



## § 2000bb. Congressional findings and declaration of purposes

United States Code Annotated | Title 42. The Public Health and Welfare

### Document Details

---

KeyCite: **KeyCite Red Flag - Severe Negative Treatment**  
Unconstitutional or Preempted Held Unconstitutional by [City of Boerne v. Flores](#), U.S.Tex., June 25, 1997

### Search Details

---

Jurisdiction: United States

### Delivery Details

---

Date: January 13, 2017 at 9:33 AM  
Delivered By: Rob Hendrix  
Client ID: RESEARCH



KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or PreemptedHeld Unconstitutional by [City of Boerne v. Flores](#), U.S.Tex., June 25, 1997

[United States Code Annotated](#)  
[Title 42. The Public Health and Welfare](#)  
[Chapter 21B. Religious Freedom Restoration](#)

42 U.S.C.A. § 2000bb

§ 2000bb. Congressional findings and declaration of purposes

[Currentness](#)

**(a) Findings**

The Congress finds that--

- (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” toward 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 toward 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 chapter are--

- (1) to restore the compelling interest test as set forth in [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.

**CREDIT(S)**

([Pub.L. 103-141](#), § 2, Nov. 16, 1993, 107 Stat. 1488.)

## VALIDITY

<For validity of the Religious Freedom Restoration Act (RFRA), [Pub.L. 103-141](#), Nov. 16, 1993, 107 Stat. 1488 (42 U.S.C.A. § 2000bb et seq.), and for validity of the RFRA as amended by section 7 of the Religious Land Use and Institutionalized Persons Act, [Pub.L. 106-274](#), Sept. 22, 2000, 114 Stat. 806, see [City of Boerne v. P.F. Flores](#), [U.S.Tex.1997](#), 521 U.S. 507, 117 S.Ct. 2157, 138 L.Ed.2d 624, and [Burwell v. Hobby Lobby Stores, Inc.](#), [U.S.2014](#), 134 S.Ct. 2751, 189 L.Ed.2d 675.>

### [Notes of Decisions \(76\)](#)

42 U.S.C.A. § 2000bb, 42 USCA § 2000bb

Current through P.L. 114-254. Also includes P.L. 114-256 to 114-260, 114-264, 114-265, 114-269, and 114-271 to 114-277.

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

## Notes Of Decisions (76)

**Generally**

Religious Freedom Restoration Act (RFRA) is not applicable in cases where the government is not a party. [Listecki v. Official Committee of Unsecured Creditors, C.A.7 \(Wis.\) 2015, 780 F.3d 731](#) , certiorari dismissed 136 S.Ct. 581, 193 L.Ed.2d 464 . [Civil Rights](#) 1032

Both prongs of RFRA's strict scrutiny test, namely the substantial-burden and least-restrictive-means prongs, are legal questions. [U.S. v. Friday, C.A.10 \(Wyo.\) 2008, 525 F.3d 938](#) , certiorari denied 129 S.Ct. 1312, 173 L.Ed.2d 595 . [Civil Rights](#) 1431

Even assuming homeless shelter operated by nonprofit corporation was "dwelling" subject to Fair Housing Act's (FHA) anti-discrimination provision, RFRA barred application of FHA to prohibit alleged religious activities in non-profit's operation of homeless shelter and residential alcohol recovery program; non-profit was Christian-based religious program, and applying FHA to prohibit it from requiring shelter guests and program residents to participate in religious activities would substantially burden its ability to freely exercise its religion.

[Intermountain Fair Housing Council v. Boise Rescue Mission Ministries, D.Idaho 2009, 655 F.Supp.2d 1150](#) , adhered to as amended 717 F.Supp.2d 1101 , affirmed on other grounds 657 F.3d 988 . [Civil Rights](#) 1087

Religious Freedom Restoration Act (RFRA) did not apply as against states, and, therefore, did not provide a civil remedy for state, state drug enforcement agency, and city police department's enforcement of state law in making an arrest, searching arrestee's property, and detaining arrestee, who claimed that religious cannabis was a legitimate sacrament of his church. [Hutchinson v. Maine, D.Me.2009, 641 F.Supp.2d 40](#) . [Civil Rights](#) 1088(4)

The Religious Freedom Restoration Act (RFRA) and National Environmental Policy Act (NEPA) do not apply to state actors implementing state law. [Farm-To-Consumer Legal Defense Fund v. Vilsack, D.D.C.2009, 636 F.Supp.2d 116](#) . [Civil Rights](#) 1032 ; [Environmental Law](#) 587

**Constitutionality**

Injunction pending appellate review would not be issued, pursuant to All Writs Act, to prevent enforcement of guidelines promulgated pursuant to Patient Protection and Affordable Care Act, under which corporations allegedly would be required to provide insurance coverage for drugs and devices that could cause abortions, since corporations' entitlement to relief under Free Exercise Clause and Religious Freedom Restoration Act (RFRA) was not indisputably clear, given that Supreme Court had not previously addressed similar claims and that lower courts had diverged on whether to grant temporary injunctive relief to similarly situated plaintiffs raising similar claims, and since injunction was not necessary or appropriate to aid Supreme Court's jurisdiction, given that, even without injunction pending appeal, applicants could continue their challenge in lower courts. [Hobby Lobby Stores, Inc. v. Sebelius, U.S.2012, 133 S.Ct. 641, 184 L.Ed.2d 448](#) . [Federal Courts](#) 3222

Religious Freedom Restoration Act (RFRA) exceeds Congress' power under § 5 of Fourteenth Amendment to enforce provisions of Fourteenth Amendment; RFRA contradicts principles necessary to maintain separation of powers and federal-state balance, addresses laws of general application that place incidental burdens on religion that are not based on animus or hostility and do not indicate any widespread pattern of religious discrimination, and is not designed to identify and counteract state laws likely to be unconstitutional; RFRA is also out of proportion to supposed remedial or preventative object, displaces laws and prohibits official actions in almost every level of government, and constitutes considerable congressional intrusion into states' traditional prerogatives and general authority to regulate. [City of Boerne v. Flores, U.S.Tex.1997, 117 S.Ct. 2157, 521 U.S. 507, 138 L.Ed.2d 624](#) , on remand 119 F.3d 341 . [Civil Rights](#) 1005 ; [Constitutional Law](#) 2352 ; [Constitutional Law](#) 4867 ; [States](#) 4.16(2)

That the Religious Freedom Restoration Act (RFRA) provides more protection from federal actors and statutes that burden the exercise of religion than is required by the First Amendment, under standard prescribed by the Supreme Court, does not violate separation of powers principles. [Hankins v. Lyght, C.A.2 \(N.Y.\) 2006, 441 F.3d 96](#) , on remand 516 F.Supp.2d 225 . [Civil Rights](#) 1005 ; [Constitutional Law](#) 2384

Enactment of the Religious Freedom Restoration Act (RFRA) was authorized by the Necessary and Proper Clause, as its purpose was to protect First Amendment rights, which was constitutionally permissible.

[Hankins v. Lyght, C.A.2 \(N.Y.\) 2006, 441 F.3d 96](#) , on remand [516 F.Supp.2d 225](#) . [Civil Rights 1005](#) ; [United States 223](#)

Provisions of Religious Freedom Restoration Act (RFRA), which exempted religious organizations from compliance with federal employment discrimination laws, did not violate the Establishment Clause of the First Amendment; the RFRA had secular legislative purpose, to protect individual First Amendment rights, it was neutral, in that it reflected no purpose to promote a particular religious point of view, and its principal effect neither advanced or inhibited religion. [Hankins v. Lyght, C.A.2 \(N.Y.\) 2006, 441 F.3d 96](#) , on remand [516 F.Supp.2d 225](#) . [Civil Rights 1105](#) ; [Constitutional Law 1339\(2\)](#)

Religious Freedom Restoration Act (RFRA) governs activities of federal officers and agencies, pursuant to Necessary and Proper Clause. [O'Bryan v. Bureau of Prisons, C.A.7 \(Ill.\) 2003, 349 F.3d 399](#) . [Civil Rights 1364](#)

RFRA constitutionally applies against the federal government. [Holy Land Foundation for Relief and Development v. Ashcroft, C.A.D.C.2003, 333 F.3d 156, 357 U.S.App.D.C. 35](#) , rehearing and rehearing en banc denied, certiorari denied [124 S.Ct. 1506, 540 U.S. 1218, 158 L.Ed.2d 153](#) . [Civil Rights 1005](#)

