

23-5854
No:

In the Supreme Court of the United States

In re Terrance A. McCauley

OCT 10 2023

OFFICE OF THE CLERK

On Petition for Writ of Habeas Corpus
to the Wisconsin Court of Appeals

Petition for Writ of Habeas Corpus

~~Handwritten signatures and initials, including "McCauley" and "Resard", crossed out with a large X.~~

Terrance Arnez McCauley-Bey,
Divine Minister, Asst. Grand Sheik
for the Moorish Science Temple
of America, In Propria Persona
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Questions Presented

Whether the judgment of conviction against Terrance A. McCauley, which imposed burdens of the State of Wisconsin upon a citizen of the Moorish American Theocratic Government for acting on the authority of the Moorish Science Temple of America, thereby

a. transgress the Court's act of state and sovereign immunity doctrines, and

b. deprive the Moorish national of the right(s) to peaceable assembly and the free exercise of religion under color of law.

List of Parties

Michael Gierach, Custodian

Related Cases

State of Wisconsin v. Terrance A. McCauley, No. 19CF96, Jefferson County Circuit Court. Judgment entered June 21, 2022.

Terrance A. McCauley v. Jason Benzel, No. 22-cv-474-wmc, U.S. District Court for the Western District of Wisconsin. Judgment entered September 6, 2022.

State of Wisconsin ex rel. Terrance A. McCauley v. Randall Hepp, No. 22AP1535W, Wisconsin Court of Appeals. Judgment entered September 15, 2022.

Terrance Arnez McCauley-Bey v. Jefferson County Sheriff's Office, No. 22-cv-73-wmc, U.S. District Court for the Western District of Wisconsin. Judgment entered October 6, 2022.

McCauley v. Hepp, No. 22-AP1535W, Supreme Court of Wisconsin. Judgment entered January 18, 2023.

Terrance A. McCauley v. Daniel Cromwell, No. 23-cv-26-wmc, U.S. District Court for the Western District of Wisconsin. Judgment entered January 30, 2023.

Terrance A. McCauley v. Daniel Cromwell, No. 23-1331, U.S. Court of Appeals for the Seventh Circuit. Judgment entered May 23, 2023.

Table of Contents

Opinions Below	1
Jurisdiction	2
Constitutional and Statutory Provisions Involved	3
Statement	4
A. Factual Background	4
B. Procedural History	6
Reasons for Granting the Petition	8
I. A state court has decided an important federal question in a way that conflicts with relevant decisions of this Court.	8
1. The criminal proceedings against Terrance A. McCauley prejudice the legal rights of the Moorish Science Temple of America.	8
2. The State action runs afoul of principles established by the Court's act of state and sovereign immunity doctrines.	15
II. The Seventh Circuit has sanctioned a departure from the accepted and usual course of judicial proceedings by the Wisconsin Court of Appeals which calls for an exercise of this Court's supervisory power.	22
1. The State of Wisconsin willfully subjects Terrance A. McCauley to a deprivation of the right(s) to	22

peaceable assembly and the free exercise of religion under color of law.

2. Terrance A. McCauley, being a citizen of a foreign state and domiciled therein, is in custody for an act done under the authority of the foreign state, the validity and effect of which depend upon the law of nations.

Conclusion

33

Index to Appendices

Appendix A, Decision of the Seventh Circuit

Appendix B, Decision of the Western District of Wisconsin

Appendix C, Order of the Seventh Circuit denying rehearing

Appendix D, Decision of the Wisconsin Court of Appeals

Appendix E, Judgment of Conviction entered by the Circuit Court for Jefferson County

