

22-6230

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

NOV 22 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

DERRICK EDWARDS

— PETITIONER

(Your Name)

vs.

Ko KING, et al

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Dist Ct. (Roanoke Division) / U.S. Court of Appeals (4th Cir)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick A. Edwards #1321042

(Your Name) Pro-Se Petitioner

VA. DOC Centralized Mail Distribution Center

3521 Woods way

(Address)

State Farm, VA 23160

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Whether 42 U.S.C. Section 2000 et seq., (RLUIPA) requires the Respondent to show that it lacks other means of achieving its desired goal without imposing a substantial burden on Petitioner's exercise of religion?
2. If a less restrictive means is available for the Respondent to achieve its goal, does the Respondent have a duty to use it?
3. Whether 42 U.S.C. Section 2000 et seq., (RLUIPA) Contemplates a focused inquiry and requires the Respondent to show that the Compelling interest test is satisfied through application of the Challenged law to the Petitioner whose sincere exercised religion is being substantially burdened?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5-10
CONCLUSION.....	10

INDEX TO APPENDICES

APPENDIX A U.S. Court of App. (4th Cir.) Record No. 22-6375, Sept. 13, 2022

APPENDIX B U.S. Dist. Court (Roanoke Div) Case # 7:21-cv-00047, Mar. 22, 2022

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Holt v Hobbs, 547 U.S. 352 (2015)	5-7
Gonzales v O Centro Espírita, 546 U.S. 418 (2006)	5-7, 9
U.S. v Playboy Ent., Group Inc., 529 U.S. 803 (2000)	5-6
Greenhill v Clarke, 944 F.3d 243 [4th Cir. 2019]	7
Shakur v Shriro, 514 F.3d 878 [9th Cir. 2008]	5, 7
Warsoldier v Woodford, 418 F.3d 989 [9th Cir. 2005]	5
Marria v Broadbus, 200 F.Supp. 2d 280 [S.D. NY 2002]	9
Rowe v Davis, 373 F.Supp. 2d 822 [N.D. Ind. 2005]	8-9

STATUTES AND RULES

42 U.S.C. Section 2000 et seq., (RLUIPA)	5-10
--	------

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Sept. 13, 2022.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. Section 2000 et seq., (RLUIPA)

STATEMENT OF THE CASE

1. Petitioner, a Virginia State inmate proceeding by Pro-se, Filed a civil action under the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. Section 2000cc et seq., in the United States District Court for the Western District of Virginia, Roanoke Division. [Edwards v King et al., U.S. Dist Ct. Civil Action No. 7: 21-cv-00047],
2. Petitioner claimed that defendants violated his rights under RLUIPA by confiscating his Christian Sovereign Citizen religious literature. [Compl. ECF No. 1, at 2.]
3. Defendants' filed a Motion For Summary Judgment. [Def. Mot. / Memo. Civil Action No. 7: 21-cv-00047],
4. Petitioner Filed a Opposition to Defendants' Motion For Summary Judgment. [Civil Action No. supra.]
5. The U.S. District Court granted Defendants' Motion For Summary Judgment and dismissed Petitioner's Complaint. Appendix B.
6. Petitioner appealed the decision to U.S. Court of Appeals For the 4th Circuit (VA). The Appeals Court affirmed the U.S. District Court's decision. Appendix A.

REASONS FOR GRANTING THE PETITION

A. Conflicts with decisions of other Courts.

The holding of the Courts below that Respondents does not have to show they actually considered or rejected the efficacy of a religion exemption as a less restrictive measures, and if one exist they have no legal obligation under (RLUIPA) to use it, are contrary to the holding of one Federal Circuit and this Honorable Court.

Warsoldier v Woodford, 418 F.3d 989 (9th Cir. 2005); Shakur v Schriro, 514 F.3d 878 (9th Cir. 2008); Holt v. Hobbs, 549 U.S. 352 (2015); Gonzales v O Centro Espirita, 546 U.S. 418 (2006) and U.S. v Playboy Ent. Group Inc., 529 U.S. 803 (2000).

B. Importance of the Question Presented.

This case presents a Fundamental Question of the interpretation of Federal statute 42 U.S.C. § 2000cc to 2000cc-5 (the Religious Land Use and Institutionalized Persons Act - "RLUIPA"), and this Court's decision in Holt v Hobbs, Supra.

A. Conflicts with decisions of other courts.

The holdings of the courts below that respondent does not have to show that actually considered or rejected the efficacy of a religion exemption as a less restrictive means, and if one exists that have no legal obligation under (RLNRA) to accept it, are contrary to the holdings of one federal circuit and this Honorable Court.

Ward/Chier v Woodford, 814 F.2d 1139 (9th Cir. 2002); Shaker v Shaker, 201 F.3d 1141 (9th Cir. 2000); Holt v Hobbs, 2015 WL 221 (5th Cir. 2015); Gonzalez v O Centro Espirita, 2015 WL 18 (5th Cir. 2015); and N.S. v Altpol Fint Group Inc., 2015 WL 203 (5th Cir. 2015).

