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Chapter 1 : Religion Clause: August

"An excellent history of an important series of congressional acts to protect religious liberty in the face of a Supreme Court reluctant to protect individual rights but eager to limit the powers of Congress.

The Author additionally thanks her family and friends for their support. The proposed location of the mosque, now named Park51, 2 Park51 Community Center, http: The Park51 mosque quickly attracted international attention, 4 See infra text accompanying notes 46â€" The international framework advanced in this Comment can be applied to all religious land-use controversies. Thus, in the case of Park51, New York would be the relevant state for these permissible limitations, but the United States as a whole should look to international human rights norms in the challenges to religious controversies and to refine its own jurisprudence on religious limitations. This Comment advocates an international human rights framework to address the issue of whether the state can regulate religious land use, such as Park In confronting these religious freedom issues, the United States would be wise to look to international human rights norms on permissible limitations, as it already does to evaluate the religious activities of other countries. This Comment is a limitations analysis on religious land use in the United States. An examination of the legal scope of religious freedom requires looking at two aspects of religious liberty: Indeed, most written constitutions in the world, including the U. While scholars and commentators have addressed Park51 through the constitutional guarantee of religion, this Comment focuses on the legal scope of this right through the lens of the second stage: Indeed, amidst the controversy, the real inquiry is whether the state can properly limit the right of the group to construct its mosque in this location. However, because any permissible limitation on religious activities must be proportional and must not discriminate against a particular religion, 17 Id. In Part I, this Comment presents background information on the current controversy surrounding the construction of Park51 and explains how and why international human rights norms are useful for analyzing this controversy. Part II delineates the general grounds for permissible limitations of religious activities under international human rights norms and presents an international law framework. Lastly, Part V applies this analysis to the Park51 mosque, determines that the state cannot restrict the construction of Park51, and recommends that the state maintain this view as construction of the Park51 mosque moves forward. The Park51 Mosque Near Ground Zero Ten years after the attacks of September 11, , the proposed construction of a mosque near the World Trade Center site has sparked international controversy. In fact, the location of the proposed mosque is so close to the World Trade Center site that debris from the September 11 airliners had damaged the building. Further, on August 3, , the New York City Landmark Preservation Commission approved plans to tear down the building that currently occupies 45â€"47 Park Place to clear the space for the construction of Park With the approval of the Landmark Preservation Commission, no obstacles remained with respect to local zoning laws. June 22, , http: Some commentators believe that the name referenced the Muslim victory over the Christian Spaniards and the subsequent conversion of the Cordoba church into the third largest mosque in the world. Exaggerating the Jihadist Threat, Time Aug. In the context of an international debate regarding whether the state may restrict Park51, the permissible limitation angle provides important clarification regarding potential state interference with construction of the mosque. An international framework is useful for a limitations analysis because it is a model that the United States has actively embraced. Further, the issue of cultural sensitivity is an important one within this international law analysis of Park Barack Obama also seems to have arrived in much the same place, first saying on Friday that he supported the construction of the mosque and then explaining over the weekend that he was talking about constitutional rights, rather than tact. Thus, the discussion surrounding the Park51 controversy involves both legal and cultural sensitivity arguments, invoked by the mass media and politicians. The next Subpart explains the reasons why an international law analysis provides compelling insight into this unique religious land-use controversy. International Law and Religious Liberty As discussed above, the Park51 mosque has become an international controversy. Before an analysis of an international

