property, the primary purpose to which the streets are dedicated. So long as legislation to this end does not abridge the constitutional liberty of one rightfully upon the street to impart information through speech or the **distribution** of **literature**, it may lawfully regulate the conduct of those using the streets. For example, a person could not exercise this liberty by taking his stand in the middle of a crowded street, contrary to traffic regulations, and maintain his position to the stoppage of all traffic; a group of distributors could not insist upon a constitutional right to form a cordon across the street and to allow no pedestrian to pass who did not accept a, tendered leaflet; nor does the guarantee of freedom of speech or of the press deprive a municipality of power to enact regulations against throwing **literature** broadcast in the streets. Prohibition of such conduct would not abridge the constitutional liberty since such activity bears no necessary relationship to the freedom to speak, write, print or distribute information or opinion.

HN3 - U.S. Const. art. XI declares that the Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.The senators and representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support the Constitution; but no **religious** test shall ever be required as a qualification to any office or public trust under the United States.

HN5 - Okla. Const. art. I, § 2 declares that perfect toleration of **religious** sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of **religious** worship; and no **religious** test shall be required for the exercise of civil or political rights. Polygamous or plural marriages are forever prohibited.

133. EEOC v. Catholic Univ. of Am.

United States Court of Appeals for the District of Columbia Circuit | May 14, 1996 | 83 F.3d 455

Overview: First Amendment precluded judicial review of employee's discrimination action against Catholic university; application of Title VII violated Free Exercise Clause on basis of ministerial exception and excessively entangled government in religion.

HN4 - The ministerial exception, which precludes civil courts from adjudicating employment discrimination suits by ministers against the church or **religious** institution employing them, is not limited to members of the clergy. It also applies to lay employees of **religious** institutions whose primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual and worship. If the employees' positions are important to the spiritual and pastoral mission of the church, they should be considered "clergy."

HN3 - The Free Exercise Clause of U.S. Const. amend. I exempts the selection of clergy from Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C.S. § 2000e et seq., and similar statutes and, as a consequence, precludes civil courts from adjudicating employment discrimination suits by ministers against the church or **religious** institution employing them. In excepting the employment of a minister from Title VII, the court need not find that the factors relied upon by a church are independently ecclesiastical in nature, only that they are related to a pastoral appointment determination.

HN10 - An unconstitutional entanglement with religion is found in situations where a protracted legal process pits church and state as adversaries, and where the government is placed in a position of choosing among competing **religious** visions.

134. Caviezel v. Great Neck Pub. Sch.

United States District Court for the Eastern District of New York | Apr 05, 2010 | 701 F. Supp. 2d 414

Overview: Motion for preliminary injunction was denied because parents were not entitled to the immunization exemption under N.Y. Pub. Health Law § 2164(9) with regard to their daughter because although the parents sincerely and genuinely opposed vaccinations for their daughter, they failed to prove that these objections were "religious" in nature.

HN9 - The United States Court of Appeals for the Second Circuit holds that "philosophical and personal" belief systems are not "**religious**" belief, in spite of the fact that these belief systems may be held with "strong conviction" and inform critical life choices. On the other hand, a person need not be a member of a formal **religious** sect or church to have "**religious" beliefs**. In fact, a person's **religious beliefs** need not come from a traditional "God", but rather may follow from a belief in something that occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God. Ultimately, the Second Circuit's most explicitly expressed opinion on the definition of religion is that courts must tread lightly when undertaking the task.

HN14 - The United States Court of Appeals for the Second Circuit holds that "philosophical and personal" belief systems are not religion, in spite of the fact that these belief systems may be held with "strong conviction" and inform critical life choices. On the other hand, a person need not be a member of a formal **religious** sect or church to have "**religious" beliefs**. In fact, a person's **religious beliefs** need not come from a traditional "God", but rather may follow from a belief in something that occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God.

HN11 - Religious freedom in the United States, accorded to us by the First Amendment, is not an absolute right. The United States Supreme Court holds that, generally the right of parents to raise their children in accord with their personal and **religious beliefs** must yield when the health of children is at risk or when there is a recognized threat to public safety.

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135. ## People v. Dejonge

Supreme Court of Michigan | May 25, 1993 | 442 Mich. 266

Overview: Defendants' convictions for instructing their children without state certified teachers were reversed because the law as applied to families whose religious convictions prohibited the use of certified instructors violated the Free Exercise Clause.

HN21 - A burden on the exercise of **religious** freedom may be shown if the affected individuals would be coerced by the government's action into violating their **religious beliefs** or whether governmental action would penalize **religious** activity by denying any person an equal share of the rights, benefits, and privileges enjoyed by other citizens. Hence, a claimed burden on **religious beliefs** may be deemed constitutionally insignificant, but only (1) if the claimant's **beliefs** do not create an irreconcilable conflict between the mandates of law and **religious** duty, or (2) if the legal requirement does not directly coerce the claimant to act contrary to **religious** belief. Put simply, the petitioner must prove that he has been enforced, restrained, molested, or burdened or otherwise suffered, on account of his **religious** opinions or **beliefs**. The burden on **religious** liberty, however, need not be overwhelming, because even subtle pressure diminishes the right of each individual to choose voluntarily what to believe.

HN18 - A court must determine whether a **religious** belief is sincerely held, not whether such **beliefs** are true or reasonable. A court must accept a worshiper's good faith characterization that its activity is grounded in **religious** belief because it is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds.

HN19 - Religious orthodoxy is not necessary to obtain the protection of the Free Exercise Clause. **Religious** belief and conduct need not be endorsed or mandated by a **religious** organization to be protected.

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136. ## Lindell v. Casperson

United States District Court for the Western District of Wisconsin | Mar 16, 2005 | 360 F. Supp. 2d 932

Overview: Where the inmate's religious requirements for his Wotanist religion were idiosyncratic and inconsistent, no reasonable jury could find his sincere religious beliefs were substantially burdened under the Religious Land Use and Institutionalized Persons Act by refusing a group practice of Wotanism, a special diet, or the requested ceremonial items.

HN9 - The United States District Court for the Western District of Wisconsin agrees with those courts that have imported the sincere belief requirement into cases brought under the **Religious** Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.S. §§ 2000cc-2000cc-5. It makes no sense to say that a particular regulation imposes a burden of any kind, much less a substantial one, on a prisoner's exercise of his religion unless it is the prisoner's sincere **beliefs** that are at stake. If a prisoner is contending that he must have a plethora of apparently preposterous objects and opportunities in order to practice his religion and if his list of alleged necessities changes for no apparent reason, it is reasonable to infer that he is more interested in exercising his ability to tie up the courts and prison officials than in exercising his religion. Congress enacted RLIUPA to protect the rights of prisoners seeking to exercise their **religious beliefs**, not to protect prisoners who misuse the Act to make life as difficult as possible for their jailors. At the same time, courts must be cautious in attempting to separate real from fictitious **religious beliefs**.

HN12 - Where a district court has before it one who swears or (more likely) affirms that he sincerely and truthfully holds certain **beliefs** which comport with the general definition of religion, it can be comfortable that those **beliefs** represent his "religion." Thus, even if a court assumes that the prohibition of certain **religious** texts substantially burdens a plaintiff inmate's exercise of his religion, the prohibition is allowable under the **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. §§ 2000cc-2000cc-5, if it meets a compelling state interest. Defendant prison officials have a heavier burden under the Act than under the United States Constitution's Free Exercise Clause. If the defendants meet their burden under the Act, they will meet the less stringent burden of showing that their conduct was reasonably related to a legitimate penological interest under the First Amendment.

HN7 - The **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. §§ 2000cc-2000cc-5, prohibits governmental imposition of a "substantial burden on the **religious** exercise" of a prisoner, unless the defendant can show that the burden (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000cc-1.

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137. ⚠ Lucas Valley Homeowners Ass'n v. County of Marin

Court of Appeal of California, First Appellate District, Division Four | Aug 12, 1991 | 233 Cal. App. 3d 130

Overview: The court held that the county board's decision to allow appellant to build a synagogue was supported by substantial evidence, did not interfere with religious freedom or establishment, and that an environmental impact report was not required.

HN10 - Heightened justification for government action, namely, the compelling state interest hurdle, is called for only when the government directly or indirectly coerces **one's religious beliefs** or behavior.

HN3 - Federal and state constitutions guarantee the freedom to practice **one's** own form of religion and forbid governmental involvement in the establishment of religion.

HN7 - The government may and sometimes must accommodate **religious** practices and that it may do so without violating the Establishment Clause. It is well established, too, that the limits of permissible state accommodation to religion are by no means co-extensive with the noninterference mandated by the Free Exercise Clause. There is ample room under the Establishment Clause for benevolent neutrality which will permit **religious** exercise to exist without sponsorship and without interference. Government's efforts to accommodate religion will be tolerated when they remove burdens on the free exercise of religion.

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138. In re Legislature's Request for An Opinion, etc.

Supreme Court of Michigan | Oct 05, 1970 | 384 Mich. 82

Overview: Where the State School Aid Bill provided for the appropriation of money to certified lay teachers teaching secular subjects in nonpublic schools, it did not violate the First Amendment because it neither advanced nor inhibited religion.

HN25 - Mich. Const. art. 1, § 4 (1963) provides: Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of **religious** worship, or to pay tithes, taxes or other rates for the support of any minister of the **gospel** or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any **religious** sect or society, theological or **religious** seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his **religious** belief.

HN2 - 1970 Mich. Pub. Acts 100 (Act) provides for the purchase by the Department of Education from eligible units of educational services in secular subjects at a cost of not to exceed 50 percent of the salaries of lay teachers teaching secular subjects for the fiscal years 1970-1971 and 1971-1972 and 75 percent of such salaries thereafter. The sum appropriated by the legislature is limited to two percent of the total expenditures from state and local sources for the support of the public primary and secondary education system in the last preceding fiscal year. The payments are restricted to certified lay teachers teaching secular subjects from textbooks meeting the criteria required of textbooks used in public schools. The Act expressly prohibits payment or reimbursement for services to any teacher who is a member of a **religious** order or who wears any distinctive habit, or both, § 55(b) of the Act, or for any course of instruction in **religious** or denominational tenets, doctrine or worship or the primary purpose of which is to inculcate such tenets, doctrine or worship, § 55(d)of the Act.

HN4 - Section 55(d) of 1970 Mich. Pub. Acts 100 provides: "Secular subjects" means those courses of instruction commonly taught in the public schools of this state including but not limited to language skills, mathematics, science, geography, economics, history, as defined by the state department of education, which shall expressly not include any course of instruction in **religious** or denominational tenets, doctrine or worship or the primary purpose of which is to inculcate such tenets, doctrine or worship. Textbooks used in such secular subjects shall meet the same criteria as required of textbooks used in the public schools.

139. Amos v. Corporation of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints

United States District Court for the District of Utah, Central Division | Sep 18, 1985 | 618 F. Supp. 1013

Overview: A church-operated thrift store that benefited church members was a religious activity and the church could tie religious requirements to employment. Additional facts about the ties of a church-owned mill to it religious activities were required.

HN5 - An organization's activities need not be limited strictly to propagation or advocation of **religious beliefs** to be found **religious**. Whether a belief is **religious** does not depend on whether the belief is true or false or whether the belief is acceptable, logical, consistent, or comprehensible to others. The **religious** nature of a belief depends on whether the belief is based on a theory of mans nature or his place in the universe or represents a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the god of **orthodox** believers. A **religious** belief must be sincerely held. **Religious beliefs** may have their source in scripture or tradition, revelation or meditation. They may be institutionalized or be of a recent vintage or formed instantaneously. "Religion" must be defined broadly to secure protections guaranteed in the first amendment's free exercise clause. In such an intensely personal matter, the claimant's assertion that his belief is an essential part of a **religious** faith must be given great weight.

HN1 - In determining whether an activity is **religious** in discrimination suits, the court must first look at the tie between the **religious** organization and the activity with regard to areas such as financial affairs, day-to-day operations and management. The court next must examine the nexus between the primary function of the activity and the rituals or tenets of the **religious** organization or matters of church administration. If there is a substantial connection between the activity and the **religious** organization's tenets or matters of church administration and the tie under the first part of the test is close, the court may declare the activity **religious**. Where the tie between the **religious** entity and activity is either close or remote and the nexus between the primary function of the activity in question and the tenets or rituals of the **religious** organization or matters of church administration is tenuous or non-existent, the court must consider the relationship between the nature of the job and the **religious** rituals or tenets of the **religious** organization or matters of church administration. If there is a substantial relationship between the employee's job and church administration or the **religious** organization's rituals or tenets, the court must find that the activity in question is **religious**. If the relationship is not substantial, the activity is not **religious**.

HN4 - A **religious** activity of a **religious** organization does not lose that special status merely because it holds some interest for persons not members of the faith, or occupies a position of respect in the secular world at large.

140. Malyon v. Pierce County

Court of Appeals of Washington, Division Two | Oct 10, 1995 | 79 Wn. App. 452

Overview: A sheriff department's chaplaincy program was facially constitutional, but the description of the organization running the program as a Christian ministry raised questions as to whether the program violated the Establishment Clause.

HN14 - A state agency or subdivision of the state may contract with a **religious** organization to provide secular services. If the individual providers of counseling or crisis intervention services volunteer their services and are not compensated for their time, they may inquire of the spiritual and **religious** needs of the persons they serve, and may offer **religious** worship, exercise and instruction in response to an expressed need. But the state agency or subdivision must remain religiously neutral by accepting individual volunteer providers without regard to their **religious beliefs** or creed.

HN4 - The Washington State Constitution includes two **religious** establishment clauses: article I, section 11 prohibits the application of public money or property to **religious** worship, exercise, and instruction; article IX, section 4 prohibits "sectarian control or influence" over public schools.

HN6 - The establishment clause of Wash. Const. art. I, § 11 reads: No public money or property shall be appropriated for or applied to any **religious** worship, exercise or instruction, or the support of any **religious** establishment: PROVIDED, HOWEVER, That this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional, and mental institutions, or by a county's or public hospital district's hospital, health care facility, or hospice as in the discretion of the legislature may seem justified.

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141. State v. Toolen

Supreme Court of Alabama | Sep 10, 1964 | 277 Ala. 120

Overview: Personal property, purchased at retail outside of Alabama, even though used exclusively by a religious group in their religious services, was not exempt from the state's use tax. The tax was uniform, non-discriminatory, and constitutional.

HN1 - Ala. Const. § 3 provides: That no religion shall be established by law; that no preference shall be given by law to any **religious** sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship; nor to pay any tithes, taxes, or other rate for building or repairing any place of worship, or for maintaining any minister or ministry; that no **religious** test shall be required as a qualification to any office or public trust under this state; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his **religious** principles.

HN2 - Ala. Const. § 91 provides for exemptions of real estate used exclusively for **religious** purposes, but it places no limitation on the legislature concerning the taxation of personal property.

HN4 - Ala. Code tit. 51, § 2 (1940) exempts all property, real and personal, used exclusively for **religious** worship, from ad valorem taxation and none other. Under § 2, personal property is exempt from ad valorem tax regardless of how valuable it may be or how long it may be kept, stored, used or consumed in Alabama. Alabama's use tax is not a property tax.

142. Gallo v. Salesian Soc'y

Superior Court of New Jersey, Appellate Division | May 17, 1996 | 290 N.J. Super. 616

Overview: New Jersey age and sex discrimination law did not violate the establishment and free exercise clause in the first amendment to the federal constitution, with regard to the dismissal of a teacher of English and history in a parochial school.

HN20 - The secular tribunal merely asks whether a sincerely held **religious** belief actually motivated the institution's actions. Indeed, because the court should not examine either the validity or the **religious** nature of the doctrine, the burden of the **religious** institution to explain is considerably lighter than in a non-**religious** employer case. Thus, when the pretext inquiry neither traverses questions of the validity of **religious beliefs** nor forces a court to choose between parties' competing **religious** visions, that inquiry does not present a significant risk of entanglement. However, the U.S. Const. amend. I, dictates that a plaintiff may not challenge the validity, existence or "plausibility" of a proffered **religious** doctrine.

HN23 - The intrusiveness of carefully measured discovery is no reason to exempt defendants from the Law Against Discrimination, N.J. Stat. Ann. § 10:5-1-42, scrutiny where the school's spiritual functions are not in issue. **Religious** schools are not entitled to a blanket exemption from all secular regulations because of their status as a **religious** institution.

HN4 - Only when the underlying dispute turns on doctrine or polity should courts abdicate their duty to enforce secular rights. Judicial deference beyond that demarcation would transform our courts into rubber stamps invariably favoring a **religious** institution's decision regarding even primarily secular disputes.

143. Church of Scientology Flag Serv. v. City of Clearwater

United States Court of Appeals for the Eleventh Circuit | Sep 30, 1993 | 2 F.3d 1514

Overview: District court erred when it granted summary judgment to city against religious organization when the evidence revealed an underlying objective that city employed the tax laws to unconstitutionally discriminate against religious organization.

HN26 - U.S. Const. amend. I precludes civil authorities from evaluating the truth or falsity of **religious beliefs**.

HN4 - **Religious** groups and their members that are singled out for discriminatory government treatment by official harassment or symbolic conduct analogous to defamation have standing to seek redress in federal courts.

HN11 - Judicial review of governmental purpose is deferential. A **religious** purpose alone is not enough to invalidate an act of a state legislature. The **religious** purpose must predominate.

144. United States v. Hardman

United States Court of Appeals for the Tenth Circuit | Aug 08, 2001 | 2001 U.S. App. LEXIS 17702

Overview: Where non-Native American practitioner of a Native American religion was convicted of a Migratory Bird Treaty Act (MBTA) violation, the MBTA did not violate defendant's freedom of religion and equal protection rights.

HN21 - At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. However, reviewing a law for obvious **religious** discrimination is only the first step of the inquiry. Facial neutrality is not determinative. A law is also rendered non-neutral pursuant to the Smith rule if it contains a subtle departure from neutrality or a covert suppression of particular **religious beliefs**. Thus, the Free Exercise Clause protects against governmental hostility which is masked, as well as overt. The court must survey meticulously the circumstances of governmental categories to eliminate, as it were, **religious** gerrymanders.

HN6 - 50 C.F.R. § 22.22 provides that a permit authorizing the possession of lawfully acquired bald eagles or golden eagles, or their parts, nests, or eggs for Indian **religious** use may be issued if certain criteria are met. In order to obtain a permit under this provision, an individual must be an enrolled member of a federally recognized tribe and must show that the eagles or parts are used for a tribally authorized and bona fide **religious** ceremony. Thus, the statute and regulations are laws of general applicability, promulgated for secular purposes, but contain a **religious** accommodation in favor of persons meeting two distinct qualifying criteria: (1) that the person be an actual practitioner of a bona fide Native American religion requiring the use of migratory bird feathers, and (2) that the person be a member of a certain political classification, i.e., a member of a federally recognized tribe. 50 C.F.R. § 22.22.

HN8 - The essential requirement of the **Religious** Freedom and Restoration Act is that: Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000bb-1(b).

145. Valov v. Department of Motor Vehicles

Court of Appeal of California, Second Appellate District, Division Five | Sep 20, 2005 | 132 Cal. App. 4th 1113

Overview: A driver's First Amendment claim that the California DMV violated his right to the free exercise of religion when it refused to exempt him from a photograph requirement for driver's licenses failed because the requirement was a neutral, generally applicable requirement that was rationally related to achieving legitimate governmental interests.

HN4 - Religious beliefs do not excuse compliance with otherwise valid laws regulating matters the state is free to regulate. The government may not regulate **religious beliefs** as such by compelling or punishing their affirmation. Nor may it target conduct for regulation only because it is undertaken for **religious** reasons. But the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).

HN7 - Laws are not neutral and generally applicable when they target **religious beliefs** as such. If the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral. To assess a law's neutrality, courts first look to its text. A law lacks facial neutrality if it refers to a **religious** practice without a secular meaning discernable from the language or context.

HN11 - Under strict scrutiny, a law must not substantially burden a **religious** belief or practice unless it represents the least restrictive means of achieving a compelling interest or, in other words, is narrowly tailored. A law substantially burdens a **religious** belief if it conditions receipt of an important benefit upon conduct proscribed by a **religious** faith, or where it denies such a benefit because of conduct mandated by **religious** belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his **beliefs**.

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146. Murphy v. Zoning Comm'n

United States District Court for the District of Connecticut | Sep 30, 2003 | 289 F. Supp. 2d 87

Overview: Zoning commission's cease and desist order that limited the number of attendants at one private residence, thus impacting the homeowners' prayer meetings, abridged state and federal constitutional free exercise and free assembly rights.

HN12 - The Free Exercise Clause protects individuals from laws that discriminate against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. Thus, if the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral. In evaluating the neutrality requirement, the first step is to look to the text, for the minimum requirement of neutrality is that a law not discriminate on its face. That does not end the inquiry, however. The Free Exercise Clause extends beyond facial discrimination and forbids subtle departures from neutrality and covert suppression of particular **religious beliefs**. The court must survey meticulously the circumstances of governmental categories to eliminate, as it were, **religious** gerrymanders.

HN37 - According to the United States District Court for the District of Connecticut, although **Religious** Freedom Restoration Act of 1993 (RFRA), 42 U.S.C.S. §§ 2000bb-2000bb-4 and **Religious** Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.S. § 2000cc, are similar in some respects - i.e., both were designed to strengthen the protection of **religious** liberty - they are different in all respects relevant to their constitutionality. The crucial difference is the result of a demonstrated effort by Congress to comply with the requirements of Flores, not to defy it or to usurp judicial authority to define constitutional violations. RLUIPA essentially codifies First and Fourteenth Amendment standards - based on sufficient evidence in the legislative history demonstrating the need for better enforcement of those standards - and institutes proportional remedies. To the extent RLUIPA covers marginally more conduct than the Fourteenth Amendment itself, it does so within acceptable constitutional parameters. Therefore, RLUIPA does not violate § 5 of the Fourteenth Amendment.

HN42 - The Establishment Clause prohibits any government from enacting a law that would respect the establishment of religion. While this clause forbids Congress from advancing religion, the United States Supreme Court has interpreted it to allow, and sometimes to require, the accommodation of **religious** practices. The Court has long recognized that the government may (and sometimes must) accommodate **religious** practices and that it may do so without violating the Establishment Clause. Moreover, in commanding neutrality the **Religious** Clauses do not require the government to be oblivious to impositions that legitimate exercises of state power may place on **religious** belief and practice.

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147. ## Episcopal Student Found. v. City of Ann Arbor

United States District Court for the Eastern District of Michigan, Southern Division | Aug 24, 2004 | 341 F. Supp. 2d 691

Overview: Where an organization alleged that denial of a permit to demolish a building violated the Religious Land Use and Institutionalized Persons Act, it failed to show that the historic commission's action substantially burdened religious free exercise.

HN11 - Under the **Religious** Land Use and Institutionalized Persons Act (RLUIPA), "**religious** exercise" includes any exercise of religion, whether or not compelled by, or central to a system of **religious** belief. 42 U.S.C.S. § 2000cc-5(7)(A). The RLUIPA only requires that a claimant's **beliefs** are sincerely held.

HN15 - In Yoder, the U.S. Supreme Court faced the issue of whether a compulsory school attendance law which conflicted with Amish **religious beliefs**, and which imposed criminal sanctions for noncompliance, violated the free exercise clause. The Court held in the affirmative. In particular, the Supreme Court stated, the impact of the compulsory-attendance law on respondents' practice of the Amish religion is not only severe, but inescapable, for the Wisconsin law affirmatively compels them, under threat of criminal sanction, to perform acts undeniably at odds with fundamental tenets of their **religious beliefs**.