The Religious Freedom Restoration Act (RFRA) is constitutional as applied to federal law and should be considered where a party's argument is, in essence, that a statute substantially burdens its exercise of religion. [Redhead v. Conference of Seventh-Day Adventists, E.D.N.Y.2006, 440 F.Supp.2d 211](#) , motion to certify denied [2006 WL 2729035](#) , adhered to on reconsideration [566 F.Supp.2d 125](#) . [Civil Rights 1005](#)

Religious Freedom Restoration Act (RFRA) does not violate the Establishment Clause; statute has a secular purpose, its primary effect neither advances nor inhibits religion, and it does not foster excessive government entanglement with religion. [Jama v. U.S.I.N.S., D.N.J.2004, 343 F.Supp.2d 338](#) . [Civil Rights 1005](#) ; [Constitutional Law 1310](#)

Although case in which district court had found Religious Freedom Restoration Act unconstitutional may well have become moot when parties who litigated the case on the merits had settled it, court would not vacate its opinion and order dismissing action; vacatur would have effect of depriving legal community of one of the few reported cases in which Act had been held unconstitutional. [Keeler v. Mayor and City Council of Cumberland, D.Md.1997, 951 F.Supp. 83](#) . [Federal Civil Procedure 1840](#)

Religious Freedom Restoration Act (RFRA) does not abrogate Eleventh Amendment bar to actions brought against state officials for monetary damages. [Gilmore-Bey v. Coughlin, S.D.N.Y.1996, 929 F.Supp. 146](#) , affirmed in part [122 F.3d 1056](#) . [Federal Courts 2374\(4\)](#)

By mandating that courts decide free exercise cases under compelling interest standard that was previously rejected by Supreme Court, Religious Freedom Restoration Act (RFRA) improperly rendered ineffective that portion of Supreme Court's decision which interpreted scope and effect of First Amendment, and therefore RFRA usurped Supreme Court's authority to determine scope and meaning of First Amendment in violation of separation of powers doctrine. [Keeler v. Mayor & City Council of Cumberland, D.Md.1996, 928 F.Supp. 591](#) , motion to vacate denied [951 F.Supp. 83](#) . [Civil Rights 1005](#) ; [Constitutional Law 2384](#)

Separation of powers doctrine was not violated by enactment of Religious Freedom Restoration Act (RFRA), which relieves government of any obligation to accommodate religious claimant when state has compelling interest, even though RFRA effectively reversed decision of United States Supreme Court; Congress acted within its authority under Fourteenth Amendment to enact laws in aid of all other incorporated amendments. [Abordo v. State of Hawai'i, D.Hawai'i 1995, 902 F.Supp. 1220](#) . [Civil Rights 1005](#) ; [Constitutional Law 2384](#)

Religious Freedom Restoration Act did not offend equal protection by singling out only one right embodied in First Amendment for added enforcement protection. [Sasnett v. Department of Corrections, W.D.Wis.1995, 891 F.Supp. 1305](#) , affirmed [91 F.3d 1018](#) , vacated [117 S.Ct. 2502, 521 U.S. 1114, 138 L.Ed.2d 1007](#) . [Constitutional Law 3315](#)

Religious Freedom Restoration Act (RFRA) did not violate the establishment clause; stated purpose of RFRA, to prevent government interference with individual's free exercise of his or her religious beliefs, was permissible under Lemon test, RFRA permitted churches and religious adherents to advance their own religious activities

and beliefs by preventing or minimizing interference with religious freedom and, as broad exemption statute, RFRA tended to decrease governmental involvement in religion. [In re Hodge, D.Idaho 1998, 220 B.R. 386](#) . [Civil Rights 1005](#) ; [Constitutional Law 1310](#) ; [Constitutional Law 1328](#)

Religious Freedom Restoration Act (RFRA), to the extent that it authorized tithing by Chapter 13 debtor in context of debt adjustment plan that did not provide a 100% payout to unsecured creditors, impermissibly favored religion over non-religion in violation of the Free Exercise Clause. [In re Saunders, Bkrcty.D.Mass.1997, 215 B.R. 800](#) . [Bankruptcy 3705](#) ; [Civil Rights 1005](#) ; [Constitutional Law 1411](#)

Religious Freedom Restoration Act (RFRA), to the extent that it authorized tithing by Chapter 13 debtor in context of debt adjustment plan that did not provide a 100% payout to unsecured creditors, had primary effect of advancing religion, not as one type of nonprofit institution, but solely because it was religion in violation of the Establishment Clause. [In re Saunders, Bkrcty.D.Mass.1997, 215 B.R. 800](#) . [Bankruptcy 3705](#) ; [Civil Rights 1005](#) ; [Constitutional Law 1411](#)

Religious Freedom Restoration Act (RFRA) was not valid exercise of Congress' enforcement authority under Fourteenth Amendment, since statute's prohibition was not consistent with Federal Constitution, itself. [In re Hodge, Bkrcty.D.Idaho 1996, 200 B.R. 884](#) , reversed [220 B.R. 386](#) . [Civil Rights 1005](#) ; [Constitutional Law 4867](#)

Religious Freedom Restoration Act (RFRA) violated constitutional mandate requiring separation of legislative and judicial powers, since statute's express terms indicated that its purpose was to restore precise test rejected by United States Supreme Court as rule of decision in cases implicating First Amendment. [In re Hodge, Bkrcty.D.Idaho 1996, 200 B.R. 884](#) , reversed [220 B.R. 386](#) . [Civil Rights 1005](#) ; [Constitutional Law 2384](#)

### Power of Congress

Passage of Religious Freedom Restoration Act (RFRA) as applied in federal realm was within Congress's plenary power and thus comported with separation of powers doctrine, even though RFRA's application in state realm exceeded Congress's remedial power under Fourteenth Amendment. [Guam v. Guerrero, C.A.9 \(Guam\) 2002, 290 F.3d 1210](#) . [Civil Rights 1005](#) ; [Constitutional Law 2382](#)

Religious Freedom Restoration Act (RFRA) is not unconstitutional as exceeding Congress' powers under enforcement clause of Fourteenth Amendment; among other things, it does not infringe on other constitutional rights and is not employed beyond reasonable limits fixed with due regard for autonomy and responsibility of state and local governments, in ensuring meaningful right of freedom of religion in those instances where law of general application impinges upon religious practice but does not violate constitutional right of free exercise.

[Sasnett v. Sullivan, C.A.7 \(Wis.\) 1996, 91 F.3d 1018](#) , vacated [117 S.Ct. 2502, 521 U.S. 1114, 138 L.Ed.2d 1007](#) . [Civil Rights 1005](#) ; [Constitutional Law 4867](#)

United States Supreme Court's decision in [City of Boerne v. Flores](#), holding that Congress lacked constitutional authority under the Fourteenth Amendment to enforce the Religious Freedom Restoration Act (RFRA) against the states, did not affect Congress's power to enforce the RFRA against the federal government. [Multi Denominational Ministry of Cannabis and Rastafari, Inc. v. Gonzales, N.D.Cal.2007, 474 F.Supp.2d 1133](#) , affirmed [365 Fed.Appx. 817, 2010 WL 547578](#) . [Civil Rights 1005](#) ; [Constitutional Law 4867](#)

Religious Freedom Restoration Act was valid exercise of Congress' powers under Fourteenth Amendment provision granting Congress ability to legislate in furtherance of equal protection and Civil War amendments, although it protected free exercise of religion to greater degree than Supreme Court was willing to read into free exercise clause of First Amendment. [Sasnett v. Department of Corrections, W.D.Wis.1995, 891 F.Supp. 1305](#) , affirmed [91 F.3d 1018](#) , vacated [117 S.Ct. 2502, 521 U.S. 1114, 138 L.Ed.2d 1007](#) . [Constitutional Law 3315](#)

### Construction

Analysis under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Religious Freedom Restoration Act (RFRA) is specific, and neither statute requires or permits courts to nullify whole regulations just because they have a potential for improper application to a particular faith or belief. [Borzych v. Frank, C.A.7 \(Wis.\) 2006, 439 F.3d 388](#) . [Civil Rights 1032](#)