framework in Part II, it is necessary to explain why the United States should embrace international human rights norms when dealing with religious issues such as Park The United States should look toward international human rights ideals as a guiding light to the Park51 controversy. The aversion of many scholars to international legal norms in the application of U. Indeed, international law holds particular importance in the area of religious liberty in the United States. Nichols, Religion and the Constitutional Experiment 3d ed. A review of religious expression in the context of international human rights law is an important one for three main reasons, discussed below. First, the eyes of the world are upon the United States as it deals with this sensitive and important issue. The Park51 mosque was one of the most followed news stories of Our Most Talkative Posts of , N. Newspapers and leaders around the world have covered and opined on the events and issues surrounding the proposed construction of Park In Lebanon, The Daily Star reported that the Cordoba Initiative has every right to build a mosque by Ground Zero, but that it might be better served as a cultural tourist center. China Morning Post Aug. It is apparent that the international community is watching. The importance of international norms cannot be underestimated given the international attention to this controversy. Second, to apply international human rights norms to the Park51 controversy would only be to hold the United States to the same standards it uses to evaluate religious liberty issues in other countries. Reviewing Park51 in light of international law would integrate U. The executive and legislative branches already accept international law on religious freedom to make decisions abroad. For example, the U. State Department is an executive branch agency that issues reports every year on religious liberty. These reports use international norms to evaluate the laws and activities dealing with religion in other nations. The introduction to the report illustrates the degree to which the United States embraces international human rights: The values of religious freedom are universal, enshrined in the Universal Declaration of Human Rights. This report is an important tool in the effort to ensure respect for these values. Faith can bring us closer to one another, and our freedom to practice our faith and follow our conscience is central to our ability to live in harmony. The purpose of these reports is to shape U. Both the executive and the legislative branches are involved; these bodies make recommendations directly to Congress and the executive branch, which may impose economic sanctions to countries that neglect to meet international norms on religious freedom. When a country violates international protections on religious liberty, the IRFA authorizes the President to condition foreign aid, loan approval, and trade status on religious tolerance if a country violates international protections on religious liberty. In addition, the United States has actively denounced laws that discriminate against religious groups. For example, when Russia implemented an anti-religion law, the United States passed a resolution that condemned the Russian law. Thus, given that the United States uses international human rights standards to evaluate religious liberty controversies in other nations, it should at a minimum meet these standards when analyzing its own religion limitations issues. Third, modern human rights instruments capture the core of the U. As John Witte, Jr. Modern human rights instruments echo the standards of American constitutional freedoms, as influenced by U. Bederman, International Law Frameworks 99 3d ed. The first is freedom of speech and expressionâ€”everywhere in the world. The second is freedom of every person to worship God in his own wayâ€”everywhere in the world. The third is freedom from want [. The fourth is freedom from fear [. Roosevelt, Message to Congress Jan. First Amendment jurisprudence and prevailing U. Thus, while an international law inquiry into the religious freedom questions in the United States is not formally binding in some respects, these human rights standards should be at the forefront of the analysis of Park Constitution with international norms. For these reasons, the United States should look to these international standards when it evaluates religious liberty controversies such as Park Part II presents a framework of these international human rights standards. Religious Liberty International law consists of a body of international rules, obligations, instruments, and institutions. This Part first identifies the right to build a religious worship center as a religious right under prevailing international human rights law. Second, this Part addresses four international human rights instruments that provide for circumstances when a state may legally impose a limitation on religious expression. In particular, the ICCPR, of which the United States is a signatory, is at the

center of the analysis of whether international law provides for permissible limitations on religious freedom in the case of Park Third, this Part argues that the limitations on religious activities that discriminate against only one religious group are not legal under international law, and specifically under the ICCPR and subsequent international human rights norms. As part of the international law analysis under the ICCPR and the other international instruments, this Comment later argues that cultural sensitivity may, in some cases, influence these permissible limitations on religious freedom. The Right To Build a Religious Worship Center This analysis hinges on whether worship centers, such as Park51, are part of the protected rights under freedom of religion. An Introduction , John Witte, Jr. International law and the United States have long recognized a right to build a religious worship center as part of the right of religious freedom. As later sections will illustrate, the text of international human rights instruments themselves often provide a direct right to build a religious worship center. Further, the Vienna Concluding Document is an international instrument that also contains the basic religious rights provisions relevant for the Park51 analysis: High Commissioner for Hum. The Special Rapporteur investigates these human rights and releases a mission report that contains findings and recommendations. All of these statements identify the right to build a religious worship center as a right of religious freedom, and conversely, recognize denial of the right to build a worship center to be a prima facie violation of religious freedom. Thus, under the text and subsequent application of international law, the religious land use of Park51 falls in the relevant zone of a religious right. The United States also identifies religious worship centers as part of the right to religious liberty. Most notably, as discussed above, the U. This report covers the status of international religious freedom. The most recent report identified restrictions on freedom of religion within many countries where communities have been unable to build a worship center. In addition to the U. These statements and reports fully support the proposition that building the Park51 mosque falls within a protected category of religious liberty. Thus, the core issue is whether the state may limit the right to build Park The International Instruments, Guarantees of Religion, and Permissible Limitations As discussed earlier, the analysis of the legal scope of a religious right involves a two-step process: While this Comment focuses on permissive limitations, any analysis of the permissible scope of legal limitations on the right to religion necessarily involves a discussion of the major human rights instruments and the initial guarantees therein. Accordingly, both the right and the limitation will be addressed.