Appendix F, Decision of Wisconsin Supreme Court denying review

Table of Authorities

Cases

Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964)	18
DeJonge v. Oregon, 299 U.S. 353 (1937)	25
First National City Bank v. Banco Nacional de Cuba, 406 U.S. 759 (1972)	19
Haines v. Kerner, 404 U.S. 519 (1972)	31
Meyer v. Nebraska, 262 U.S. 390 (1923)	12
Modern Woodmen v. Mixer, 267 U.S. 544 (1925)	12
NAACP v. Alabama, 357 U.S. 449 (1958)	26
NAACP v. Button, 371 U.S. 415 (1963)	26
Order of Travelers v. Wolfe, 331 U.S. 586 (1947)	11
Roberts v. United States Jaycees, 468 U.S. 609 (1984)	27
Royal Arcanum v. Green, 237 U.S. 531 (1915)	11
Samantar v. Yousuf, 560 U.S. 305 (2010)	21
Sherbert v. Verner, 374 U.S. 398 (1963)	26
Sweezy v. New Hampshire, 354 U.S. 234 (1957)	25
Testa v. Katt, 330 U.S. 386 (1947)	31
Thomas v. Collins, 323 U.S. 516 (1945)	27
Underhill v. Hernandez, 168 U.S. 250 (1897)	15

W.S. Kirkpatrick and Co. v. Environmental Tectonics Corp., Int'l, 493 U.S. 400 (1990)	20
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Constitutional Provisions

United States Constitution, Article IV, Section 1	11
United States Constitution, Amendment 1	23

Statutes

United States Code, 18 USC § 241	28
United States Code, 18 USC § 242	28
United States Code, 28 USC § 1254	2
United States Code, 28 USC § 1257	2
United States Code, 28 USC § 1603	17
United States Code, 28 USC § 1604	16
United States Code, 28 USC § 1605	17
United States Code, 28 USC § 2254	23

Other Authorities and Sources

Moorish Divine Constitution and By-Laws, Act 3.	18
Moorish Divine Constitution and By-Laws, Act 7.	13

Letter Concerning Toleration (1689), John Locke
Illinois Constitution, Article 7, Section 6

25

10

Opinions Below

The Seventh Circuit's decision appears at Appendix A to the petition and is unpublished.

The opinion of the Western District of Wisconsin appears at Appendix B to the petition and is unpublished.

The opinion of the Wisconsin Court of Appeals appears at Appendix D to the petition and is unpublished.

The Judgment of Conviction of the Jefferson County Circuit Court appears at Appendix E to the petition and is unreported.

Jurisdiction

The decision of the Wisconsin Court of Appeals was entered on September 15, 2022. A copy of that decision appears at Appendix D. A motion for reconsideration was subsequently denied by that court on October 10, 2022. A timely petition for review was thereafter denied by the Supreme Court of Wisconsin on January 18, 2023. A copy of that decision appears at Appendix F. The jurisdiction of this Court is thereby invoked under 28 USC § 1257(a).

On January 10, 2023, Terrance A. McCauley filed a petition for writ of habeas corpus at the Western District of Wisconsin. The date on which the Seventh Circuit issued a decision in the case is May 23, 2023. Timely petition for en banc rehearing was denied by the court of appeals on June 27, 2023. A copy of the order denying rehearing appears at Appendix C. The Court's jurisdiction is thereby also invoked under 28 USC § 1254(1), and 28 USC § 2254.

Constitutional and Statutory Provisions Involved

Article IV, Section 1 of the American Constitution provides in relevant part that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."

The First Amendment to the Constitution provides in relevant part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging ... the right of the people peaceably to assemble, ..."

The Foreign Sovereign Immunities Act of the United States Code, 28 USC ^s 1604, provides in relevant part that "... a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States..."

Statement

Terrance Arnez McCauley-Bey, a proclaimed Moorish American national, petitions the Court for habeas relief from the judgment of a State court executed against him for acts taken under the authority of the Moorish government and within the foreign nation's prescribed territory.

A. Factual Background

1. February 20, 2019, the petitioner became liable to a controversy while temporarily domiciled at the Wisconsin territory tending to Moorish affairs. The nature of the criminal complaint extends from an alleged sexual assault which occurred at a gas station in Fort Atkinson, Wisconsin and involved a citizen of that State. At the trial stage of the proceedings the foreign national argued that the alleged victim initiated the sexual contact and, perhaps, was dissatisfied and embarrassed by the outcome of the event which led to the filing of the suit.

McCauley-Bey's defense to the action was that abiding by Moorish customs and traditions he is in violation of no

law, that the event in question is misrepresented before the court, and that the State action deprives an American citizen of rights protected by the Constitution under color of law. The latter contention is premised upon Petitioner's practice of religious beliefs as commanded by the laws of the Moorish American association (see affidavit filed on trial court record).