Religious Freedom Restoration Act (RFRA) should be read as amendment to Title VII. [Redhead v. Conference of Seventh-Day Adventists](#), E.D.N.Y.2006, 440 F.Supp.2d 211 , motion to certify denied 2006 WL 2729035 , adhered to on reconsideration 566 F.Supp.2d 125 . [Civil Rights](#) 1103

Religious Freedom Restoration Act (RFRA) applies to prisoners' claims involving alleged restrictions on free exercise of their religion. [Rust v. Clarke](#), D.Neb.1995, 883 F.Supp. 1293 , affirmed 89 F.3d 841 , certiorari denied 117 S.Ct. 398, 519 U.S. 970, 136 L.Ed.2d 313 . [Prisons](#) 152

Purpose of Religious Freedom Act is remedial and, therefore, Act should be read broadly. [Allah v. Menei](#), E.D.Pa.1994, 844 F.Supp. 1056 . [Civil Rights](#) 1004

### Construction with other laws

Congress did not intend the Religious Freedom Restoration Act (RFRA) to create a vehicle for allowing religious accommodation claims in the context of federal employment to do an end run around the legislative scheme of Title VII. [Francis v. Mineta, C.A.3 \(Virgin Islands\) 2007](#), 505 F.3d 266 . [Civil Rights](#) 1312 ; [Civil Rights](#) 1502

Religious Freedom Restoration Act (RFRA) supplanted the ministerial exception with regard to discrimination claims brought by ministerial employees against religious institutions and, thus, exception was not a viable defense to age discrimination claims of former clergy member, who was forced into retirement at age 70, brought against church and bishop, under the Age Discrimination in Employment Act (ADEA). [Hankins v. The New York Annual Conference of United Methodist Church](#), E.D.N.Y.2007, 516 F.Supp.2d 225 , affirmed 351 Fed.Appx. 489, 2009 WL 3497753 . [Civil Rights](#) 1114

### Purpose

Employer could not maintain RFRA defense in former employee's action alleging religious discrimination under Title VII and the Pennsylvania Human Relations Act (PHRA); statutory language indicated that Congress intended RFRA to apply only in cases where the government was a party, as RFRA's burden-shifting framework required the government to demonstrate that its actions constituted the least restrictive means of pursuing a compelling government interest, which a private party could not do, and RFRA's legislative history indicated that Congress was only concerned with government actions. [Mathis v. Christian Heating and Air Conditioning, Inc.](#), E.D.Pa.2016, 158 F.Supp.3d 317 , entered 2016 WL 304765 . [Civil Rights](#) 1032

Religious Freedom Restoration Act (RFRA) is a vehicle by which one who brings a challenge based on free exercise of religion against a neutral law of general applicability can require the court to look for a compelling interest and the least restrictive means of achieving it. [Omar v. Casterline](#), W.D.La.2006, 414 F.Supp.2d 582 . [Civil Rights](#) 1032

Stated purpose of RFRA is to require courts to decide free exercise cases under compelling interest standard, and it has achieved desired effect. [Keeler v. Mayor & City Council of Cumberland](#), D.Md.1996, 928 F.Supp. 591 , motion to vacate denied 951 F.Supp. 83 . [Civil Rights](#) 1032

### Retroactive effect

Religious Freedom Restoration Act (RFRA) applies retroactively. [Hamilton v. Schriro](#), C.A.8 (Mo.) 1996, 74 F.3d 1545 , rehearing and suggestion for rehearing en banc denied, certiorari denied 117 S.Ct. 193, 519 U.S. 874, 136 L.Ed.2d 130 . [Civil Rights](#) 1006

Religious Freedom Restoration Act (RFRA) does not create retroactive cause of action for monetary damages. [Brown v. Hot, Sexy and Safer Productions, Inc.](#), C.A.1 (Mass.) 1995, 68 F.3d 525 , certiorari denied 116 S.Ct. 1044, 516 U.S. 1159, 134 L.Ed.2d 191 . [Civil Rights](#) 1006

### Violations

Permit process for taking eagles for Native American religious purposes was not so maladministered as to render it futile, such that prohibition on taking eagles would be effectively without exception, thus resulting in substantial burden on tribal religious practices in violation of RFRA, in that Fish and Wildlife Service (FWS) may have granted permit to defendant charged with violating Bald and Golden Eagle Protection Act despite its preference that eagle parts be obtained from National Eagle and Wildlife Property Repository, and, even if FWS engaged in no outreach with respect to permitting process, permits were applied for and granted. [U.S.](#)



[v. Friday, C.A.10 \(Wyo.\) 2008, 525 F.3d 938](#) , certiorari denied [129 S.Ct. 1312, 555 U.S. 1176, 173 L.Ed.2d 595](#) . [Indians 351](#)

Even if Muslim charitable foundation was “person” that could obtain judicial relief under RFRA, government did not violate RFRA in designating foundation as Specially Designated Global Terrorist (SDGT), pursuant to Executive Order issued under International Emergency Economic Powers Act (IEEPA). [Holy Land Foundation for Relief and Development v. Ashcroft, C.A.D.C.2003, 333 F.3d 156, 357 U.S.App.D.C. 35](#) , rehearing and rehearing en banc denied, certiorari denied [124 S.Ct. 1506, 540 U.S. 1218, 158 L.Ed.2d 153](#) . [Civil Rights 110.1](#)

Prisoner of District of Columbia pleaded predicate constitutional violation of religious discrimination under First Amendment, Religious Freedom Restoration Act (RFRA), and Virginia Bill of Rights, for purpose of his allegations against municipality under [§ 1983](#) on theory of agency, for acts committed by Virginia prison officials while in Virginia under prisoner custody arrangement, on allegations that he was threatened with disciplinary action as result of his desire to engage in what he believed was conduct proscribed by his faith. [Ibrahim v. District of Columbia, D.D.C.2004, 357 F.Supp.2d 187](#) , opinion after remand from court of appeals [498 F.Supp.2d 149](#) . [Civil Rights 1741](#)

Regulations of Office of Foreign Assets Control (OFAC), requiring license before humanitarian goods could be exported to Iraq, did not violate Religious Freedom Restoration Act (RFRA); there was question whether exporting association's activities were religiously motivated or represented secular humanitarian concerns, and in any event regulations were of general applicability, and did not unduly burden any religious activities. [Office of Foreign Assets Control v. Voices in Wilderness, D.D.C.2004, 329 F.Supp.2d 71](#) . [War And National Emergency 1330](#)

## Religion

### Religion - Generally

Under defendant's scheme of things, for a certain group of West African expatriates and persons of West African descent of which defendant considered herself a member, consumption of “bushmeat” could have religious significance to support Free Exercise Clause defense to prosecution for importing parts of endangered African primate species without permit and failing to disclose to border officials the nature of product she imported; defendant regularly attended services at church in which bushmeat was considered part of cultural and spiritual heritage and was used as part of services, and had for all her life used monkey as a sacrifice. [U.S. v. Manneh, E.D.N.Y.2008, 645 F.Supp.2d 98](#) . [Constitutional Law 1310](#) ; [Customs Duties 22](#)

Even assuming that a free exercise or statutory violation occurred as to federal inmate's practice of “Nation of Gods and Earths” (NOGE), inmate's rights as a member of such an organization were not clearly established, so as to entitle federal Bureau of Prisons (BOP) officials to qualified immunity from federal civil rights suit under Bivens and Religious Freedom Restoration Act (RFRA); even inmate had adamantly maintained at the time he requested recognition for the NOGE that the group was not a religion. [Harrison v. Watts, E.D.Va.2009, 609 F.Supp.2d 561](#) , affirmed [350 Fed.Appx. 835, 2009 WL 3634283](#) , certiorari denied [130 S.Ct. 3521, 561 U.S. 1033, 177 L.Ed.2d 1104](#) . [Civil Rights 1376\(7\)](#) ; [United States 1476](#)