Chapter 2 : Church State Council | News Archives

Over time, the definitions of religious freedom and religious liberty have expanded to include the protection of non-Christian religious practices and beliefs, but their Christian origins haven't been forgotten.

United States District Court, M. Beth Lee Frazer, Heather C. Plaintiff Layman Lessons, Inc. Both parties have now filed cross-motions for summary judgment. The moving party may do this by providing affidavits or other proof or by showing lack of evidence on an issue for which the non-moving party will have the burden of proof at trial. The non-moving party must then present specific facts showing that there is a genuine issue for trial. In essence, the inquiry is "whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law. The standard of review for cross-motions for summary judgment does not differ from the standard applied when only one party files a motion, but simply requires a determination of whether either party deserves judgment as a matter of law on the material undisputed facts. United States, F. The reviewing court must consider each motion on its own merits, resolving all reasonable inferences against the party whose motion is under consideration. Layman Lessons seeks to provide food, clothing, shelter, transportation and Christian training to those in need. The Millersville Zoning Code requires that a new occupant obtain a Certificate of Occupancy prior to any alteration in the use of a building, and provides that a Certificate of Occupancy will be issued by a building inspector once "the building. According to Smith, when presented with a proposed change in use, she will generally arrange for a building inspection and permit review. The parties agree that if a new business moving into an existing property constitutes a change in use and certain zoning issues are present, the application for a Certificate of Occupancy must be presented to and approved by the Planning Commission. In this case, it is undisputed that the Property is located within Millersville, Tennessee in an area that has at all times relevant to this dispute been zoned commercial and classified as C Uses permitted as of right in this zoning district include retail stores and churches; as well as other types of businesses, pursuant to the Millersville Zoning Ordinance that went into effect on July 15, A building inspection took place on April 17, , and a business review was held on June 22, In the meantime, Smith had initially been confused about the type of business activity Layman Lessons planned to conduct at the Propertyâ€”specifically, she thought Layman Lessons intended to house and feed the homeless there and was not sure whether such a use would require review by the Planning Commission. Johnston submitted the requested information in the form of a document titled "Use and Occupancy Activities Statement" dated May 5, , in which he specifically stated that "no persons, homeless or otherwise will stay in or on the property overnight. The City contends that Lech himself does not have the ability to grant or deny permit applications. It is not clear who else might also have such authority nor who has the authority to deny such applications, other than the Planning Commission. He was therefore knowledgeable about the process for obtaining a Certificate of Occupancy. Again, the pending status of the NP-1 zoning classification Non-profit, philanthropic, religious, and government uses compels me to reject the possibility of such an organization until that zoning classification is passed, or rejected by the city commissionâ€”whose hands that ordinance is in right now Even if this ordinance is passed, which takes many readings over many months, your tenants must apply for the classification, which is an equally lengthy process. The City asserts that the letter was addressed to and intended for Ray, who was knowledgeable about the permitting process and knew that Lech had no control over whether applications for Certificates of Occupancy are granted or denied. At any rate, the "pending ordinance" to which Lech referred in his letter had been in the works since sometime prior to September 13, On May 9, , nearly a month after Layman Lessons had initiated the process of obtaining a Certificate of Occupancy, the Planning Commission voted unanimously to pass the proposed NP-1 ordinance hereafter "Proposed Ordinance" or "Proposed NP-1 Ordinance" to the City Commission with a recommendation that it be adopted. Louie Johnston, meanwhile, having not heard anything for approximately a month since he had first applied for a Certificate of Occupancy, contacted James Lech to

