

Supreme Court, U.S.
FILED

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No. 21-1497

In The
Supreme Court of the United States

SCOTT LOUIS YOUNGBEAR,

Petitioner,

v.

ATTORNEY GENERAL TOM MILLER,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Pro Se Petitioner

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QUESTION PRESENTED

Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819, 829 (1995):

When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.

*** Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.

A civil complaint under 42 U.S.C. § 1983 was filed concerning faith-based treatment under Iowa Code § 692A (2019) Sex Offender Registry and quotations from the *Bible* were asserted. The Northern District Court of Iowa and the Eighth Circuit Court of Appeals denied relief.

Question presented:

Whether prior restraint, content-based or viewpoint discrimination was applied when religious speech in a civil complaint was censored per the “forbidden domain” doctrine, *United States v. Ballard*, 322 U.S. 78, 87 (1944).

OPINIONS BELOW

Youngbear v. Miller, No. 22-1279, U.S. Court of Appeals for the Eighth Circuit. Judgment entered May 9, 2022. Appendix A.

Youngbear v. Miller, No. 21-CV-115-CJW-MAR, U.S. District Court for the Northern District of Iowa. Judgment entered January 18, 2022. Appendix B.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Religion Clause of the First Amendment and the Due Process and Equal Protection Clauses of the the Fourteenth Amendment of the United States Constitution.

42 U.S.C. § 1983.

Iowa Code § 692A (2019).

STATEMENT OF THE CASE

This matter concerns whether I, as a Tier III offender, have a constitutional right to seek an alternative faith-based treatment under Iowa Code § 692A (2019) Sex Offender Registry.

Also, having filed a 1983 Complaint, Dkt. 1 (filed Nov. 1, 2021) (App. B), in the United States District Court for the Northern District of Iowa, the Court dismissed the Complaint. The Complaint contained my religious views concerning faith-based treatment. When the Court dismissed the Complaint, government censorship may have occurred by

applying prior restraint, content-based or viewpoint discrimination.

REASONS FOR GRANTING THE PETITION

GOVERNMENT DISCRIMINATION

In *Rosenberger*, the Court said, "Discrimination against speech because of its message is presumed to be unconstitutional." *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995). The Court also said, "But, above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Department of Chicago v. Mosley*, 408 U.S. 92, 95 (1972).

I filed a Complaint concerning faith-based treatment under Iowa's sex offender registry. Presently, Iowa has no alternative treatment programs other than its secular treatment under Iowa Code § 692A. Iowa not having an alternative is problematic, the Equal Protection Clause may impact Iowa's secular program and law.

The Court of Appeals of the State of New York decided:

[W]e hold that, under the Establishment Clause of the United States Constitution's First Amendment, an atheist or agnostic inmate may not be deprived of eligibility for expanded family visitation privileges for refusing to participate in the sole alcohol and drug addiction program *** which adopts in major part the religious-oriented

practices and precepts of Alcoholics Anonymous.

Matter of Griffin v. Coughlin, 88 N.Y.2d 674, 677 (1996), cert. denied, 519 U.S. 1054 (1997). This is considered what's sauce for the goose is sauce for the gander. The *Griffin* Court said further (emphasis added),

In so holding, we in no way denigrate the proven effectiveness of the A.A. approach to alcoholism or drug addiction rehabilitation, nor do we imply that State correctional authorities must discontinue the present ASAT Program if it were conducted on a voluntary basis, or that they could not include a noncoercive use of A.A.'s 12-step regimen as part of an alternative prisoner drug and alcohol abuse treatment effort. Likewise, we have no doubt that the Department of Correctional Services could validly construct a rehabilitation model containing incentives and penalties, as in the ASAT Program, providing it offered a secular alternative to the A.A. component. In that way, *the State could maintain the neutrality required by the Establishment Clause* (see, *Walz v Tax Commn.*, 397 US 664, 673; see also, *Bowen v Kendrick*, 487 US 589, 606-608).

The Court can see an obvious problem here. I do have the option for secular treatment under Iowa law, § 692A.128; *State v. Iowa District Court*, 843 N.W.2d 76, 81 (Iowa 2014) ("Subsection 6 grants any 'sex offender' required to be on the registry 'as a result of an

adjudication for a sex offense' an opportunity for modification"), but I prefer faith-based treatment.