HN16 - Braunfeld involved a challenge to Pennsylvania's Sunday closing law by **Orthodox** Jewish merchants who argued that the law effectively required them to make a financial sacrifice to practice their religion. The U.S. Supreme Court held that **one's** religion is not substantially burdened by a statute that makes **one's religious** observance more difficult or expensive.

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148. ## HEB Ministries, Inc. v. Tex. Higher Educ. Coordinating Bd.

Supreme Court of Texas | Aug 31, 2007 | 235 S.W.3d 627

Overview: In a declaratory judgment action brought against Texas Higher Education Coordinating Board, Texas Supreme Court concluded that Tex. Educ. Code Ann. § 61.313's restriction on the use of the name "seminary" by schools offering only religious programs of study violated the Free Exercise guarantees of the First Amendment and Tex. Const. art. I, § 6.

HN16 - The protections of the Free Exercise Clause of the First Amendment pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons.

HN3 - The First Amendment's Establishment Clause prohibits any law respecting an establishment of religion. Correspondingly, Tex. Const. art. I, § 6, states that no preference shall ever be given by law to any **religious** society. The Texas Supreme Court has referred to this provision and Tex. Const. art. I, § 7, as Texas' equivalent of the Establishment Clause.

HN6 - The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Since the government cannot determine what a church should be, it cannot determine the qualifications a cleric should have or whether a particular person has them. Likewise, the government cannot set standards for **religious** education or training.

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149. Walsh v. Louisiana High School Athletic Asso.

United States District Court for the Eastern District of Louisiana | Mar 17, 1977 | 428 F. Supp. 1261

Overview: A rule was unconstitutional because it bore no rational relationship to athletic recruiting.

HN5 - There is no standard of constitutional weights and measures by which to test the scales. If a person whose **religious beliefs** forbid her to work on Saturday must forfeit, by her refusal to do so, unemployment compensation benefits otherwise due, such regulation unfairly burdens her free exercise of religion by compelling her to choose between the principles of her faith and the governmental benefits available to others. On the other hand, a person whose **religious beliefs** cause him to object conscientiously to certain wars but not to all may be required to participate in what he sincerely considers an unjust one or go to jail. A person whose **religious beliefs** make him a conscientious objector and cause him to choose civilian service may be denied educational benefits given to those who engage in more onerous or lengthy military service, a female less than eighteen years of age may be prohibited from selling periodicals in a public place despite the fact that, as a Jehovah's Witness, she believes it is her **religious** duty to perform this work, and **Orthodox** Jews may be required to close their businesses on Sunday even though they observe the Sabbath on the Seventh Day.

HN3 - The Free Exercise Clause bars governmental regulation of **religious beliefs** as such or interference with the dissemination of **religious** ideas. It prohibits misuse of secular governmental programs to impede the observance of one or all religions or to discriminate invidiously between religions, even though the burden may be characterized as being only indirect. And even as to neutral prohibitory or regulatory laws having secular aims, the Free Exercise Clause may condemn certain applications clashing with imperatives of religion and conscience, when the burden on First Amendment values is not justifiable in terms of the Government's valid aims.

HN6 - More direct encroachment on **religious beliefs** is permitted when the governmental interest is stronger; thus a Mormon who takes more than one wife in accordance with a duty imposed upon him by the precepts of the Church of Jesus Christ of the Latter Day Saints may be jailed for polygamy. The measure that must be employed is not one of equal balance. In this area, balanced scales weigh against government

regulation. The state must have a compelling interest in the regulation in question, and there must be no equally effective alternative means to achieve the state's objective.

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150. ## Warner v. Graham

United States District Court for the District of North Dakota, Southwestern Division | May 15, 1987 | 675 F. Supp. 1171

Overview: An employer was held to have violated the Free Exercise rights of a consultant it hired when it terminated her after she admitted to using peyote associated with her religious practices in the Native American Church.

HN6 - Only **beliefs** rooted in religion are entitled to first amendment protection. What constitutes a **religious** belief is often a difficult issue, and does not turn upon judicial perceptions of the particular belief or practice in question. **Religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection. Nor does the United States Constitution distinguish between persons born to a faith and those recently converted. The First Amendment protects the free exercise rights of employees who adopt **religious beliefs** or convert from one faith to another after they are hired. The timing of **one's** conversion is immaterial to our determination that her free exercise rights have been burdened; the salient inquiry under the Free Exercise Clause is the burden involved.

HN17 - Membership in an organization is not a requisite to **constitutional protection**. **Religious beliefs** that are not shared by other members of a **religious** organization are equally entitled to first amendment protection. Intra-faith differences are not uncommon among followers of a particular creed, and the judicial process is singularly ill equipped to resolve such differences in relation to the Religion Clauses. One can, of course, imagine an asserted claim so bizarre, so clearly nonreligious in motivation, as not to be entitled to protection under the Free Exercise Clause. The guarantee of free exercise is not limited to **beliefs** which are shared by all of the members of a **religious** sect.

HN5 - The first amendment to the United States Constitution preserves to the individual the right to free exercise of religion. The right of belief is absolute, but the right of conduct based upon those **beliefs** is not, and can be regulated by the state. In considering a free exercise claim, the court must apply a traditional balancing test. First, the plaintiff must establish that the defendants have burdened a sincerely held **religious** belief. The burden then shifts to defendants to show that they have a compelling state interest that outweighs plaintiff's interest in free exercise. Finally, defendants must show that the means by which the compelling state interest is achieved is the least restrictive means of achieving the compelling state interest.

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151. ## Donahue v. Fair Employment & Housing Com.

Court of Appeal of California, Second Appellate District, Division Five. | Nov 27, 1991 | 13 Cal. App. 4th 350

Overview: The status of being an unmarried cohabiting couple is not such a paramount and compelling government interest as to foreclose a landlord's legitimate assertion of his right to freely exercise his religious beliefs under the California constitution.

HN16 - Religion may properly be viewed as not merely the performance of rituals or ceremonies, limited to **one's** home and place of worship, but as also a system of moral **beliefs** and ethical guideposts which regulate **one's** daily life. Religion thus does not necessarily end where society begins. The court acknowledges that **religious** liberty embraces the freedom to believe, which is absolute, and the freedom to act, which in the nature of things cannot be absolute.

HN2 - The types of discrimination listed in Cal. Civ. Code § 51, are illustrative and not exhaustive. § 51, prohibits every **type** of discrimination by a business establishment that is not related to legitimate business purposes or is not intended to further some compelling public policy.

HN12 - The California Supreme Court has long-held that Government action burdening **religious** conduct is subject to a balancing test, in which the importance of the state's interest is weighted against the severity of the burden imposed on religion.

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152. ⚠ Turner v. Roman Catholic Diocese of Burlington

Supreme Court of Vermont | Oct 09, 2009 | 2009 VT 101

Overview: In a suit against a diocese involving sexual abuse, trial court erred in not excusing for cause a juror who was a member of the diocese. By media coverage and a bishop's statements, the juror was very likely aware of the bishop's assessment of the financial risk of the litigation, raising the concern that churches, including hers, could be lost.

HN14 - The Free Exercise Clause guarantees the freedom to hold **religious beliefs** and the freedom to act in accordance with those **beliefs**. However, the freedom to act in accordance with **religious beliefs** is not absolute. Conduct remains subject to regulation for the protection of society. To be protected under the Free Exercise Clause, the conduct that the state seeks to regulate must be rooted in **religious** belief. Laws that are neutral and of general applicability do not violate the Free Exercise Clause. A law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. Unless the state attempts to regulate **religious beliefs**, the communication of **religious beliefs**, or the raising of **one's** children in those **beliefs**, the Free Exercise Clause does not bar neutral, generally applicable laws.

HN19 - There are constitutional limitations on the extent to which a civil court may inquire into and determine matters of ecclesiastical cognizance and polity in adjudicating intrachurch disputes. But the United States Supreme Court never has suggested that those constraints similarly apply outside the context of such intraorganization disputes. Serbian Eastern **Orthodox** Diocese and other cases are premised on a perceived danger that in resolving intrachurch disputes the State will become entangled in essentially **religious** controversies or intervene on behalf of groups espousing particular doctrinal **beliefs**. Such considerations are not applicable to purely secular disputes between third parties and a particular defendant, albeit a **religious** affiliated organization, in which fraud, breach of contract, and statutory

violations are alleged. Nothing the Court has said is intended even remotely to imply that, under the cloak of religion, persons may, with impunity, commit frauds upon the public.

HN16 - The Establishment Clause prohibits government action that tends to endorse, favor, or in some manner promote religion. In Lemon, the United States Supreme Court announced a three-prong Establishment Clause test: (1) governmental action must have a secular purpose; (2) its primary effect must not enhance or inhibit religion; and (3) the action must not foster an excessive government entanglement with religion. In evaluating whether a law that is religiously neutral on its face violates the Establishment Clause, a court must inquire if the law has either the purpose or principal effect of advancing or inhibiting religion. Whether there is excessive government entanglement with religion is a factor to consider in evaluating whether the principal effect of the governmental action is to advance or inhibit religion. Not all "entanglements" are constitutionally proscribed. Excessive entanglement between church and state may occur when governmental regulation necessitates an examination of **religious** doctrine or results in a close surveillance of **religious** institutions. An excessive entanglement inquiry should examine the character and purposes of the institutions that are benefitted, the nature of the aid that the State provides, and the resulting relationship between the government and the **religious** authority.

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153. In re Williams

Supreme Court of North Carolina | Jan 20, 1967 | 269 N.C. 68

Overview: A minister's refusal to testify at the criminal trial of a church member was not justified and constituted contempt because no objection to his proposed testimony was advanced by the defendant then on trial or by any communicant of the minister.

HN16 - The free exercise of religion is impaired not only by governmental prohibition of that which **one's religious** belief demands but also by governmental compulsion of that which **one's religious** belief forbids. The freedom to exercise **one's religious beliefs** is not absolute. Thus, an act of Congress that forbids the practice of polygamy in territories of the United States is sustained against the contention that the defendant's **religious** belief requires him to practice it, and one may be required to submit himself or his children to vaccination against a dread disease notwithstanding the fact that to do so violates his **religious beliefs**.

HN9 - N.C. Gen. Stat. § 8-53.1 provides that no clergyman, ordained minister, priest, rabbi, or accredited Christian Science practitioner of an established church or **religious** organization shall be required to testify in any action, lawsuit or proceeding, that concerns any information that may have been confidentially communicated to him in his professional capacity under such circumstances that to disclose the information will violate a sacred or moral trust, when the giving of such testimony is objected to by the communicant; provided, that the presiding judge in any trial may compel such disclosure if in his opinion the same is necessary to a proper administration of justice.

HN14 - The term "rights of conscience" as used in N.C. Const. art. I, § 26 must be construed in relation to the right to worship God according to the dictates of **one's** own conscience. Consequently, the freedom that is protected by this provision of the North Carolina Constitution is no more extensive than the freedom to exercise **one's** religion, which is protected by U.S. Const. amend. I. These constitutional provisions do not provide immunity for every act that **one's** conscience permits him to do, or even for every act that **one's** conscience classifies as required by ethics, nor do they shield the defendant from a command by the state

that he do an act merely because he believes it morally or ethically wrong. It is the right to exercise **one's** religion, or lack of it, which is protected, not **one's** sense of ethics.

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154. F.F. v State of New York

Supreme Court of New York, Albany County | Dec 03, 2019 | 66 Misc. 3d 467

Overview: Public Health Law § 2164, as amended, which required children to be vaccinated before entering school and removed a religious exemption, did not violate the Free Exercise Clause of the U.S. and N.Y. Constitutions because it was facially neutral and not enacted for the purpose of targeting religious believers; nor did it violate Equal Protection.

HN2 - For decades, New York's Public Health Law provided for two types of exemptions from these vaccination requirements: a medical exemption, where a physician certifies that immunization may be detrimental to a child's health. Public Health Law § 2164[8]; and a non-medical, **religious** exemption, where parents or guardians certify that they hold genuine and sincere **religious beliefs** which are contrary to the required vaccinations. Public Health Law § 2164[9]. On June 13, 2019, the Legislature repealed the provision authorizing non-medical, **religious** exemptions. Thus, all children attending schools in New York State must receive the mandated vaccines unless they have a medical exemption.

HN7 - New York could constitutionally require that all children be vaccinated in order to attend public school. Former New York law went beyond what the Constitution requires by allowing an exemption for parents with genuine and sincere **religious beliefs**. Because the State could bar non-vaccinated children from school altogether, a fortiori, the State's more limited exclusion during an outbreak of vaccine-preventable disease is clearly constitutional.

HN8 - For purposes of the federal Free Exercise Clause, a neutral law of general applicability need not be justified by a compelling governmental interest, even if the law has the incidental effect of burdening **religious** practice. The right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes). A neutral law is one that does not target **religious beliefs** as such or have as its object to infringe upon or restrict practices because of their **religious** motivation.

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155. Kubala v. Hartford Roman Catholic Diocesan

Superior Court of Connecticut, Judicial District of New Haven | May 20, 2011 | 52 Conn. Supp. 218

Overview: Churchgoer's claims against a church diocese and others, arising from an injury she sustained during a healing service, were dismissed where the court could not apply neutral principles of secular law to evaluate them; accordingly, they were prohibited by U.S. Const. amend. I, Conn. Const. art. I, § 3, and Conn. Gen. Stat. § 52-571b.

HN6 - The Free Exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires. Thus, U.S. Const. amend. I obviously excludes all governmental regulation

of **religious beliefs** as such. The government may not compel affirmation of **religious** belief, punish the expression of **religious** doctrines it believes to be false, impose special disabilities on the basis of **religious** views or **religious** status, or lend its power to one or the other side in controversies over **religious** authority or dogma. Indeed, it is the essence of **religious** faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria. When a defendant raises the Free Exercise clause of the First Amendment as a defense, the threshold question is whether the conduct of the defendants is **religious**.

HN8 - U.S. Const. amend. I does not create a blanket tort immunity for **religious** institutions or their clergy, thus allowing clergy and clerical institutions to be sued for the torts they commit. The Supreme Court has consistently failed to allow the Free Exercise clause to relieve an individual from obedience to a general law not aimed at the promotion or restriction of **religious beliefs**.

HN4 - The **religious** freedoms embraced in U.S. Const. amend. I apply to the States through U.S. Const. amend. XIV. The values underlying these two provisions relating to religion have been zealously protected, sometimes even at the expense of other interests of admittedly **high** social importance.

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156. Watts v. Fla. Int'l Univ.

United States Court of Appeals for the Eleventh Circuit | Aug 17, 2007 | 495 F.3d 1289

Overview: Student who was dismissed from university practicum at private facility for counseling patient that she could obtain therapy through church properly pled a Free Exercise Clause claim by alleging that his religious beliefs included the belief that patients who professed a religion were entitled to be informed of religious-based therapy options.

HN5 - To plead a valid free exercise of religion claim, a plaintiff must allege that the government has impermissibly burdened one of his sincerely held **religious beliefs**. The United States Supreme Court has used the phrase "sincerely held" to describe the **type** of **religious** belief or practice eligible for protection under the Free Exercise Clause. The United States Court of Appeals for the Eleventh Circuit has used that "sincerely held" language as well. "Sincerely held" is different from "central," and courts have rightly shied away from attempting to gauge how central a sincerely held belief is to the believer's religion. The Supreme Court has described the **type** of **religious** belief or practice that the First Amendment shields from substantial government burden as a central **religious** belief or practice. After using that phrase, however, the Court pulled back from it in the very next sentence, stating that it is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds; it is no more appropriate for judges to determine the centrality of **religious beliefs** before applying a compelling interest test in the free exercise field, than it would be for them to determine the importance of ideas before applying the compelling interest test in the free speech field.

HN10 - With regard to a claim asserting a violation of **one's** rights under the Free Exercise Clause, the United States Supreme Court has at least twice instructed courts not to engage in any "objective" test of whether a particular belief is a **religious** one. The Court has written that the resolution of whether a particular belief is **religious** in nature is not to turn upon a judicial perception of the particular belief or practice in question; **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection. It is difficult to gauge the objective reasonableness of a belief that need not be acceptable, logical, consistent, or comprehensible to others.

HN13 - Men may believe what they cannot prove. They may not be put to the proof of their **religious** doctrines or **beliefs**. **Religious** experiences which are as real as life to some may be incomprehensible to others. Local boards and courts in this sense are not free to reject **beliefs** because they consider them incomprehensible. Their task is to decide whether the **beliefs** professed by a registrant are sincerely held and whether they are, in his own scheme of things, **religious**. Simply put, judges and juries must not inquire into the validity of a **religious** doctrine, and the task of courts is to examine whether a plaintiff's **beliefs** are, in his own scheme of things, **religious**. The question is not whether the plaintiff's **beliefs** are **religious** in the objective, reasonable person's view, but whether they are **religious** in the subjective, personal view of the plaintiff. For all these reasons, a plaintiff asserting a claim under the Free Exercise Clause of U.S. Const. amend. I need not prove the objective reasonableness of his **religious** belief.

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157. Denny v. Prince

Circuit Court of the City of Portsmouth, Virginia | Aug 08, 2005 | 68 Va. Cir. 339

Overview: A pastor's suit against church members for tortious interference with his employment contract, among other claims, was dismissed; the dispute involved the church leadership's decision as to the spiritual welfare of its congregation, and extreme deference was owed to the members' actions pursuant to U.S. Const. amend. I and Va. Const. art. I, § 16.

HN21 - Only on rare occasions where there has existed a compelling governmental interest in the regulation of public health, safety, and general welfare have the courts ventured into the protected ecclesiastical area of churches. Such incursions have been cautiously made so as not to interfere with the doctrinal **beliefs** and internal decisions of the **religious** society.

HN6 - The purpose of the Establishment and Free Exercise Clauses of the First Amendment is to prevent, as far as possible, the intrusion of either the church or the state into the precincts of the other. At the same time, however, total separation is not possible in an absolute sense. Some relationships between government and **religious** organizations is inevitable.

HN7 - The religion clauses of the U.S. Constitution and the Virginia Constitution contain an abstract restriction on the capacity of government, and especially the judiciary, to involve itself in matters of **religious** truth and doctrine, potentially irrespective of the conduct at issue and the identities of the parties. Broadly conceptualized, this restriction amounts to a general prohibition on the adjudication of **religious** questions, not unlike the U.S. Const. art. III prohibition on the adjudication of so-called political or nonjusticiable questions.

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158. Fortress Bible Church v. Feiner

United States District Court for the Southern District of New York | Aug 11, 2010 | 734 F. Supp. 2d 409

Overview: Defendants violated RLUIPA and the New York SEQRA because there was evidence of defendants' intentional delay, hostility, and bias toward the church's application and defendants failed to demonstrate any compelling governmental interests sufficient to justify the denial of the church's SEQRA application.

HN9 - The **Religious** Land Use and Institutionalized Persons Act (RLUIPA) broadly defines "**religious** exercise" as any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief, including the use, building, or conversion of real property for the purpose of **religious** exercise. 42 U.S.C.S. § 2000cc-5(7)(A). That is, RLUIPA does not protect buildings or structures per se, but rather protects their use for the purpose of **religious** exercise. 42 U.S.C.S. § 2000cc-5(7)(B). Thus, the Second Circuit has observed that not every activity carried out by a **religious** entity or individual constitutes a "**religious** exercise." Instead, RLUIPA requires inquiring whether the facilities to be constructed are to be devoted to a **religious** purpose. Such **religious** purpose need not implicate core **religious** practice, or an integral part of **one's** faith.

HN28 - The Free Exercise Clause of the First Amendment provides that Congress shall make no law prohibiting the free exercise of religion. U.S. Const. amend. I. The Free Exercise Clause, which has been applied to the states through the Fourteenth Amendment, requires government respect for, and noninterference with, the **religious beliefs** and practices of our Nation's people.

HN29 - The appropriate standard of review for analyzing claims under the First Amendment's Free Exercise Clause depends upon the facts of the particular case. A strict scrutiny standard of review is appropriate in situations that involve individualized governmental assessments. A strict scrutiny analysis is also appropriate where government enforcement of laws or policies substantially burden the exercise of sincerely held **religious beliefs**. Where the government seeks to enforce a law that is neutral and of general applicability, however, then it need only demonstrate a rational basis for its enforcement, even if enforcement of the law incidentally burdens **religious** practices.

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159. Wigg v. Sioux Falls Sch. Dist. 49-5

United States District Court for the District of South Dakota, Southern Division | Jul 02, 2003 | 274 F. Supp. 2d 1084

Overview: A school district's policy preventing teachers from attending religious meetings held at district facilities after school constituted viewpoint discrimination in violation of the First Amendment.

HN34 - To establish that her free exercise rights have been violated, the plaintiff must first show that the government action complained of substantially burdened her **religious** activities. Government significantly burdens the exercise of religion if it significantly constrains conduct or expression that manifests a central tenet of a person's **religious beliefs**, meaningfully curtails the ability to express adherence to a particular faith, or denies reasonable opportunities to engage in fundamental **religious** activities.

HN7 - Fed. R. Civ. P. 30(e) allows deponents to make changes in form or substance to their testimony and to append any changes that are made to the tiled transcript. A deponent invoking this privilege must sign a statement reciting such changes and the reasons given for making them, but the language of Rule 30 places no limitations on the **type** of changes that may be made nor does Rule 30 require a judge to

examine the sufficiency, reasonableness, or legitimacy of the reasons for the changes, even if those reasons are unconvincing.

HN25 - The First Amendment protects speech and religion by quite different mechanisms. Speech is protected by insuring its full expression even when the government participates, for the very object of some of our most important speech is to persuade the government to adopt an idea as its own. In **religious** debate or expression the government is not a prime participant, for the Framers deemed **religious** establishment antithetical to the freedom of all. The Establishment Clause is a specific prohibition on forms of state intervention in **religious** affairs with no precise counterpart in the speech provisions.

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160. Boone v. Boozman

United States District Court for the Eastern District of Arkansas, Western Division | Aug 12, 2002 | 217 F. Supp. 2d 938

Overview: State statute which discriminated against non-recognized churches or religious denominations was struck. Thus, a mother suing on behalf of her daughter regarding school immunization was awarded summary judgment on her freedom of religion claim.

HN6 - A belief must be rooted in religion to be protected by the religion clauses of the First Amendment. However, **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.

HN10 - A law need not expressly distinguish between religions by sect name; rather discrimination can be evinced by objective factors such as the law's legislative history and its practical effect while in operation. Further, personal **religious beliefs** are not a basis for an exemption under the immunization statute. Yet the First Amendment's, U.S. Const. amend. I, protections are not limited to those who are responding to the commands of a particular **religious** organization.

HN1 - Ark. Code Ann. § 6-18-702 requires that children be immunized from certain diseases before they may attend public or private school in the State of Arkansas. In enacting subsection (d) of that statute, the General Assembly conferred a **religious** exemption from the immunization requirements on individuals for whom immunization conflicts with the **religious** tenets and practices of a recognized church or **religious** denomination of which they are an adherent or member.

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161. McKelvey v. Pierce

Supreme Court of New Jersey | Jul 10, 2002 | 173 N.J. 26

Overview: Former seminarian's tort and contract claims that he had been driven from his vocation by acts of homosexual sexual harassment were not all necessarily precluded from a hearing in New Jersey courts.