The discovery materials omitted video surveillance from the inside of the store. Court appointed defense counsel then coerced McCauley-Bey into pleading no contest or receive the maximum sentence at trial. Unable to substantiate a Brady violation attributed to the Jefferson County District Attorney's Office, the Moor abandoned his position of not guilty and was consequently sentenced to 8 years.

In belief that the State action violated the Constitution and laws of the United States, the petitioner sought post-conviction relief at the Wisconsin Court of Appeals by writ of habeas corpus. The court of appeals denied the requested relief reasoning that the authorities cited "do not establish that his membership in such an organization [the Moorish Science Temple of America] is a basis to vacate a criminal conviction or otherwise grant the relief

requested." APP. D.

2. Denial of discretionary review by the Supreme Court of Wisconsin led to a petition filed at the Western District of Wisconsin. The district court interpreted Petitioner's sovereign immunity claim for the Moorish government as a "sovereign citizen-type" theory and thereby dismissed the habeas action. APP. B.

3. On appeal to the Seventh Circuit, the court never reached the question of whether the State of Wisconsin lawfully exercised authority over the acts of a foreign sovereign. The appeal was denied for lack of "a substantial showing of the denial of a constitutional right." The Seventh Circuit thereafter denied a petition for rehearing en banc. APP. A and C.

McCauley-Bey subsequently filed Petition for Writ of Habeas Corpus in this Court.

B. Procedural History

September 12, 2022, Petitioner filed a writ of habeas

corpus at the Wisconsin Court of Appeals.

September 15, 2022, the petitioner's writ and motion for injunction are denied. APP. D.

October 6, 2022, Petitioner filed a motion for reconsideration at the Wisconsin Court of Appeals.

October 10, 2022, motion for reconsideration is denied.

October 27, 2022, Petitioner filed a Writ of Error at the Supreme Court of Wisconsin accompanied by Motion to Intervene and Motion for Injunctive Order filed on behalf of the Moorish Science Temple of America.

January 10, 2023, Petitioner filed Writ of Habeas Corpus at the Western District of Wisconsin and Motion to Intervene and Motion for Injunctive Order on behalf of the Moorish Science Temple of America.

January 18, 2023, the petitioner's writ and accompanying requests for relief are denied at the Wisconsin Supreme Court. APP. F.

January 30, 2023, the Western District of Wisconsin denies all requests for relief. APP. B.

February 21, 2023, Petitioner filed Joint Notice of Appeal, in propria persona and on behalf of the Moorish Science Temple of America, at the Western District of Wisconsin.

May 23, 2023, the Seventh Circuit rejected the appeal of the aggrieved parties. APP. A.

June 27, 2023, the Seventh Circuit denies the request for rehearing by the full court. APP. C.

Reasons for Granting the Petition

I. A State court has decided an important federal question in a way that conflicts with relevant decisions of this Court.

1. The criminal proceedings against Terrance A. McCauley prejudice the legal rights of the Moorish Science Temple of America.

- Terrance Arnez McCauley - Bey is in prison for acts taken under the authority of the Moorish government. This case is not about an alleged sexual assault claim but, whether the petitioner is entitled to have his actions governed by a foreign power whereby conduct may likely contradict the relevant concerns of a State. So the logical question(s) with which to begin are: does the Moorish Science Temple of America (Temple) have authority to regulate persons and property within its jurisdiction and; can the State of Wisconsin (State) regulate the acts of the foreign body politic.

Principles set forth by the Court are clear regarding both the act of state and sovereign immunity doctrines. The rules state that every nation is sovereign within its own borders and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory. The judgment of conviction by the Jefferson County Circuit Court against Terrance A. McCauley violate these principles and interfere with the interests of the Moorish nation - state in opposition to United States foreign policy.

The jurisdiction of the Moorish American Theocratic Government is concurrent to that of the United States Government exercising its authority at North America. The Temple, a municipal corporation of a fraternal and beneficiary character, is instituted for the express purpose of administering the governmental affairs of the aboriginal peoples of the land. A National organization with a Rotarian complexion, the Temple is endowed with home rule authority and "may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare;..." Illinois Constitution Article 7, Section 6.