FAITH-BASED TREATMENT

There being no alternative, I have been utilizing the Bible at my home for the rehabilitation factors it contains. The State of Iowa expects treatment to be clothed in a formal setting, e.g., Prison Fellowship's Prison Fellowship Academy.¹ *Americans United for Separation of Church & State v. Prison Fellowship Ministries*, 432 F. Supp. 862 (S.D. Iowa 2006), *aff'd in part and rev'd in part on other grounds*, 509 F.3d 406 (8th Cir. 2007). But religion cannot be *cabined* in such a manner. I may at home use scripture for my benefit *because* I belong to no sect, either Protestant or Catholic. Any alternative program will likely embody Protestant or Catholic doctrine and I have no desire for that. I may stand alone. *Frazee v. Illinois Dept. of Employment Sec.*, 489 U.S. 829, 834 (1989), "[W]e reject the notion that to claim the protection of the Free Exercise Clause, one must be responding to the commands of a particular religious organization." *Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) ("Our cases have recognized successful equal protection claims brought by a 'class of one'").

TREATMENT FACTORS

In using the Bible, certain factors must come to the fore, such as repentance. How is

1 <https://www.prisonfellowship.org/about/academy/#>

this accomplished? First and foremost, one must be willing to trade in one's errors or sins for truth. When I began my studies, the thought came to me that I must confront what I had done and went to prison for. It is difficult to admit the truth to oneself never mind to others. But this must be done, otherwise the criminal mind will persist. App. C pp. 16-20; Complaint, pp. 15-21. So I began with the following: *excerpt of the feared religious doctrine in my Complaint the courts are forbidden to adjudicate on,*

The Greek term, "repent," is defined, *μετανοέω*, metanoeó, "to think differently or afterwards, i.e. reconsider (mor. feel compunction)", James Strong, *The Exhaustive Concordance of the Bible* (Peabody, MA: Hendrickson Publishers, 1980), s.v. "repent" (emphasis in original). This idea is conveyed by Paul, "And be not conformed to this world: but be ye *transformed* by the *renewing of your mind*, that ye may *prove* what is that good, and acceptable, and perfect, will of God." Rom. 12:2 (emphasis added). Joshua 1:8 (emphasis added), "This book of the law shall not depart out of thy mouth; but thou shalt *meditate therein day and night*, that thou mayest observe to do according to all that is written therein: for then thou shalt make thy way prosperous, and then thou shalt have good success.;" Ezek. 18:31 ("make you a new heart and a new spirit"); John 3:3, "Jesus answered and said unto him, Verily, verily, I say unto

thee, *Except a man be born again*, he cannot see the kingdom of God." The word "again" is used for the Greek word "an-*othen* (from above)." I probably would have used *from above*. "509. ἀνωθεν ánothen, *an'-o-then*; from 507; from above; by analogy, *from the first*; by impl. *anew*:—*from above*, again, from the beginning (very first), the top." Strong, *The Exhaustive Concordance of the Bible, Greek Dict.* p. 13. Revelatory or inspirational instruction *from above*.

Complaint pp. 24-25. See App. C for other excerpts. I have no formal training, only high school education, so my writings are basic and easily understood.

This Court feels justified in forbidding the assessment of religious doctrine, but certain issues arise from that position.

As several commentators have noted, the Constitution cannot plausibly be construed simultaneously to require protection for religion while forbidding courts from making assessments of whether a doctrine or practice is religious. Gregory Magarian has stated: 'Forbidding such judgments out of concern about judicial encroachment on religion would amount to killing free exercise protection with kindness. By the same token, if courts could not discern which practices are 'religious,' then they could not credibly assess governmental actions under the Establishment Clause.' Factual inquiry into the meaning and content of religious

doctrines and practices thus cannot plausibly be prohibited as long as courts are called upon to construe and apply the Religion Clauses and myriads of statutes giving special treatment to religion.

Jared A. Goldstein, *Is There a 'Religious Question' Doctrine? Judicial Authority to Examine Religious Practices and Beliefs*, 54 Cath. U. L. Rev. 497, 528 (2005) (footnotes omitted)²

Censorship of religious doctrine carries a heavy presumption under the United States Constitution. *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971), "Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity."

CONCLUSION

The Court should grant the petition.

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2 <https://scholarship.law.edu/lawreview/vol54/iss2/4>.

Michael A. Helfand, *Litigating Religion*, 93 B. U. L. Rev. 493, 544 (2013) ("in analyzing the religious question doctrine numerous scholars have noted its similarity to the political question doctrine").