HN14 - Where a defendant church is neither exercising its constitutionally protected prerogative to choose its ministers nor embracing the behavior at issue as a constitutionally protected **religious** practice, the First Amendment does not bar a plaintiff's claims. Claims run afoul of the free exercise clause if the nature of the claims and associated remedies sought would impinge on the church's prerogative to choose its ministers or to exercise its **religious beliefs** in the context of employing its ministers. The critical question is the degree to which resolving the issues raised by a plaintiff's claims requires intrusion into the spiritual functions of the **religious** institution at issue.

HN1 - The First Amendment does not immunize every legal claim against a **religious** institution and its members. The analysis in each case is fact-sensitive and claim-specific, requiring an assessment of every issue raised in terms of doctrinal and administrative intrusion and entanglement.

HN2 - New Jersey case law holds that the fiduciary duties owed by a cleric to a parishioner during the course of pastoral counseling can be defined without excessive entanglement with **religious** doctrine or polity.

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162. ## Ohno v. Yasuma

United States Court of Appeals for the Ninth Circuit | Jul 02, 2013 | 723 F.3d 984

Overview: Enforcement, by the district court, of the Japanese damages award pursuant to Cal. Code Civ. Proc. §§ 1715, 1716 did not render the imposition of tort liability domestic state action, subject to constitutional constraints. Thus, the district court's order did not directly violate the Federal or California Constitution.

HN44 - American courts can recognize tort liability for acts assertedly motivated by religion. The Free Exercise Clause of the U.S. Constitution and the corresponding protections of **religious** freedom in the California Constitution do not bar tort claims against a **religious** entity or its members, so long as adjudicating the cause of action does not require a court to judge the validity of **religious beliefs** or interfere with ecclesiastical decisionmaking regarding self-governance or employment.

HN47 - There are definite limitations on what constitutes under California law a cognizable tort claim arising from facially **religious** conduct: No cause of action will be recognized where a plaintiff challenges the verity of **religious** statements or **beliefs**. Inquiry into the truth or falsity of **religious beliefs** is foreclosed by constitutional guarantees of **religious** freedom and that the courts may ask only whether the proponent of a particular religion holds his **beliefs** honestly and in good faith. And the California Court of Appeal has refused to entertain actions that require the court to determine whether the actions of an individual not party to the lawsuit were induced by faith or coercive persuasion.

HN55 - To invoke the protection of the Free Exercise Clause of the U.S. Constitution and the corresponding protections of **religious** freedom in the California Constitution against a judgment in tort, a defendant would have to demonstrate that imposing liability in damages substantially burdened its sincerely held **religious beliefs** or practices and that the state's justifications for that burden did not outweigh any infringement on the defendant's **religious** freedom, under the applicable standard of scrutiny. The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central **religious** belief or practice and, if so, whether a compelling governmental interest justifies the burden.

163. Madison v. Riter

United States District Court for the Western District of Virginia, Roanoke Division | Jan 23, 2003 | 240 F. Supp. 2d 566

Overview: The inmate's alleged violation under the Religious Land Use and Institutionalized Persons Act was dismissed where it was unconstitutional as a violation of the Establishment Clause because its principal effect was to advance religious belief.

HN3 - The application of the Sherbert strict scrutiny standard in 42 U.S.C.S. § 2000cc-1 of the **Religious** Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., to the free exercise claims of **religious** inmates is a clear violation of the Establishment Clause, having the primary effect of advancing religion above other fundamental rights and conscientious **beliefs**.

HN27 - Courts should not undertake to dissect **religious beliefs** because the believer admits that he is struggling with his position or because his **beliefs** are not articulated with the clarity and precision that a more sophisticated person might employ.

HN2 - 42 U.S.C.S. § 2000cc-1 of the **Religious** Land Use and Institutionalized Persons Act of 2000, 42 U.S.C.S. § 2000cc et seq., requires an inmate to bear the burden of persuasion concerning the substantial burden imposed on his **religious** exercise, and then, as in any strict scrutiny case, the government bears the burden of persuasion on the remaining elements of the test. 42 U.S.C.S. § 2000cc-2(b).

164. Hart v. Cult Awareness Network

Court of Appeal of California, Second Appellate District, Division Seven. | Jan 28, 1993 | 13 Cal. App. 4th 777

Overview: Member of the Church of Scientology did not prove that the Cult Awareness Network's denial of his membership application was religious discrimination where the group was not a business establishment within the meaning of the Unruh Civil Rights Act.

HN13 - The establishment of religion clause of U.S. Const. Amend. I means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing **religious beliefs** or disbeliefs, for church attendance or non-attendance. Neither a state nor the federal government can, openly or secretly, participate in the affairs of any **religious** organizations or groups and vice versa.

HN8 - Constitutional protection to freedom of association is afforded in two distinct senses. First, the United States Constitution protects against unjustified government interference with an individual's choice

to enter into and maintain certain intimate or private relationships. Second, individuals have the freedom to associate for the purpose of engaging in protected speech or **religious** activities. In many cases, government interference with one form of protected association will also burden the other form of association.

HN10 - Implicit in the right to engage in activities protected by U.S. Const. amend. I is a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, **religious**, and cultural ends.

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165. Jocz v. Labor & Indus. Review Comm'n

Court of Appeals of Wisconsin | Aug 08, 1995 | 196 Wis. 2d 273

Overview: The state was precluded from enforcing the Wisconsin Fair Employment Act's discriminatory prohibition against a seminary where a supervisor's position with the seminary was ministerial and the seminary's decision was constitutionally protected.

HN21 - The rule for courts to follow when confronted with the question of whether an employment position is "ministerial" or "ecclesiastical" is that if the employee's primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual and worship, he or she should be considered "ministerial" or "ecclesiastical". While this test is not meant to provide the exclusive definition of "ministerial" or "ecclesiastical" functions, it should provide a basic framework for reviewing agencies or courts to follow when addressing the prima facie question of whether a position is entitled to **constitutional protection** from state interference.

HN2 - Wis. Const. art. I, § 18 (amended 1982), provides: The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend, erect or support any place of worship, or to maintain any ministry, without consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any **religious** establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of **religious** societies, or **religious** or theological seminaries.

HN9 - Under the Wisconsin Fair Employment Act (WFEA), with certain limited exceptions, no employer may engage in any act of employment discrimination as specified in Wis. Stat. § 111.322 against any individual on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, arrest record or conviction record. Wis. Stat. § 111.321 (1983-84). Non-profit **religious** associations are considered "employers" under the WFEA. § 111.32(6). Sections 111.321 and 111.322 empower the Department of Industry, Labor, and Human Resources to review and investigate employment discrimination complaints filed against **religious** associations.

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166. Griffin v. Coughlin

Court of Appeals of New York | Jun 11, 1996 | 88 N.Y.2d 674

Overview: Commissioner of correctional services violated Establishment Clause of First Amendment by denying inmate participation in family visitation program due to inmate's refusal to participate in drug program with required religious practices.

HN1 - The Establishment Clause prohibits the use of the state's power to force one to profess a **religious** belief or participate in a **religious** activity. The establishment of religion clause of U.S. Const. amend. I means that neither a state nor the federal government can set up a church. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing **religious beliefs** or disbeliefs.

HN2 - Neither a state nor the federal government can constitutionally force a person to profess a belief or disbelief in any religion. Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different **beliefs**.

HN3 - Pursuant to U.S. Const. amend. I, the state cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored **religious** practice. Coerced attendance at a **religious** exercise is invariably sufficient to establish an Establishment Clause violation: although precedents make clear that proof of government coercion is not necessary to prove an Establishment Clause violation, it is sufficient. Government pressure to participate in a **religious** activity is an obvious indication that the government is endorsing or promoting religion. The Establishment Clause bars coercion by "force of law and threat of penalty" to engage in a **religious** activity, such as requiring a person to "attend church and observe the Sabbath."

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167. ⚠ Vineyard Christian Fellowship of Evanston, Inc. v. City of Evanston

United States District Court for the Northern District of Illinois, Eastern Division | Mar 31, 2003 | 250 F. Supp. 2d 961

Overview: No rational explanation existed for treating the church differently from similarly situated institutions such as cultural and membership organizations; thus, the church's equal protection rights were violated by a city zoning ordinance.

HN27 - According to the United States District Court for the Northern District of Illinois, Eastern Division, a history of the **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. § 2000cc, demonstrates that Congress did not intend to change traditional Supreme Court jurisprudence on the definition of substantial burden. "Substantial burden" has been defined or explained in various ways. It is well established that there is no substantial burden placed on an individual's free exercise of religion where a law or policy merely operates so as to make the practice of an individual's **religious beliefs** more expensive.

HN14 - The free exercise clause of the First Amendment has been made applicable to the states by incorporation into the Fourteenth Amendment. It is settled law that the Free Exercise Clause's protections apply if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons.

HN22 - The **Religious** Land Use and Institutionalized Persons Act, 42 U.S.C.S. § 2000cc's land use provisions establish a general rule that no state or local government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the **religious** exercise of a person, including a **religious** assembly or institution, unless the government demonstrates that imposition of the burden (A) is in furtherance of a compelling government interest; and (B) is the least restrictive means of furthering that compelling government interest. 42 U.S.C.S. § 2000cc(a)(1).

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168. Wis. v. Yoder

Supreme Court of the United States | May 15, 1972 | 406 U.S. 205

Overview: Wisconsin's compulsory school attendance law violated the Free Exercise Clause of the First Amendment because it threatened the practice of Amish religious beliefs by requiring Amish children to attend public school after the eighth grade.

HN7 - Rights guaranteed by the United States Constitution may not be abridged by legislation that has no reasonable relation to some purpose within the competency of the state. The fundamental theory of liberty upon which all governments in this union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the **high** duty, to recognize and prepare him for additional obligations. The duty to prepare the child for "additional obligations" must be read to include the inculcation of moral standards, **religious beliefs**, and elements of good citizenship.

HN3 - A State's interest in universal education, however highly the court ranks it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment and the traditional interest of parents with respect to the **religious** upbringing of their children so long as they prepare them for additional obligations.

HN5 - A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses of the United States Constitution, the claims must be rooted in **religious** belief.

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169. O'Malley v. Brierley

United States Court of Appeals for the Third Circuit | Apr 30, 1973 | 477 F.2d 785

Overview: Catholic priests had no constitutional right to conduct services within a prison, but summary judgment against the prisoners was error because the prisoners provided evidence that prison officials' actions may have curtailed Catholicism only.

HN3 - Neither a state nor the federal government can, openly or secretly, participate in the affairs of any **religious** organizations or groups and vice versa. The clause against establishment of religion by law was

intended to erect a wall of separation between church and state. Thus, neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another.

HN5 - A prisoner's right to practice his religion is not absolute. Such right may be reasonably restricted in order to facilitate the maintenance of proper discipline in the prison. Where the charge is made that the regulations imposed by prison authorities restricting **religious** practices fall more harshly on adherents of one faith than another, the courts will scrutinize the reasonableness of such regulations. Where a state does afford prison inmates the opportunity of practicing a religion, it may not, without reasonable justification, curtail the practice of religion by one sect.

HN6 - The state may not interpose an unreasonable barrier to the free exercise of an inmate's religion. The test for the fact finder, therefore, is simply whether under all of the circumstances, the state has sustained its burden of proof that it was reasonable for the prison authorities to prevent the particular **religious** activities within the prison. In arriving at its "reasonableness" determination, the fact finder shall find the regulation to be reasonable only if the alternative chosen resulted in the least possible "regulation" of the constitutional right consistent with the maintenance of prison discipline. The state authorities are held to the reasonableness test only, and are not required to prove as a condition precedent to the imposition of the regulation that the excluded activity constituted a "clear and present danger" to the prison.

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170. ## Santa Fe Indep. Sch. Dist. v. Doe

Supreme Court of the United States | Jun 19, 2000 | 530 U.S. 290

Overview: A school district's policy permitting student-led, student-initiated prayer prior to school football games violated the Establishment Clause of the U.S. Constitution.

HN16 - Preservation and transmission of **religious beliefs** and worship is a responsibility and a choice committed to the private sphere.

HN19 - The U.S. Constitution forbids the state to exact **religious** conformity from a student as the price of attending her own **high** school graduation. This is the calculus the U.S. Constitution commands.

HN4 - The principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause of U.S. Const. amend. I. It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which establishes a state religion or **religious** faith, or tends to do so.

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171. ## Paul v. Watchtower Bible & Tract Soc.

United States Court of Appeals for the Ninth Circuit | Jun 10, 1987 | 819 F.2d 875

Overview: Appellant former church member was not entitled to damages for appellee's shunning practice because the practice was protected by the United States Constitution.

HN9 - Shunning is a practice engaged in by Jehovah's Witnesses pursuant to their interpretation of canonical text, and the court is not free to reinterpret that text. Under both the United States and Washington Constitutions, the defendants are entitled to the free exercise of their **religious beliefs**. As the Washington Supreme Court has stated, there is no question that the court state constitution protects the free exercise of **religious beliefs**.

HN12 - State laws whether statutory or common law, including tort rules, constitute state action. The Supreme Court ruled that state libel laws are subject to the constraints of the first amendment. The test, according to the Court, is not the form in which state power has been applied but, whatever the form, whether such power has in fact been exercised. For purposes of this test, the court sees no difference between libel and other forms of torts. Clearly, the application of tort law to activities of a church or its adherents in their furtherance of their **religious** belief is an exercise of state power. When the imposition of liability would result in the abridgement of the right to free exercise of **religious beliefs**, recovery in tort is barred.

HN1 - Where resolution of the disputes cannot be made without extensive inquiry by civil courts into **religious** law and polity, the First and Fourteenth Amendments, U.S. Const. amends. I, XIV, mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the **religious** issues of doctrine or polity before them.

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172. ⚠ Katz v. Superior Court

Court of Appeal of California, First Appellate District, Division One | Oct 06, 1977 | 73 Cal. App. 3d 952

Overview: State statute supporting order appointing conservators of adults was unconstitutionally vague and deprived conservatees of constitutional freedom of religion and association because conservatees were not gravely disabled.

HN22 - The door of the Free Exercise Clause, U.S. Const. amend. I, stands tightly closed against any governmental regulation of **religious beliefs** as such. Government may neither compel affirmation of a repugnant belief, nor penalize or discriminate against individuals or groups because they hold **religious** views abhorrent to the authorities, nor employ the taxing power to inhibit the dissemination of particular **religious** views. On the other hand, the court rejects challenges under the Free Exercise Clause to governmental regulation of certain overt acts prompted by **religious beliefs** or principles, for even when the action is in accord with **one's religious** convictions, it is not totally free from legislative restrictions. The conduct or actions so regulated have invariably posed some substantial threat to public safety, peace or order.

HN23 - The Constitution protects expression and association without regard to the race, creed, or political or **religious** affiliation of the members of the group which invokes its shield, or to the truth, popularity, or social utility of the ideas and **beliefs** which are offered.

HN12 - All conflicts and any reasonable doubt as to the sufficiency of the evidence must be resolved in favor of the order. In cases of this **type**, as in any other, the appellate court must uphold the findings of the trial court if there is any substantial evidence which, together with the aid of all inferences reasonably to be drawn from it, tends to support the judgment. On the other hand, when the evidence is insufficient to support a necessary finding, express or implied, the judgment or order cannot be sustained.

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173. Hicks v. Halifax County Bd. of Educ.

United States District Court for the Eastern District of North Carolina, Eastern Division | Dec 15, 1999 | 93 F. Supp. 2d 649

Overview: A school uniform policy with no exceptions could be challenged for violating free exercise of religion and parental right to direct child's religious upbringing.

HN10 - Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit U.S. Const. amend. I protection.

HN8 - Although the nature of a burden on free exercise of religion is relevant only when a court applies strict scrutiny, failure to demonstrate a substantial burden on the free exercise of **one's** religion would require the dismissal of a free exercise claim regardless of which test the court applied.

HN9 - The free exercise inquiry asks whether government has placed a substantial burden on the observance of a central **religious** belief or practice and, if so, whether a compelling governmental interest justifies the burden.

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174. Stark Appeal

Common Pleas Court of Allegheny County, Pennsylvania | Jun 26, 1950 | 1950 Pa. Dist. & Cnty. Dec. LEXIS 166

Overview: Board of Adjustment properly issued occupancy permit to Franciscan monks permitting them to use building as dormitory during closed spiritual retreats where denial upon petition of neighboring property owners would have violated freedom of religion.

HN6 - Where **religious beliefs** or practices are involved, the constitutional principle of freedom of religion demands that courts do not concern themselves with what is required by other **religious** sects, or even by the **religious** authorities of the same church, or what is the usual practice in performing certain **religious** activities. **Religious** freedom, as that term is used in the State and Federal Constitutions, means that the individual group or sect is free to deviate from what is customary or done "in most instances," or from what is approved by others.

HN7 - **Religious** freedom means freedom to follow not only **one's** own **beliefs**, but **one's** own practices and procedures, unhampered and uninfluenced by majority practices or by customary rules or regulations made by others, whoever they may be. **Religious** freedom is absolute freedom to follow **one's** own **beliefs**.

HN5 - The **religious** freedom guaranteed by our Federal and State Constitutions is the freedom to worship Almighty God according to the dictates of **one's** own conscience, and in exercising such worship to adopt such practices as one sees fit, or deems appropriate. Neither the State nor the Federal Government are permitted to dictate or influence **religious** doctrines, concepts, or practices.

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175. S. Jersey Catholic Sch. Teachers Ass'n v. St. Teresa of the Infant Jesus Church Elem. Sch.

Superior Court of New Jersey, Appellate Division | May 16, 1996 | 290 N.J. Super. 359

Overview: Compelling governmental interest expressed in grant of fundamental right to organize and bargain collectively by New Jersey state constitution prevailed over claimed unconstitutional burden on catholic elementary schools' free exercise of religion.

HN13 - In place of the compelling interest test, the Supreme Court has held that a generally applicable and otherwise valid regulatory law which is not specifically intended to regulate **religious** conduct or belief and which incidentally burdens the free exercise of religion does not violate the Free Exercise Clause of U.S. Const. amend. I. The Court has retained the compelling interest test for instances where the regulatory law impacts the Free Exercise Clause in conjunction with another **constitutional protection**, such as freedom of speech and of the press, or the right of parents to direct the education of their children.

HN4 - The Supreme Court has addressed the question whether teachers in schools operated by a church which taught both **religious** and secular subjects are within the jurisdiction of the National Labor Relations Act (Act). The Supreme Court has held that in the absence of a clear intention on the part of congress that such teachers were covered by the Act, and in view of the serious U.S. Const. amend. I questions that would follow from the National Labor Relations Board's (NLRB) exercise of jurisdiction over teachers in church-operated schools, the NLRB is prevented from exercising jurisdiction over these teachers. Similar to the situation where the NLRB declines jurisdiction because of the subject matter's minimal impact on interstate commerce, state tribunals are free to exercise jurisdiction over the subject matter.

HN12 - But to agree that religiously grounded conduct must often be subject to the broad police power of the State is not deny that there are areas of conduct protected by the Free Exercise Clause of U.S. Const. amend. I, and thus beyond the power of the state to control, even under regulations of general applicability. A regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for government neutrality if it unduly burdens the free exercise of religion. When faced with such a claim, the court must closely examine the interests the state seeks to promote and the impediments to those objectives that would flow from recognizing an exemption from a generally applicable law. The test is a balancing test requiring consideration of whether: (1) the claims presented are **religious** in nature and not secular; (2) the state action burdens the **religious** exercise; and (3) the state interest is sufficiently compelling to override the constitutional right of free exercise of religion.

176. O'Brien v. United States HHS

United States District Court for the Eastern District of Missouri, Eastern Division | Sep 28, 2012 | 894 F. Supp. 2d 1149

Overview: The requirement under the Patient Protection and Affordable Care Act that employers provide health plans covering contraceptive services does not violate the First Amendment religious or speech rights of a secular, for-profit employer with a Catholic owner. There was also no violation of the Religious Freedom Restoration Act.

HN10 - The **Religious** Freedom Restoration Act is a shield, not a sword. It protects individuals from substantial burdens on **religious** exercise that occur when the government coerces action **one's** religion forbids, or forbids action **one's** religion requires; it is not a means to force **one's religious** practices upon others. RFRA does not protect against the slight burden on **religious** exercise that arises when **one's** money circuitously flows to support the conduct of other free-exercise-wielding individuals who hold **religious beliefs** that differ from **one's** own.

HN7 - In order to state a prima facie case under the **Religious** Freedom Restoration Act (RFRA), plaintiffs must allege a substantial burden on their **religious** exercise. RFRA defines the exercise of religion broadly as any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief. 42 U.S.C.S. § 2000bb-2(4); 42 U.S.C.S. § 2000cc-5.

HN8 - The plain meaning of "substantial," as used in the **Religious** Freedom Restoration Act, suggests that the burden on **religious** exercise must be more than insignificant or remote, and case law confirms this common-sense conclusion. A substantial burden must place more than an inconvenience on **religious** exercise; a substantial burden is akin to significant pressure which directly coerces the **religious** adherent to conform his or her behavior accordingly.

177. Rice v. Commonwealth

Supreme Court of Virginia | Sep 08, 1948 | 188 Va. 224

Overview: Parents had to comply with compulsory education laws despite their religious convictions.

HN6 - The **constitutional protection** of **religious** freedom, while it insures **religious** equality, on the other hand does not provide immunity from compliance with reasonable civil requirements imposed by the state. The individual cannot be permitted, on **religious** grounds, to be the judge of his duty to obey the regulatory laws enacted by the state in the interests of the public welfare. The mere fact that such a claim of immunity is asserted because of **religious** convictions is not sufficient to establish its constitutional validity. Nor does the fact that defendants harbored no intent to commit a crime constitute a defense. The commission of the act, which is prohibited by statute, is sufficient to support the jury's verdict of guilty.

HN8 - The legitimate interest of the state in the welfare and education of its children is universally recognized. There is nothing which contributes more to the development of the highest **type** of citizenship than the intelligence, training, and character-building which are the products of the schools. It is, therefore,

recognized by the authorities, without exception, that to accomplish this end the state may resort to what is generally referred to as compulsory education or school attendance of children.

HN9 - In order to impart an education to a child, it is self-evident that the instructor must himself have adequate learning and training in the art of teaching. Obviously, an illiterate parent cannot properly educate his child, nor can he, by attempting to do so, avoid his obligation to send it to school. No amount of **religious** fervor he may entertain in opposition to adequate instruction should be allowed to work a lifelong injury to his child. Nor should he, for this **religious** reason, be suffered to inflict another illiterate citizen on his community or his state.

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178. ⚠ Strayhorn v. Ethical Soc'y of Austin

Court of Appeals of Texas, Third District, Austin | Mar 06, 2003 | 110 S.W.3d 458

Overview: A religious organization was wrongfully denied a tax-exempt status from state sales and use tax by the Texas Comptroller; the organization was not required to demonstrate a belief in a "God, Gods, or higher power."

HN2 - Certain **religious**, educational, and charitable organizations are exempt from the franchise, sales and use, and hotel taxes. Tex. Tax Code Ann. §§ 171.058, 151.310(a)(1), 156.012. The Texas Comptroller's implementing administrative rules require that a organization be organized for the purpose of **religious** worship. Tex. Admin. Code tit. 34, §§ 3.161(a)(3), .322(a)(3), .541(c)(3) (2002). Because exempt status is not favored by state law, any organization seeking a tax exemption has the burden to show, without doubt, that it meets the applicable requirements and any doubt regarding the organization's qualifications will result in denial of the exemption. Tex. Admin. Code tit. 34, §§ 3.322(a)(1), (a)(2), .541(a)(1), .161(c). The Comptroller assesses each application according to a non-exclusive set of factors set out in internal agency documents, most of which are objective factors, including whether the organization meets regularly for services, when and where services are held, the approximate number of people attending services, and whether the organization ordains clergy. The Comptroller makes an informal determination that an organization must meet the Supreme Being test, requiring belief in a "God, Gods, or higher power" in order to qualify for tax-exempt status.