inquire regarding the status of his application. He apparently had already heard about the letter Lech sent to Ray. Johnston alleges that Lech told him his application for a Certificate of Occupancy would be denied based on an ordinance pending before the City Commission that would affect new religious establishments within the city limits of Millersville. The City denies that Lech informed Johnston that Layman Lessons definitively was or would be denied a Certificate of Occupancy, though Lech concedes that he planned to recommend denial to the Planning Commission based upon the Proposed Ordinance. After speaking with Lech, Johnston appealed to City Manager Robert Mobley to intervene in the situation, as he had told Lech he would do. Mobley denies making any affirmative statement to that effect and does not recall whether he tried to explain the purpose of the Proposed NP-1 Ordinance to Johnston. He conceded, however, that he probably told Johnston that he had "some agreement with the intent of the ordinance and that is to reserve very specific locations for the benefit of the citizens for high retail. On June 7, , Layman Lessons filed its original complaint in this Court, alleging that it had been denied the right to occupy the Property on the basis of the Proposed Ordinance which, if enacted, would "effectively ban the establishment of any and all new religious or other non-profit property uses within the city limits of Millersville. On June 23, , the parties submitted a Joint Motion for entry of an Agreed Order for Preliminary Injunction, which was granted and the proposed Agreed Order entered on June 26, In pertinent part, the Agreed Order states: The City of Millersville shall be and hereby is temporarily enjoined and restrained from enforcing against the Plaintiff the proposed NP-1 zoning classification as referenced in Exhibit 1 to the Affidavit of Louie Johnston Also on June 26, , Karen Smith, City Codes Administrator, sent a letter to Johnston confirming again that, "[u]nder current zoning, Commercial-1, retail stores and churches are both permitted uses. The letter therefore requested that Johnston provide the Codes Administration Office with "a simple site drawing that depicts what [he] will be doing to satisfy this requirement," and further requested that he "contact this department once the buffer strip is in place" so that an inspection of the changes could be performed. The Millersville zoning ordinance referring to "buffer strips" states that Where a use is established in areas zoned commercial or industrial which abuts at any point upon property zoned residential, the developer of such use shall provide a landscaped buffer strip of no less than 25 feet in width at the point of abutment. It is undisputed that the Property does not abut any property zoned residential and in fact that the adjacent properties are all zoned commercial as C In its response to an interrogatory from Layman Lessons, the City provided four examples of other places where it required an applicant for a Certificate of Occupancy to erect a buffer strip even though the abutting property was not zoned residential. There was much corresponding back and forth between the parties regarding the so-called "buffer-strip requirement" in the summer of , only part of which is in the record submitted to the Court. Ultimately, however, Layman Lessons agreed to build a privacy fence as required by the Planning Commission in an attempt to facilitate issuance of a Certificate of Occupancy. Layman Lessons received its Certificate of Occupancy on November 20, The motion to amend was granted. Layman Lessons does not contend that the ordinance as passed has an adverse affect on its proposed used of the Property. Count V asserts a claim based on 42 U. Defenders of Wildlife, U. If a claim is unripe, federal courts lack subject matter jurisdiction and the complaint must be dismissed. The Sixth Circuit has recognized that the issues of standing and ripeness are distinct but involve "overlapping inquiries. City of Columbus, 95 F. Specifically, [i]f no injury has occurred, the plaintiff could be denied standing or the case could be dismissed as not ripe. The question whether an alleged injury is sufficient to meet the constitutional "case or controversy" requirement is at the heart of both doctrines. The ripeness doctrine generally applies in cases In declaratory judgment actions it is often difficult to draw a line between actual controversies and attempts to obtain advisory opinions on the basis of hypothetical controversies. The Supreme Court has recognized that it is not possible to develop a "precise test" for determining the existence of a justiciable "controversy," but in each case a court must determine under the particular circumstances whether the facts alleged "show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. The Supreme Court also has stated that its determination whether a case is

