

23-7177
No:

In the Supreme Court of the United States

In re Terrance A. McCauley

Supreme Court, U.S.
FILED

APR 03 2024

OFFICE OF THE CLERK

On Petition for Writ of Habeas Corpus

to the Wisconsin Court of Appeals

Petition for Writ of Habeas Corpus


Terrance Arnez McCauley-Bey,
c/o McCauley-Bey Moorish Tribe
1227 West 95th Place
Chicago, Illinois [60643]

Question(s) 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 acts taken 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. deprives the Moorish national of the right(s) to peaceable assembly and the free exercise of religion under color of law.

List of Parties

Wisconsin Department of Corrections

Illinois Department of Corrections

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. 22AP1535W, 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. District Court for the Western District of Wisconsin. Judgment entered May 23, 2023.

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The Seventh Circuit's decision appears at Appendix A to the petition and is unpublished.

The opinion of the Western District of Wisconsin appears at Appendix B to the petition and is unpublished.

The opinion of the Wisconsin Court of Appeals appears at Appendix D to the petition and is unpublished.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 upon 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 upon 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 § 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 Science Temple of America.

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 sexual contact and, perhaps, was 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 argument is premised upon Petitioner's practice of religious beliefs as commanded by the acts of the Moorish American association.

The discovery materials omitted video surveillance from the inside of the store. The court appointed counsel then coerced McCauley-Bey into pleading no contest or receiving 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.

Believing 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 the filing of a petition 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, the 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 22, 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 prejudiced the legal rights of the Moorish Science Temple of America.

Terrance Arnez McCauley-Bey was imprisoned for acts taken under the authority of the Moorish Science Temple of America. 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 contradict the relevant concerns of a State. So, the logical question(s) with which to begin are: (1) does the Moorish Science Temple of America (Temple) have authority to regulate persons and property within its jurisdiction and (2) 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 violates these principles and interfere with the political 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 administrating the governmental affairs of the aboriginal peoples of the land. A National organization with a Rotarian complexion, the Tempe 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. 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 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 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 conscious, and generally to enjoy all 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 in question 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 act... pay their dues and keep in line with all necessities..." The term of imprisonment imposed impaired the Moor's freedom to comply with this Act. The term of supervision which follows subjects the affairs of a person under the care of Moorish governance to reporting requirements which need meet the discretion of a State agent before fulfilment. The judgment is executed 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 Terrance A. McCauley. The State gave no consideration to the legal rights of the foreign organization, 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 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 tenets of the Islamic faith as instructed by the teachings of the institution prohibits the Temple's interest in the free exercise of religion. This case is of national importance as it calls into question the 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 society. As a defense to the criminal proceedings, Petitioner claimed to have acted pursuant to the public acts of a foreign government. 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 a motion to dismiss for lack of jurisdiction. The 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 Ruler of the Moorish science Temple of America. McCauley-Bey is bound by oath to uphold the laws of Moorish society. He is incapacitated for maintaining trust corpus according to Acts of the foreign state while acting on a duty to always carry out the public interests of the nation in wisdom of 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 criminal 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 Terrance A. McCauley is condemned does not arise from, nor entail, any commercial activity within the meaning of the Act. Driven by the religious doctrine of the Temple, the petitioner was imprisoned for enforcing the laws that govern all Moorish Americans and 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 makes clear that any 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).

The 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 a 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. The petitioner holds that the Moorish government’s decision to enact laws requiring all members to observe religious principles central to the nation-state in all affairs plainly qualifies as an act of state. McCauley-Bey’s deference to the laws of the Moorish political 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 from abiding by the laws of his national association. The effect endangers and threatens to destroy the existence of the entire Moorish society. The decision of the State to prosecute McCauley-Bey for acts taken under the authority of a foreign government 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 interest of the Temple to make law and enforce laws under its home rule authority is prejudiced by the judgment in question. McCauley-Bey's First Amendment rights are diminished because of the conviction. He claims the judgment against him is "in violation of the Constitution or laws... of the United States." 28 USC § 2254.

The First Amendment to the Constitution declares, 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 members of society pledge their 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, members are required to keep a congruency of thought, speech and deed guided by the values of the Islamic religion as practiced by 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. Management of the McCauley-Bey Moorish Tribe estate according to the religious precepts of the Moorish nation resulted in First Amendment freedoms enjoined by the judgment of the Circuit Court. The judgment is made against equity and good morals.

By virtue of the right to self-government the nation of Moors assembled enacted laws to govern the internal affairs of society. A member of the social group, McCauley-Bey is subject to the regulations imposed by that official authority. The State gives the impression that maintenance of his political affairs is wrong and prevented the action by imposing a term of imprisonment followed by extended supervision.

“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.” *DeJonge 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), declaring 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 towards 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 through the right to self-govern.

Giving no consideration to the legal standing of the foreign government, the State infringed the independent rights of the Moorish nation. The proceedings of the circuit court imposed arbitrary restrictions and restraints on the Temple's authority to regulate the persons and property under its jurisdiction. 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 the guise of State law which oppress McCauley-Bey in the free exercise and enjoyment of First Amendment rights is to date unchecked and demonstrates a need for the Court to consider implementing a policy within its authority.

2. Terrance A. McCauley, being the 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 present 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 refused to extend the full faith and credit owed to the charter of the Moorish Science Temple of America.

Implications of the judgment against Terrance A. McCauley affect the entire class of members subject to the regulations of Moorish society. A judgment imposing a prison sentence for behavior executed under the authority of the Moorish national government violates the association's right to regulate persons and property under its authority. It prohibits the free exercise of religious beliefs held by that society. It is unreasonable to think that the people of one nation will be subject to penalties in the courts of another for following laws established by their own legislature within 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 polity in violation of the Court's act of state and sovereign immunity doctrines. The effect caused 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 aborigines 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 to cases in 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 foreign government 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 ongoing 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 whereby Petitioner holds legal, social, and political obligations. 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 as injurious to the foreign government as much so the foreign national. The petitioner's Constitutional rights to peaceable assembly and free exercise of religion are

abridged. In the balance 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 political association resulted in the conviction of an innocent man. Both the Temple and the State have the power to enforce regulations within their respective borders. 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 of the lower court(s) vacated, and the case remanded to the trial court for dismissal. McCauley-Bey also seeks any other relief the Court finds appropriate.

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 19, 2023
Decided May 23, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-1331

TERRANCE A. MCCUALEY,
Petitioner-Appellant,

v.

DAN CROMWELL,
Respondent-Appellee.

Appeal from the United States District
Court for the Western District of
Wisconsin.

No. 23-cv-26-wmc

James D. Peterson,
Chief Judge.

ORDER

Terrance McCauley seeks a certificate of appealability to challenge the denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. We have reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, we DENY the request for a certificate of appealability, the request for leave to proceed in forma pauperis, and all other pending motions.

Appendix A