HN5 - The Texas Comptroller's rules define a **religious** organization for each of the tax exemptions in question as an organized organization of people regularly meeting for the primary purpose of holding, conducting, and sponsoring **religious** worship services according to the rites of their sect. Tex. Admin. Code tit. 34, §§ 3.161(a)(3), 3.322(a)(3), 3.541(c)(3) (2002).

HN6 - The state may, consistent with the Constitution, exempt **religious** organizations from taxation. The state has a compelling interest in insuring that only qualified **religious** organizations receive the tax exemption, it cannot be sufficient for a organization simply to label itself as a religion in order to enjoy tax-exempt status.

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179. ⚠ Heard v. Johnson

District of Columbia Court of Appeals | Nov 21, 2002 | 810 A.2d 871

Overview: Pastor who alleged that church's trustees committed defamation and other torts when they tried to remove him failed to plead facts showing trustees' actions were not protected by First Amendment, and trial court erred by denying motion to dismiss.

HN17 - Courts have consistently held that the Free Exercise Clause of the First Amendment prohibits judicial encroachment into church decisions where those decisions turn on church policy or on **religious** doctrine or practice. Except for contractual disputes, this prohibition includes church decisions concerning the employment of ministers because selection and termination of clergy is a core matter of ecclesiastical self-governance not subject to interference by a state. Civil courts are constitutionally bound to accept the decisions of the highest judicatories of a **religious** organization on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law, and freedom to select clergy must now be said to have federal **constitutional protection** as a part of the free exercise of religion against state interference. Clearly the Free Exercise Clause guarantees a church the freedom to decide to whom it will entrust ministerial responsibilities.

HN20 - Under most circumstances, defamation is one of those common law claims that is not compelling enough to overcome First Amendment protection surrounding a church's choice of pastoral leader. When a defamation claim arises entirely out of a church's relationship with its pastor, the claim is almost always deemed to be beyond the reach of civil courts because resolution of the claim would require an impermissible inquiry into the church's bases for its action. In most of these cases, the alleged defamatory statements do not overtly express any **religious** principles or **beliefs**, but all the actions result from conflicts confined within the church involved. Furthermore, courts have found that it is impossible to consider a plaintiff's allegations of defamation in isolation, separate and apart from the church's decision to terminate a plaintiff's employment. Questions of truth, falsity, malice, and the various privileges that exist often take on a different hue when examined in the light of **religious** precepts and procedures that generally permeate controversies over who is fit to represent and speak for the church. Examining such controversies is precisely the kind of inquiry that is forbidden to civil courts since whose voice speaks for the church is per se a **religious** matter.

HN3 - An order denying a D.C. Super. Ct. R. Civ. P. 12(b)(1) motion that asserts an immunity from law suits is the **type** of ruling commonly found to meet the requirements of the collateral order doctrine and thus be immediately appealable, so long as the ruling turns on an issue of law rather than on a factual dispute. A claim of immunity from suit under the First Amendment is just such an issue of law, and the District of Columbia Court of Appeals has held that a defendant church may appeal the denial of a motion to dismiss where the motion was based on First Amendment immunity from suit.

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180. Hunt v. Bullard

United States District Court for the Southern District of Alabama, Southern Division | Sep 08, 1998 | 1998 U.S. Dist. LEXIS 19966

Overview: Prisoner's right to exercise his religious beliefs was not unconstitutionally restricted when prison officials proved that the prisoner's disruptive behavior was a security risk and burdensome on the administration of the prison.

HN11 - The threshold element of a claim for a deprivation of the First Amendment's right to exercise freely **one's** religion is whether one is sincere in **one's religious beliefs**. A consideration for determining the sincerity of a prisoner's **religious beliefs** is proof of a connection between the allegedly protected practices and **religious beliefs**. It is not necessary, however, that a prisoner's claim be "deeply-rooted" in the prisoner's **religious beliefs**. Nonetheless, when a prisoner is found to be insincere in the prisoner's **beliefs**, the claim is deemed so facially idiosyncratic that neither a hearing nor justification by the state for its rule are required.

HN12 - A court may elect to proceed with its consideration of challenged policy or action of prison administrators without determining the sincerity of the prisoner's **religious beliefs**.

HN18 - Policies banning inmate-led **religious** meetings have been found to be reasonably related to the legitimate institutional security concerns.

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181. ⚠ Castle Hills First Baptist Church v. City of Castle Hills

United States District Court for the Western District of Texas, San Antonio Division | Mar 17, 2004 | 2004 U.S. Dist. LEXIS 4669

Overview: City's refusal to allow a change in use of a church building's existing fourth floor substantially burdened church's religious exercise, but burden imposed by denial of the church's additional parking use permit was neither substantial nor undue.

HN13 - According to the United States Court of Appeals for the Fifth Circuit, a burden on **religious** exercise exceeds the substantiality threshold when the government either compels conduct in contravention of the adherent's **beliefs** or requires the adherent to refrain from conduct that is required by **religious beliefs**.

HN9 - In order for a plaintiff to make a prima facie case for a **Religious** Land Use and Institutionalized Persons Act of 2000, 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), violation, the plaintiff must demonstrate that the defendant's conduct in denying the special use permits: (1) imposes a substantial burden; (2) on the "**religious** exercise;" (3) of a person, institution, or assembly. 42 U.S.C.S. § 2000cc(a)(1). Upon such a showing, the burden shifts to the defendant to show that the zoning conduct is the least restrictive means of furthering that compelling interest. 42 U.S.C.S. § 2000cc(a)(1)(A)-(B). A determination of substantial burden in the plaintiff's favor will also trigger strict scrutiny.

HN8 - The determination of whether a plaintiff demonstrated a substantial burden on **religious** exercise should be the same under both the **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 114 Stat. 803-807 (codified at 42 U.S.C.S. § 2000cc et seq.), and a constitutional free exercise challenge for two reasons. RLUIPA itself contains no statutory definition for "substantial burden," but its legislative history instructs that the term indicates that Congress intended for the term to be defined by prior federal case law. Also, RLUIPA was enacted in an effort to codify existing United States Supreme Court jurisprudence. Therefore, to craft differing understandings of "substantial burden on **religious** exercise" under the case law and under the statute would contravene the intent of Congress. A unified judicial approach to the term under both the RLUIPA statute and a constitutional challenge simply makes sense.

182. Welch v. Brown

United States District Court for the Eastern District of California | Nov 04, 2014 | 58 F. Supp. 3d 1079

Overview: Claims that SB 1172, Cal. Bus. & Prof. Code §§ 865-865.2, violated the First Amendment Free Exercise and Establishment Clauses by prohibiting use of sexual orientation change efforts with minors were unlikely to succeed, as it was likely that rational basis review applied; a preliminary injunction was therefore not warranted.

HN18 - California Senate Bill (SB) 1172, Cal. Bus. & Prof. Code §§ 865-865.2, neither contemplates nor requires an examination of **religious** views or doctrine. Without consideration of the motive or justification for providing sexual orientation change efforts (SOCE), SB 1172 categorically prohibits a mental health provider from providing that **type** of therapeutic treatment to a minor. In enforcing SB 1172, the state need not evaluate or even understand the teachings, doctrines, or **beliefs** of a church about homosexuality or **one's** ability to change his or her sexual orientation. The inquiry into whether a mental health provider performed SOCE will be the same regardless of whether the provider utilized the treatment while working for a church. SB 1172 will thus not require the state to engage in intrusive judgments regarding contested questions of **religious** belief or practice.

HN10 - The Free Exercise Clause embraces two concepts—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. This principle traces its roots to the idea that allowing individual exceptions based on **religious beliefs** from laws governing general practices would make the professed doctrines of **religious** belief superior to the law of the land, and in effect permit every citizen to become a law unto himself.

HN19 - For purposes of California Senate Bill (SB) 1172, Cal. Bus. & Prof. Code §§ 865-865.2, even if a mental health provider's use of sexual orientation change efforts (SOCE) relies on church doctrines or teachings, the state need not evaluate or consider those **religious** teachings in order to determine whether the provider performed SOCE. A mental health provider cannot defend against a disciplinary action under SB 1172 on the ground that the SOCE was utilized because of the provider's or patient's **religious beliefs**.

183. Barr v. City of Sinton

Supreme Court of Texas | Jun 19, 2009 | 295 S.W.3d 287

Overview: Sinton, Tex., Ordinance 1999-02, which effectively ended resident's ministry provided to former prisoners, violated the Texas Religious Freedom Restoration Act because there was a substantial burden on the resident's religious exercise; a city failed to establish a compelling interest, and it did not show that the least restrictive means were used.

HN24 - The United States Court of Appeals for the Fifth Circuit, after surveying decisions by other courts, recently held that under the **Religious** Exercise in Land Use and by Institutionalized Persons Act of 2000, 42 U.S.C.S. §§ 2000cc to 2000cc-5, that a government action or regulation creates a "substantial burden" on a **religious** exercise if it truly pressures the adherent to significantly modify his **religious** behavior and

significantly violate his **religious beliefs**. The Texas **Religious** Freedom Restoration Act, like its federal cousins, requires a case-by-case, fact-specific inquiry.

HN19 - It is no more appropriate for judges to determine the "centrality" of **religious beliefs** before applying a "compelling interest" test in the free exercise field, than it would be for them to determine the "importance" of ideas before applying the "compelling interest" test in the free speech field. What principle of law or logic can be brought to bear to contradict a believer's assertion that a particular act is "central" to his personal faith? Judging the centrality of different **religious** practices is akin to the unacceptable business of evaluating the relative merits of differing **religious** claims. It is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds. Courts must not presume to determine the place of a particular belief in a religion or the plausibility of a **religious** claim.

HN23 - To determine whether a person's free exercise of religion has been substantially burdened, some courts have focused on the burden on the person's **religious beliefs** rather than the burden on his conduct. Under what have been referred to as the compulsion and centrality tests, the issue is whether the person's conduct that is being burdened is compelled by or central to his religion. The problems with these approaches are the same as those in determining whether conduct is **religious**. It may require a court to do what it cannot do: assess the demands of religion on its adherents and the importance of particular conduct to the religion. And it is inconsistent with the statutory directive that **religious** conduct be determined without regard for whether the actor's motivation is a central part or central requirement of the person's sincere **religious** belief. Tex. Civ. Prac. & Rem. Code Ann. § 110.001(a)(1). These problems are avoided if the focus is on the degree to which a person's **religious** conduct is curtailed and the resulting impact on his **religious** expression. The burden must be measured, of course, from the person's perspective, not from the government's.

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184. ⚠ Hartwig v. Albertus Magnus College

United States District Court for the District of Connecticut | Mar 13, 2000 | 93 F. Supp. 2d 200

Overview: Plaintiff's claims of breach of contract based on the anti-discrimination and academic freedom; defamation; libel; tortious interference with contract; and intentional infliction of emotional distress were not barred by the Free Exercise Clause.

HN9 - As a general rule, if the employee's primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual or worship, he or she should be considered "clergy."

HN13 - The Free Exercise Clause only shields from court inquiry employment decisions made by churches and religiously-affiliated entities with respect to employees who perform ministerial functions such as teaching church doctrine and canon law, **spreading** the faith, governing the church, supervising a **religious** order, or supervising or participating in **religious** ritual or worship.

HN8 - Determining whether a statute violates the free exercise clause depends upon an examination of the following three factors: (1) the magnitude of the statute's impact upon the exercise of the **religious** belief; (2) the existence of a compelling state interest justifying the burden imposed upon the exercise of the

religious belief; and (3) the extent to which recognition of an exemption from the statute would impede the objectives sought to be advanced by the state.

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185. Little Sisters of the Poor Home for the Aged v. Burwell

United States Court of Appeals for the Tenth Circuit | Jul 14, 2015 | 794 F.3d 1151

Overview: Plaintiffs, who alleged that acts required to opt out of Affordable Care Act's contraception mandate substantially burdened their religious exercise, were not entitled to preliminary injunctions because they had not established a likelihood of success on the merits on their RFRA and First Amendment claims or a likely threat of irreparable harm.

HN15 - The issue of substantiality under the **Religious** Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1 et seq., does not permit the court to scrutinize the "theological merit" of a plaintiff's **religious beliefs**—instead, the court analyzes the intensity of the coercion applied by the government to act contrary to those **beliefs**. Our only task is to determine whether the claimant's belief is sincere, and if so, whether the government has applied substantial pressure on the claimant to violate that belief. In determining whether a law or policy applies substantial pressure on a claimant to violate his or her **beliefs**, the court considers how the law or policy being challenged actually operates and affects **religious** exercise.

HN9 - Although an accommodation is available for both insured and self-insured group health plans, the source of the legal obligation to provide contraceptive coverage after a **religious** non-profit organization has opted out differs based on the **type** of insurance arrangement the organization uses. When an organization takes advantage of the accommodation, the Affordable Care Act requires health insurance issuers to provide coverage for insured group health plans, while federal regulations adopted pursuant to the Affordable Care Act require third party administrators to arrange coverage for self-insured group plans that are subject to the Employee Retirement Income Security Act, 29 U.S.C.S. § 1001 et seq.

HN14 - To determine whether plaintiffs have made a prima facie claim under the **Religious** Freedom Restoration Act (RFRA), 42 U.S.C.S. § 2000bb-1 et seq., courts do not question whether the petitioner correctly perceived the commands of his or her faith. But courts do determine whether a challenged law or policy substantially burdens plaintiffs' **religious** exercise. RFRA's statutory text and **religious** liberty case law demonstrate that courts—not plaintiffs—must determine if a law or policy substantially burdens **religious** exercise. RFRA states the federal government shall not substantially burden a person's exercise of religion. 42 U.S.C.S. § 2000bb-1(a). Courts must give effect to every clause and word of a statute when possible. The court therefore considers not only whether a law or policy burdens **religious** exercise, but whether that burden is substantial. If plaintiffs could assert and establish that a burden is "substantial" without any possibility of judicial scrutiny, the word "substantial" would become wholly devoid of independent meaning. Furthermore, accepting any burden alleged by plaintiffs as "substantial" would improperly conflate the determination that a **religious** belief is sincerely held with the determination that a law or policy substantially burdens **religious** exercise.

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186. Myers v. Loudoun County Sch. Bd.

United States District Court for the Eastern District of Virginia, Alexandria Division | Feb 21, 2003 | 251 F. Supp. 2d 1262

Overview: Virginia's pledge statute requiring recitation of pledge of allegiance in schools was not unconstitutional because recitation of pledge was secular and statute stated no student would be compelled to recite pledge if he or his parent objected.

HN5 - The First Amendment to the Federal Constitution provides in relevant part that the government shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. amend. I. Although originally applicable only to the federal government, the First Amendment and its protection for the freedom of **religious** worship is now applicable to the states by operation of the Fourteenth Amendment. In fact, the First Amendment guarantees two distinct rights with respect to free **religious** worship. Specifically, the First Amendment guarantees that the government shall not (1) establish a religion (the Establishment Clause); and (2) prevent a citizen from freely exercising the religion of the citizen's choosing (the Free Exercise Clause). Broadly stated, both clauses are designed to protect **religious** liberty.

HN9 - The notions of civil religion and traditional or sectarian religion are separable. Democracy requires the nourishment of dialog and dissent, while **religious** faith puts its trust in an ultimate divine authority above all human deliberation. When the government appropriates **religious** truth, it transforms rational debate into theological decree. Those who disagree no longer are questioning the policy judgment of the elected but the rules of a higher authority who is beyond reproach.

HN10 - Such practices as the designation of "In God We Trust" as the United States' national motto, or the references to God contained in the Pledge of Allegiance can best be understood as a form a "ceremonial deism," protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant **religious** content.

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187. Lundman v. McKown

Court of Appeals of Minnesota | Apr 04, 1995 | 530 N.W.2d 807

Overview: Award of compensatory damages in a wrongful death action against Christian Scientists who had a duty of care was upheld but those individuals with no duty of care were not liable.

HN18 - Reasonable Christian Science care is circumscribed by an obligation to take the state's (and child's) side in the tension between the child's welfare and the parents' freedom to rely on spiritual care. A parent may exercise genuinely held **religious beliefs**. But the resulting conduct, though motivated by **religious** belief, must yield when--judged by accepted medical practice--it jeopardizes the life of a child. **Religious** practices must bend to the state's interest in protecting the welfare of a child whenever the child might die without the intervention of conventional medicine.

HN12 - Protecting a child's life transcends any interest a parent may have in exercising **religious beliefs**.

HN4 - Although one is free to believe what one will, **religious** freedom ends when **one's** conduct offends the law by, for example, endangering a child's life. Courts have consistently distinguished between the absolute liberty to believe (which the government may not restrict) and the limited liberty to act in furtherance of **religious** belief.

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188. A.A. v. Needville Indep. Sch. Dist.

United States District Court for the Southern District of Texas, Houston Division | Jan 20, 2009 | 701 F. Supp. 2d 863

Overview: A school district was permanently enjoined from enforcing a hair style regulation and exemption policy against a student where the regulation and policy violated the student's right to freely exercise a sincerely held Native American religious belief regarding long hair. However, an annual renewal requirement did not burden the student's rights.

HN12 - In the context of a claim under the **Religious** Land Use and Institutionalized Persons Act, the United States Court of Appeals for the Fifth Circuit held that a regulation creates a substantial burden if it truly pressures the adherent to significantly modify his **religious** behavior and significantly violates his **religious beliefs**. The effect of a government action or regulation is significant when it either (1) influences the adherent to act in a way that violates his **religious beliefs**; or (2) forces the adherent to choose between, on the one hand, enjoying some generally available, nontrivial benefit, and on the other hand, following his **religious beliefs**. A government regulation does not rise to the level of a substantial burden on **religious** exercise if it merely prevents the adherent from either enjoying some benefit that is not otherwise generally available or acting in a way that is not otherwise generally allowed. The United States District Court for the Southern District of Texas, Houston Division, believes that this is the correct standard to apply on a claim under the Free Exercise Clause.

HN5 - Only **beliefs** rooted in religion are protected by the Free Exercise Clause, which, by its terms, gives special protection to the exercise of religion. Judicial precedent recognizes that determining whether a belief or practice is **religious** is a difficult and delicate task. In view of this difficulty, neither the United States Supreme Court nor the United States Court of Appeals for the Fifth Circuit has set forth a precise standard for distinguishing the **religious** belief from the secular choice. Other circuits have cautiously attempted to create a standard, characterizing **religious beliefs** as those that address spiritual, not worldly concerns, fundamental and ultimate questions, and ultimate as opposed to intellectual concerns.

HN6 - Other courts acknowledged that, while for historical reasons, the Native American movement is comparatively nebulous and unstructured, it is certainly a religion, indicated by its system of **beliefs** concerning the relationship of human beings and their bodies to the nature and reality. In particular, the United States Court of Appeals for the Fifth Circuit has recognized that the Native American custom regarding wearing long hair, while in some parts cultural, has strong **religious** implications. Other circuits similarly recognize the **religious** significance of hair length in Native American communities. More specifically, the United States Court of Appeals for the Eighth Circuit has held that while wearing long braided hair is not an absolute tenet of Indian religion practiced by all Indians, it still warrants **constitutional protection** if it is a deeply rooted **religious** belief.

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189. ⚠ In re Marriage of McSoud

Court of Appeals of Colorado, Division Five | Feb 09, 2006 | 131 P.3d 1208

Overview: An order allocating the decisionmaking responsibility for a child's medical care to the father was supported by the record; shared decisionmaking regarding medical care was not in the child's best interests pursuant to Colo. Rev. Stat. § 14-10-124(1.5)(b)(I) (2005) where the father and mother were utterly incapable of listening to one another.

HN14 - By remaining neutral with respect to the **religious beliefs** of its people, a government ensures that all individuals may worship freely or not at all.

HN16 - The right of all citizens freely to pursue their **religious beliefs** is guaranteed by the Free Exercise Clause of the First Amendment to the United States Constitution, as applied to the states through the Due Process Clause of the Fourteenth Amendment, and by Colo. Const. art. II, § 4.

HN32 - A court may not properly inquire into or make judgments regarding the abstract wisdom of a particular **religious** value or belief in allocating parental responsibilities. Therefore, evidence of **religious beliefs** or practices is admissible only as reasonably related to potential mental or physical harm to a child. While such evidence may not be based upon mere conjecture, it need not be restricted to actual, present harm or impairment.

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190. ⚠ Bryce v. Episcopal Church in the Diocese of Colo.

United States Court of Appeals for the Tenth Circuit | Apr 30, 2002 | 289 F.3d 648

Overview: Sexual harassment claims filed against a church and church officials by a woman who was terminated from job as youth minister after she entered civil commitment ceremony with another woman were barred by church autonomy doctrine.

HN18 - Membership in a church does not create sufficient appearance of bias to require recusal. A judge did not need to recuse himself where he had been a leader in a church that has taken a public position on the matter before the court. **Religious beliefs** or membership affiliation are presumed not to be relevant.

HN1 - As a general rule, a Fed. R. Civ. P. 12(b)(1) motion may not be converted into a Fed. R. Civ. P. 56 motion for summary judgment. There is an exception to the general rule against conversion, however, when a defendant's underlying challenge on a Rule 12(b)(1) motion is not to jurisdiction, but to the sufficiency of the plaintiff's claim. Defendants often move to dismiss for lack of subject matter jurisdiction when they are actually challenging the legitimacy of a plaintiff's claim for relief. When outside evidence is presented to support a Rule 12(b)(1) motion of this **type**, the court will bring the provision requiring conversion of a Fed. R. Civ. P. 12(b)(6) motion into a Rule 56 motion into operation. The crucial element is the substance of the motion, not whether it is labeled a Rule 12(b)(1) motion rather than a Rule 12(b)(6). It is not relevant how the defense is actually denominated.

HN9 - The church autonomy principle announced by the United States Supreme Court in its Watson and Gonzales decisions is a constitutional rule arising out of the Free Exercise Clause of the First Amendment, and freedom to select clergy has federal **constitutional protection** as a part of the free exercise of religion against state interference. The constitutional prohibition against interfering with a church's free exercise of religion applies to the judiciary as well as the legislature. The Supreme Court has made clear that the **constitutional protection** extends beyond the selection of clergy to other internal church matters. In its Milivojevich decision, the Court held that the First Amendment church autonomy doctrine applies with equal force to church disputes over church polity and church administration.

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191. Rohland v. St. Cloud Christian Sch.

Court of Appeals of Minnesota | Dec 21, 2004 | 2004 Minn. App. LEXIS 1415

Overview: A grant of summary judgment in favor of the employer in the employee's claim for disability discrimination was proper where the employee failed to present authority that going on medical leave constituted a material impairment.

HN2 - Under U.S. Const. amend. I, Congress shall make no law prohibiting the free exercise of religion. This proscription applies to the states by virtue of U.S. Const. amend. XIV. The free exercise clause affords an absolute right to hold **religious beliefs** of whatever nature; however, it does not absolutely protect religiously based conduct. The free exercise clause does not excuse compliance with a neutral law of general applicability that prohibits conduct that the state is free to regulate.

HN7 - The compelling-state-interest balancing test is used to determine whether state regulation violates the Minnesota freedom-of-conscience clause, Minn. Const. art. I, § 16. This test has four prongs: whether the objector's belief is sincerely held; whether the state regulation burdens the exercise of **religious beliefs**; whether the state interest in the regulation is overriding or compelling; and whether the state regulation uses the least restrictive means.