B. Importance of the Religion Protection Act.

This case presents a fundamental question of the interpretation of federal statute 42 U.S.C. § 2000cc-2 (the Religion's Land Use and Institutional-ized Persons Act - "RLNRA") and this court's decision in Holt v Hobbs, supra.

The Question Presented is of Great Public importance because it affects the Operations of the Prison systems in all 50 States, the District of Columbia, and hundreds of City and County jails. In view of the large amount of litigation over Prisoners' religion rights violations proceedings, guidance on the question is also of great importance to Prisoners' because it affects their ability to receive a Fair decision in Proceedings that may result in months or years of not able to exercise their Faith during their incarceration.

The issue's importance is enhanced by the fact that the lower courts' in Petitioner's case have seriously misinterpreted ("RLUIPA"); *Holt v Hobbs*, *Supra*; *Gonzales v O Centro*, *Supra* and *U.S. v Playboy*, *Supra*.

RLUIPA - "prohibits a state or local government from taking any action that substantially burdens the religious exercise of an institutionalized person, unless the government demonstrates that the action constitutes the least restrictive means of furthering a compelling government interest." *Holt v Hobbs*, 574 U.S. 352, 356 (2015).

Under RCUIPA, "the inmate bears the initial burden of establishing that a prison policy or practice substantially burdens his or her ability to practice in accordance with a sincerely held religious belief." *Greenhill v Clarke*, 944 F.3d 243, 250 (4th Cir. 2019). Once the inmate makes the requisite initial showing, the burden shifts to the government to show that the policy or practice is the least restrictive means of furthering a compelling government interest. 42 U.S.C. § 2000cc-1(a).

The Supreme Court has explained that the "least-restrictive-means standard requires the government (prison officials) to show that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion by the objecting party," *Holt*, *supra*, 574 U.S. at 364. In *Warsoldier v Woodford*, the 9th Circuit held, "Prison officials must show that they have actually considered and rejected an 'alternative' to the less restrictive measure. The Supreme Court has held: 'the alternative that must be considered includes granting a religious exemption from otherwise valid policies.'" *Gonzales v O Centro Espirita*, 546 U.S. 418 (2006). E.g., *Shakar v Schrivo*, 514 F.3d 878 (9th Cir. 2008) (prison officials failed to show that denial of Halal or kosher meat to muslims was the least restrictive alternative where →

Under RCUFA, the inmate bears the initial burden of establishing that a prison policy or practice substantially burdens his or her ability to practice in accordance with a sincerely held religious belief. Greenhill v. Clark, 2017 WL 3921251 (4th Cir. 2017).

Once the inmate makes the requisite initial showing, the burden shifts to the government to show that the policy or practice is the least restrictive means of furthering a compelling government interest. 48 N.J. 151, 185 S.2d 380 (1972).

The Supreme Court has explained that the "least restrictive means" standard requires the government to show that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion. In the *Holt* litigation, the district court found that the prison's prohibition on the use of religious materials was a substantial burden on the exercise of religion.

Religious materials must show that they have actual, considered and restricted an alternative to the less restrictive means. The Supreme Court has held: "the alternative that must be considered includes practices and restrictions from other valid policies." *Gov't v. O'Connor*, 2017 WL 3921251 (4th Cir. 2017).

In *Holt*, the district court found that the prison's prohibition on the use of religious materials was the least restrictive alternative to the government's interest in maintaining prison security.

they failed to consider an exemption for the Plaintiff.)

In Petitioner's case, Prison officials argued: "they did not violate petitioner's right under (RLUIPA) because the Confiscation of the Sovereign Citizen materials was the least restrictive means of effecting Prison Compelling interest in institutional security." Petitioner argued that Prison officials must grant him a religious exemption to their valid security policies pursuant to (RLUIP) as held by this Court. The existence of a less restrictive practice with respect to other prisoners in the same institution may be an important consideration. *Rowe v Davis*, 373 F. Supp. 2d 822, 827 (N.D. Ind. 2005) ("denial of Celtic Cross would not be the least restrictive alternative, if prisoners of other religions were permitted to have them").

In Petitioner's case, Prison officials considers Sovereign Citizens as a Security Threat Group and therefore maintains Prison Policy forbids Sovereign Citizen activities within its Prison, including the possession of Sovereign Citizen literature. The United States District Court in its opinion held Petitioner's Sovereign Citizen beliefs are religious in nature and are thus protected by RLUIP. See Attached Appendix B. Applying *Rowe v Davis*, *supra*, to Petitioner's case, the record shows before October 26, 2017, the Prison official considered →

that failed to consider an exemption for the Plaintiff). In Plaintiff's case, prison officials argued: "they did not violate Plaintiff's right under (RLUIRA) because the Constitution of the Sovereign Citizen movement was the least restrictive means of afflicting Plaintiff with a minimum term of imprisonment for a religious exemption to their valid security policies pursuant to (RLUIRA) as held by this Court. The existence of a less restrictive practice with respect to other prisoners in the same institution may be an important consideration. *Rome v. Davis*, 373 F.3d 982, 987 (10th Cir. 2005) ("denial of a religious exemption would not be the least restrictive alternative if prisoners of other religions were permitted to have them").