ripe focuses on two considerations: The Supreme Court typically has found hardship when enforcement of a statute or regulation is inevitable and the sole impediment to ripeness is simply a delay before the proceedings commence. For example, in Blanchette v. Connecticut General Insurance Corporations, U. Although a reorganization plan had not yet been formulated and a special court had not yet ordered the conveyances, the Court reasoned that "[w]here the inevitability of the operation of a statute against certain individuals is patent, it is irrelevant to the existence of a justiciable controversy that there will be a time delay before the disputed provisions will come into effect. Similarly, in Buckley v. Hamilton Bank, U. Rather, the Sixth Circuit has expressly held that the holding in Williamson County applies only where the plaintiff alleges an unconstitutional "taking" of his property under the fifth and fourteenth amendments. City of Sterling Heights, F. Layman Lessons does not allege a taking, so the finality requirement articulated in Williamson County and expanded by Murphy and similar opinions from other circuits is not applicable here. This Court must therefore consider ripeness under the more general standards articulated above, namely, whether Layman Lessons can "show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. First, Layman Lessons challenges the constitutionality and legality under the RLUIPA of what it characterizes as the denial of a Certificate of Occupancy based upon the supposed pendency of the Proposed NP-1 Ordinance; second, it challenges the constitutionality and legality of the Proposed Ordinance itself; third, it contends that the arbitrary enforcement of the "buffer-strip" regulation violated its constitutional due process rights. On that basis, Layman Lessons argues that it was given reason to believe that the decision had already been made to deny him a Permit or to delay indefinitely a decision while the Proposed Ordinance remained pending, and that presenting his application to the Planning Commission would be futile. The City argues that when Layman Lessons filed suit on June 7, , it had not yet submitted a site plan, undergone a business review, or even officially been denied a Certificate of Occupancy; it therefore "had not felt the effects of a formalized administrative decision in any concrete way. Moreover, Lech has conceded that he intended to recommend to the Planning Commission that the Application be denied based on the proposed NC-1 Ordinance. It is clear that as of June 7, , when this case was initiated, the Planning Commission had voted to refer the NP-1 proposal to the entire City Commission but the anticipated recommendation was explicitly conditioned on an expectation that the City Attorney would consider the proposal in light of the RLUIPA and that further changes might occur before the City Commission considered it. Moreover, the actual proposal had not yet been presented to the City Commission by the time Layman Lessons filed suit. Specifically, the first reading of the Proposed Ordinance was on the agenda for the June 20, City Commission meeting, but the first reading never actually took place. Instead, the City Manager advised the Commission members that the city attorney "recommended that [the proposal] be sent back to the work session for further review and clarification before first reading due to a misinterpretation and some allegations made in a lawsuit against the city regarding the use of land. Consequently, a motion was made to table the proposal and send it back to work session. That motion passed unanimously. The ordinance in the form to which Layman Lessons objected was ultimately never presented to the City Commission and was never enacted. In other words, the final proposal had not yet been prepared or presented to the entire City Commission at the time Layman Lessons filed this action on June 6, and the City Commission had not even begun the relatively lengthy process of enacting the proposal. The Proposed Ordinance underwent substantial revisions before it was actually passed in December , and Layman Lessons does not object to the version that was enacted. The Court can only speculate that if Layman Lessons had not filed suit, the Proposed Ordinance would likely have been presented to the City Commission on June 20 in the same form as when the Planning Commission agreed to pass it to the City Commission and that, without objection from Layman Lessons, the City Commission might have begun enacting the Proposed Ordinance on June 20 with approval at a first reading, and later would have approved it after subsequent readings at subsequent meetings. Such speculation does not provide a legitimate basis for court action. The inescapable fact is that the Proposed Ordinance was still a moving target as of June 7, , and any action the Court might have taken with regard to the proposal as of