HN8 - The Minnesota Supreme Court has recognized that the state has an interest in prohibiting discrimination in employment, Minn. Stat. § 363.03, subd. 1(2)(b) (2002), which makes it an unfair employment practice for an employer to discharge an employee because of disability or age, reflects this state interest. Under the compelling-state-interest balancing test, the state's interest in a regulation is balanced against the burden that the regulation places on the exercise of **religious beliefs** to determine whether the state's interest is overriding and, therefore, the regulation is constitutionally permitted in spite of the burden it places on the exercise of **religious beliefs**.

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192. DeStefano v. Emergency Hous. Group, Inc.

United States Court of Appeals for the Second Circuit | Apr 20, 2001 | 247 F.3d 397

Overview: Summary judgment for defendants in plaintiff's suit alleging improper state funding of religion by funding an alcohol treatment facility promoting AA programs was vacated and reversed for further determinations.

HN16 - Direct state funding of persons who actively inculcate **religious beliefs** crosses the vague but palpable line between permissible and impermissible government action under the U.S. Const. amend. I.

HN12 - The **type** of coercion that violates the Establishment Clause need not involve either the forcible subjection of a person to **religious** exercises or the conditioning of relief from punishment on attendance at church services. Coercion is also impermissible when it takes the form of subtle coercive pressure that interferes with an individual's real choice about whether to participate in worship or prayer. Government and those funded by the government may no more use social pressure to enforce orthodoxy than they may use more direct means.

HN17 - As the United States Supreme Court has repeatedly held, one of the few absolutes in Establishment Clause jurisprudence is the prohibition against government-financed or government-sponsored indoctrination into the **beliefs** of a particular **religious** faith.

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193. Konikov v. Orange County

United States District Court for the Middle District of Florida, Orlando Division | Dec 31, 2003 | 302 F. Supp. 2d 1328

Overview: A rabbi's religious exercise by having religious services several times a week in his home was not sufficient to outweigh the important government interests in zoning thus protecting the nature of a residential area.

HN10 - The United States Supreme Court has noted that it has never held that an individual's **religious beliefs** excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate. In declining to apply the "compelling interest" test to generally applicable laws, the Court noted that the government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, cannot depend on measuring the effects of a governmental action on a **religious** objector's spiritual development. Thus the Supreme Court has limited the types of cases in which strict scrutiny would be applied.

HN11 - Although a law targeting **religious beliefs** as such is never permissible, if the object of a law is to infringe upon or restrict practices because of their **religious** motivation, the law is not neutral, and it is invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest.

HN3 - "**Religious** organization" is not defined in the Orange County, Fla. Code, but the list of definitions does include an entry for "**religious** institution," providing that "**religious** institution" means a premises or site which is used primarily or exclusively for **religious** worship and related **religious** activities. Orange County, Fla. Code § 38-1. **Religious** organizations are permitted without the need for obtaining a special exception in six types of zones, and such organizations are allowed as special uses in all but six other types of zones. Orange County, Fla. Code § 38-77. While "**religious** organizations" and many other uses are allowed to operate in an R-1A zone if a special exception is obtained, hundreds of other specific uses are prohibited in R-1A zones; i.e., those uses are not allowed even by special exception. Orange County, Fla. Code § 38-77.

194. Lynch v. Indiana State University Board of Trustees

Court of Appeals of Indiana | Aug 02, 1978 | 177 Ind. App. 172

Overview: Summary judgment to a university in a professor's wrongful discharge action was proper because the professor violated the First Amendment when he insisted on reading aloud to his students from the Bible during his mathematics classes.

HN5 - The Establishment Clause of the First Amendment is violated by schools which engage in daily Bible readings or prayer recitations, notwithstanding the fact that students who object to the readings or prayers are excused from their classrooms during the exercises. The imposition of a limitation upon an individual's act or exercise of **religious** expression in a public school is not an infringement upon his right to hold his **religious beliefs**. Prohibiting regular Bible readings or prayers in schools does not affect the **beliefs** of the students, teachers, and parents who desired the **religious** exercises. This merely limits the times and places for conduct expressing those **beliefs**.

HN10 - Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing **religious beliefs** or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any **religious** activities, or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the federal government can, openly or secretly, participate in the affairs of any **religious** organizations or groups and vice versa. The First Amendment clause against establishment of religion by law erects a wall of separation between the church and the state.

HN3 - Ind. Const. art. 1, § 2 provides: All men shall be secured to their natural right to worship Almighty God according to the dictates of their own consciences. Ind. Const. art. 1, § 3 provides: No law shall, in any case whatever, control the free exercise and enjoyment of **religious** opinions, or interfere with the rights of conscience. Ind. Const. art. 1, § 4 provides: No preference shall be given, by law, to any creed, **religious** society, or mode of worship; and no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent.

195. Roman Catholic Archdiocese of N.Y. v. Sebelius

United States District Court for the Eastern District of New York | Dec 13, 2013 | 987 F. Supp. 2d 232

Overview: Enforcement of the Patient Protection and Affordable Care Act (ACA), Pub. L. No. 111-148, 124 Stat. 119 (2010), violated the Religious Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, as to several church-related entities because the ACA's self-certification requirement placed a substantial burden on the exercise of their religious beliefs.

HN18 - In order to prevail on their **Religious** Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, claim, plaintiffs must first demonstrate that a law has placed a substantial burden on their sincerely held **religious beliefs**.

HN22 - Although the government may not compel affirmation of a repugnant belief, the U.S. Supreme Court has rejected challenges under the Free Exercise Clause to governmental regulation of certain overt acts prompted by **religious beliefs**. The freedom to hold **religious beliefs** and opinions is absolute. However, the freedom to act, even when the action is in accord with **one's religious** convictions, is not totally free from legislative restrictions. Cases where the Supreme Court has declined to apply strict scrutiny have generally involved laws that make a **religious** activity more difficult, without pressuring the individual to actively violate their **religious beliefs**.

HN23 - Where government action coerces a **religious** adherent to undertake affirmative acts contrary to his **religious beliefs**, the "substantial burden" inquiry under **Religious** Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, should focus primarily on the intensity of the coercion applied by the government to act.

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196. Fellowship Baptist Church v. Benton

United States District Court for the Southern District of Iowa, Central Division | Sep 26, 1985 | 620 F. Supp. 308

Overview: Iowa compulsory education laws requiring Christian schools to report informational data to the State and to certify their teachers did not violate any First Amendment rights, but undefined statutory term, "equivalent education," was void as vague.

HN6 - A determination of what is a **religious** belief or practice entitled to **constitutional protection** can present a most delicate question. However, the very concept of ordered liberty precludes allowing every person to make his own standards on the matters of conduct in which society has important interests. If claims are asserted because of a subjective evaluation and rejection of the contemporary secular values accepted by a majority, those claims do not rest on a **religious** basis. However, the resolution of that question does not turn upon a judicial perception of particular belief or practice in question: **religious beliefs** need not be acceptable, logical, consistent or comprehensible to others in order to merit First Amendment protection.

HN2 - Laws are made for the government of actions and, while they cannot interfere with mere **religious beliefs** and opinions, they can interfere with practices.

HN7 - If a court determines that fundamental claims of **religious** freedoms are at stake, the court must searchingly examine the interests that the State seeks to promote and the impediment to those objectives that flow from recognizing the claimed **religious beliefs** and practices.

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197. Weir v. Nix

United States District Court for the Southern District of Iowa, Central Division | May 25, 1995 | 890 F. Supp. 769

Overview: State's failure to provide a prisoner with the opportunity to witness the immersion portion of the baptismal ceremony, central to his fundamentalist Christian beliefs, was a violation of the prisoner's right to free exercise of religion.

HN2 - The Free Exercise Clause to the First Amendment to the United States Constitution provides that Congress shall make no law prohibiting the free exercise of religion. It is applicable to the states by incorporation into the Fourteenth Amendment. Prisoners have the right to a reasonable opportunity to exercise their **religious beliefs**. The "exercise of religion" often involves not only belief and profession but the performance of (or abstention from) physical acts: assembling with others for a worship service, participating in sacramental use of bread and wine, proselytizing, abstaining from certain foods or certain modes of transportation.

HN3 - One who claims a challenged government action violates his or her free exercise of religion must first establish that the belief in question is **religious** in nature, is sincerely held, and that the government action actually infringes upon the free exercise of the individual's belief. The required threshold showing of an actual infringement upon a sincerely held **religious** belief is not satisfied unless the infringement amounts to a "substantial burden" on the exercise of the belief as now expressly codified in the **Religious** Freedom Restoration Act of 1993. 42 U.S.C.S. § 2000bb-1(b). The requirement of a "substantial" burden differentiates those burdens which have only an incidental effect or merely inconvenience the exercise of the person's religion from those which burden the exercise of the religion by pressuring the adherent to commit an act forbidden by the religion or by preventing him or her from engaging in conduct or having a **religious** experience which the faith mandates. Only the latter are constitutionally or statutorily significant.

HN14 - Where the determination of a violation of the Free Exercise Clause turns on the application of the reasonableness standard to prison regulations or practices, it is difficult for an inmate, as a practical matter, to overcome the qualified immunity defense except in clear circumstances. This results from the fact that whether a violation of constitutional rights has occurred depends on an understanding of the **religious** tenets affected by the challenged regulation or practice, an assessment of the extent to which the free exercise of the particular **beliefs** is burdened, and finally, a balancing of the burden against the penological interests served by the regulation or practice. This process requires an essentially legal analysis and often the outcome is something reasonable minds can differ about. A lay prison employee is not liable in damages merely because he or she fails to anticipate the correct result reached by application of the reasonableness standard in a given instance. So long as there remains a legitimate question as to whether a particular action of defendants has violated a constitutional right, their conduct cannot violate clearly established law, and they will be entitled to qualified immunity.

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198. Equal Opportunity Empl. Comm'n v. United Health Programs of Am., Inc.

United States District Court for the Eastern District of New York | Sep 30, 2016 | 213 F. Supp. 3d 377

Overview: EEOC was entitled to summary judgment on the discrete issue of whether the Onionhead program used by the employers in the workplace constituted a religion because there was sufficient evidence that the developer of the program and the employers held sincere beliefs regarding Onionhead, and the nature of the beliefs qualified as religious.

HN2 - Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against employees on the basis of religion. 42 U.S.C.S. § 2000e-2(a)(1) provides that it shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's religion. Title VII has been interpreted to protect against requirements of **religious** conformity and as such protects those who refuse to hold, as well as those who hold, specific **religious beliefs**. Title VII also prohibits employers from retaliating against employees for engaging in protected activity. 42 U.S.C.S. § 2000e-3(a) provides that it shall be an unlawful employment practice for an employer to discriminate against any of his employees because he has opposed any practice made an unlawful employment practice by this subchapter.

HN3 - Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating on the basis of religion. 42 U.S.C.S. § 2000e-2(a)(1). Aside from protecting employees from discrimination on the basis of their religion, Title VII also protects employees from discrimination because they do not share their employer's **religious beliefs**. A **religious** discrimination claim premised on an employer's preference for a particular **religious** group is often referred to as a reverse **religious** discrimination claim.

HN11 - In analyzing the second factor for determining whether a given set of **beliefs** constitutes a religion for purposes of either the First Amendment or Title VII of the Civil Rights Act of 1964, whether a set of **beliefs** are, in the believer's own scheme of things, **religious**, courts look to whether the belief system involves ultimate concerns. The United States Supreme Court and Second Circuit have each declared religion to involve the ultimate concerns of individuals. A concern is ultimate when it is more than intellectual. A concern is more than intellectual when a believer would categorically disregard elementary self-interest in preference to transgressing its tenets. Moreover, **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others. A **religious** belief can appear to every other member of the human race preposterous, yet still be entitled to protection. The **religious** views espoused by the criminal defendants might seem incredible, if not preposterous, to most people. But those doctrines are not subject to trial.

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199. Eternal Word TV Network, Inc. v. Sec'y of the United States HHS

United States Court of Appeals for the Eleventh Circuit | Feb 18, 2016 | 818 F.3d 1122

Overview: Accommodation for Affordable Care Act contraceptive mandate in 42 U.S.C.S. § 300gg-13(a)(4) did not violate Religious Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, because it did not substantially burden plaintiffs' religious exercise and because government's regulatory scheme was least restrictive means of furthering its compelling interests.

HN8 - An eligible organization is allowed to opt out of the Affordable Care Act contraceptive mandate by sending a letter to the Department of Health and Human Services, instead of giving Form 700 to its plan provider or third-party administrator. There is no prescribed format for the letter, but it must include: the name of the eligible organization and the basis on which it qualifies for an accommodation; its objection based on its sincerely held **religious beliefs** to coverage of some or all contraceptive services, as applicable (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable); the plan name and **type**; and the name and contact information for any of the plan's third party administrators and health insurance issuers. 45 C.F.R. § 147.131(c)(1)(ii).

HN19 - The **Religious** Freedom Restoration Act (RFRA) provides that the federal government shall not substantially burden a person's exercise of religion unless it demonstrates that the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000bb-1(a)-(b). Congress passed RFRA in response to a United States Supreme Court's decision, which held that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular **religious** practice. To make an individual's obligation to obey a neutral and generally applicable law contingent upon the law's coincidence with his **religious beliefs**, except where the State's interest is compelling, contradicts both constitutional tradition and common sense.

HN25 - A threshold question courts must ask is whether the plaintiffs' **religious beliefs** on which their **Religious** Freedom Restoration Act (RFRA), 42 U.S.C.S. § 2000bb et seq., claims are based are sincere. To qualify for RFRA's protection, an asserted belief must be sincere. Courts defer to a plaintiff's statement of its own belief, so long as the plaintiff actually holds that belief. It is not for courts to say that the plaintiffs' **religious beliefs** are mistaken or insubstantial. The court looks only to see whether the claimant actually holds the **beliefs** he claims to hold.

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200. ⚠ Westfield High Sch. L.I.F.E. Club v. City of Westfield

United States District Court for the District of Massachusetts | Mar 17, 2003 | 249 F. Supp. 2d 98

Overview: Distribution of religious messages during non-instructional time was private, school-tolerated speech, so the school had no basis for arguing that allowing distribution of candy canes bearing such messages violated the Establishment Clause.

HN16 - When a student walks onto the grounds of a school, she carries constitutional rights to free speech and expression with her. Undoubtedly, the First Amendment protects the peaceful **distribution** of **literature**. Leafletting is an expressive activity involving "speech" protected by the First Amendment. First Amendment protections also extend to **religious** speech. The scope of the student's constitutional rights on school grounds, however, is not coterminus with the constitutional rights of adults in other settings. The United States Supreme Court has repeatedly emphasized the need for affirming the comprehensive authority of the states and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools. Thus, the court must demarcate the scope of the student's constitutional rights "in light of the special characteristics" of the school's environment.

HN10 - According to the United States District Court for the District of Massachusetts, a reasonable construction of the Massachusetts Students' Freedom of Expression Law, Mass. Gen. Laws ch. 71, § 82, would interpret the adjective "any" to include "prospective" disruption or disorder. A school administrator does not have to wait until disorder or disruption actually ensues; in certain circumstances, a school administrator must be able to prevent disorder or disruption. Thus, a school administrator may, under the Act, deny a student permission to distribute **literature** before such **distribution** occurs, but only if the administrator, considering all circumstances known at the time of his or her decision, reasonably forecasts that "any disruption or disorder" will ensue within the school because of the **distribution**.

HN40 - A school policy prohibiting **distribution** of any **literature** without prior administrative approval is an unconstitutional prior restraint on speech.

201. Committee for Pub. Educ. & Religious Liberty v. Secretary, United States Dep't of Educ.

United States District Court for the Eastern District of New York | Oct 17, 1996 | 942 F. Supp. 842

Overview: A program that provided federally-funded remedial instruction and support services to disadvantaged students, including those in religious schools, was upheld as not violating the Establishment Clause of the First Amendment.

HN26 - There are significant differences between a program which happens to result in separate classes and one which deliberately sets up classes to accommodate the **religious** preferences of the private school students. Where a remedial instruction plan does not cater to the **religious beliefs** of students, the mere fact that private school students do not receive Chapter 1 instruction together with public school students cannot be characterized as endorsing **religious beliefs** or creating an impermissible symbolic link between church and state.

HN13 - Since political division along **religious** lines was one of the principal evils against which the First Amendment was intended to protect, a statute which engenders this **type** of political strife could be characterized as causing entanglement. However, this **type** of entanglement is not the determinative factor. While the prospect of such divisiveness may not alone warrant the invalidation of state laws that otherwise survive the careful scrutiny required by the decisions of the United States Supreme Court, it is certainly a warning signal not to be ignored.

HN16 - Where a state would be required, in implementing such a program, to adopt a monitoring system to ensure that its teachers were not advancing the **religious** mission of the schools in which they taught, this ongoing inspection requirement violates the First Amendment. Specifically, the frequent administrative contacts between public school teachers and private school teachers and administrators could be anticipated in such a program, and this **type** of continuous, day-to-day involvement would entangle church and state.

202. Cambridge Christian Sch., Inc. v. Fla. High Sch. Ath. Ass'n

United States Court of Appeals for the Eleventh Circuit | Nov 13, 2019 | 942 F.3d 1215

Overview: District court erred in dismissing school's First Amendment free speech and free exercise claims arising out of state high school athletic association's denial of school's request to conduct joint prayer over loudspeaker before football game because question of whether all speech over microphone was government speech was heavily fact-intensive one.

HN24 - The Free Exercise Clauses require a plaintiff to allege a **religious** belief and a burden that has been placed by the government on the exercise of that belief. To plead a claim for relief under the Free Exercise Clauses of the U.S. and Florida Constitutions, a plaintiff must allege that the government has impermissibly burdened one of its sincerely held **religious beliefs**. This belief must be rooted in religion, since personal preferences and secular **beliefs** do not warrant the protection of the Free Exercise Clause.

This pleading requirement has two components: (1) the plaintiff holds a belief, not a preference, that is sincerely held and **religious** in nature, not merely secular; and (2) the law at issue in some way impacts the plaintiff's ability to either hold that belief or act pursuant to that belief.

HN25 - What constitutes a sincerely held belief is not a probing inquiry, and courts have rightly shied away from attempting to gauge how central a sincerely held belief is to the believer's religion. The United States Supreme Court has consistently refused to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds. It has said that such assessments generally are not within the judicial ken; it has admonished courts to not undertake to dissect **religious beliefs** because the **beliefs** are not articulated with clarity and precision; and it has reminded courts that the guarantee of the Free Exercise Clause is not limited to **beliefs** which are shared by all of the members of a **religious** sect. It is not for a court to say that the litigant's **religious beliefs** are mistaken or insubstantial; rather, the court's narrow function in this context is to determine whether the line drawn reflects an honest conviction.

HN28 - The Florida **Religious** Free Restoration Act requires showing that (1) the government has placed a substantial burden on a practice (2) motivated by a sincere **religious** belief.

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203. Nichol v. Arin Intermediate Unit 28

United States District Court for the Western District of Pennsylvania | Jun 25, 2003 | 268 F. Supp. 2d 536

Overview: A public elementary school instructional assistant's wearing of cross jewelry was symbolic speech on a matter of public concern; it was protected by the First Amendment where it caused no disturbances or disruptions to classes or school activities.

HN12 - The major change in the Lemon "effect" inquiry is the shift from the focus on government "entanglements" to the "endorsement" inquiry. The endorsement inquiry asks whether a reasonable observer who is deemed aware of the history and context of a challenged policy or program would consider the government policy or program to be an endorsement of religion, which would violate the Establishment Clause, or simply an accommodation of **religious beliefs** or practices in the interests of individuals' rights to freely practice or express their religion, which does not.

HN1 - The "Garb Statute," a provision of the Pennsylvania School Code, prohibits teachers and certain other Pennsylvania public school professional employees from wearing **religious** dress, marks, garb, emblems or insignia while performing their duties in public schools. Pa. Stat. Ann. tit. 24, § 11-1112.

HN9 - The First Amendment protects speech and religion by quite different mechanisms. Speech is protected by insuring its full expression. The method for protecting freedom of worship and freedom of conscience in **religious** matters is quite the reverse. The Free Exercise Clause embraces a freedom of conscience and worship that has close parallels in the speech provisions of the First Amendment, but the Establishment Clause is a specific prohibition on forms of state intervention in **religious** affairs with no precise counterpart in the speech provisions.

204. Sephardi v. Town of Surfside

United States District Court for the Southern District of Florida | Jul 13, 2000 | 2000 U.S. Dist. LEXIS 22629

Overview: Standing generally was recognized where a plaintiff had applied for and been denied a permit or exception, but there was no evidence that the synagogues made any attempt to apply for a conditional use permit as required in the ordinance.

HN33 - The U.S. District Court for the Southern District of Florida, Northern Division, has limited the definition of exercise of religion to that which reflects some tenet, practice or custom of a larger system of **religious beliefs**. Conduct that amounts to a matter of purely personal preference does not fall under the Florida **Religious** Freedom Restoration Act (FRFRA).

HN17 - The protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons. That is, the court does not accept a regulation wherein secular ends were applied only to conduct motivated by **religious beliefs**.

HN15 - A law that is religion neutral and of general applicability with only an incidental effect on **religious** practice need not be justified by a compelling government interest. Conversely, a law failing to satisfy the Smith requirements of neutrality and general applicability must be justified by a compelling government interest.

205. Mellen v. Bunting

United States District Court for the Western District of Virginia, Lynchburg Division | Jan 24, 2002 | 181 F. Supp. 2d 619

Overview: Daily supper prayer at a state military college violated the Establishment clause. It failed the secular purpose prong of the Lemon test, had the primary effect of advancing religion, and fostered excessive government entanglement with religion.

HN12 - The Free Exercise Clause of the First Amendment must be read together with the Establishment Clause. The Establishment Clause limits any government effort to promote particular **religious** views to the detriment of those who hold other **religious beliefs** or no **religious beliefs**, while the Free Exercise Clause affirmatively requires the government not to interfere with the **religious** practices of its citizens. Thus, not only is the government permitted to accommodate religion without violating the Establishment Clause, at times it is required to do so. In sum, there is no doubt that the Virginia Military Institute is permitted, and perhaps required, to take measures to accommodate the **religious** needs of its cadets. However, the principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause.

HN21 - The First Amendment's religion clauses mean that **religious beliefs** and **religious** expression are too precious to be either proscribed or prescribed by the state. The United States Supreme Court has

explained that its precedents do not permit school officials to assist in composing prayers as an incident to a formal exercise for their students.

HN17 - Each Establishment Clause claim must be analyzed on a case-by-case basis. In conducting this analysis, a court looks to determine whether plaintiffs are coerced into participating in a **religious** exercise. While children may be more easily coerced into participation than their parents, this does not mean that they are entitled to greater constitutional protections. Instead, it only means that in conducting an analysis of an Establishment Clause claim, a court must be particularly vigilant in those situations where citizens may be subtly and indirectly coerced to participate. The Establishment Clause is concerned with coercion, not children. While the facts may change from case to case, the level of **constitutional protection** does not.

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206. Gibson v. Brewer

Court of Appeals of Missouri, Western District | Jul 02, 1996 | 1996 Mo. App. LEXIS 1182

Overview: Where the child and parents claimed the priest fondled the child in sexual manner, a battery claim was stated against the priest, and a negligent supervision claim and negligent infliction of emotional distress claim was stated against the diocese.

