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THIS CASEBOOK contains a selection of 135 U. S. Court of Appeals decisions that analyze, discuss and interpret the First Amendment's Free Exercise Clause. The selection of decisions spans from 2002 to the date of publication.

Under the Free Exercise Clause of the First Amendment, the government may not "prohibit[] the free exercise" of religion. U.S. Const. amend. I. In 1990, the Supreme Court clarified its Free Exercise Clause jurisprudence by holding that the government need not have a compelling governmental interest in order to enact neutral, generally applicable laws that happen to burden religious practice. See *Emp't Div., Dep't of Human Res. of Ore. v. Smith*, 494 U.S. 872, 882-90, 110 S.Ct. 1595, 108 L.Ed.2d 876 (1990). While consistent with much of the Supreme Court's prior free exercise precedent, *Smith* was arguably in tension with two prior Supreme Court cases, both of which the *Smith* Court declined to overrule. *Id.* at 881-85, 110 S.Ct. 1595. In these cases, the Court used strict-scrutiny like analysis and asked whether the challenged law substantially burdened a religious practice and, if it did, whether that burden was justified by a compelling governmental interest. See *Wisconsin v. Yoder*, 406 U.S. 205, 220-21, 92 S.Ct. 1526, 32 L.Ed.2d 15 (1972); *Sherbert v. Verner*, 374 U.S. 398, 405-06, 83 S.Ct. 1790, 10 L.Ed.2d 965 (1963). *Catholic Health Care System v. Burwell*, 796 F. 3d 207 (2nd Cir. 2015).

In general, a plaintiff will have stated a free exercise claim if: (1) "the claimant's proffered belief [is] sincerely held"; and (2) "the claim [is] rooted in religious belief, not in purely secular philosophical concerns." *Malik v. Brown*, 16 F.3d 330, 333 (9th Cir.1994) (internal quotation marks and citation omitted). Although prisoners enjoy First Amendment protection, their rights under the Free Exercise Clause are limited by "institutional objectives and by the loss of freedom concomitant with incarceration." *Hartmann v. Cal. Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1122 (9th Cir.2013). To that end, a prisoner's Free Exercise Clause claim will fail if the State shows that the challenged action is "reasonably related to legitimate penological interests." *Turner v. Safley*, 482 U.S. 78, 89, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987); see *Ashelman v. Wawrzaszek*, 111 F.3d 674, 677-78 (9th Cir.1997). *Walker v. Beard*, 789 F. 3d 1125 (9th Cir. 2015).

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