Clothed with powers of state, it does not follow that members of the Temple should be subject to a State's penal system for abiding by laws enacted under the organization's home rule authority. Further, the Temple has a necessary function to police members of the national association and this power is impaired by the State. The circuit court proceedings deny full faith and credit to the charter of the Moorish American Society.

Article IV, Section 1 of the American Constitution declares that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."

Regarding fraternal benefit societies, the Court's controlling precedents hold that such an organization (of a fraternal and beneficiary character) is entitled under the full faith and credit clause to have a case determined in accordance with the laws of the incorporating state and its own constitution and by-laws as they had been construed by that state's courts.

"Fraternal benefit societies exist by virtue of the laws of the states of their incorporation, and the rights and obligations incident to membership in them are as much entitled to full faith and credit as the statutes upon which they depend." Order of Travelers v. Wolfe, 331 U.S. 586 (1947). See also, Royal Arcanum v. Green, 237 U.S. 531 (1915) (holding that the rights of members of a corporation of a fraternal and beneficiary character have their source in the constitution and by-laws of the corporation, and can only be determined by resort thereto,

and such constitution and by-laws must necessarily be construed by the law of the state of its incorporation)

This Court also determined that "Becoming a member of an incorporated beneficiary society is more than a contract; it is entering into a complex and abiding relation, and the rights of membership are to be governed by the law of the society's incorporation. Hence, other states, irrespective of where the certificate of membership is issued, cannot attach to a membership rights against the society which are refused by the law of the domicile." Modern Woodmen v. Mixer, 267 U.S. 544 (1925).

Without question, the State imposed burdens upon the Moorish national which attach to his rights to life and liberty, that is, the right to maintain himself in accordance with the laws of his national assembly and the freedom to practice the divine principles of Love, Truth, Peace, Freedom and Justice as commanded by those laws in the free exercise of religion.

The Court recognizes that the liberty secured against State deprivation under color of law extends far beyond mere freedom from bodily restraint. Liberty - "denotes not

merely freedom from bodily restraint, but also the right of an individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." Meyer v. Nebraska, 262 U.S. 390 (1923).

The judgment of conviction undoubtedly impedes McCauley-Bey's ability to maintain obligations held under his national association. Act 7. of the Moorish Divine Constitution and By-Laws requires all citizens to "... promptly attend their meetings and become a part and a parcel of all uplifting acts ... pay their dues and keep in line with all necessities ..." The term of imprisonment imposed impairs the Moor's compliance with this Act. The term of supervision which is to follow subjects his actions taken on behalf of the association to reporting requirements which need meet the discretion of an agent of the State. The judgment is entered against equity and good conscience.

As *parens patriae*, the Moorish government has an interest in protecting its citizens through its right to make law and enforce laws for the governance of Moorish Americans. The Temple's right to independently regulate persons subject to its authority is impaired by the judgment entered against Tessance A. McCauley. The State gave no consideration to the legal rights of the foreign government nor to the rights of members which have their source in the Moorish Divine Constitution and By-Laws.

The organization's right to promote a religious doctrine is also impaired by the execution of the State's judgment. The Holy Koran of the Moorish Science Temple of America is the guide for the expressive association of all Moorish inhabitants. McCauley-Bey's incarceration resulting from the exercise of religious tenets of the Islamic faith as instructed by the teachings of the institution is a prohibition against the Temple's interest in the free exercise of religion. This case is of national importance as it calls into question provisions of the First Amendment which provide for unabridged association and uninhibited exercise of religious practice. The case also affects the entire class of persons that

hold beneficiary certificates of the Moorish Science Temple of America - a foreign sovereign state.

2. The State action runs afoul of principles established by the Court's act of state and sovereign immunity doctrines.

The State's case against Terrance A. McCauley turns on credence given to the authority of the Moorish American Theocratic Government. As a defense to the criminal proceedings, Petitioner claimed to have acted pursuant to the public acts of a foreign state. Pursuing its own interests the State refused to acknowledge the lawful status of the Moorish American assembly. Invalidation of the foreign American power has resulted in the conviction of an innocent man.