that date would necessarily have taken the form of precisely the type of advisory opinion the ripeness doctrine and the "case or controversy" requirement were designed to avoid. A federal court has no authority to render a decision upon moot questions or to declare rules of law that cannot affect the matter at issue. Church of Scientology v. United States, U. A case becomes moot, thereby depriving the court of jurisdiction, when: County of Los Angeles v. When both these requirements are met, "neither party has a legally cognizable interest in the final determination of the underlying questions of fact and law. The requisite personal interest that must exist at the commencement of the litigation standing must continue throughout its existence mootness. It has also been recognized, however, that "as a general rule, voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case, i. Moreover, where a claim for injunctive relief has become moot, "relief in the form of damages for a past constitutional violation is not affected. The heavy burden of demonstrating mootness rests on the party claiming mootness. City of Long Branch, F. Because the Proposed Ordinance as originally formulated and to which Layman Lessons objected never actually passed, "interim events have completely and irrevocably eradicated the effects of the alleged violation. In support of this argument, the City points out that the Certificate of Occupancy was actually issued in November , thereby "eradicating the effects" of the prior alleged constitutional violation. The City also posits that repetition is not likely since the Certificate has actually been issued, the proposed zoning ordinance that allegedly held it up initially has been passed in substantially different form, and Layman Lessons complied with all the other conditions imposed on its application to obtain the Certificate.

Chapter 3 : Housing Cases Summary Page | CRT | Department of Justice

Dilemmas of free exercise in contemporary America --Free exercise jurisprudence through Reynolds to Boerne --The fine-tuned politics of developing a response --Building a record to meet the demands of section 5 --The initial opposition to RLPA --From RLPA to RLUIPA: civil rights versus religious liberty takes center stage --Aftermath.

Flores , U. Smith , U. In line with the scrutiny regime established in West Coast Hotel v. Parrish in , the Court ruled that unless the law is not one of general applicability, regardless of specific circumstance, government may act if policy is rationally related to a legitimate government interest, even if the act imposes a substantial burden on the exercise of religion. Prisoners[edit] In the case of Cutter v. Wilkinson , U. A concurring opinion by Justice Thomas noted that the states could escape the restrictions of RLUIPA simply by refusing federal funds for state prisons. The court explicitly declined to extend the rule to land use cases. The case is Khatib v. County of Orange, The District Court had dismissed the case, with said dismissal being upheld by the three-judge appellate panel. It is the first time that a temporary holding facility like a courthouse lockup has been deemed to be an "institution" under the Act. The Obama administration joined Khatib in arguing that the law applied to courthouse holding cells. In , the U. Please improve it by verifying the claims made and adding inline citations. Statements consisting only of original research should be removed. No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government can demonstrate that imposition of the burden on that person, assembly or institution is in furtherance of a compelling governmental interest; and is the least restrictive means of furthering that compelling governmental interest. This subsection applies in any case in whichâ€" the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability; or the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved. During these disputes, the correct interpretation of the term "land use regulation" is almost always an issue. Generally, courts deciding this question have held that RLUIPA does not apply to eminent domain because it is not a "zoning or landmarking law. The main argument to support this conclusion is that zoning and eminent domain are derived from two separate sources of power. A Seventh Circuit case, St. City of Chicago, was appealed to the U. Supreme Court , but the court declined to hear the appeal. The Supreme Court generally has a substantial workload and tends to refuse appeals which have already received due process in lower courts. A refusal to hear a case does not preclude hearing a similar case in the future, if the court feels that further judicial review is needed. Among the properties to be condemned were two cemeteries, one owned by St. In their amended complaint, St. After considering the case, the Seventh Circuit Court denied St. Cottonwood Christian Center v. Cypress Redevelopment Agency[edit] Cottonwood Christian Center filed a motion for a preliminary injunction to prevent the City of Cypress from taking its land through eminent domain. Cypress offered to purchase the land and Cottonwood did not accept. The Court granted a preliminary injunction against Cypress. In its analysis, the Court found that it took Cottonwood five years to identify a location and negotiate for the land. Faith Temple Church v. Town of Brighton[edit] Faith Temple Church brought an action to enjoin the Town of Brighton from condemning its property through eminent domain. In its Comprehensive Plan for , the Town had included a recommendation that this parcel be acquired. The purpose of the acquisition was to expand an adjacent town-owned park. After the church purchased the land, the Town initiated condemnation proceedings in the spring of The judge found that the connection between zoning and eminent domain in this case was "too attenuated to constitute the application of a zoning law. City and County

