

The Free Exercise Clause

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- Is there a “plain meaning” to the Exercise Clause?
- Is religious exercise an absolute right?

The First Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

What is a religion?

- *U.S. v. Ballard* (1944)
- *U.S. v. Seeger* (1965)
- *Welsh v. U.S.* (1970)



Valid secular policy test

- *Reynolds v. U.S.* (1879)
- *Pierce v. Society of Sisters* (1925)
- *Cantwell v. Connecticut* (1940)



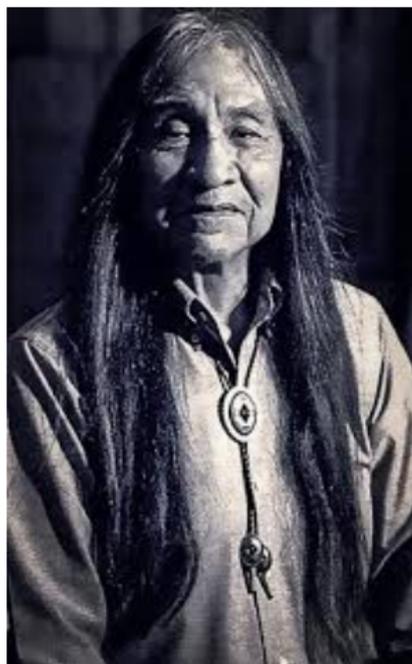
Compelling interest test

- *Braunfeld v. Brown* (1961)
- *Sherbert v. Verner* (1963)
- *Wisconsin v. Yoder* (1972)



Valid secular policy 2.0?

- *U.S. v. Lee* (1982)
- *Goldman v. Weinberger* (1986)
- *Employment Division v. Smith* (1990)



A new era of religious liberty?

- *Burwell v. Hobby Lobby* (2014)
- *Holt v. Hobbs* (2015)
- *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018)



- How has the Supreme Court's interpretation of the Exercise Clause changed over time, and what explains this change?
- Does the Court risk running afoul of the Establishment Clause if it were to interpret the Expression Clause too expansively?