It is well established that courts in the United States will refrain from examining the validity of acts of foreign governments where those acts take effect within the territory of the foreign state. "Every sovereign State is bound to respect the independence of every other sovereign State, and the courts of one country will not sit in judgment on the acts of the government of another done

within its own territory." Underhill v. Hernandez, 168 U.S. 250 (1897).

The trial court denied motion to dismiss for lack of jurisdiction. Petitioner asserts that in negating the charter of the Moorish association the lower court(s) also disregard the legal obligations of the foreign national as an Executive Officer of the Moorish Science Temple of America.

McCauley-Bey is, by oath, to uphold the laws of the Moorish Society. The State incapacitated him for acting on a duty to carry out the public interests of the foreign nation in wisdom of at all times giving support to those fundamental principles which are desired for Moorish civilization and posterity, such as obedience to law, respect and loyalty to government, tolerance, and unity.

According to the Foreign Sovereign Immunities Act (Act),
"... a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States..."
28 USC § 1604.

The Act provides that exception to the rule is listed in sections 1605 to 1607 of the relevant chapter. Of the

exceptions listed, a foreign state may waive "its immunity either explicitly or by implication." 28 USC § 1605(a)(1).

The exception most frequently invoked, however, is the "commercial activity" exception set forth at 28 USC § 1605(a)(2), which provides, in relevant part, that: A foreign state shall not be immune from the jurisdiction of the courts of the United States or of the States in any case ... in which the action is based upon a commercial activity carried on in the United States by the foreign state;...

It cannot be said that the Moorish citizen intended to waive the immunity of the foreign government, either explicitly or by implication, raising the issue at every stage of the proceedings. The critical function of the courts in administering the latter referenced exception to the Act is the interpretation of the phrase "commercial activity." The definition provided in the text of the Act reads:

For purposes of this chapter - A 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular

transaction or act, rather than by reference to its purpose.
28 USC § 1603(d).

It is fair to say that the nature of the course of conduct by which McCauley-Bey is confined does not arise from, nor entail, any commercial activity within the meaning of the Act. Driven by the religious doctrine of the Temple, Petitioner is in prison for enforcing the laws of the Moorish American Society which command "Love, Truth, Peace, Freedom and Justice must be proclaimed and practiced by all citizens of the Moorish Science Temple of America." Act 3. Moorish Divine Constitution and By-Laws.

In a line of cases which have addressed the issues, the Court has made clear that any judicial inquiry into the acts of a foreign sovereign taken within its own territory implicates the act of state doctrine. In the leading decision on the act of state doctrine, the Court held that "One nation must recognize the act of the sovereign power of another, so long as it has jurisdiction under international law, even if it is improper according to the internal law of the latter state." Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964).

This Court applied the above reasoning to a case that arose when Cuba nationalized its sugar industry, taking control of sugar refineries and other companies in the wake of the Cuban revolution. There, the Court held that "U. S. courts could not question the validity of the Cuban expropriations even if the plaintiff alleged a violation of international law."

Following post-Sabbatino congressional enactments which virtually overruled that decision, the Court established that "Where the Executive Branch... expressly represents to the Court that the act of state doctrine would not advance the interests of American foreign policy, that doctrine should not be applied by the courts." First National City Bank v. Banco Nacional de Cuba, 406 U.S. 759 (1972).

In the same case the Court held "The act of state doctrine is a judicially accepted limitation on the normal adjudication processes of the courts, springing from the principle that on occasion individual litigants may have to forego decision on the merits of their claims because involvement of the courts in such a decision might frustrate the conduct of the nation's foreign policy."

The application of the act of state doctrine was later strictly limited by the Court to cases in which a court is required to determine the legality of a sovereign state's official acts under that sovereign's own laws. The holding was that the doctrine applies only when a suit requires a court to declare invalid a foreign governmental act performed within its territory and does not preclude inquiry into the motivations of a foreign government. "The act of state doctrine does not establish exception to obligation of United States courts to decide cases and controversies for cases and controversies that may embarrass foreign governments, but merely requires that, in process of deciding, acts of foreign sovereigns taken within their own jurisdictions be deemed valid." W.S. Kirkpatrick and Co. v. Environmental Tectonics Corp., Int'l, 493 U.S. 400 (1990).