of Honolulu v. Sherman[edit] This case was an appeal to the Supreme Court of Hawaii which stemmed from a Honolulu city and county ordinance. The purpose behind the condemnation proceedings was to "conver[t] the leasehold [interests] to fee simple [interests] on behalf of forty-seven owner-occupant[s]" the lessees. The plaintiff-appellee in the action was the City and the defendant-appellant was First United Methodist Church as the fee owner of the Admiral Thomas condominium complex. The Court supported this holding by stating that eminent domain and zoning are different concepts and that it would not "assume that Congress simply overlooked [eminent domain] when drafting RLUIPA. Haller, Comment, On Sacred Ground: David Mathues, Note, Shadow of a Bulldozer?: Lennington, Thou Shalt Not Zone: Lerman, Note, Taking the Temple: Hobby Lobby Stores, Inc. The American Presidency Project. University of California - Santa Barbara.

Chapter 4 : Religious Liberty Protection Act of

Instead, RLPA was shelved, and Congress moved to a narrower bill, the Religious Land Use and Institutionalized Persons Act (RLUIPA), which provided enhanced religious liberty protections in two specific situations: the use of land for religious purposes and religious liberty claims by prisoners.

Albanian Associated Fund, Inc. Township of Wayne D. A federal court jury in Pittsburgh, Pennsylvania found that the defendants had discriminated against an African American couple by lying about the availability of a rental unit. However, the jury declined to award the couple any compensatory damages, even a nominal amount. The judge then refused to let the jury consider whether to grant punitive damages. The plaintiffs appealed to the United States Court of Appeals for the Third Circuit, and on June 3, , the Civil Rights Division filed an amicus brief arguing that the judge should have allowed the jury to decide whether to award punitive damages. The Supreme Court denied certiorari on January 8, American Insurance Association v. The plaintiffs, homeowners insurance trade associations, filed a lawsuit on June 26, , alleging HUD violated the Administrative Procedure Act in its February regulation formalizing that the Fair Housing Act provides for disparate impact liability. Inclusive Communities Project, Inc. On remand, the plaintiffs alleged that HUD violated the APA because the regulation impermissibly interprets the FHA to provide for disparate impact claims against insurance underwriting and pricing practices that exceed the contours of disparate impact claims permitted by Inclusive Communities. Avalon Residential Care, Homes, Inc. City of Dallas N. The United States filed two amicus briefs in this case, brought by private plaintiffs. They had claimed that a condominium complex in Anne Arundel County, Maryland violated the Fair Housing Act by failing to be designed and constructed so that it is accessible and usable by persons with disabilities. In its opinion, the court found that "affirmative action relief in the form of retrofitting or a retrofitting fund is an appropriate remedy in this case. Although the condominium association was not found liable for the violations, the court ordered it to permit the retrofitting of the common areas. The court will also appoint a special master to oversee the retrofitting project, and retains jurisdiction until all funds have been expended or distributed. If any funds remain unspent, the court noted that "the equitable principles and the purposes" of the Fair Housing will guide the distribution of those funds. Prairie Single Family Homes and that the condo association did not discriminate because it acted under a neutral, though previously unenforced, policy of barring hallway clutter. As for Section a , the unanimous court agreed with Halprin in holding that post-acquisition discrimination claims under this provision extend to actual and constructive evictions and little else but dismissed this count after finding that the plaintiffs failed to explain their decision to remain on the premises. Nissan Motor Acceptance Corporation M. On July 11, , the United States filed an amicus curiae brief in support of plaintiffs in Cason v. The United States further argue that plaintiffs do not need to prove that defendant was on notice regarding the alleged discrimination, but that, in any case, plaintiffs have offered evidence that defendant was on notice. The court subsequently denied summary judgment for the defendants, and the case is currently on appeal regarding class certification. Congregation Etz Chaim v. City of Los Angeles C. The United States had filed a statement of interest on November 1, Hudson City Savings Bank, F. The joint complaint with the Consumer Financial Protection Bureau CFPB alleges that from at least to , Hudson City Savings Bank Hudson City failed to provide its home mortgage lending services to majority-Black-and-Hispanic neighborhoods on an equal basis as it provided those services to predominantly white neighborhoods, a practice commonly known as "redlining," throughout its major market areas in New Jersey, New York, Connecticut, and Pennsylvania. The court entered the consent order on November 4, National City Bank W. The complaint , which was filed on December 23, , alleged a pattern or practice of discrimination on the basis of race and national origin in residential mortgage lending. The brief argued that: DeFiore did not need to present himself in person to prove that he was blind and needed a guide dog; and 6 defendants cannot show undue burden on the pleadings. On December 12, , the court found that, in light of a report showing cognitive deficiencies in