HN2 - **Religious** institutions are not immune from tort liability, the doctrine of **religious** or charitable immunity having been abolished in Missouri. Likewise, the First Amendment does not create blanket tort immunity for **religious** institutions or their clergy. When protection is sought under the Free Exercise Clause of the First Amendment, a trial court must determine whether the defendant's conduct involves **religious beliefs** or practices. If no legitimate **religious beliefs** or practices are at issue, then the free-exercise defense becomes frivolous.

HN3 - The First Amendment does not protect inappropriate physical contact between a priest and a minor. Such conduct is not in any way related to the teachings, **beliefs** or practices of the Catholic Church. Moreover, conduct or actions which pose some substantial threat to public safety, peace or order may be subject to governmental regulation, even though prompted by **religious beliefs** or principles.

HN5 - The church diocese, although a **religious** organization, is a member of society at large and can be bound to "neutral laws of general applicability" without offending the First Amendment. Its activities, as opposed to **beliefs**, therefore, cannot be totally autonomous from the state when it comes to matters of **high** order, such as health, safety, and public peace.

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207. Ulmann v. Anderson

United States District Court for the District of New Hampshire | Jan 21, 2003 | 2003 DNH 12

Overview: Inmate had worn prayer boxes for years, showing a sincere belief that it was central to the exercise of his religion under the Religious Land Use and Institutionalized Persons Act. The First Amendment claim of denial of religious items could proceed.

HN3 - A prisoner's sincerely held **religious beliefs** must yield if they are contrary to prison regulations that are reasonably related to legitimate penological interests.

HN6 - Courts have recognized that prison authorities must accommodate the rights of prisoners to receive diets consistent with their **religious beliefs**. In cases of a Jewish inmate requiring a **religious** diet, prison authorities must provide, a diet sufficient to sustain the prisoner in good health without violating the Jewish dietary laws.

HN5 - The **Religious** Land Use and Institutionalized Persons Act (RLUIPA) protects prisoners and other institutionalized people from government infringement on their practice of religion. Further, under the terms of the RLUIPA, a **religious** exercise need not be compelled by or central to a system of **religious** belief in order to be covered by the statute. 42 U.S.C.S. § 2000cc-5(7)(A). Therefore, even if an inmate has failed to state that his **religious** practices are essential to his **religious** belief, those practices may not be burdened by the government unless such a burden is the least restrictive means to achieve a compelling state interest. In order to state a claim upon which relief might be granted based on a violation of the RLUIPA, the inmate must only demonstrate that the regulation in question: (1) imposes a substantial burden; (2) on the "**religious** exercise;" (3) of a person, institution, or assembly.

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208. Steele v. Industrial Dev. Bd. of the Metro. Gov't

United States District Court for the Middle District of Tennessee, Nashville Division | Oct 24, 2000 | 117 F. Supp. 2d 693

Overview: Issuance of tax-exempt industrial development bonds to private religious university, which were approved by city government and city development board, violated the Establishment Clause of the First Amendment.

HN23 - Under the pervasively sectarian test, the "crucial question" concerning government aid to religiously affiliated schools is not whether some benefit accrues to a **religious** institution as a consequence of the legislative program, but whether its principal or primary effect advances religion. The possibility is recognized that there could be cases in which religion so permeates the secular education provided by church-related colleges and universities that their **religious** and secular educational functions are in fact inseparable. These "pervasively sectarian" institutions cannot receive government financial assistance without the impermissible effect of advancing the **religious beliefs** of the institutions.

HN33 - In order to determine whether the aid offered to a school had the effect of advancing the **religious beliefs** of the institution, the court must consider whether the aid was neutrally available without regard to the **religious** nature of the school, whether the government or private individuals ultimately chose to offer the aid to the school, and whether there were adequate safeguards to ensure that the government aid would assist only the secular functions of the school.

HN20 - The three main evils against which the Establishment Clause of U.S. Const. amend. I is intended to afford protection are: sponsorship, financial support, and active involvement of the sovereign in **religious** activity. There is a three-pronged test for affording this protection. First, the statute must have a secular, legislative purpose. Second, its principal or primary effect must be one that neither advances nor inhibits religion. Finally, the statute must not foster an excessive government entanglement with religion.

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209. Brush & Nib Studios, LC v. City of Phoenix

Supreme Court of Arizona | Sep 16, 2019 | 448 P.3d 890

Overview: Under Ariz. Const. art. 2, § 6, the City of Phoenix could not apply its Human Relations Ordinance to force the owners of an art studio to create custom wedding invitations to same-sex wedding ceremonies because the invitations (each with hand-drawn words, images and original artwork) and the process of creating them were protected as pure speech.

HN32 - Arizona's Free Exercise of Religion Act (FERA), Ariz. Rev. Stat. § 41-1493.01 establishes a two-step process. First, the party raising a free exercise claim must prove that: (1) their action or refusal to act is motivated by a **religious** belief, (2) the **religious** belief is sincerely held, and (3) the government's regulation substantially burdens the free exercise of their **religious beliefs**. If the claimant proves these elements, then the burden shifts to the government to show that the law (1) furthers a compelling governmental interest and (2) is the least restrictive means of furthering that compelling governmental interest. § 41-1493.01(C)(1)-(2). Because the text and requirements of FERA and the federal **Religious** Freedom Restoration Act (RFRA) are nearly identical, the Arizona court relies on cases interpreting RFRA as persuasive authority in construing the requirements of FERA.

HN34 - Under Arizona's Free Exercise of Religion Act (FERA), Ariz. Rev. Stat. § 41-1493.01, once a court determines that a party has a sincere **religious** belief, it must examine whether the government's regulation imposes a substantial burden on the party's free exercise of that belief. Not every burden is substantial; FERA provides that trivial, technical or de minimis infractions do not substantially burden a person's free exercise of religion. Ariz. Rev. Stat. § 41-1493.01(E). Under **Religious** Freedom Restoration Act (RFRA), a government regulation that merely offends a person's **religious** sensibilities is not a substantial burden of free exercise of religion. Thus, under the pre-Smith framework adopted by FERA, a substantial burden exists only when government action forces individuals to choose between following the precepts of their religion and receiving a government benefit, or it compels them, under threat of criminal sanction, to perform acts undeniably at odds with fundamental tenets of their **religious beliefs**.

HN1 - The rights of free speech and free exercise of religion, so precious to this nation since its founding, are not limited to soft murmurings behind the doors of a person's home or church, or private conversations with like—minded friends and family. These guarantees protect the right of every American to express their **beliefs** in public. This includes the right to create and sell words, paintings, and art that express a person's sincere **religious beliefs**.

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210. Connor v. Archdiocese of Phila.

Supreme Court of Pennsylvania | Jul 20, 2009 | 601 Pa. 577

Overview: With regard to the non-abandoned claims for negligent infliction of emotional distress and defamation with regard to the expulsion of their son from a parochial school, the lower courts erred in declining jurisdiction under the deference rule as neutral principles could be applied to determine whether post-expulsion communications were defamatory.

HN7 - United States Supreme Court case law precedent radiates a spirit of freedom for **religious** organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no improper methods of choice are proven must now be said to have federal **constitutional protection** as a part of the free exercise of religion against state interference.

HN20 - The United States Supreme Court in case law has specifically identified freedom to select the clergy as having federal **constitutional protection** as a part of the free exercise of religion against state interference. As further evidence of the uniqueness of that class of cases, many courts, including the Pennsylvania Superior Court, refer to application of the deference rule in that context as a ministerial exception. Cases governed by ministerial exception as those that involve any claim, the resolution of which would limit a **religious** institution's right to select who will perform particular spiritual functions.

HN6 - The United States Supreme Court, in refusing to decide questions of ecclesiastical law and **religious** faith, has been careful to note that not all decisions made by church authorities related to such doctrinal questions. For example, if the General Assembly of the Presbyterian Church should undertake to try one of its members for murder, and punish him with death or imprisonment, its sentence would be of no validity in a civil court or anywhere else. Or if it should at the instance of one of its members entertain jurisdiction as between him and another member as to their individual right to property, real or personal, the right in no sense depending on ecclesiastical questions, its decision would be utterly disregarded by any civil court where it might be set up. But it is a very different thing where the dispute concerns a matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the church to the standard of morals required of them.

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211. ⚠ San Jose Christian College v. City of Morgan Hill

United States Court of Appeals for the Ninth Circuit | Mar 08, 2004 | 360 F.3d 1024

Overview: Zoning requirements at issue were general laws of neutral application that did not violate the Free Exercise Clause; neither did they impose a substantial burden on a college's free exercise of religion and thus strict scrutiny was not triggered.

HN17 - The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc et seq., prohibits the government from imposing substantial burdens on **religious** exercise unless there exists a compelling governmental interest and the burden is the least restrictive means of satisfying the governmental interest. 42 U.S.C.S. § 2000cc(a)(1)(A)-(B).

HN21 - The **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc et seq., defines "**religious** exercise" to include any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief. 42 U.S.C.S. § 2000cc-5(7)(A). Thus, the use, building, or

conversion of real property for the purpose of **religious** exercise shall be considered to be **religious** exercise of the person or entity that uses or intends to use the property for that purpose. 42 U.S.C.S. § 2000cc-5(7)(B).

HN26 - The general rule of the **Religious** Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C.S. § 2000cc et seq., applies only when a land use regulation, or the government's application of a land use regulation, substantially burdens a **religious** adherent's **religious** exercise in a way not representing the least restrictive means of accomplishing a compelling governmental interest.

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212. ## Sands v. Morongo Unified School Dist.

Supreme Court of California | May 06, 1991 | 53 Cal. 3d 863

Overview: Religious invocations and benedictions at public high school graduation ceremonies were constitutionally impermissible because the practice created an assertion of government sponsorship and impermissibly entangled government in religious matters.

HN1 - The federal constitution mandates that government make no law respecting an establishment of religion, or prohibiting the free exercise thereof. U.S. Const. amend I. The former provision, known as the establishment clause, forbids government affiliation with **religious beliefs** and institutions. The separation that the establishment clause commands between religion and government manifests and promotes respect for **religious** pluralism and should not be perceived as hostility or indifference to religion.

HN2 - The federal constitution mandates that the government remain secular, rather than affiliating itself with **religious beliefs** or institutions, precisely in order to avoid discriminating among citizens on the basis of their **religious** faiths.

HN9 - Nor does the predominantly secular nature of the graduation ceremony make the government's endorsement of prayer less offensive to the U.S. Const. amend I establishment clause. On the contrary, using prayers to mark the beginning or end of the graduation ceremony, which is a ritual celebration of the completion of **high** school, causes religion to be closely identified with government. In other words, making **religious** speech an integral part of this government-controlled and otherwise secular public school ceremony produces a symbolic union of state and religion, an effect that the establishment clause does not permit.

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213. ## Dayton Christian Schools v. Ohio Civil Rights Com.

United States District Court for the Southern District of Ohio, Western Division | Jan 06, 1984 | 578 F. Supp. 1004

Overview: State civil rights commission could exercise jurisdiction over religious school to investigate and to conduct a hearing on a charge that the school discriminated against pregnant teachers and/or engaged in prohibited retaliatory employer practices.

HN13 - Governmentally established religion or governmental interference with religion will not be tolerated. In determining whether a particular government action would run afoul of the First Amendment, each value judgment under the Religion Clauses must therefore turn on whether particular acts in question are intended to establish or interfere with **religious beliefs** and practices or have the effect of doing so. Adherence to the policy of neutrality that derives from an accommodation of the Establishment and Free Exercise Clauses has prevented the kind of involvement that would tip the balance toward government control of churches or governmental restraint on **religious** practice.

HN25 - Only **beliefs** rooted in religion are protected by the Free Exercise Clause. The determination of what is a "**religious**" belief or practice is more often than not a difficult and delicate task. However, the resolution of that question is not to turn upon judicial perception of the particular belief or practice in question; **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others to merit First Amendment protection.

HN26 - The guarantee of free exercise is not limited to **beliefs** which are shared by all members of a **religious** sect.

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214. Sasnett v. Sullivan

United States District Court for the Western District of Wisconsin | Dec 01, 1995 | 908 F. Supp. 1429

Overview: Prison regulation prohibiting wearing of religious jewelry violated Religious Freedom Restoration Act because it imposed a substantial burden on prison inmates' free exercise of religion when religious jewelry held great significance among religions.

HN7 - The United States Court of Appeals for the Ninth Circuit has held that, under the **Religious** Freedom Restoration Act, a **religious** adherent has the obligation to prove that a governmental action burdens the adherent's practice of his or her religion by preventing him or her from engaging in conduct or having a **religious** experience which the faith mandates. This interference must be more than an inconvenience; the burden must be substantial and an interference with a tenet or belief that is central to **religious** doctrine.

HN8 - The United States Court of Appeals for the Tenth Circuit has held that to exceed the "substantial burden" threshold, under the **Religious** Freedom Restoration Act, government regulation must significantly inhibit or constrain conduct or expression that manifests some central tenet to a prisoner's individual **beliefs**, must meaningfully curtail a prisoner's ability to express adherence to his or her faith, or must deny a prisoner reasonable opportunities to engage in those activities that are fundamental to a prisoner's religion.

HN9 - A prohibition against the possession of **religious** symbols for those faiths for whom the symbols have sufficient importance can quality as a substantial burden under the **Religious** Freedom Restoration Act.

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215. Van Schaick v. Church of Scientology, Inc.

United States District Court for the District of Massachusetts | Mar 26, 1982 | 535 F. Supp. 1125

Overview: The defense of improper venue was personal to the party to whom it applied, and a resident defendant could not avail himself of a dismissal or transfer due to improper venue over a nonresident, unless the latter was an indispensable party.

HN19 - Any prima facie case made out for **religious** status is subject to contradiction by a showing that the **beliefs** asserted to be **religious** are not held in good faith by those asserting them, and that forms of **religious** organization were erected for the sole purpose of cloaking a secular enterprise with the legal protections of religion.

HN6 - Thus even if the court were to find that the church is a **religious** institution, the free exercise clause of the First Amendment of the United States Constitution would not immunize it from all common law causes of action alleging tortious activity. Nor does the First Amendment exempt **religious** groups from all regulatory statutes. Whether or not such immunity exists depends, in part, on whether the adjudication of the claim would require a judicial determination of the validity of a **religious** belief, and, if not, on whether application of the regulation is the least restrictive means of achieving some compelling state interest.

HN14 - In order not to risk abridging rights that the First Amendment of the United States Constitution protects, courts generally interpret regulatory statutes narrowly to prevent their application to **religious** organizations. At times, the courts will require "a clear expression of Congress' intent" before subjecting **religious** organizations to regulatory laws pertaining to other entities Even where clear proof of such intent exists, courts have sometimes construed statutes to exclude **religious** groups from coverage to avoid "an encroachment by the State into an area of **religious** freedom which it is forbidden to enter by the principles of the free exercise clause of the First Amendment".

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216. Listecki v. Official Comm. of Unsecured Creditors

United States Court of Appeals for the Seventh Circuit | Mar 09, 2015 | 780 F.3d 731

Overview: In a Chapter 11 bankruptcy case involving a church, where a creditors' committee sought to avoid a transfer of church funds to a trust earmarked for maintaining cemeteries, application of the Bankruptcy Code would not violate the church's RFRA free exercise rights because the RFRA was not applicable in cases where the government was not a party.

HN25 - A benefit to religion does not disfavor religion in violation of the Free Exercise Clause. Encouraging gifts to charitable entities, including but not limited to **religious** organizations—is neither to advance nor inhibit religion. Bankruptcy exemptions are a **type** of benevolent neutrality which will permit **religious** exercise to exist without sponsorship and without interference.

HN1 - Appellate courts review a district court's decision that the First Amendment and/or the **Religious** Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, bar application of the avoidance and turnover provisions of the Bankruptcy Code de novo.

HN2 - The **Religious** Freedom Restoration Act, 42 U.S.C.S. § 2000bb-1, is not applicable in cases where the government is not a party.

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217. Campos v. Coughlin

United States District Court for the Southern District of New York | May 03, 1994 | 854 F. Supp. 194

Overview: The court preliminary enjoined defendants from enforcing a directive which interfered with plaintiffs' right to wear religious beads. Defendants failed to establish that the directive was the least restrictive means of reducing gang violence.

HN1 - The Free Exercise Clause of the First Amendment commits government itself to **religious** tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own **high** duty to the Constitution and to the rights it secures. Those in office must be resolute in resisting importunate demands and must ensure that the sole reasons for imposing the burdens of law and regulation are secular. Legislators may not devise mechanisms, overt or disguised, designed to persecute or oppress a religion or its practices.

HN12 - It is not within the judicial ken to question the centrality of particular **beliefs** or practices to a faith, or the validity of particular litigants' interpretations of those creeds. Not every adherent of a religion follows or practices the religion's tenets to the letter. That some adherents choose to follow certain tenets of a religion in a manner different than the majority, does not alter the genuine character of the **religious** tenet or the importance to the adherent of the manner in which he or she follows the tenet. Prohibiting adherents from practicing what they genuinely believe to be an integral part of their religion can only be a burden. To argue that it is not is to subject **religious** belief to an evaluation process of the relative importance of the **religious** tenets, itself inimical to the First Amendment. It is not within the judicial function and judicial competence to inquire whether the petitioner or his fellow worker more correctly perceived the commands of their common faith. Courts are not arbiters of scriptural interpretation.

HN5 - The **Religious** Freedom Restoration Act of 1993 ("the Act"), 42 U.S.C.S. § 2000bb reinstates the compelling state interest standard applicable to free exercise of religion claims.

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218. Bryant v. Wilkins

Supreme Court of New York, Wyoming County | Mar 29, 1965 | 45 Misc. 2d 923

Overview: Where rules prohibited the free exercise of religion to Black Muslims, the Commissioner was ordered to revise his regulations to permit members of the religion to have the same rights as members of other religions.

HN1 - Although prisoners have an absolute right to their **beliefs** in the philosophical sense, in the exercise and practice of those **beliefs**, they are subject to extensive limitations, which would not be applicable were

they, not prisoners. In addition to their Federal rights, prisoners in New York are entitled to freedom of worship as a right protected by the State Constitution and defined in detail in the State Correction Law. That law permits prisoners the free exercise and enjoyment of **religious** profession and worship, without discrimination or preference provided that it be consistent with the proper discipline and management of the institution. N.Y. Correct. Law §610.

HN3 - N.Y. Correct. Law § 610, expressly provides that all persons committed to the State prisons are entitled to the free exercise and enjoyment of **religious** profession and worship without discrimination or preference. Further, the Commissioner is expressly required to include in the rules and regulations the right of the inmates to the free exercise of their **religious** belief, and to worship God according to the dictates of their consciences, in accordance with the provisions of the Constitution. The Commissioner is directed by statute to allow **religious** services and private ministration to the inmates in such manner as may best carry into effect the spirit and intent of the Correction Law and be consistent with the proper discipline and management of the institution concerned. Section 610 provides that the inmates shall be allowed such **religious** services and spiritual advice and spiritual ministration from some recognized clergyman of the denomination or church which said inmates may respectively prefer or to which they may have belonged prior to their being confined in such institutions.

HN4 - N.Y. Comp. Codes R. & Regs. tit. 7, § 59.2 states that each institution shall provide as liberal an opportunity as practicable for inmates to enjoy the administration of their own **religious** faiths, provided they comply with the proper discipline and management of the institution. However, § 59.4 restricts the visitation of inmates to certain clergymen of approved denominational faith that possesses the requisite qualifications. Section 59.7 permits any recognized **religious** body to hold denominational services. Section 59.8 excludes non-qualified clergymen, that is, any person professing to be a clergyman who is not fully ordained by his ecclesiastical body and in good standing is not permitted to conduct denominational services or to provide inmates with spiritual advice. A visiting clergyman is made subject to the resident chaplain in § 59.9 and may conduct **religious** activities provided he pass a careful scrutiny of his credentials and of his personal qualifications.

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219. ⚠ State by McClure v. Sports & Health Club, Inc.

Supreme Court of Minnesota | May 17, 1985 | 370 N.W.2d 844

Overview: Health club and owner's employment practices did violate the Minnesota Human Rights Act, although the practices were based on the owner's fundamentalist religious convictions they were not entitled to a constitutional exemption.

HN14 - Because the State of Minnesota is neither attempting to regulate **religious beliefs** or to single out any particular **religious** belief for adverse treatment, the Minnesota Human Rights Act is a facially-neutral regulation.

HN15 - When an individual's action, exercised under First Amendment guarantees, violates a facially neutral regulation, the courts follow a three step analysis to determine whether a constitutional exemption is required. Using that analysis, a court first must determine whether the requirements of the Act actually impose a burden upon the individual's free exercise of religion. Second, if such a burden is found to exist, it must be determined whether the burden is justified by a compelling government interest. Third, the court must determine whether the questioned regulation is the least restrictive means to achieve the state's

goals. Accordingly, while the freedom to exercise **religious beliefs** is an absolute constitutional right, an individual's right to practice his or her religion, in certain circumstances, may be subject to reasonable governmental regulations if the government has an overriding compelling interest.

HN18 - The Minnesota Human Rights Act, Minn. Stat. § 363, does contain exemptions, and, in particular, Minn. Stat. § 363.02, subd. 1(2) (1984) provides an exemption for **religious** corporations when **religious beliefs** shall be a bona fide occupational qualification for employment.

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220. Combs v. Homer Ctr. Sch. Dist.

United States District Court for the Western District of Pennsylvania | May 25, 2006 | 468 F. Supp. 2d 738

Overview: Because parents who home schooled their children for religious reasons could not show that Pennsylvania's Home Schooling Act restricted the exercise of their religion, but only that it interfered with their beliefs that the state had no authority to regulate home education programs, the law was not unconstitutional either on its face or as applied.

HN16 - Under Pennsylvania's **Religious** Freedom Protection Act (RFPA), 71 Pa. Stat. Ann. §§ 2401-2407, a person claiming a "substantial burden" must notify the offending state agency of the "manner in which the exercise of the governmental authority burdens the person's free exercise of religion. 71 Pa. Stat. Ann. § 2405(b)(3). The RFPA defines "substantial burden" as agency action which (1) significantly constrains or inhibits conduct or expression mandated by a person's sincerely held **religious beliefs**; (2) significantly curtails a person's ability to express adherence to the person's **religious** faith; (3) denies a person a reasonable opportunity to engage in activities which are fundamental to the person's religion; or (4) compels conduct or expression which violates a specific tenet of a person's **religious** faith. 71 Pa. Stat. Ann. § 2403(4). The burdens contemplated by § 2403 are not abstract or theoretical; they are, instead, restrictions or impairments on a person's ability to exercise, practice, express or act in conformity with their **religious beliefs**. Similarly, the burdens contemplated by § 2403 concern the negative impact on **one's religious** exercise, practice, expressions and conduct, not secular concerns such as the parents' health and expenditures of time and energy.

HN17 - Viewing Pennsylvania's **Religious** Freedom Protection Act (RFPA), 71 Pa. Stat. Ann. §§ 2401-2407, as a whole, according to the plain meaning of all of its terms and in accordance with the canons of construction, and analyzing "substantial burden" in the context of Free Exercise Clause and similar freedom of religion restoration acts, and mindful of the General Assembly's intention to restore the traditional (pre-Smith) free exercise of religion standards, the United States District Court for the Western District of Pennsylvania holds that a plaintiff challenging legislation or agency action under the Pennsylvania RFPA must meet the threshold burden of showing, by clear and convincing evidence, that there is or will be denial or substantial infringement of conduct or expression which violates a specific tenet of his or her **religious** faith, not simply that the legislation or agency action has some de minimus, tangential or incidental impact or is at odds with their **religious beliefs**.