In 2010, natives of Somalia brought action under the Torture Victim Protection Act and the Alien Tort Statute seeking to impose liability against and recover damages from former high-ranking government official for alleged acts of torture and human rights violations committed against them by government agents. The Court held that an individual

foreign official sued for conduct undertaken in his official capacity is not a "foreign state" entitled immunity from suit within the meaning of the Foreign Sovereign Immunities Act. "Under the 'restrictive' theory of sovereign immunity, immunity is confined to suits involving the foreign sovereign's public acts, and does not extend to cases arising out of a foreign state's strictly commercial acts.... In the context of the act of state doctrine, an official's acts can be considered the acts of the foreign state, and the courts of one country will not sit in judgment of those acts when done within the territory of the foreign state."

Samantar v. Yousuf, 560 U.S. 305 (2010).

In every case in which the act of state doctrine has been held applicable, the relief sought or the defense interposed would have required a court in the United States to declare invalid the official act of a foreign sovereign performed within its own territory. Petitioner holds that the Moorish government's decision to enact laws requiring citizens to observe religious principles central to the nation-state plainly qualifies as an act of state. McCauley-Bey's obedience to the laws of the Moorish American association is an act in furtherance of the society's interest to promote the security, health, safety, and welfare

of the nation. As such, the conduct of the Moorish national, according to the laws of the United States, is immune from examination in the courts of the State.

The State's application of customary principles of law to judge acts of a foreign sovereign criminalizes the Moorish way of life and forbids the American citizen from abiding by the laws of the national association. The effect endangers and threatens to destroy the existence of the entire society. The decision of the State to prosecute McCauley-Bey for acts taken under the authority of a foreign state within its own territory conflicts with decisions of this Court which determine such suits barred by the act of state and sovereign immunity doctrines.

II. The Seventh Circuit has sanctioned a departure from the accepted and usual course of judicial proceedings by the Wisconsin Court of Appeals which calls for an exercise of this Court's supervisory power.

1. The State of Wisconsin willfully subjects Terrance A. McCauley to a deprivation of the right(s) to peaceable assembly and the free exercise of religion under color of law.

The right of the Temple to make law and enforce laws under its home rule authority is prejudiced by the State action in question. McCauley-Bey's First Amendment rights are diminished as a result of his conviction. He claims to be in "custody in violation of the Constitution or laws... of the United States." 28 USC [§] 2254.

The First Amendment to the Federal Constitution dictates, in relevant part, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging... the right of the people peaceably to assemble,..."

The Temple is a foreign body politic established for the exclusive benefit of the Moorish American national association. Operating under the lodge system, the organization has distinguished rituals, ceremonies and regalia unique to Moorish peoples and makes a practice of assisting the sick and disabled members, and of extending substantial aid to the families of deceased members with the aim to improve the condition of a class of persons who are engaged in a common pursuit, and to unite them by a stronger bond of sympathy and interest.

The principles of Love, Truth, Peace, Freedom and Justice are central to the Moorish Theocracy. They appear symbolically on the national flag of the government to which all citizens pledge allegiance. A cardinal doctrine of Moorish American belief is that if man would know, he must, himself, be what he knows. Found in the Moorish Holy Koran, this statement implicates the stages and degrees through which man must travel to reach a state of perfectness. They are - belief, that which man thinks, perhaps, is truth; faith, that which man knows is truth; and fruition, man himself, the truth. In this respect, citizens are required to keep a congruency of thought, speech, and deed guided by the tenets of the Islamic religion as practiced in the customs and traditions of the society.

The State willfully deprives the petitioner of the benefits of his political association. His right to the free exercise of religion is impeded. His faithfulness to the laws of the Moorish nation which demand the "practice" of religious precepts in all affairs for the individual's well-being is enjoined by the judgment of conviction entered by the Jefferson County Circuit Court. The judgment is made against equity and good morals.