Applying the Controlled Substances Act (CSA) to charge members of the “Church of Cognizance” with marijuana offenses did not constitute a substantial burden on the exercise of religion in violation of the Religious Freedom Restoration Act (RFRA), as their beliefs that marijuana was a sacrament and deity and that consumption of marijuana was a means of worship were not “religious” within meaning of the RFRA; defendants' beliefs did not qualify as “ultimate ideas,” they did not constitute a moral or ethical system, they were not comprehensive, and they lacked many of the accoutrements of religion such as gathering places, keepers of knowledge, ceremonies and rituals, structure or organization, holidays, diet or fasting, appearance and clothing, and propagation. [U.S. v. Quaintance, D.N.M.2006, 471 F.Supp.2d 1153](#) , appeal dismissed [523 F.3d 1144](#) , affirmed [608 F.3d 717](#) , redesignated as opinion and publication ordered, certiorari denied [131 S.Ct. 544, 562 U.S. 1019, 178 L.Ed.2d 399](#) , certiorari denied [131 S.Ct. 547, 562 U.S. 1019, 178 L.Ed.2d 399](#) . [Civil Rights 1010](#)

Parents and their home schooled child failed to establish, by preponderance of evidence, threshold requirements to state prima facie free exercise claim under Religious Freedom Restoration Act (RFRA); parents did not contend part-time attendance at public school amounted to religious belief or even tenet or



belief central to their religious doctrine and failed to provide evidence that board's denial of child's desire to attend school part-time amounted to being pressured to commit act forbidden by their religion or prevented them from engaging in conduct that their faith mandated. [Swanson By and Through Swanson v. Guthrie Independent School Dist. No. I-1, W.D.Okla.1996, 942 F.Supp. 511](#) , affirmed [135 F.3d 694](#) . [Civil Rights 1418](#)

Definition of "religion" is same under Religious Freedom Restoration Act (RFRA) as it is under First Amendment. [U.S. v. Meyers, D.Wyo.1995, 906 F.Supp. 1494](#) , affirmed [95 F.3d 1475](#) , certiorari denied [118 S.Ct. 583, 522 U.S. 1006, 139 L.Ed.2d 421](#) . [Civil Rights 1010](#) ; [Constitutional Law 1290](#)

### **Religion - Sincerely held**

Evidence was sufficient to establish that defendants were not sincere with respect to their purported religious beliefs that marijuana was a deity and sacrament, and thus, their prosecution for conspiracy and possession with intent to distribute marijuana was not precluded by Religious Freedom Restoration Act (RFRA); numerous pieces of evidence, including their recruitment of associate into their church just shortly before the associate was to make a significant drug run, strongly suggested that the defendants' marijuana dealings were motivated by commercial or secular motives rather than sincere religious conviction. [U.S. v. Quaintance, C.A.10 \(N.M.\) 2010, 608 F.3d 717](#) , redesignated as opinion and publication ordered, certiorari denied [131 S.Ct. 544, 562 U.S. 1019, 178 L.Ed.2d 399](#) , certiorari denied [131 S.Ct. 547, 562 U.S. 1019, 178 L.Ed.2d 399](#) . [Criminal Law 569](#)

Nonprofit Baptist university had sincere religious belief that it could not provide to its employees any coverage for, facilitate access to, or enable use of emergency contraceptives, as required by Department of Health and Human Services (HHS) regulations, because they could end a human life, thus satisfying university's initial burden in its RFRA challenge to the regulations, where university believed that use or provision of emergency contraceptives was sin and forbidden by its religion, such beliefs were significant tenets of university's faith, and university fashioned its institutional identity and mission around its religious beliefs. [Louisiana College v. Sebelius, W.D.La.2014, 38 F.Supp.3d 766](#) . [Labor And Employment 408](#)

Non-profit religious employers held a sincere religious belief that contraceptive products and services were immoral and that Catholic doctrine prevented them from providing, paying for, or facilitating access to such objectionable products and service, as required to support the employers' claim that the Patient Protection and Affordable Care Act (ACA) contraceptive requirement violated the RFRA on application for a preliminary injunction. [Diocese of Cheyenne v. Sebelius, D.Wyo.2014, 21 F.Supp.3d 1215](#) . [Civil Rights 1457\(6\)](#)

Defendant's free exercise claim was incidental to prosecution for importing parts of endangered African primate species without permit and failing to disclose to border officials the nature of product she imported, and thus purported religious significance of "bushmeat" was not a sincerely held religious belief for purposes of Religious Freedom Restoration Act (RFRA); laws defendant had allegedly violated did not ban importation of bushmeat, but rather actus reus was in disclosures defendant made or failed to make on required forms she filed or failed to file, and no evidence showed that defendant had a religious aversion to forms, that her religion required her to abstain from truthful completion of the paperwork, or that filing the wrong or incomplete forms was a religious act. [U.S. v. Manneh, E.D.N.Y.2008, 645 F.Supp.2d 98](#) . [Civil Rights 1010](#)

Prisoner, who claimed that a denial of his request for wine during certain prayers and observances violated the Religious Freedom Restoration Act (RFRA), had a sincere religious belief that according to his Jewish faith he must consume 3 to 5 ounces of wine every Friday and Saturday during the saying of Kiddush and four 3 to 5 ounce portions of wine during the Passover Seder, notwithstanding that prisoner had delayed in declaring his religious preference and in pursuing inmate grievances to request wine for religious rituals. [Sample v. Lappin, D.D.C.2007, 479 F.Supp.2d 120](#) . [Prisons 155](#)

### **Sincerely held, religion**

Evidence was sufficient to establish that defendants were not sincere with respect to their purported religious beliefs that marijuana was a deity and sacrament, and thus, their prosecution for conspiracy and possession with intent to distribute marijuana was not precluded by Religious Freedom Restoration Act (RFRA); numerous pieces of evidence, including their recruitment of associate into their church just shortly before the associate was to make a significant drug run, strongly suggested that the defendants' marijuana dealings were motivated by commercial or secular motives rather than sincere religious conviction. [U.S. v. Quaintance, C.A.10 \(N.M.\)](#)

2010, 608 F.3d 717 , redesignated as opinion and publication ordered, certiorari denied 131 S.Ct. 544, 562 U.S. 1019, 178 L.Ed.2d 399 , certiorari denied 131 S.Ct. 547, 562 U.S. 1019, 178 L.Ed.2d 399 . Criminal Law 569

Nonprofit Baptist university had sincere religious belief that it could not provide to its employees any coverage for, facilitate access to, or enable use of emergency contraceptives, as required by Department of Health and Human Services (HHS) regulations, because they could end a human life, thus satisfying university's initial burden in its RFRA challenge to the regulations, where university believed that use or provision of emergency contraceptives was sin and forbidden by its religion, such beliefs were significant tenets of university's faith, and university fashioned its institutional identity and mission around its religious beliefs. Louisiana College v. Sebelius, W.D.La.2014, 38 F.Supp.3d 766 . Labor And Employment 408

Non-profit religious employers held a sincere religious belief that contraceptive products and services were immoral and that Catholic doctrine prevented them from providing, paying for, or facilitating access to such objectionable products and service, as required to support the employers' claim that the Patient Protection and Affordable Care Act (ACA) contraceptive requirement violated the RFRA on application for a preliminary injunction. Diocese of Cheyenne v. Sebelius, D.Wyo.2014, 21 F.Supp.3d 1215 . Civil Rights 1457(6)

Defendant's free exercise claim was incidental to prosecution for importing parts of endangered African primate species without permit and failing to disclose to border officials the nature of product she imported, and thus purported religious significance of "bushmeat" was not a sincerely held religious belief for purposes of Religious Freedom Restoration Act (RFRA); laws defendant had allegedly violated did not ban importation of bushmeat, but rather actus reus was in disclosures defendant made or failed to make on required forms she filed or failed to file, and no evidence showed that defendant had a religious aversion to forms, that her religion required her to abstain from truthful completion of the paperwork, or that filing the wrong or incomplete forms was a religious act. U.S. v. Manneh, E.D.N.Y.2008, 645 F.Supp.2d 98 . Civil Rights 1010

Prisoner, who claimed that a denial of his request for wine during certain prayers and observances violated the Religious Freedom Restoration Act (RFRA), had a sincere religious belief that according to his Jewish faith he must consume 3 to 5 ounces of wine every Friday and Saturday during the saying of Kiddush and four 3 to 5 ounce portions of wine during the Passover Seder, notwithstanding that prisoner had delayed in declaring his religious preference and in pursuing inmate grievances to request wine for religious rituals. Sample v. Lappin, D.D.C.2007, 479 F.Supp.2d 120 . Prisons 155

