

QUESTION PRESENTED

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

LIST OF PARTIES

The parties to this petition are:

United Cannabis Ministries represented by:
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Appendix A Affidavits of members of United Cannabis Ministries..... 1

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- (3) Church of Work, Rev. Christopher M. DeMars, 21542 Crestview Drive, Sonora, California 95370; (209) 533-1564
- (4) Right Reverend Smiley James Harris, P.O. Box 87, Lucerne, California (USA; Zip Code Exempt [Domestic Mail Manual sec. 122.32]); (707) 274-8395
- (5) Northern Lights Church, Rev. David Jack, P.O. Box 392, Altaville, California 95221; (209) 736-0297; <http://www.northernlightschurch.org>

- (6) Universal Ohana Aloha Earth of the Church Cognizance, Daniel Jeffrey, P.O. Box 1004, Pahoia, Hawaii 96778
- (7) Northern Lights Church, Reverend Andrew G. Kinnon, 24651 Doria avenue, Mission Viejo, California 92961; (949) 457-0999; <http://www.northernlightschurch.org>
- (8) Eddy's Medicinal Gardens and Multi Denominational Ministry of Cannabis and Rastafari. Rev. Charles E. Lepp, 9176 Upper Lake Lucerne Road, Upper Lake, California 95485; (707) 275-8879; <http://www.eddysmedicinalgardens.com>
- (9) Church of the Cognizance, Cogniscenti Danuel D. Quaintance, Hcr 1 Box 4352, Pima, Arizona 85543; (928) 485-2952; <http://www.haoma.org>
- (10) New Paradigm Monastery IOMM of the Church of the Cognizance, Rev. Michael D. Senger, P.O. Box 2252, Florence, Arizona 85323; (480) 695-2646
- (11) Rev. Clinton Wiles, 827 NW 32nd St.; Oklahoma City, Oklahoma; (405) 557-1340

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The text of the RFRA is:

107 Statute 1488 Public Law 103-141 - November 16, 1993

Public Law 103-141

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

An act to protect the free exercise of religion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Section 1. Short Title - This Act may be cited as the "Religious Freedom Restoration Act of 1993".

Section 2. Congressional Findings and declarations of Purposes.

(a) Findings. - The Congress finds -

(1) the framers of the Constitution, recognizing free exercise of religion as an **unalienable** right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" towards religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not **substantially burden** religious exercise without compelling justification;

(4) in **Employment Division v. Smith, 494 U.S. 872 (1990)** the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral towards religion; and

(5) the **compelling interest test** as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) Purposes. - The purposes of this Act are -

(1) to restore the **compelling interest test** as set forth in the **Sherbert v. Verner, 374 U.S. 398 (1963)** and **Wisconsin v. Yoder, 406 U.S. 205 (1972)** and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

Section 3. Free exercise of religion protected.

(a) In General. - Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception. - Government may substantially burden a person's exercise of religion only if it determines 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 interest.

(c) Judicial Relief. - A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

Section 4. Attorneys fees.

(a) Judicial proceedings. - Section 722 of the Revised Statutes of the United States (42 USC 1998) is amended by inserting "the Religious Freedom Restoration Act of 1992" before "or title VI of the Civil Rights Act of 1964".

(b) Administrative proceedings. - Section 504(b)(1)(C) of title 5, United States Code, is amended -

- (1) by striking "and" at the end of the clause (i);
 - (2) by striking the semicolon at the end of clause (iii) and inserting ";and";
- and
- (3) by inserting "(iv) the Religious Freedom Restoration Act of 1993" after clause (iii).

Section 5. Definitions. As used in this Act -

- (1) the term "government " includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a State, or a subdivision of a State;
- (2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States.
- (3) the term "demonstrates" means meets the burden of going forward with the evidence and of persuasion; and
- (4) the term "exercise of religion" means exercise of religion under the First Amendment to the Constitution.

Section 6. Applicability

- (a) In General. - This Act applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of the Act.

- (b) Rule of Construction. - Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act.

- (c) Religious Belief Unaffected. - Nothing in this Act shall be construed to authorize any government to burden any religious belief.

Section 7. Establishment Clause Unaffected.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First amendment prohibiting laws respecting the establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause of the First Amendment, shall not constitute a violation of this Act. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include a denial of government funding, benefits, or exemptions.

Approved November 16, 1993 by:
William Jefferson Clinton
President of the United States of America
(Emphasis and underline added.)