By virtue of the right to self-government the nation of Moors assembled have enacted laws to govern the internal affairs of its society. A member of the social group, McCauley-Bey is subject to the regulations imposed by that official authority. The State conveys the notion that maintenance of his political affairs is wrong and precludes the action by imposing imprisonment for manifest obedience to the foreign state.

"A society of members voluntarily uniting to a common end" is entitled to manage its own affairs and to be free from arbitrary governmental restrictions and restraints.
- Letter Concerning Toleration (1689), John Locke -

"The right of peaceable assembly is a right cognate to those of free speech and free press and is equally fundamental."
De Jonge v. Oregon, 299 U.S. 353 (1937).

The Court affirmed the principle of free association in Sweezy v. New Hampshire, 354 U.S. 234 (1957), which declared that "Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This

right was enshrined in the First Amendment of the Bill of Rights. Exercise of these basic freedoms in America has traditionally been through the media of political associations. Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents."

The Court also held that "State action which may have effect of curtailing freedom to associate is subject to the closest scrutiny." NAACP v. Alabama, 357 U.S. 449 (1958).

"First Amendment protects certain forms of orderly group activity and protects expression and association without regard to race, creed, or political or religious affiliation of members of group which invoke its shield." NAACP v. Button, 371 U.S. 415 (1963).

Likewise, the Court has well established opinion concerning the right to free exercise of religion. "The free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires. Thus, the First Amendment obviously excludes all governmental

regulation of belief as such." Sherbert v. Verner, 374 U.S. 398 (1963).

"No showing of mere rational relationship to some colorable State interest would justify substantial infringement of party's constitutional right to free exercise of religion."
Thomas v. Collins, 323 U.S. 516 (1945).

Accordingly, "An individual's freedom to speak, to worship, and to petition the government for the redress of grievances could not be vigorously protected from interference by the State if a correlative freedom to engage in group effort toward those ends were not also guaranteed."
Roberts v. United States Jaycees, 468 U.S. 609 (1984).

The Temple was established by the founder of the Moorish American nation for the express purpose of extending the divine rights of the National organization to a specific group of people. These rights include, but are not limited to, free speech, the free exercise of religion, and the right of Moorish peoples peaceably to assemble denoting the right to self-govern.

With no consideration given to the legal standing of the foreign government, the State infringes the independent rights of the Moorish nation. Acts taken under the home rule authority of the Moorish American association resulted in the petitioner's dice state. Proceedings of the State imposed arbitrary restrictions and restraints on McCauley-Bey's First Amendment rights under color of law. The deprivation of rights, privileges, or immunities secured or protected to any person by the Constitution or laws of the United States under color of State authority is an act punishable by the federal government. 18 USC § 242. Multiple persons joined in agreement to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States is also offensive under federal law. 18 USC § 241. The concerted action of officers or employees of the State and/or its subdivision done under guise of State law which oppress McCauley-Bey in the free exercise and enjoyment of First Amendment rights has gone unchecked and demonstrates a need for the Court to consider implementing a policy within its authority.

2. Terrance A. McCauley, being a citizen of a foreign state and domiciled therein, is in custody for an act done under the authority of the foreign state, the validity and effect of which depend upon the law of nations.

The State of Wisconsin presumes a violation of its statutory code. McCauley-Bey contends that the State punished acts that are lawful under the authority of a foreign government. The issues of this case presents an apparent conflict of laws. Pursuant to the law of nations, individual nation-states are equal, independent, and hold their own rights. Under modern concepts of international law, a nation's sovereign authority must be limited so that the sovereign authority of other states is protected. Such principles are embodied in Article IV of the American Constitution.

Under the laws of the Moorish Theocracy citizens are required to demonstrate the principles of the Islamic faith as taught within the society. The organization has an inherent power to police members suspected of deviating from the standards set by the government. This power is usurped by the State which refuses to extend the full faith and credit owed to the charter of the Temple.