HN5 - Pennsylvania's **Religious** Freedom Protection Act (RFPA), 71 Pa. Stat. Ann. §§ 2401-2407, applies to any State or local law or ordinance and implementation of that law, whether statutory or otherwise and whether adopted or effective prior to or after the effective date of this act. 71 Pa. Stat. Ann. § 2406(a). Furthermore, the application of the RFPA shall not be construed to authorize any government to

prohibit or penalize the holding of any **religious** belief or to take any action contrary to the Constitution of the United States or the Constitution of Pennsylvania. 71 Pa. Stat. Ann. § 2407.

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221. Mitchell County v. Zimmerman

Supreme Court of Iowa | Feb 03, 2012 | 810 N.W.2d 1

Overview: Application of county ordinance prohibiting a tractor equipped with steel cleats on a road violated appellant's rights of free exercise of religion under First Amendment as there was no evidence of the degree to which the steel cleats harmed the county's roads, other events caused road damage, and the county had tolerated steel cleats for years.

HN5 - When a citizen engages in a commercial activity, it may not be possible for him or her to avoid, on **religious** grounds, the effects of laws regulating that activity. Congress and the courts have been sensitive to the needs flowing from the Free Exercise Clause, but every person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice **religious beliefs**. When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith are not to be superimposed on the statutory schemes which are binding on others in that activity.

HN6 - The First Amendment's Free Exercise Clause does not prohibit a state from enforcing a neutral, generally applicable regulatory law. A regulatory law that is both neutral and generally applicable passes constitutional muster, even though it may require performance of an act - or abstention from conduct - in contradiction to an individual's **religious beliefs**.

HN14 - A two-step analysis is followed to evaluate the potential underinclusiveness or nongenerality of a challenged ordinance. It first identifies the governmental purposes that the ordinance is designed to promote or protect and then asks whether it exempts or leaves unregulated any **type** of secular conduct that threatens those purposes as much as the **religious** conduct that has been prohibited. If a law allows secular conduct to undermine its purposes, then it cannot forbid religiously motivated conduct that does the same because that would amount to an unconstitutional value judgment in favor of secular motivations, but against **religious** motivations. However, if the governmental entity could show that exempted secular conduct is sufficiently different in terms of its impact on the purpose of the law, the exemption will not render the law underinclusive.

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222. Larson v. Cooper

Supreme Court of Alaska | Mar 05, 2004 | 90 P.3d 125

Overview: Visitation rules limiting physical contact did not violate maximum security prisoner's constitutional right to free exercise of religion, and temporary interruption of prisoner's contact visitation did not interfere with protectable liberty interest.

HN4 - A neutral, generally applicable law or regulation does not offend the free exercise clause even if the law has an incidental -- i.e., unintended -- effect on **religious** practice.

HN6 - There are four factors that are relevant to determining whether a prison regulation is reasonable. The second factor requires courts to examine whether there are alternative means of exercising the right that remain open to prison inmates. The "alternative means" factor merely requires that adherents not be deprived of all forms of **religious** exercise, not that they remain free to engage in the prohibited activity. The third factor requires courts to consider the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally.

HN11 - There is a two-part test governing claims brought under the free exercise clause of Alaska Const. art. I, § 4 challenging facially neutral laws. Under the first part of the test, the challenger must satisfy three requirements: a religion is involved, the conduct in question is religiously based, and the claimant is sincere in his or her **religious** belief. Under the second part of the test, courts must consider whether the conduct poses some substantial threat to public safety, peace or order, or whether there are competing governmental interests that are of the highest order and are not otherwise served.

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223. Ams. United for Separation of Church & State v. Prison Fellowship Ministries

United States District Court for the Southern District of Iowa | Jun 02, 2006 | 432 F. Supp. 2d 862

Overview: Where a state funded intensive prison program's indoctrinating language and practice effectively precluded participation of non-Evangelical Christian inmates, and provided participating inmates with a less restrictive security environment, the state's contract with the ministry for the program violated the First Amendment's Establishment Clause.

HN17 - Neither the institutional competence of the courts nor the separationist principle embodied in the Establishment Clause of the First Amendment bars judicial resolution of positive **religious** questions, such as assessments of the content of **religious** doctrine, or determinations of the centrality or importance of a **religious** practice within the context of a religion. In other words, on **religious** matters, courts may not tell people what they should do or believe, but they may determine, in the sense of making factual findings, what **beliefs** people hold and what practices they engage in.

HN30 - The pervasively sectarian inquiry for purposes of the First Amendment Establishment Clause does not consider the theological **beliefs** or dogmas cherished by the institution in question. Instead, the inquiry looks at the recognizable factors that indicate whether, in practice, aid flows to an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the **religious** mission or when it funds a specifically **religious** activity in an otherwise substantially secular setting.

HN40 - One of the few absolutes in First Amendment Establishment Clause jurisprudence is the prohibition against government-financed or government-sponsored indoctrination into the **beliefs** of a particular **religious** faith.

224. Puri v. Khalsa

United States Court of Appeals for the Ninth Circuit | Jan 06, 2017 | 844 F.3d 1152

Overview: Where plaintiffs alleged that defendants conspired to exclude plaintiffs from participating in the management of nonprofit entities associated with a religious community, dismissal was not warranted, because plaintiffs' claims were not barred by the First Amendment's ministerial exception, and the ecclesiastical abstention doctrine did not apply.

HN4 - Although the Supreme Court has not articulated the scope of the ministerial exception beyond employment discrimination claims, the United States Court of Appeals for the Ninth Circuit has framed the exception as applicable to any state law cause of action that would otherwise impinge on the church's prerogative to choose its ministers or to exercise its **religious beliefs** in the context of employing its ministers. Thus, any claim with an associated remedy that would require the church to employ a minister would interfere with the church's constitutionally protected choice of its ministers, and thereby would run afoul of the Free Exercise Clause. The ministerial exception also bars relief for consequences of protected employment decisions, such as damages for lost or reduced pay, because such relief would necessarily trench on the church's protected ministerial decisions. An award of such relief would operate as a penalty on the church for terminating an unwanted minister, and would be no less prohibited by the First Amendment than an order overturning the termination.

HN3 - Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its **beliefs**. By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a **religious** group's right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions.

HN7 - Neither the Supreme Court nor the United States Court of Appeals for the Ninth Circuit has ever expressly limited the ministerial exception to particular types of positions, and both courts have expressly declined to adopt any bright line rule defining the scope of the exception. As the Supreme Court has made clear, there is no rigid formula for deciding when an employee qualifies as a minister within the meaning of the ministerial exception. The Ninth Circuit's en banc court has echoed that view. Certain language in Hosanna-Tabor, moreover, suggests a fairly broad application of the exception. The ministerial exception is not limited to the head of a **religious** congregation, and insulates a **religious** organization's selection of those who will personify its **beliefs**. The Supreme Court further has suggested the exception extends to the church's choice of its hierarchy when that choice implicates a **religious** group's right to shape its own faith and mission. The Ninth Circuit too has suggested a potentially broad reach for the exception.

225. Jean-Pierre v. Bureau of Prisons

United States District Court for the Western District of Pennsylvania | Feb 13, 2012 | 2012 U.S. Dist. LEXIS 28736

Overview: Where Rastafarian inmate alleged that defendants violated his First Amendment rights by removing him from a certified religious diet program, his claim failed because the decision to remove him from the program was reasonably related to legitimate penological interests.

HN13 - If a prisoner's request for a particular diet is not the result of sincerely held **religious beliefs**, the First Amendment imposes no obligation on the prison to honor that request, and there is no occasion to conduct the Turner inquiry.

HN15 - It is not for the defendants to determine that a diet that the plaintiff contends does not comply with his religion does in fact comply with his religion. This is so because in addressing a prisoner's request for a particular diet the issue is not whether such diet is an **orthodox** requirement of a particular religion. The guarantee of free exercise is not limited to **beliefs** which are shared by all members of a **religious** sect. Rather, the issue is whether the prisoner's belief that such a diet is necessary is sincerely held and **religious** in nature, in the prisoner's scheme of things.

HN9 - The mere assertion of a **religious** belief does not automatically trigger First Amendment protections. To the contrary, only those **beliefs** which are both sincerely held and **religious** in nature are entitled to constitutional protections.

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226. Rideout v. Hershey Medical Ctr.

Common Pleas Court of Dauphin County, Pennsylvania | Dec 29, 1995 | 1995 Pa. Dist. & Cnty. Dec. LEXIS 19

Overview: Parents stated an action for negligent and intentional infliction of emotional distress by alleging that hospital withdrew life support from their child without consent, while they were not with their child, and while they sought legal intervention .

HN14 - Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection, nor do they need to be fully developed. **Religious** belief arises from a sense of the inadequacy of reason as a means of relating the individual to his fellow-men and to his universe. Furthermore, a plaintiff's inability to articulate **beliefs** with clarity does not preclude **constitutional protection**. The test is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the **orthodox** belief in God.

HN13 - The First Amendment, applicable to the states through the Fourteenth Amendment, protects an individual's free exercise of religion. Where provisions of a state constitution are at issue, state courts are not absolutely bound by, but should be guided by the decisions of the United States Supreme Court. The United States Supreme Court recognizes a parental right to the free exercise of religion on behalf of their children. Pennsylvania also recognizes that parents have a right to raise their children by their **religious beliefs**. This right derives from the First Amendment and Pa. Const. art. I, § 3 as well as from the state's traditional deference to parental authority over their child.

HN8 - The right to self-determination as to **one's** own medical treatment is not absolute. The state has interests that are implicated in cases involving the termination of life sustaining treatment. These interests

are classically identified as consisting of the state's interests in the preservation of life, the prevention of suicide, the protection of third parties, and the integrity of the medical profession. The state's interest in the preservation of life encompasses not only the state's institutional interest in preserving the sanctity of all human life but also a particular individual's right to life as protected by the due process clause of the U.S. Const. amend. XIV and equivalent state constitutional provisions.

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227. Harper v. Poway Unified Sch. Dist.

United States Court of Appeals for the Ninth Circuit | Apr 20, 2006 | 445 F.3d 1166

Overview: Trial court properly denied student preliminary injunction on his claims that school officials' acts of keeping student out of class because he was wearing a T-shirt with a religious statement that condemned homosexuality infringed his First Amendment rights; school could prohibit speech that intruded on rights of other students.

HN40 - The United States Court of Appeals for the Ninth Circuit has described the Sherbert test as requiring the weighing of three factors: (1) how much the state action interferes with the exercise of **religious beliefs**; (2) whether there is a compelling state interest justifying a burden on **religious beliefs**; and (3) whether accommodating those **beliefs** would unduly interfere with the fulfillment of the government interest.

HN42 - Even if a **religious** creed, or an individual's interpretation of that creed, could be said to require its adherents to proclaim their **religious** views at all times and in all places, and to do so in a manner that interferes with the rights of others, the First Amendment would not prohibit the state from banning such disruptive conduct in certain circumstances, including on a **high** school campus. The Constitution does not authorize one group of persons to force its **religious** views on others or to compel others to abide by its precepts. Nor does it authorize individuals to engage in conduct, including speech, on the grounds of public schools, that is harmful to other students seeking to obtain a fair and equal education--even if those individuals hold a sincere belief that the principles of their religion require them to discriminate against others, or to publicly proclaim their discriminatory views whenever they believe that "evil" practices are being condoned. Schools may prohibit students and others from disrupting the educational process or causing physical or psychological injury to young people entrusted to their care, whatever the motivations or **beliefs** of those engaged in such conduct. Indeed, the state's interest in doing so is compelling.

HN44 - A public school's teaching of secular democratic values does not constitute an unconstitutional attempt to influence students' **religious beliefs**. Rather, it simply reflects the public school's performance of its duty to educate children regarding appropriate secular subjects in an appropriate secular manner. The inculcation of fundamental values necessary to the maintenance of a democratic political system is truly the "work" of the schools.

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228. People v. Wood

Justice Court of New York, Town of Greenburgh, Westchester County | Feb 10, 1978 | 93 Misc. 2d 25

Overview: Where defendants were affiliated with a church and solicited money without a license by giving out lollipops in exchange for contributions, they were properly charged with violation of a town's peddling and soliciting law.

HN7 - The free exercise clause does not proscribe governmental regulation of overt acts prompted by **religious beliefs** or principles. Even when the action is in accord with **one's religious** convictions, the same is not totally free from legislative restrictions. **Religious** belief cannot be accepted as justification for an overt act made criminal by the law of the land.

HN5 - A whole body of statutory law, as expressed in the New York **Religious** Corporations Law, is sanctioned to provide an orderly method for the administration of property of **religious** groups and to prevent them from exploitation from those who might divert them from the true beneficiaries of the trust. The sphere of legal activity of a **religious** corporation, which is separable from its ecclesiastic activities, is governed and limited by the New York **Religious** Corporations Law. The purpose of the New York **Religious** Corporations Law is not to determine the ecclesiastical jurisdiction, and a court can determine whether a proposed association is in essence truly a **religious** corporation although the court cannot pass judgment on the **religious** quality or spiritual probity of the faith sought to be promulgated and established. The courts have no hesitancy in defining religion in general terms, as a bond uniting man to God and a virtue whose purpose is to render God the worship due to Him as the source of all being and the principle of all government of things.

HN6 - The First Amendment proscribes any governmental regulation of **religious** belief.

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229. ## Muhammad v. City of New York Dep't of Corr.

United States District Court for the Southern District of New York | Oct 16, 1995 | 904 F. Supp. 161

Overview: A prisoner, a member of the Nation of Islam, was not entitled because he failed to show that the free exercise of his religion had been substantially burdened where numerous religious services and accommodations for Muslim inmates were provided.

HN1 - The **Religious** Freedom Restoration Act of 1993 provides that governmental action should not substantially burden the free exercise of religion unless it advances a compelling governmental interest.

HN3 - Religious Freedom Restoration Act of 1993 applies to both the federal and state governments as well as subdivisions of the state government. 42 U.S.C.S. §§ 2000bb-2(1), 2000bb-3.

HN4 - Religious Freedom Restoration Act of 1993 applies to the claims of prisoners.

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230. ## United States v. Rasheed

United States Court of Appeals for the Ninth Circuit | Oct 05, 1981 | 663 F.2d 843

Overview: Defendants, the founder of a church and his associate, were properly convicted for mail fraud and obstruction of justice, because the First Amendment did not protect their fraudulent solicitation of donations in the name of their religion.

HN1 - The First Amendment protects absolutely the freedom of belief. The government is foreclosed from interference with **one's** faith. The First Amendment protects all **religious beliefs**, no matter how preposterous they may seem to the majority of the population. What one does with **one's** faith, however, may not necessarily enjoy the same absolute protection. The First Amendment protects religiously grounded conduct, but such conduct is subject, in some situations, to the police power of the government.

HN2 - Although the validity of **religious beliefs** cannot be questioned, the sincerity of the person claiming to hold such **beliefs** can be examined. The First Amendment does not protect fraudulent activity performed in the name of religion.

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231. Maryland & Virginia Eldership of Churches of God v. Church of God, Inc.

Court of Appeals of Maryland | May 09, 1968 | 249 Md. 650

Overview: A majority of a congregation could withdraw from a denomination and retain control of the property of the local church and the church corporation. Equity court had jurisdiction over a church property dispute.

HN1 - The present General **Religious** Corporation Law, Md. Ann. Code art. 23 §§ 256-70 (1957), is based upon and largely follows the original legislation on this subject, 1802 Md. Laws 111. The present law provides in effect that in every church, **religious** society or corporation of whatever sect or denomination protected in the free and full exercise of its religion by the Constitution and laws of Maryland there shall be power and authority in all persons above 21 years of age belonging to any such church, society or congregation to elect certain persons, not less than four nor more than 25, who when elected shall be constituted a body politic or corporate to act as trustees in the name of the particular church, society or congregation for which they are respectively chosen, and manage the estate, property, interest and inheritance of the same.

HN2 - By the provisions of General **Religious** Corporation Law, Md. Ann. Code art. 23 § 257 (1957), the trustees are given perpetual succession by their name of incorporation and very broad powers in regard to the corporate property. The trustees may purchase and hold the property and use or lease, mortgage or sell and convey the same in such manner as they may judge most conducive to the interest of their respective churches, societies or congregations, with a provision that they shall not sell, mortgage or dispose of property held by the corporation under an instrument prohibiting such sale. There are provisions for election of trustees, how their succession is maintained, with a provision that the minister or senior minister shall be a member of the corporation, ex officio, as well as provisions for the arbitration of contested elections, provisions for the adoption of a plan, agreement or regulation at the first election of trustees, its acknowledgement and entry in a book required to be kept, the recording of the plan, agreement or regulation with the Department of Assessment and Taxation and the procedure for amendment.

HN4 - When rights of property are involved, the courts, of necessity, must proceed to consider and adjudicate those rights not only to solve the particular case and the rights of the litigants before them, but also to preserve definiteness and order in the holding of property by **religious** corporations.

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232. Kaufman v. McCaughtry

United States District Court for the Western District of Wisconsin | Feb 09, 2004 | 2004 U.S. Dist. LEXIS 1904

Overview: The opening of a prisoner's mail outside his presence was nothing more than mere negligence; neither had he shown that his not being able to have weekly group meetings imposed a substantial burden on his practice of atheism.

HN10 - According to Wis. Admin. Code § DOC 309.61(2)(d), in determining whether an inmate's request for a new **religious** practice that involves others or that affects the inmate's appearance or institution routines is motivated by **religious beliefs**, the warden may not consider: (1) the number of persons who participate in the practice; (2) the newness of the **beliefs** or practices; (3) the absence from the **beliefs** of a concept of a supreme being; or (4) the fact that the **beliefs** are unpopular. However, the warden may consider whether there is **literature** stating **religious** principles that support the **beliefs** and whether the **beliefs** are recognized by a group of persons who share common views. Wis. Admin. Code § DOC 309.61(2)(c). If, in conjunction with the chaplain or other designated staff person, the warden determines that the request is motivated by **religious beliefs**, he must grant the request so long as it is consistent with the orderly confinement, security and fiscal limitations of the institution. Wis. Admin. Code § DOC 309.61(2)(f).

HN11 - The criteria of Wis. Admin. Code § DOC 309.61 appear facially neutral on their face. The requirements do not discriminate against some or all **religious beliefs** or regulate or prohibit conduct because it is undertaken for **religious** reasons.

HN17 - **Religious** group requests may be made either under the rules governing requests for new **religious** practices, Wis. Admin. Code § DOC 309.61, or inmate activity groups, Wis. Admin. Code § DOC 309.365.

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233. Roman Catholic Archbishop of Wash. v. Sebelius

United States District Court for the District of Columbia | Dec 20, 2013 | 19 F. Supp. 3d 48

Overview: Contraceptive mandate in Affordable Care Act did not place substantial burden on religious organizations' exercise of religion because, under regulatory accommodation, such organizations were relieved of obligation to themselves be the vehicle by which contraceptive coverage was delivered; therefore, organizations could not sustain RFRA claim.

HN11 - A plaintiff cannot satisfy his burden under the **Religious** Freedom Restoration Act (RFRA), 42 U.S.C.S. § 2000bb et seq., if the government regulation requires a third party, and not the plaintiff, to act in a way that violates the plaintiff's **religious beliefs**.

HN19 - For purposes of the Free Exercise Clause, a law is not neutral if it targets **religious beliefs** because of their **religious** nature or if the object of a law is to infringe upon or restrict practices because of their **religious** motivation. A discriminatory object may be present on the face of the challenged provision when the text refers to a **religious** practice without a secular meaning discernable from the language or context. A discriminatory object may also exist where the challenged provision, in operation, targets **religious** practice in general, or certain religions' practices specifically, for unfavorable treatment.

HN9 - The **Religious** Freedom Restoration Act (RFRA) provides that the government shall not substantially burden a person's exercise of religion unless it can demonstrate that application of the burden to the person: (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000bb-1(a)-(b). The prohibition applies even if the burden results from a rule of general applicability. 42 U.S.C.S. § 2000bb-1(a). To successfully mount a RFRA challenge and subject government action to strict scrutiny, a plaintiff must meet the initial burden of establishing that the government has substantially burdened his **religious** exercise. Only if that predicate has been established will the onus then shift to the government to show that the law or regulation is the least restrictive means to further a compelling interest. 42 U.S.C.S. §§ 2000bb-1(b), 2000bb-2(3).

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234. Kendrick v. Bowen

United States District Court for the District of Columbia | Apr 15, 1987 | 657 F. Supp. 1547

Overview: A statutory grant of funds that provided funds to secular and religious entities alike was unconstitutional on its face and in substance because it promoted religious beliefs and impermissibly entangled the government with the religious entities.

HN31 - The involvement of **religious** organizations in counseling and education on premarital sex, abstinence, and the preferability of adoption to abortion creates a "crucial symbolic link" between government and religion when the counseling is funded by the public fisc. This symbolic link is quite strong where the education is directed at adolescents, especially pregnant adolescents who may be in a delicate and more than ordinarily receptive state of mind. And it is particularly strong where the subjects taught are, in the hands of a "**religious** organization," inescapably infused with **religious beliefs**.

HN35 - The Establishment Clause erects a "wall of separation" between church and state. This wall exists to protect the sanctity and freedom of all religions, regardless of their **beliefs** and practices. Although cooperation between government and religion to further mutually agreeable objectives may seem harmless, such cooperation may take on an intrusive and unwelcome color when conflicts arise between government directives and **religious beliefs**. History shows the necessity of protecting religion from government.

HN36 - When the power, prestige, and financial support of government is placed behind a particular **religious** belief, the indirect coercive pressure upon **religious** minorities to conform to the prevailing officially approved religion is plain. Equally plain, a society is only truly free when individuals are left free

from direct or indirect pressure to abandon their own cherished **religious beliefs** for whatever set of **beliefs** currently holds government favor. It is essential that courts scrupulously protect religion from government intrusion, whether the intrusion is obviously malignant or seemingly benign.

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235. Tubra v. Cooke

Court of Appeals of Oregon | Jan 27, 2010 | 233 Ore. App. 339

Overview: When a former pastor brought a defamation claim against his church and two officials, the Free Exercise Clause of the First Amendment did not deprive the trial court of jurisdiction to adjudicate the dispute. After the jury rendered a verdict for plaintiff, the trial court erred by granting defendants' motion for JNOV under Or. R. Civ. P. 63.

HN17 - The court has struggled to strike a balance between the **constitutional protection** against civil courts adjudicating disputes involving **religious beliefs** and practices, while at the same time holding **religious** groups accountable for tortious behavior based on nonreligious conduct. Christofferson offers the more tenable approach for achieving the appropriate balance between those competing interests. The question of whether or not a defamatory statement is privileged, either absolutely or conditionally, depends upon the balance that the court strikes between competing interests.

HN13 - A defense based on the Free Exercise Clause presents particular difficulties in an action for fraud. To establish fraud, a plaintiff must ordinarily prove that the representations made were false. However, when **religious beliefs** and doctrines are involved, the truth or falsity of such **religious beliefs** or doctrines may not be submitted for determination by a jury.

HN14 - Determining whether a representation is purely **religious** as a matter of law involves three inquiries: First, is the defendant organization of a **religious** nature? Second, do the statements themselves relate to the **religious beliefs** and practices of the organization? It is clear that a **religious** organization, merely because it is such, is not shielded by the First Amendment from all liability for fraud. If the statements involved here do not concern the **religious beliefs** and practices of the **religious** organization, the Free Exercise Clause provides no defense to plaintiff's action. Finally, even if the statements are made on behalf of a **religious** organization and have a **religious** character, are they nonetheless made for a wholly secular purpose? Some ideas--such as the nature of a supreme being and the value of prayer and worship -- must always and in every context be considered **religious** as a matter of law, but that others are **religious** only because those espousing them make them for a **religious** purpose.

