

***EMPLOYMENT DIVISION, DEPT. OF HUMAN RESOURCES OF
OREGON V. SMITH, 494 U.S. 872, 110 S. CT. 1595***

Smith and Black were fired by a private drug rehabilitation company because they ingested peyote, a hallucinogenic drug, for sacramental purposes at a ceremony of their Native American Church. Their applications for unemployment compensation were denied by the State of Oregon under a state law disqualifying employees discharged for work-related “misconduct.” The use of peyote was prohibited by state law and its use by Smith and Black qualified as “misconduct.”

The State Supreme Court held that sacramental peyote use violated, and was not excepted from, the state-law prohibition, but concluded that the State’s prohibition was invalid under the Free Exercise Clause.

The United States Supreme Court held that the Free Exercise Clause permits the State to prohibit sacramental peyote use and thus to deny unemployment benefits to persons discharged for such use. The basis for the Court’s decision was that, while a state cannot directly outlaw religious activity, if the statute is one of “general applicability,” the religious activity may be prohibited. The Court also distinguished between religious “beliefs,” which the state cannot require or prohibit, and religious “acts,” which a state can require or prohibit through “generally applicable” laws.

Questions:

1. When the First Amendment of the Constitution speaks of the “free exercise” of religion, what is it referring to and why is it protected?
2. Can “religious beliefs” really be distinguished from “religious acts”? What of a Muslim who must pray three to five times a day while facing Mecca? Is this a “belief” or an act”? How about the Christian use of sacramental wine? What of the belief that one should gather on the Sabbath with others of your faith? Could the state outlaw all public gatherings in excess of 100, 50, or 10 people and thereby outlaw church services?
3. What is the impact of the Court’s decision on minority religions? Might there be a problem with their concerns not being addressed while those of the majority would? Example: Alcohol is outlawed and the legislature makes an exception for the use of sacramental wine but not for the use of peyote.
4. Why not balance the interest of the state in prohibiting peyote with the individual’s free exercise rights? What if the individual’s religious belief were that blacks were inferior to whites, and they wanted to run a college that was off-limits to blacks? What if the individual believed in animal sacrifice?