Implications of the judgment of conviction against Terrance A. McCauley affects the entire class of persons regulated by the laws of the Moorish American society. The judgment imposing a prison sentence on the petitioner for his behavior under the authority of the Moorish national government deprives him of the right to fully engage in the assembly by which he is bound to performance. It prohibits the free exercise of religious beliefs held by that association. It is unreasonable to think that the people of one nation will be subject to penalty in the courts of another for following the laws established by their own government in its borders. Thus, the criminal sanction of the acts of McCauley-Bey taken under the authority of a foreign sovereign invalidates the public acts of the Moorish nation-state in violation of the Court's act of state and sovereign immunity doctrines. The effect produced impairs the growth and development of the Moorish American Theocratic Government.

The circuit court refused to admit that there is a foreign power operating upon American shores for the benefit of aboriginals to the land. The Supremacy Clause does not permit a State to disregard the laws of the United

States at its discretion to further its own interests. "The Supremacy Clause requires state judges to give effect to federal law in cases of conflict with the State's constitution or laws." Testa v. Katt, 330 U.S. 386 (1947).

After a full round of review seeking post-conviction relief in the State, a habeas petition was filed at the Western District of Wisconsin. There, the district court reduced the petitioner's sovereign immunity defense for the Moorish Theocracy to an argument "similar to sovereign citizen theories that have been rejected repeatedly by the courts as frivolous..."

APP. B. Joint notice of appeal was filed on behalf of Petitioner and the Temple.

On appeal to the Seventh Circuit the court concluded that the appellant failed to make a "substantial showing of the denial of a constitutional right." APP. A. However, if a litigant's "pro se" habeas petition "is entitled to a liberal construction," Haines v. Kerner, 404 U.S. 519 (1972), given a reasonable consideration of the facts, McCauley-Bey's petition and supporting brief draws enough of a connection between his rights to free association and the free exercise of religion and the trial court's (alleged)

violation of the Court's act of state doctrine and the Foreign Sovereign Immunities Act to render his claims not only cognizable on habeas review, but also substantiated by the on-going criminal proceedings. The truth of the matter is self-evident.

McCauley-Bey's social arrangement with the Moorish Science Temple of America is not simply a religious association. Nor is it the membership of a club, and most certainly not a gang association. It is, nonetheless, the membership of a National association indicative of Petitioner's status as a citizen of a foreign state. The basic rationale of his claim of a deprivation of rights under color of law is readily discernable. Failure to deduce the facts on this accord results in a reversible error injurious to the foreign nation as much so to the foreign national. The petitioner's Constitutional rights to peaceable assembly and free exercise of religion are abridged. On the other side of the equation the legal standing of the Temple is nullified. The Moorish American way of life is rejected by the State action and the entire class of members bound by the organization's directives is left subject to prey.

McCauley-Bey articulated his theories of a deprivation of rights under color of law and immunity based on the act of state and sovereign immunity doctrines; he described the facts that support those theories; and he argued that preventing him from gaining relief based on his National association resulted in the conviction of an innocent man. Both the Temple and the State have authority to enforce laws in their respective jurisdictions. However, the State presumes that its occupancy in the Wisconsin territory supersedes the Temple's reign throughout North America. Notwithstanding, the State action invalidates the public acts of a foreign sovereign calling for an exercise of this Court's supervisory power.

Conclusion

The petition for habeas relief should be granted, the judgment(s) of the lower court(s) vacated, and the case remanded to the trial court for dismissal. Petitioner also seeks declaratory judgment which specifically declares the respective rights of the Moorish Science Temple of America and/or the rights of the class of persons that hold beneficiary certificates thereof; and any other relief the Court finds appropriate.

No.:

In the Supreme Court of the United States

Terrance A. McCauley, Petitioner

v.

Michael Gierach, Custodian

Proof of Service

I, Terrance Arnez McCauley-Bey, do declare that on this date, August 17, 2023, as required by Supreme Court Rule 29 I have served the enclosed Motion for Leave to Proceed In Forma Pauperis and Petition for Writ of Habeas Corpus on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. - Those served are as follows:

Michael Gierach, Warden - Redgranite Correctional Institution,
P.O. Box 925, 1006 County Rd. EE, Redgranite, WI 54970

I declare upon penalty of perjury that the foregoing is true and correct.
Executed on August 17, 2023.