### Persons protected

Secular for-profit corporations were "persons" who could assert claims under the Religious Freedom Restoration Act (RFRA) alleging that Patient Protection and Affordable Care Act (ACA) contraception coverage mandate placed substantial burden on their exercise of religion. Korte v. Sebelius, C.A.7 (Ill.) 2013, 735 F.3d 654 , certiorari denied 134 S.Ct. 2903 . Constitutional Law 826 ; Constitutional Law 838

Secular, profit-seeking corporate employer was not a "person" capable of "religious exercise" as intended by Religious Freedom Restoration Act (RFRA), and therefore could not seek to enjoin implementation of the Patient Protection and Affordable Care Act's mandatory coverage requirements. Autocam Corp. v. Sebelius, C.A.6 (Mich.) 2013, 730 F.3d 618 , vacated 134 S.Ct. 2901, 189 L.Ed.2d 852 . Civil Rights 1331(5)

For-profit, secular corporation could not engage in religious exercise under Free Exercise Clause of First Amendment, and thus could not assert RFRA claim. Conestoga Wood Specialties Corp. v. Secretary of U.S. Dept. of Health and Human Services, C.A.3 (Pa.) 2013, 724 F.3d 377 , certiorari granted 134 S.Ct. 678 , reversed and remanded 134 S.Ct. 2751, 189 L.Ed.2d 675 , on remand 2014 WL 4467879 . Civil Rights 1331(6) ; Constitutional Law 1310

Privately held, for-profit secular corporations were "persons," within the meaning of the Religious Freedom Restoration Act (RFRA), which generally prohibits the government from substantially burdening a person's exercise of religion; the Dictionary Act defined "persons" to include corporations, and context of RFRA did not indicate otherwise. Hobby Lobby Stores, Inc. v. Sebelius, C.A.10 (Okla.) 2013, 723 F.3d 1114 , on remand 2013 WL 3869832 , certiorari granted 134 S.Ct. 678, 187 L.Ed.2d 544 , affirmed 134 S.Ct. 2751, 189 L.Ed.2d 675 , on remand 2014 WL 4467879 . Civil Rights 1331(6)

Nonresident alien detainees at military facility in Guantanamo Bay, Cuba, were not protected “persons” under Religious Freedom Restoration Act (RFRA). [Rasul v. Myers, C.A.D.C.2009, 563 F.3d 527, 385 U.S.App.D.C. 318](#), certiorari denied [130 S.Ct. 1013, 558 U.S. 1091, 175 L.Ed.2d 618](#). [Civil Rights 1331\(6\)](#); [War And National Emergency 1141](#)

Regardless of whether the Religious Freedom Restoration Act (RFRA) could be applied extraterritorially to aliens detained at military base in Guantanamo Bay, Cuba, term “persons,” as used in the RFRA to generally prohibit the government from substantially burdening a “person's exercise of religion,” had to be interpreted in manner consistent with the Supreme Court's interpretation of “person” in the Fifth Amendment and of “people” in the Fourth Amendment as excluding non-resident aliens. [Rasul v. Myers, C.A.D.C.2008, 512 F.3d 644, 379 U.S.App.D.C. 210](#), vacated [129 S.Ct. 763, 555 U.S. 1083, 172 L.Ed.2d 753](#), on remand [563 F.3d 527, 385 U.S.App.D.C. 318](#), hearing denied [2009 WL 395238](#). [Civil Rights 1331\(6\)](#)

Closely-held secular for-profit corporation qualified as “person” under Religious Freedom Restoration Act (RFRA), in its challenge to Affordable Care Act's (ACA) contraception coverage mandate for employee group health benefit plans. [Korte v. U.S. Dept. of Health and Human Services, S.D.Ill.2012, 912 F.Supp.2d 735](#), injunction pending appeal granted [528 Fed.Appx. 583, 2012 WL 6757353](#), reversed and remanded [735 F.3d 654](#), certiorari denied [134 S.Ct. 2903, 189 L.Ed.2d 856](#). [Civil Rights 1331\(5\)](#)

State plaintiffs lacked prudential standing to challenge regulation promulgated under Affordable Care Act (ACA) requiring non-grandfathered health plans that did not fall within the exemption for “religious employers” to provide coverage for the contraceptive services recommended by Health Resources and Services Administration (HRSA); states' claims, which were based on allegations that rule would threaten their budgetary stability when religious organization employers dropped coverage for their employees, and thereby shift costs to the states, did not fall within the zone of interests protected by the relevant portions of the First Amendment and Religious Freedom Restoration Act (RFRA). [Nebraska ex rel. Bruning v. U.S. Dept. of Health and Human Services, D.Neb.2012, 877 F.Supp.2d 777](#), appeal dismissed. [Constitutional Law 826](#); [Constitutional Law 838](#)

### Neutral laws

Army regulation prohibiting on-base family child care (FCC) providers from having any religious practices during day care was not neutral and generally applicable regulation and, thus, did not invoke Religious Freedom Restoration Act (RFRA); although regulation did not distinguish among religions, it banned all religious practice including religious stories or saying grace. [Hartmann v. Stone, C.A.6 \(Ky.\) 1995, 68 F.3d 973](#). [Armed Services 28\(1\)](#); [Constitutional Law 1325](#)

### Sovereign immunity

Religious Freedom Restoration Act's waiver of sovereign immunity, allowing party whose rights were violated to obtain appropriate relief against the government, did not extend to monetary damages; RFRA's reference to appropriate relief was susceptible to more than one interpretation, and thus was not an unambiguous waiver. [Webman v. Federal Bureau of Prisons, C.A.D.C.2006, 441 F.3d 1022, 370 U.S.App.D.C. 217](#), rehearing en banc denied. [United States 460](#)

Federal prisoner's claim against government for money damages under RFRA was barred by doctrine of sovereign immunity, absent express waiver of immunity for monetary damages under RFRA. [Burke v. Lappin, D.D.C.2011, 821 F.Supp.2d 244](#). [United States 460](#)

That Congress did not waive sovereign immunity for Religious Freedom Restoration Act damages suits does not necessarily mean that a plaintiff may not collect damages from individual defendants. [Padilla v. Yoo, N.D.Cal.2009, 633 F.Supp.2d 1005](#), as amended, reversed [678 F.3d 748](#). [Civil Rights 1373](#)

Religious Freedom Restoration Act (RFRA) did not effect waiver of federal government's sovereign immunity to damages claims, and thus religious demonstrators, who were excluded from controlled access area in front of cathedral where annual mass and ceremony marking beginning of new judicial year took place pursuant to security restrictions imposed by United States Marshals Service and United States Secret Service, could not recover damages on their RFRA claim. [Mahoney v. U.S. Marshals Service, D.D.C.2006, 454 F.Supp.2d 21](#), motion to amend denied. [United States 460](#)

Federal district court did not have subject matter jurisdiction over prisoner's religious discrimination claim against state prison employees in their official capacity, in lawsuit under § 1983 seeking monetary damages, since § 1983 did not abrogate state sovereign immunity, Religious Freedom Restoration Act (RFRA) did not apply to states, and there was no specific waiver by state for his claims. [Ibrahim v. District of Columbia, D.D.C.2004, 357 F.Supp.2d 187](#) , opinion after remand from court of appeals [498 F.Supp.2d 149](#) . [Federal Courts 2374\(2\)](#) ; [Federal Courts 2375\(1\)](#)

Congress did not intend, by its enactment of Religious Freedom Restoration Act (RFRA), to abrogate states' Eleventh Amendment immunity from suit with respect to subject matter of RFRA; text of RFRA stated that its sole purpose was to restore application of "compelling interest" test to judicial review of claims alleging violation of free exercise of religion, neither RFRA nor its declaration of purpose referred to abrogation, Eleventh Amendment, or sovereign immunity, statutory reference to ability of plaintiffs to obtain "appropriate relief" did not unmistakably evince intent to abrogate immunity, and general statutory authorization to assert free exercise claims in federal court was not unequivocal abrogation of immunity. [Commack Self-Service Kosher Meats Inc. v. State of N.Y., E.D.N.Y.1997, 954 F.Supp. 65](#) . [Federal Courts 2374\(4\)](#)

United States has not waived sovereign immunity for monetary damages resulting from violations of the Religious Freedom Restoration Act (RFRA). [In re Navy Chaplaincy, D.D.C.2014, 306 F.R.D. 33](#) . [Declaratory Judgment 203](#)