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236. State ex rel. O'Sullivan v. Heart Ministries, Inc.

Supreme Court of Kansas | Mar 01, 1980 | 227 Kan. 244

Overview: Defendants' constitutionally protected right to the free exercise of their religion had to bow to the State's administrative regulations governing maternity hospitals, boarding homes, and foster home placement agencies for juveniles.

HN10 - While **religious beliefs** cannot be regulated, some overt acts, though in the exercise of **one's religious** convictions, are not totally free from legislative restriction.

HN8 - Inordinate restraints upon the dissemination of **religious** ideas will not be tolerated.However, some lesser measure of restraint, when necessary for the public good, may be appropriate as to the secular aspects of the activity.

HN9 - The free exercise clause permits reasonable regulation of otherwise protected **religious** activity when imposed pursuant to a compelling State interest. Only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion. Thus when there is a valid State interest, such as its interest in universal education, it is subject to a balancing process when it impinges on free exercise rights.

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237. Barlow v. Evans

United States District Court for the District of Utah, Central Division | Jun 13, 1997 | 993 F. Supp. 1390

Overview: Sellers did not violate the Federal Fair Housing Act (FHA) by refusing to sell property to buyers whom the sellers suspected were polygamists, because the FHA did not apply to religious practices prohibited by criminal law.

HN6 - Congress did not intend for the Federal Fair Housing Act, 42 U.S.C.S. § 3604(a), to require citizen sellers of real estate to deal with lawbreakers, or perceived lawbreakers, even if the lawbreaking activity is based on a genuine **religious** belief. Common sense and practicality require such a result. Surely in its effort to provide fair housing to all Americans, congress did not intend to aid and abet criminal behavior. There is nothing in the act or its history that suggests such a reach. Such an interpretation would require sales of houses that sellers know (or strongly suspect) are to be used as drug houses, brothels, or even altars for human sacrifices, if such criminal practices were engaged in as part of the buyers' **religious beliefs**.

HN8 - The United States Supreme Court held the practice of polygamy to be one of those rare **religious** practices that is contrary to the interests of society and undeserving of **constitutional protection**. It would be remarkable in the extreme if the same government finds a **religious** practice undeserving of **constitutional protection** under the First Amendment to the United States Constitution, yet deserving of protected status under the Federal Fair Housing Act, 42 U.S.C.S. § 3604(a).

HN4 - Just because a practice is not entitled to First Amendment to the United States Constitution protection does not mean it lacks status as a genuine "**religious**" practice. And, there is nothing in the Federal Fair Housing Act, 42 U.S.C.S. § 3604(a), itself that limits the reach of the act to **religious** practices that are protected under the free exercise clause of the First Amendment.

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238. Masjid Muhammad-D.C.C. v. Keve

United States District Court for the District of Delaware | Oct 22, 1979 | 479 F. Supp. 1311

Overview: Muslim prisoners had a First Amendment right to information regarding the pork content of foods served at a prison and a right to be free of sanctions for their refusal to acknowledge their committed names instead of their Muslim names.

HN2 - The right to hold **religious beliefs**, guaranteed by the Free Exercise Clause of the First Amendment, is absolute. The right to express those **religious beliefs** is also guaranteed by the Free Exercise Clause but is not absolute. The state may regulate the time, place and manner of **religious** expression so long as the regulation is reasonable and content-neutral. Such expression may be otherwise restricted by the state, however, only when it can show that the restrictive regulation or practice serves a compelling state interest and is the least restrictive means by which that interest can effectively be served.

HN4 - A prison is not required to provide a special diet to satisfy **religious beliefs** where sufficient nourishment can be obtained from the other food available.

HN7 - Protected **religious** expression encompasses more than **orthodox** or institutionalized practices. To be protected, a particular form of **religious** expression need not be mandated by **one's** religion or even endorsed by a majority of its adherents, so long as it is an expression of a sincere, religiously based conviction. Neither the federal courts nor prison administrators are authorized to determine what is an **orthodox religious** expression or belief and what is not.

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239. A.A. v. Needville Indep. Sch. Dist.

United States Court of Appeals for the Fifth Circuit | Jul 09, 2010 | 611 F.3d 248

Overview: Native American child had a sincere religious belief in wearing his hair uncut and in plain view that was substantially burdened by his school district's grooming policy, so he succeeded in his free exercise of religion claim under Texas Religious Freedom Restoration Act, specifically Tex. Civ. Prac. & Rem. Code Ann. § 110.003(a), (b).

HN2 - Undoubtedly, membership in an organized **religious** denomination would simplify the problem of identifying sincerely held **religious beliefs**, but a belief is no less sincere just because the individual is not responding to the commands of a particular **religious** organization.

HN19 - An adherent's **religious beliefs** are not rendered insincere merely because he articulates them differently in response to shifting objections. An applicant seeking **religious** exemption is not obliged to provide an accounting of his **beliefs**, warrant it as final, and then when subject to public disbelief, refrain from speaking up to clarify to others who do not share his faith. In sum, a court does not look to efforts to better explain **religious beliefs** with exacting incredulity, unless there is reason to do so.

HN22 - A regulation creates a "substantial burden" on free exercise of religion if it truly pressures the adherent to significantly modify his **religious** behavior and significantly violates his **religious beliefs**.

240. ## Lown v. Salvation Army, Inc.

United States District Court for the Southern District of New York | Sep 30, 2005 | 393 F. Supp. 2d 223

Overview: Employees could not maintain a religious discrimination action against a church employer that contracted with government entities, but an alleged diversion of contract revenues to religious purposes was sufficient to confer taxpayer standing on the employees as to an Establishment Clause, U.S. Const. amend. I, claim against the government entities.

HN14 - Direct state funding of the inculcation of **religious beliefs** violates the Establishment Clause.

HN12 - Ordinarily taxpayers do not have standing to challenge expenditures of government funds. The United States Supreme Court has recognized an exception to that rule and permitted a taxpayer to bring an Establishment Clause action when there is a logical link between his status as a taxpayer and the **type** of legislative enactment attacked, as well as a nexus between that status and the precise nature of the constitutional infringement alleged. Taxpayer standing can apply to challenges to administratively provided grants. What is required for the establishment of taxpayer standing to complain of **religious** activities is a showing of a measurable appropriation or loss of revenue attributable to the challenged activities. Although a taxpayer plaintiff need not demonstrate a likelihood that resulting savings will inure to the benefit of the taxpayer, she must show that the jurisdiction to which she pays taxes suffers a measurable appropriation or loss of revenue.

HN15 - One of the few absolutes in Establishment Clause jurisprudence is the prohibition against government-financed or government-sponsored indoctrination into the **beliefs** of a particular **religious** faith. The fundamental limitation imposed by the Establishment Clause bars government from coercing anyone to support or participate in religion or its exercise. It is not enough to show that the recipient of a challenged grant is affiliated with a **religious** institution or that it is religiously inspired. However, it is unconstitutional for federal aid recipients to participate in specifically **religious** activities or to use materials that have an explicitly **religious** content or that are designed to inculcate the views of a particular **religious** faith.

241. ## Young Life v. Division of Employment & Training

Supreme Court of Colorado | Aug 16, 1982 | 650 P.2d 515

Overview: Primary purpose of Christian group's activities was to direct young people toward involvement in traditional church congregations that existed independently of group. Therefore, for purposes of unemployment tax exemption, group was not a "church."

HN7 - Section 6(j) of the Military Selective Service Act of 1967 provides that no person may be subject to service in the armed forces of the United States who, by reason of **religious** training and belief, is conscientiously opposed to participation in war in any form. The United States Supreme Court rejects a challenge under the Establishment Clause to § 6(j)'s distinction between those whose **religious beliefs** dictate that they not participate in any war, and those whose **beliefs** require them to refrain from participation in a particular war, holding that the exemption for conscientious objectors has a neutral secular basis and that limiting the exemption to objectors to all war furthers the valid neutral purpose of maintaining a fair system for determining "who serves when not all serve."

HN14 - The freedom to hold **religious beliefs** is absolute, and no program which discriminates on its face against a particular **religious** doctrine satisfies constitutional inquiry. However, actions taken in accord with **religious** belief may be subject to incidental burdens imposed by government. If the state regulates conduct by enacting a general law within its power, the purpose and effect of which is to advance permissible goals of the state, a statute may be valid despite its indirect burden on **religious** observance unless the state can accomplish its purpose by means which do not impose such a burden. In cases where a significant conflict between permissible goals of the state and **religious** practices exist, a balancing test is used to measure whether the state has exceeded its constitutional power. In order to outweigh a substantial burden on religiously motivated activity, the state aim involved must be compelling and the state action must be the least restrictive means of achieving the goal.

HN13 - Where a state conditions receipt of important benefits upon conduct proscribed by a **religious** faith, or where it denies such a benefit because of conduct mandated by **religious** belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his **beliefs**, a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.

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242. King v. Christie

United States District Court for the District of New Jersey | Nov 08, 2013 | 981 F. Supp. 2d 296

Overview: It did not violate the First Amendment right to free speech to prohibit licensed providers of counseling services from using Sexual Orientation Change Efforts (also known as gay conversion therapy) to treat minors because N.J. Stat. Ann. § 45:1-55 regulates conduct, not speech, even though the counseling was carried out through speech.

HN23 - N.J. Stat. Ann. §§ 45:1-54, 45:1-55 on their face do not target speech, and counseling is not entitled to special **constitutional protection** merely because it is primarily carried out through talk therapy. Thus, §§ 45:1-54, 45:1-55 do not seek to regulate speech; rather the statutes regulate a particular **type** of conduct, Sexual Orientation Change Efforts counseling.

HN50 - The Free Exercise Clause protects **religious** expression; however, it does not afford absolute protection. Rather, where a law is neutral and of general applicability, it need not be justified by a compelling government interest even if the law has the incidental effect of burdening a particular **religious** practice. The right to freely exercise **one's** religion does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes conduct that his religion prescribes. If, on the other hand, the government action is not neutral and generally applicable, strict scrutiny applies, and the government action violates the Free Exercise Clause unless it is narrowly tailored to advance a compelling government interest.

HN11 - Under U.S. Const. amend. XI, unlike federal claims seeking prospective injunctive relief, plaintiffs may not bring state law claims—including state constitutional claims—against the State regardless the **type** of relief it seeks. Likewise, supplemental jurisdiction does not authorize district courts to exercise jurisdiction over claims against non-consenting states. There is no doubt that the Eleventh Amendment bars the adjudication of pendent state law claims against nonconsenting state defendants in federal court.

243. Citizens for Parental Rights v. San Mateo County Bd. of Education

Court of Appeal of California, First Appellate District, Division Two | Aug 28, 1975 | 51 Cal. App. 3d 1

Overview: Parents failed to obtain declaratory and injunctive relief to prohibit the implementation of family life and sex education programs by a school board, as there was no constitutionally prohibited infringement or establishment of religion.

HN5 - Not all infringements of **religious beliefs** are constitutionally impermissible.

HN19 - Where a program on its face applies to all students equally and is taught to all students of mixed **religious beliefs** without discrimination, there is no denial of equal protection.

HN7 - U.S. Const. amend. I does not permit the state to require that teaching and learning must be tailored to the principles or prohibitions of any **religious** sect or dogma.

244. Klouda v. Southwestern Baptist Theol. Seminary

United States District Court for the Northern District of Texas, Fort Worth Division | Mar 19, 2008 | 543 F. Supp. 2d 594

Overview: Religiously-based institution of higher education (Seminary) where plaintiff employee taught Old Testament languages was a "church" and that the employee was a "minister" as contemplated by the ministerial exception doctrine, so all claims were dismissed based on First Amendment Free Exercise law.

HN13 - A determination of whether a statutory enactment violates the free exercise of a sincerely held **religious** belief involves an examination of: (1) the magnitude of the statute's impact upon the exercise of the **religious** belief, (2) the existence of a compelling state interest justifying the burden imposed upon the exercise of the **religious** belief, and (3) the extent to which recognition of an exemption from the statute would impede the objectives sought to be advanced by the state. The relevant inquiry is not the impact of the statute upon the institution, but the impact of the statute upon the institution's exercise of its sincerely held **religious beliefs**.

HN10 - The First Amendment language that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof historically has stood for the strict prohibition of governmental interference in ecclesiastical matters. Only on rare occasions where there existed a compelling governmental interest in the regulation of public: health, safety, and general welfare have the courts ventured into this protected area. Such incursions have been cautiously made so as not to interfere with the doctrinal **beliefs** and internal decisions of the **religious** society. Thus, the law is clear: civil courts are barred by the First Amendment from determining ecclesiastical questions. A spirit of freedom for **religious** organizations, an independence from secular control or manipulation in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and

doctrine is reflected in the United States Supreme Court's decisions. The interaction between the church and its pastor is an integral part of church government.

HN19 - When churches expand their operations beyond the traditional functions essential to the propagation of their doctrine, those employed to perform tasks which are not traditionally ecclesiastical or **religious** are not "ministers" of a "church" entitled to McClure-**type** protection.

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245. ⚠ McCallum v. Billy Graham Evangelistic Ass'n

United States District Court for the Western District of North Carolina, Charlotte Division | Aug 05, 2011 | 824 F. Supp. 2d 644

Overview: Since plaintiff's position was not "ministerial" in nature, church autonomy doctrine did not deprive court of subject matter jurisdiction, nor exempt defendant from defending Title VII claims. Claim of racial discrimination was sufficiently plausible. Separation from employment, and temporal proximity of relevant events, were potentially probative.

HN10 - Rayburn teaches that a **religious** organization's rationale or support for its **religious beliefs** is off-limits notwithstanding Title VII's import. With respect to "quintessentially **religious**" matters, the free exercise clause of the First Amendment protects the act of a decision rather than a motivation behind it. In these sensitive areas, the state may no more require a minimum basis in doctrinal reasoning than it may supervise doctrinal content.

HN8 - In considering whether to apply the ministerial exception in the context of non-ministerial or lay employees, courts focus on the employee's primary functions and duties (the "primary duties test") as opposed to title. If the employee's primary duties consist of teaching, **spreading** the faith, church governance, supervision of a **religious** order, or supervision or participation in **religious** ritual and worship, or the position is important to the spiritual and pastoral mission of the church, the party may be considered a minister for purposes of the ministerial exception. Application of the primary duties test necessarily requires a court to determine whether a position is important to the spiritual and pastoral mission of the church. The more closely the employee's duties and responsibilities are tied to ministering, the less likely courts are to apply Title VII to employment decisions made by the **religious** institution.

HN4 - Title VII of the Civil Rights Act of 1964 prohibits an employer from discharging any individual, or otherwise discriminating against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race. 42 U.S.C.S. § 2000e—2(a). Within § 702, Title VII exempts certain employment decisions of **religious** organizations: This subchapter shall not apply to a **religious** corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. 42 U.S.C.S. § 2000e-1. The U.S. Court of Appeals for the Fourth Circuit has construed Title VII's statutory exemption for **religious** institutions narrowly to preclude a Title VII action for employment decisions based upon **religious** preferences but not decisions based on race, sex, or national origin. Thus, in a Title VII action involving employment within a **religious** organization, there is potential for Title VII to "collide" with constitutional limits imposed pursuant to the First Amendment.

246. State v. Olsen

Supreme Court of Iowa | Jan 20, 1982 | 315 N.W.2d 1

Overview: Motion to suppress evidence was properly denied. State did not based the extended search of locked trunk of defendant's car on marijuana possession but on basis that officers had probable cause to believe defendant was involved in armed robbery.

HN4 - The free exercise clause prohibits the making of a law which in any way interferes with the free exercise of religion. The prohibition extends to unorthodox as well as **orthodox religious beliefs** and practices. It extends to **religious** organizations and individuals. It denies the government any power to proscribe, regulate, favor directly or indirectly any particular **religious beliefs** or doctrines, though not necessarily the acts which citizens may feel called upon to perform in compliance with their **religious** views.

HN7 - A party challenging a law as violating the free exercise clause has the burden to show how the law infringes upon the party's **religious beliefs**.

HN3 - While a witness may not testify whether marijuana is held for personal use, he may testify on the pattern or modus operandi of a certain offense and compare the facts of the case to it. An opinion on whether or not profit can be made from this **type** of operation is proper.

247. State v. Balzer

Court of Appeals of Washington, Division Two | Apr 17, 1998 | 91 Wn. App. 44

Overview: Defendant charged with marijuana possession and distribution could not assert as an affirmative defense that his constitutional right of religious free exercise was violated where state had a compelling interest in regulating the dangerous drug.

HN3 - The first prerequisite to a free exercise challenge requires the complaining party to demonstrate that his or her **religious** convictions are sincerely held and central to the practice of his or her religion. The court will not inquire further into the truth or reasonableness of the party's convictions or **beliefs**. Moreover, where an individual's **beliefs** are "arguably **religious**," the court will recognize and consider them for purposes of constitutional analysis. Next, the party seeking protection must demonstrate that the challenged enactment burdens his or her free exercise of religion. An enactment unduly burdens free exercise if its coercive effect operates against a party in the practice of his or her religion. Therefore, a facially neutral, even-handedly enforced statute that does not directly burden free exercise may nonetheless violate Wash. Const. art. I, § 11 if it indirectly burdens the exercise of religion.

HN4 - Wash. Rev. Code § 69.50.401 criminalizes possession and **distribution** of marijuana even if for **religious** purposes.

HN2 - Wash. Const. art. I, § 11 is more protective of **religious** freedom than U.S. Const. amend. I. Consequently, as a fundamental right of of vital importance, any burden upon **religious** free exercise must withstand strict scrutiny. Under this standard, the complaining party must first prove the government action has a coercive effect on his or her practice of religion. Once a coercive effect is established, the burden of proof then shifts to the government to demonstrate the restrictions serve a compelling state interest and are the least restrictive means for achieving that interest. If this standard cannot be satisfied, the restriction is unconstitutional.

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248. Kollasch v. Adamany

Court of Appeals of Wisconsin | Nov 24, 1980 | 99 Wis. 2d 533

Overview: Albeit nuns were engaged in a religious activity in providing meals to their guests for consideration, the requirement that they collect a sales tax on the sale of those meals was neither a tax on religion nor a burden on their exercise of religion.

HN6 - Wis. Stat. § 77.54 provides for general exemptions from the sales tax. Wis. Stat. § 77.54(9a) exempts the gross receipts from sales to any association organized and operated exclusively for **religious**, charitable, scientific or educational purposes.

HN12 - The test for determining whether the State is violating the free exercise of religion is strict. To withstand a free exercise challenge, there must be either no infringement by the State on free exercise, or if free exercise is burdened, the burden must be justified by a compelling state interest in the regulation of a subject within the State's constitutional power to regulate. Even if the burden is "incidental," this test must be met. No mere showing of a rational relationship to some colorable state interest will suffice; in the highly sensitive area of **religious** freedom, only the gravest abuses endangering paramount interests justify state intrusion.

HN13 - It is not sufficient for a person challenging the application of a statute on free exercise grounds merely to show that the statute burdens him in some way. The burden must be related to the exercise of a **religious** belief.

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249. Congregation Beth Yitzchok, Inc. v. Ramapo

United States District Court for the Southern District of New York | Jul 24, 1984 | 593 F. Supp. 655

Overview: A synagogue was not entitled to injunctive relief because it was unlikely to prevail on its free exercise of religion challenge to a town's building regulations, where the regulations were based on legitimate health and safety objectives.

HN3 - In cases alleging violations of the Free Exercise Clause of the First Amendment, a court is obligated to consider and accommodate competing, constitutionally grounded interests: an individual's right to practice his or her religion freely and the state's interest in exercising its powers in pursuit of important governmental objectives. Clearly, if the explicit or implicit purpose of a law is to regulate **religious beliefs**,

to impede the observance of all religions or a particular religion, or to discriminate invidiously between religions, that law cannot pass constitutional muster.

HN8 - While the freedom to harbor **religious beliefs** is absolute, the freedom to engage in **religious** practices is not. Such practices are subject to regulation for the protection of society. Because of the extreme significance attached to the state's exercise of its police power in the zoning area, the law has evolved to the point of recognizing that when in conflict with legitimate zoning concerns as public safety, health and welfare, the First Amendment guarantee of **religious** expression cannot be viewed as absolute. Reasonable accommodations constituting incidental infringement upon **religious** expression are constitutionally permissible when legitimate conflict arises.

HN4 - Not all burdens on religion are unconstitutional. To maintain an organized society that guarantees **religious** freedom to a great variety of faiths requires that some **religious** practices yield to the common good. The court's task, accordingly, is to balance the cost to the government of altering its activity to allow the **religious** practice to continue unimpeded versus the cost to the **religious** interest imposed by the government activity. When a statute is in direct and irreconcilable conflicts with a **religious** belief, the burden imposed on **religious** freedom is obviously at its greatest. When, however, the state's exercise of its regulatory powers makes the practice of **one's** religion more expensive or otherwise problematical, courts are far more reluctant to circumscribe the exercise of state authority.

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250. Bikur Cholim, Inc. v. Vill. of Suffern

United States District Court for the Southern District of New York | Jun 24, 2009 | 664 F. Supp. 2d 267

Overview: In action in which rabbi alleged that denial of application for zoning variance permitting the rabbi to use property as guesthouse for Jews visiting hospital violated 42 U.S.C.S. § 2000cc(a)(1), summary judgment was unwarranted because there were disputed issues as to whether absence of the guesthouse would substantially burden religious exercise.

HN24 - The **Religious** Land Use and Institutionalized Persons Act (RLUIPA) defines "**religious** exercise" to include any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief. 42 U.S.C.S. § 2000cc-5(7)(A). The use, building, or conversion of real property for the purpose of **religious** exercise shall be considered **religious** exercise. 42 U.S.C.S. § 2000cc-5(7)(B). "**Religious** exercise" under RLUIPA is to be defined broadly and to the maximum extent permitted by the terms of RLUIPA and the Constitution. 42 U.S.C.S. § 2000cc-3(g). The law bars inquiry into whether a particular belief or practice is central to an individual's religion. The court may not judge the merits of various **religious** practices. Because the free exercise of religion means, first and foremost, the right to believe and profess whatever **religious** doctrine one desires, courts are not permitted to inquire into the centrality of a professed belief to the adherent's religion or to question its validity in determining whether a **religious** practice exists. As such, **religious beliefs** need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection. An individual claiming violation of free exercise rights need only demonstrate that the **beliefs** professed are sincerely held and in the individual's own scheme of things, **religious**.

HN11 - At a minimum, the protections of the Free Exercise Clause of the First Amendment pertain if the law at issue discriminates against some or all **religious beliefs** or regulates or prohibits conduct because it is undertaken for **religious** reasons.

HN7 - The **Religious** Land Use and Institutionalized Persons Act (RLUIPA) prohibits a government from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the **religious** exercise of a person or institution, unless the government demonstrates that imposition of the burden on that person or institution is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C.S. § 2000cc(a)(1). "**Religious** exercise" is defined to include any exercise of religion, whether or not compelled by, or central to, a system of **religious** belief. 42 U.S.C.S. § 2000cc-5(7)(A). "**Religious** exercise" under RLUIPA is to be defined broadly and to the maximum extent permitted by the terms of RLUIPA and the Constitution. 42 U.S.C.S. § 2000cc-3(g).