In Plaintiff's case, prison officials considered Plaintiff's religious exemption as a security threat and therefore maintained prison policies forbidding Sovereign Citizen activities within its prison, including the possession of Sovereign Citizen literature. The United States District Court in its opinion held Plaintiff's exemption to be a burden on Plaintiff's religious beliefs and are thus protected by RLUIRA. See Attached Appendix B. Applicable to Plaintiff's case, the record shows that before October 2017, the prison officials considered

the Nation of Gods and Earths (NOGE) as a Security threat group and Prohibited the group activities within its Prison, including the Possession of (NOGE) literature. In the District Court summary Judgment proceedings, Petitioner submitted a Prison memorandum for implementation of the (NOGE) in its Prison facilities, recognizing the (NOGE) as a religion. To say one security threat group may ~~have~~ have a religious exemption to their security threat Policy and not other security threat group is contrary to *Gonzales v O Centro Espirita*, *supra*, and *Rowe v Davis*, *supra*. In *Marria v Broadus*, 200 F. Supp. 2d 280, 294-295 (S.D. NY, 2002), the Court held: "the fact that some (NOGE) had acted violently did not justify banning the whole group." In *Williams v Bitner*, 359 F. Supp. 2d 370, (M.D. Pa, 2005), the Court agreed with Prison officials that maintaining order and security was a compelling interest, but said that disciplining the prisoner was not necessarily the least restrictive alternative, since he was not be disruptive.

In Petitioner's case the Prison officials did not show he was disruptive in exercising his religion or that he was one who has filed false liens and advocated anti-government beliefs. (RLUAPA) requires individualized analysis. *Holt v Hobbs*, *supra*. The U.S. District Court relied on other people actions and not Petitioner's in making this determination contrary to *Holt v Hobbs*.

the nation of gods and Earths (NOGE) as a security
threat source and prohibited the group activities
within its prison including the possession of
(NOGE) literature. In the District Court summary
judgment proceeding, petitioner submitted a prison
memorandum for implementation of the (NOGE) in
its prison facilities recognizing the (NOGE) as a
religion. To say one security threat source may
have a religion is exemption to their security threat
policy and not other security threat source is contrary
to Congress v O Centro Espirita, supra, and Rome
v Davis, supra. In Morris v Board of Prisoners, 200 F.3d
59 (5th Cir. 2000), the Court held that
that some (NOGE) had been identified as a threat
to national security. In Williams v Board of Prisoners,
200 F.3d 59 (5th Cir. 2000), the Court held that
with prison officials that maintain order and security
was a compelling interest but said that discriminating
between was not necessary to the least restrictive
alternative.

In petitioners' case the prison officials did not show
any discrimination in exercising his religion or that he
was one who was filed false claims and associated anti-
government beliefs. (R.L.M.) remains individualized
prison. Holt v Holt, supra. The District
Court relied on other people's actions and not petitioners'
in making this determination contrary to Holt v Holt.

Thus, the Court below seriously misinterpreted this Court's decisions cited herein and its decision is in conflict with the 9th Circuit. The Court should correct that misinterpretation and make it clear that Sovereign Christian Citizens who are incarcerated has a right under (RLUIPA) to exercise their religion unless the individual is disruptive, and Prison official must grant a religious exemption to a prisoner in a particular case.

CONCLUSION

For the foregoing reasons, certiorari should be granted in this case.

Respectfully Submitted,

Derrick A. Edwards

DATE: November 21, 2022 Derrick A. Edwards #1321042

Pro-Se Petitioner

VA, DDC Centralized Mail Distribution Center

3521 Woods Way

State Farm, VA 23160

That the Court below is not to be bound by the
 Court's decision in any other case. The Court should
 consider that the Court's decision in this case
 is not binding on the Court in any other case.
 The Court should consider that the Court's decision
 in this case is not binding on the Court in any
 other case. The Court should consider that the
 Court's decision in this case is not binding on
 the Court in any other case. The Court should
 consider that the Court's decision in this case
 is not binding on the Court in any other case.

CONCLUSION

For the foregoing reasons, a writ of habeas corpus
 should be granted in this case.
 Respectfully submitted,

Derrick A. Edwards #1381045

Pro-se Petitioner

VA DOC Central Mail Distribution Center

3581 Woods Way

State Farm, VA 23100

DATE: _____