### Jurisdiction

District court had federal question subject matter jurisdiction over terminated federal employee's religious discrimination claim under Religious Freedom Restoration Act (RFRA), even though claim should have been brought under Title VII instead. [Francis v. Mineta, C.A.3 \(Virgin Islands\) 2007, 505 F.3d 266](#) . [Federal Courts 2267](#)

Villages' claims that Federal Aviation Administration (FAA) violated National Environmental Policy Act (NEPA), Religious Freedom Restoration Act (RFRA), and other federal statutes and regulations by approving city's airport layout plan (ALP) before making funding determinations were inescapably intertwined with FAA's record of decision (ROD) issued in connection with its approval of city's airport layout plan, and thus fell within Court of Appeals' exclusive jurisdiction, where city stipulated that it would not acquire property in villages unless and until FAA issued ROD following completion of environmental impact statement (EIS). [St. John's United Church of Christ v. City of Chicago, C.A.7 \(Ill.\) 2007, 502 F.3d 616](#) , rehearing and rehearing en banc denied, certiorari denied [128 S.Ct. 2431, 553 U.S. 1032, 171 L.Ed.2d 230](#) . [Federal Courts 3912](#)

### Grounds for dismissal

Religious non-profit corporation had to appear in federal court through an attorney, and not through laypersons, and thus all claims asserted by the corporation in its action against federal, municipal, and state defendants for alleged violation of First Amendment and Religious Freedom Restoration Act (RFRA) would be dismissed with prejudice in light of plaintiffs' unwillingness to obtain counsel for the corporation. [Multi Denominational Ministry of Cannabis and Rastafari, Inc. v. Gonzales, N.D.Cal.2007, 474 F.Supp.2d 1133](#) , affirmed [365 Fed.Appx. 817, 2010 WL 547578](#) . [Attorney And Client 12\(6\)](#) ; [Federal Civil Procedure 1741](#) ; [Federal Civil Procedure 1837.1](#)

### Waiver of defenses

Roman Catholic Diocese and Bishop explicitly waived any defense to African-American Catholic priest's Title VII race discrimination claim based on violation of Religious Freedom Restoration Act (RFRA) after they became aware of Second Circuit decision applying RFRA as defense to employment discrimination claim; thus, they executed effective waiver of known right and court would reach constitutional issue of applicability of First Amendment's ministerial exception to bar priest's claim. [Rweyemamu v. Cote, C.A.2 \(Conn.\) 2008, 520 F.3d 198](#) . [Civil Rights 1529](#) ; [Constitutional Law 976](#)

Roman Catholic diocese, pastor and pastoral center waived any defense under Religious Freedom Restoration Act (RFRA) in suit by former employee, where in moving to dismiss they expressly stated they were not relying on the RFRA because they did not believe it was applicable. [Rojas v. Roman Catholic Diocese of Rochester, W.D.N.Y.2008, 557 F.Supp.2d 387](#) . [Civil Rights 1529](#)

### Review

When faced with an appeal by either side under RFRA, the Court of Appeals must engage in independent review that cannot be delegated to the trier of fact, but this rule applies only to “constitutional facts” and not to the basic historical facts upon which the claim is grounded, which are subject to the usual clearly erroneous standard of review. [U.S. v. Friday, C.A.10 \(Wyo.\) 2008, 525 F.3d 938](#) , certiorari denied [129 S.Ct. 1312, 555 U.S. 1176, 173 L.Ed.2d 595](#) . [Criminal Law 1139](#) ; [Criminal Law 1158.1](#)

Interlocutory appeal of district court order determining that Fish and Wildlife Service's (FWS) decision prohibiting Indian tribe from taking eagles within reservation it shared with another tribe as tenants in common, but permitting it to take eagles elsewhere in state, did not violate Religious Freedom Restoration Act (RFRA), was not warranted, where law underlying decision was well-established, but tribe disagreed with court's application of law to facts of its case, and there was not substantial ground for difference of opinion. [Northern Arapaho Tribe v. Ashe, D.Wyo.2012, 925 F.Supp.2d 1206](#) , motion to amend denied, motion to certify appeal denied. [Indians 252](#)



## Context and Analysis (158)

### Law Review Commentaries (38)

Beyond the smoke and mirrors: Defeating the urge to nullify or glorify religious copyright law. Comment, 33 *Cumb. L. Rev.* 677 (2003).

"By what right?": Sources and limits of federal court and congressional jurisdiction over matters "touching religion". Robert A. Destro, 29 *Ind.L.Rev.* 1 (1995).

Clash between the First Amendment and civil rights: Public university nondiscrimination clauses. 60 *Mo.L.Rev.* 889 (1995).

Criminalization of female genital mutilation in the United States. Karen Hughes, 4 *J.L. & Pol'y* 321 (1995).

Defense of the Religious Freedom Restoration Act. Bonnie I. Robin-Vergeer, 69 *S. Cal. L. Rev.* 589 (1996).

Eagle feathers and equality: Lessons on religious exceptions from the Native American experience. Kevin J. Worthen, 76 *U. Colo. L. Rev.* 989 (2005).

Employment discrimination. 109 *Harv.L.Rev.* 1568 (1996).

Endorsement for the test of general applicability: Smith II, Justice Scalia, and the conflict between neutral laws and the free exercise of religion. 6 *Seton Hall Const.L.J.* 713 (1996).

Faith profaned: The Religious Freedom Restoration Act and religion in the prisons. Daniel J. Solove, 106 *Yale L.J.* 459 (1996).

Free exercise, fair housing and marital status--Alaskan style. 12 *Alaska L.Rev.* 335 (1995).

Free exercise and substantive due process entitlement claims in *City of Boerne v. Flores*. R. Collin Mangrum, 31 *Creighton L.Rev.* 693 (1998).

The HHS Contraception Mandate vs. the Religious Freedom Restoration Act. Edward Whelan, 87 *Notre Dame L. Rev.* 2179 (2012).

How traditional and minority religions fare in the courts: Empirical evidence from religious liberty cases. Gregory C. Sisk, 76 *U. Colo. L. Rev.* 1021 (2005).

Love, God, and country: Religious freedom and the marriage penalty tax. 5 *Seton Hall Const.L.J.* 1171 (1995).

May a Catholic university have a Catholic faculty? Michael J. Mazza, 78 *Notre Dame L. Rev.* 1329 (2003).

A meaningful presentation: Proposing a less restrictive way to distribute eagle feathers. Note, 42 *New Eng. L. Rev.* 891 (Summer 2008).

Of Kirpans, schools, and the free exercise clause: *Cheema v. Thompson* cuts through RFRA's inadequacies. 23 *Hastings Const.L.Q.* 877 (1996).

Orthodox Jewish prisoners and the Turner effect. 56 *La.L.Rev.* 905 (1996).

Piety and prejudice: Free exercise exemption from laws prohibiting sexual orientation discrimination. 69 *N.Y.U.L.Rev.* 1176 (1994).

Putting square pegs in a round hole: Procedural due process and the effect of faith healing exemptions on the prosecution of faith healing parents. Jennifer L. Rosato, 29 *U.S.F.L.Rev.* 43 (1994).

Reconciling the religion clauses. 75 *Mich.B.J.* 1146 (1996).

Religion and public schools. Richard W. Riley, 8 *S.C.Law.* 15 (Nov./Dec.1996).

Religious Freedom Restoration Act: Letting the fox into the henhouse under cover of section 5 of the Fourteenth Amendment. Marci A. Hamilton, 16 *Cardozo L.Rev.* 357 (1994).

Religious rights in prison: Two perspectives. Thomas D. Farrell and Carl M. Varady, *Haw.B.J.* 6 (June 1995).

Religious tithing, fraudulent transfers in bankruptcy, and the Religious Freedom Restoration Act. 6 *J.Bankr.L. & Prac.* 209 (1996).



Restoring obscurity: Shortcomings of the Religious Freedom Restoration Act. 28 Colum.J.L. & Soc.Probs. 653 (1995).

RFRA revision of the free exercise clause. Eugene Gressman and Angela C. Carmella, 57 Ohio St.L.J. 65 (1996).

Status of the Religious Freedom Restoration Act's federal application in the wake of City of Boerne v. Flores. Edward J.W. Blatnik, 98 Columbia L.R. 1410 (1998).

