

## CASE OVERVIEWS

### **Case One: West Virginia State Board of Education v. Barnette (1943).**

Jehovah's Witnesses believe that saying a pledge of allegiance to a flag is forbidden by the Ten Commandments. The Jehovah's Witnesses also wanted to show their solidarity with fellow believers in Germany who had refused to give the "Heil Hitler" salute.

In the 1940 *Gobitis* case, the Supreme Court ruled that children of Jehovah's Witnesses must participate in the flag salute in public school. The Court said that the flag is a symbol of national unity and the pledge was necessary to promote patriotism.

The West Virginia Board of Education in 1942 required all teachers and students to say the pledge and "participate in the salute honoring the nation represented by the flag." Objections to the required salute "being too much like Hitler's" were raised by various organizations including the local Parent and Teachers Association, the Red Cross, and the Boy and Girl Scouts. The salute was modified, but no concession was given to Jehovah's Witnesses.

Barnette, a Jehovah's Witness, did not allow his child to participate in the flag salute. His child was expelled. West Virginia officials threatened to send his son to a state reformatory. Barnette was subject to a fine and jail. Lower appeals courts held that the *Gobitis* precedent meant Barnette had no protection under the First Amendment.

**Key Question:** May individuals be forced by the government to participate in practices that are prohibited by their religion?

### **Case Two: Welsh v. United States (1970).**

Various religions, such as the Society of Friends (Quakers), oppose war in any form. A 1940 U.S. law exempted persons from military action if they opposed all war due to their "religious training and belief." In 1948 Congress defined "religious training and belief" as "an individual's relation to a Supreme Being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological, or philosophical views or a merely personal moral code."

A 1965 Supreme Court case further defined beliefs sufficient to qualify for exemption. Justice Clark stated the new rule as "a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by God."

Welsh was convicted of refusing to be drafted into the Armed Forces. He claimed he was a conscientious objector. His opposition to war *did not* arise from religious objections. He could not affirm or deny belief in a "Supreme Being," he stated in his exemption application. However, he did believe strongly that killing was immoral and totally repugnant.

**Key Question:** Does the statutory definition of conscientious objector include a sincere and meaningful belief that occupies in the life of its possessor a place parallel to the place filled by God?

### **Case Three: State of Wisconsin v. Jonas Yoder, et al. (1972).**

Jonas Yoder and Wallace Miller were members of the Old Order Amish religion. Adin Yutzy was a member of the Conservative Amish Mennonite Church. Amish belief dates back to the 16th century and the Swiss Anabaptists. Old Order Amish communities are devoted to a life in harmony with nature and soil. Both religions require a simple life apart from worldly influences.

All three parents refused to send their children, who had finished eighth grade in the local public school, to high school. The children were 14- and 15-year-olds. Wisconsin law required attendance until students reached age 16. There were penalties for breaking the law. The parents were each fined \$5.

**Key Question:** Did Wisconsin's requirement that all parents send their children to school at least until age 16 violate the First Amendment by criminalizing the conduct of parents who for religious reasons refused to send their children to school?

### **Case Four: Oregon Employment Division v. Smith (1990).**

Alfred Smith and Galen Black were members of the Native American Church. Some of the church's rituals involve the use of peyote, a cactus derivative containing the hallucinogen mescaline. The two men ingested peyote during religious rituals. As a result, they were fired from their jobs at a private drug rehabilitation program for "work-related misconduct."

When Smith and Black filed for unemployment benefits, they were turned down, again because of their use of peyote, possession or use of which was a crime, according to Oregon law. Although drug use in religious ceremonies is exempted from criminal penalties by federal law and by the laws of 23 states, Oregon provided no such exemption. The men sued, saying that the state had violated their rights to free exercise of their religion

**Key Question:** Does Oregon's state law violate the Free Exercise Clause of the First Amendment?

### **Case Five: Massachusetts v. David and Ginger Twitchell (1990).**

This case is before a criminal trial court in Boston, Massachusetts. The jury will find the innocence or guilt of David and Ginger Twitchell in the death of their 2 1/2 year-old son Robyn. They are charged with involuntary manslaughter. Manslaughter, a lesser charge than murder, means the unlawful killing of a person without the intention for that to occur.

Robyn Twitchell died of bowel obstruction after five days of being ill. The Twitchells did not seek traditional medical assistance. Instead, as members of the Christian Science Church, they relied on prayer and faith, as the Church teaches.

Medical authorities say there must have been symptoms, such as fever, vomiting, and severe pain, which would signal serious illness. They also testified that medical treatment could have saved Robyn's life.

**Key Question:** Can parents be required to provide their children with life-saving medical treatment even if doing so violates their sincerely held religious beliefs?

## **Case Six: Church of the Lukumi Babalu Aye v. Hialeah (1993).**

Members of the tiny Church of the Lukumi Babalu Aye in the Florida city of Hialeah practice a religion that involves the sacrifice of live animals such as pigeons, chickens, goats and lambs to commune with the "orishas" or spirits. The religion of Santeria-"the way of the saints"-originated in West Africa. When they were brought to Cuba as slaves, the Yoruba people blended their beliefs with some Roman Catholic practices. Nearly 70,000 Cuban-Americans in south Florida practice Santeria, as do people in other cities across the United States.

When the Church of Lukum Babalu Aye decided to establish a house of worship and other facilities in Hialeah in 1987, the city council held an emergency session. It issued new zoning laws that banned animal sacrifices inside city limits. The new laws specifically banned the killing of animals for ritual purposes. They exempted the killing of animals for food; for pest control; during hunting, trapping and fishing seasons; for medical research; and by animal shelters for purposes of population control. The church sued, claiming its religious freedoms had been violated by the new zoning laws.

**Key Question:** May a city constitutionally enact ordinances that are designed to prohibit certain religious practices?