Substantial burden of municipal zoning: Religious Freedom Restoration Act as a means to consistent protection for church-sponsored homeless shelters and soup kitchens. 4 Wm. & Mary Bill Rts.J. 1259 (1996).

Tent cities and RLUIPA: How a new religious-land-use issue aggravates RLUIPA. Comment, 41 Seton Hall L. Rev. 465 (2011).

Text of the free exercise clause as a measure of Employment Division v. Smith and the Religious Freedom Restoration Act. Allan Ides. 51 Wash. & Lee L.Rev. 135 (1994).

This land is my land: The tension between federal use of public lands and the Religious Freedom Restoration Act. James E. Key, 65 A.F. L. Rev. 51 (2010).

Toward a fuller understanding of religious exercise: Recognizing the identity-generative and expressive nature of religious devotion. 62 U.Chi.L.Rev. 1243 (1995).

Understanding faith: When religious parents decline conventional medical treatment for their children. 45 Case W.Res.L.Rev. 891 (1995).

What hath Congress wrought? An interpretive guide to the Religious Freedom Restoration Act. Thomas C. Berg, 39 Vill.L.Rev. 1 (1994).

Where to draw the line: Handling religious harassment issues in the wake of the failed EEOC guidelines. Betty L. Dunkum, 71 Notre Dame L.Rev. 953 (1996).

Why the Religious Freedom Restoration Act is unconstitutional. Christopher L. Eisgruber and Lawrence G. Sager, 69 N.Y.U.L.Rev. 437 (1994).

Zoning and religion: Will the Religious Freedom Restoration Act of 1993 shift the line toward religious liberty? 45 Am.U.L.Rev. 199 (1995).

### Library References (14)

Constitutional Law  1290.

Key Number System Topic No. 92.

CJS Civil Rights § 7, Constitutionality.

CJS Civil Rights § 58, Miscellaneous Acts or Kinds of Conduct.

CJS Civil Rights § 364, Irreparable Harm or Injury.

CJS Civil Rights § 380, Use of State Courts and State Procedures.

CJS Civil Rights § 411, Nature and Extent of Injury.

CJS Civil Rights § 494, Proceedings in Which Fees Available; Grounds.

CJS Constitutional Law § 670, Marriage, Sex, and Family.

CJS Constitutional Law § 757, Free Exercise of Religion--Regulation of Private Action by Neutral or Non-Neutral Legislation.

CJS Constitutional Law § 788, Miscellaneous Applications.

CJS Constitutional Law § 1043, Procreation Decisions.

CJS Internal Revenue § 4, Validity of Statutes.

CJS United States § 326, Necessity of Statute; Construction.

## ALR Library (45)

93 ALR, [Fed. 2nd Series 439](#), Prisoner Beard Regulations as Religious Discrimination Under First Amendment or Religious Land Use and Institutionalized Persons Act.

88 ALR, [Fed. 2nd Series 107](#), Validity, Construction, and Application of International Parental Kidnapping Crime Act (Ipkca), [18 U.S.C.A. § 1204](#).

82 ALR, [Fed. 2nd Series 315](#), Comment Note: Propriety of Holding Prisoner in Isolation--Federal Cases.

82 ALR, [Fed. 2nd Series 585](#), Validity, Application, and Construction of Religion-Based Challenges to Health Insurance Contraceptive Coverage Mandated by Patient Protection and Affordable Care Act Preventive Services Requirement, [42 U.S.C.A....](#)

15 ALR, [Fed. 2nd Series 573](#), Construction and Application of Establishment Clause of First Amendment--United States Supreme Court Cases.

30 ALR, [Fed. 2nd Series 285](#), Propriety of Federal Court's Abstention, Under [Burford v. Sun Oil Co.](#), [319 U.S. 315](#), [63 S. Ct. 1098](#), [87 L. Ed. 1424 \(1943\)](#), as to Claim that State or Local Statute or Regulation, or Application Thereof, Violates...

43 ALR, [Fed. 2nd Series 1](#), Construction and Application of Civil Rights Attorney Fee Provision, [42 U.S.C.A. § 1988](#)--United States Supreme Court Cases.

54 ALR, [Fed. 2nd Series 107](#), Construction and Application of Collateral-Order Doctrine--Supreme Court Cases.

55 ALR, [Fed. 2nd Series 261](#), Propriety of Federal Court's Abstention, Under [Younger v. Harris](#), [401 U.S. 37](#), [91 S. Ct. 756](#), [27 L. Ed. 2d 669 \(1971\)](#), to Avoid Interference in Ongoing State Proceedings Involving Land Use And...

57 ALR, [Fed. 2nd Series 501](#), To 2011 A.L.R. United States Supreme Court Review.

60 ALR, [Fed. 2nd Series 1](#), Validity of the Minimum Essential Medical Insurance Coverage, or "Individual Mandate," Provision of § 1501 of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, [124 Stat....](#)

47 ALR, [Fed. 15](#), Exhaustion of State Administrative Remedies as Prerequisite to Federal Civil Rights Action Based on [42 U.S.C.A. § 1983](#).

93 ALR, [Fed. 706](#), Validity, Construction, Application, and Effect of Civil Rights of Institutionalized Persons Act, [42 U.S.C.A. §§ 1997-1997j](#).

134 ALR, [Fed. 1](#), What Constitutes Employer's Reasonable Accommodation of Employee's Religious Preferences Under Title VII of Civil Rights Act of 1964.

135 ALR, [Fed. 1](#), Reductions to Back Pay Awards Under Title VII of Civil Rights Act of 1964 ([42 U.S.C.A. §§ 2000e et seq.](#)).

135 ALR, [Fed. 121](#), Validity, Construction, and Application of Religious Freedom Restoration Act ([42 U.S.C.A. §§ 2000bb et seq.](#)).

136 ALR, [Fed. 551](#), Validity and Construction of Public School Regulation of Student Distribution of Religious Documents at School.

138 ALR, [Fed. 547](#), What Constitutes "Disposable Income" Under [§ 1325\(B\) of Bankruptcy Code of 1978 \(11 U.S.C.A. § 1325\(B\)\)](#), Providing that All Disposable Income for Specified Period Must be Applied to Plan for Payment Of...

165 ALR, [Fed. 551](#), Attorney's Fees Awards Under § 803(D) of Prison Litigation Reform Act ([42 U.S.C.A. § 1997e\(D\)](#)).

181 ALR, [Fed. 247](#), Validity, Construction, and Operation of Religious Land Use and Institutionalized Persons Act of 2000 ([42 U.S.C.A. §§ 2000cc et seq.](#)).

167 ALR, [Fed. 663](#), What Laws Are Neutral and of General Applicability Within Meaning of [Employment Div., Dept. of Human Resources of Oregon v. Smith](#), [494 U.S. 872](#), [110 S. Ct. 1595](#), [108 L. Ed. 2d 876](#).

163 ALR, Fed. 493, What Constitutes “Hybrid Rights” Claim Under [Employment Div., Dept. of Human Resources of Oregon v. Smith](#), 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876.

134 ALR, Fed. 507, Validity, Construction, and Application of Freedom of Access to Clinic Entrances Act (FACE) ([18 U.S.C.A. § 248](#)).

10 ALR 6th 513, Landlord's Refusal to Rent to Unmarried Couple as Protected by Landlord's Religious Beliefs.

66 ALR 6th 635, To 2011 A.L.R. United States Supreme Court Review.

73 ALR 6th 281, Constitutional Challenges to Compelled Speech--Particular Situations or Circumstances.

8 ALR 5th 653, Propriety and Effect of Corporation's Appearance Pro Se Through Agent Who is Not Attorney.

58 ALR 5th 1, Validity of Regulation by Public-School Authorities as to Clothes or Personal Appearance of Pupils.

101 ALR 5th 1, Liability of Church or Religious Organization for Negligent Hiring, Retention, or Supervision of Priest, Minister, or Other Clergy Based on Sexual Misconduct.

118 ALR 5th 253, Parents' Criminal Liability for Failure to Provide Medical Attention to Their Children.

116 ALR 5th 233, Validity, Construction, and Operation of State Religious Freedom Restoration Acts.

93 ALR 5th 1, Free Exercise of Religion as Applied to Individual's Objection to Obtaining or Disclosing Social Security Number.

70 ALR 5th 169, Validity, Construction, and Application of Statute, Regulation, or Policy Governing Home Schooling or Affecting Rights of Home-Schooled Students.

37 ALR 5th 349, Judicial Construction and Application of State Legislation Prohibiting Religious Discrimination in Employment.

33 ALR 4th 964, What Constitutes Illegal Discrimination Under State Statutory Prohibition Against Discrimination in Housing Accommodations on Account of Marital Status.

24 ALR 4th 430, Existence and Extent of Right of Litigant in Civil Case, or of Criminal Defendant, to Represent Himself Before State Appellate Courts.

12 ALR 3rd 1276, Provision of Religious Facilities for Prisoners.

47 ALR 3rd 1192, Censorship of Convicted Prisoners' “Nonlegal” Mail.

44 ALR 2nd 1138, Fair Employment Statutes Designed to Eliminate Racial, Religious, or National Origin Discrimination in Private Employment.

12 ALR 679, Constitutionality of City or Town Planning Statutes or Ordinances.

130 ALR 1512, Discrimination Because of Race, Color, or Creed in Respect of Appointment, Duties, Compensation, Etc., of Schoolteachers or Other Public Officers or Employees.

174 ALR 549, Interest Necessary to Maintenance of Declaratory Determination of Validity of Statute or Ordinance.

175 ALR 438, Jurisdiction of Equity to Protect Personal Rights; Modern View.

61 ALR 412, State Statute of Limitations as Affecting Action or Proceeding by Federal Government or Its Officials.

49 ALR 505, Constitutionality of “Civil Rights” Legislation by State.

### Encyclopedias (31)

18 Am. Jur. Proof of Facts 2d 149, Excessive Bail.

33 Am. Jur. Proof of Facts 2d 71, Employer's Discriminatory Appearance Code.

40 Am. Jur. Proof of Facts 2d 517, Suspension or Revocation of Mariner's License, Certificate, or Document.

24 Am. Jur. Proof of Facts 3d 467, Proof of Unconstitutional Prison Conditions.

- 25 Am. Jur. Proof of Facts 3d 591, Avoidance and Recovery of Fraudulent Transfers.
- 27 Am. Jur. Proof of Facts 3d 421, Proof of "Prohibited Takings" Under the Endangered Species Act.
- 29 Am. Jur. Proof of Facts 3d 491, Zoning: Proof of Unreasonableness of Aesthetic Regulation.
- 63 Am. Jur. Proof of Facts 3d 195, Interference With the Right to Free Exercise of Religion.
- 73 Am. Jur. Proof of Facts 3d 89, Proof of Religion in the Courtroom that Violates the Right to a Fair Trial.
- 109 Am. Jur. Proof of Facts 3d 523, Religious Group's Proof of Claim of Violation in Zoning Matter and Defense by Municipality.
- 135 Am. Jur. Proof of Facts 3d 183, Prosecution or Defense of Action Alleging Employment Discrimination on Basis of Religion.
- 8 Am. Jur. Trials 57, Condemnation of Rural Property for Highway Purposes.
- 8 Am. Jur. Trials 573, Defense of Narcotics Cases.
- 22 Am. Jur. Trials 1, Prisoners' Rights Litigation.
- 63 Am. Jur. Trials 127, Efficiently and Effectively Defending Employment Discrimination Cases.
- 64 Am. Jur. Trials 425, Asserting Claims of Unconstitutional Prison Conditions Under 42 U.S.C.A. § 1983.
- 76 Am. Jur. Trials 127, Jury Selection and Voir Dire in Criminal Cases.
- 140 Am. Jur. Trials 411, Tax-Intercept Statute Litigation Based on Child Support Arrearages.
- Am. Jur. 2d Administrative Law § 374, Requirement of Adversary Adjudication.
- Am. Jur. 2d Constitutional Law § 434, Standing to Challenge Legislation or Activities.
- Am. Jur. 2d Constitutional Law § 444, Governmental Protection of Free Exercise of Religion.
- Am. Jur. 2d Constitutional Law § 446, Permissible Governmental Regulation of Religious Activities.
- Am. Jur. 2d Constitutional Law § 453, Distribution of Religious Tracts or Pamphlets.
- Am. Jur. 2d Job Discrimination § 34, Religious Freedom Restoration Act.
- Am. Jur. 2d Job Discrimination § 43, Religious Freedom Concerns.
- Am. Jur. 2d Job Discrimination § 126, The Religious Freedom Restoration Act of 1993.
- Am. Jur. 2d Job Discrimination § 472, Rule of Reasonable Accommodation.
- Am. Jur. 2d Job Discrimination § 2502, Costs of Litigation.
- Am. Jur. 2d Job Discrimination § 2620, Under Civil Rights Attorney's Fees Awards Act.
- Am. Jur. 2d Penal and Correctional Institutions § 39, Religious Freedom Restoration Act.
- Am. Jur. 2d Penal and Correctional Institutions § 40, Religious Land Use and Institutionalized Persons Act.

### **Treatises and Practice Aids (30)**

- Bankruptcy Law Fundamentals § 10:15, Transfers in Fraud of Creditors--Constructive Fraud.
- Bankruptcy Law Manual § 9A:8, The Strong Arm Powers--Trustee as Successor to Actual Unsecured Creditor.
- Bankruptcy Service Lawyers Edition § 31:8, Constitutionality--Religious Freedom.
- Bankruptcy Service Lawyers Edition § 29:74, State Law Questions--Particular Interests--Trusts--Religious Bodies.
- Bankruptcy Service Lawyers Edition § 34:383, Reasonably Equivalent Value.
- Bankruptcy Service Lawyers Edition § 35:315, Other Matters.
- Bankruptcy Service Lawyers Edition § 57:793, Constitutional Considerations.
- Bankruptcy Service Lawyers Edition § 34:441, Reasonably Equivalent Value, Generally.

[Casey Federal Tax Practice § 2:01.50](#), Constitutional Issues--Religious Freedom.

[Emp. Discrim. Coord. Analysis of Federal Law § 2:4](#), Religious Freedom Restoration Act.

[Employment Discrimination Law and Litigation § 3:1](#), Religious Discrimination--In General.

[Employment Discrimination Law and Litigation § 3:14](#), The Smith Decision.

[Employment Discrimination Law and Litigation § 3:16](#), Application of Religious Freedom Restoration Act.

[Employment Practices Manual § 6:10](#), Controlling Law--Religion.

[Federal Procedure, Lawyers Edition § 76:6](#), Department of Transportation Proceedings Covered by the Equal Access to Justice Act.

[Federal Procedure, Lawyers Edition § 7:955](#), Introduction; Covered Proceedings and Applicants.

[Federal Procedure, Lawyers Edition § 11:174](#), Actions to Which Act is Applicable.

[Federal Procedure, Lawyers Edition § 11:995](#), Introduction.

[Federal Procedure, Lawyers Edition § 11:996](#), Standing.

[Federal Procedure, Lawyers Edition § 11:998](#), Burden and Standard of Proof.

[Federal Procedure, Lawyers Edition § 46:281](#), Permits for Use of Eagles in Religious Ceremonies.

[Federal Procedure, Lawyers Edition § 48:1021](#), Application by and Examination of Nonattorneys.

[Federal Procedure, Lawyers Edition § 50:1126](#), Civil Rights Attorney's Fees Awards Act.

[Immigration Law and Defense § 4:154](#), Obtaining Permanent Residence from Within the United States by "Adjustment of Status"--Procedure--Direct Mail Filing of Employment-Based Applications.

[Immigration Law Service 2d PSD 1996 GEN COUNCEL OP](#), General Counsel's Opinions.

[Mertens: Law of Federal Income Taxation § 31B:32](#), Mandatory Health Insurance Beginning in 2014.

[West's Federal Administrative Practice App. A](#), Title 42--Reconstruction Era Civil Rights Acts.

[West's Federal Administrative Practice § 2903](#), Title VII of the Civil Rights Act of 1964.

[Wright & Miller: Federal Prac. & Proc. § 2675.4](#), Particular Items of Cost--Attorney's Fees: Statutory Authority.

[Wright & Miller: Federal Prac. & Proc. App TIT. 42 SEL. PROV.](#), Appendix C Title 42 the Public Health and Welfare, Chapter 21 (Civil Rights)--Selected Provisions.