Mr. DeFiore that may impede his ability to assist in this case, the issue of his competence must be explored further. The policy provides guidelines by which store managers can limit delivery in certain geographical areas. The scope of any delivery limitations by Dominos stores must be narrowly confined to the area in which safety is a concern. Store managers also must conduct an annual review of any decision to limit delivery to determine if the threat to safety is still present or if the delivery limitation may be lifted. The complaint alleges that several defendants, including McIntosh County and the State of Georgia, discriminated against the Gullah Geechee population on Sapelo Island, through, among other things, the unequal provision of municipal services, unequal application of zoning and land use ordinances, and unfair property tax appraisals. The Appellate Section also intervened in the matter to address constitutional issues related to the ADA. The amicus brief argues that Islam is plainly a religion, that a mosque is plainly a place of worship, and that county acted appropriately under the Religious Land Use and Institutionalized Persons Act RLUIPA in treating the application as it would any other application from a religious institution. Constitution, and points out that, "consistent among all three branches of government, the United States has recognized Islam as a major world religion. The residents contend, among other things, that the county erred in treating the mosque as a religious institution without inquiring into whether Islam is an ideology rather than a religion, and without inquiring into whether terrorist and other illegal activities would be undertaken at the site. Equal Rights Center v. The Division argues that the statute of limitations does not bar ERC from seeking relief for these properties. Fair Housing of the Dakotas v. Goldmark Property Management Co. Emotional support or companion animals, which do not have special training, may be required accommodations under the FHA; 2 the FHA may require landlords to waive generally applicable pet fees for assistance animals if necessary to ensure a disabled tenant an equal opportunity to use and enjoy a residence; and that 3 fees that are applied to non-specially trained assistance animal for persons with mental disabilities but waived for "service animals" for persons with physical disabilities, are not generally applicable and discriminate on the basis of disability. The Coalition reported that on September 23, , a young Indian-American Sikh was told by a manager to remove his turban or leave at its Springfield, Virginia club. First Boston Real Estate Okla. On June 28, , the United States signed a settlement agreement with a real estate company settling our allegations that one of its former agents violated the Fair Housing Act on the basis of race by engaging in a pattern or practice of discrimination in the sale of a dwelling. The settlement agreement obligates the real estate company, First Boston Real Estate, to implement a non-discriminatory policy, which will be displayed in its offices and distributed to any persons who inquire about the availability of any properties, as well as to all agents. The case was brought by an organization that helps formerly incarcerated individuals find housing challenging the practices of an affordable rental apartment complex with units in Far Rockaway, Queens. Garden State Islamic Center v. City of Vineland, NJ D. On April 1, , the Division filed a statement of interest in Gomez v. The statement of interest states that 1 Smith v. City of Jackson did not overrule, explicitly or implicitly, decades of Fair Housing Act disparate impact precedent, 2 disparate treatment claims do not require proof of ill intent, and 3 Equal Credit Opportunity Act claims do not require a denial of credit. The court dismissed the complaint and Mr. Gomez filed an appeal in the Ninth Circuit Court of Appeals. The Division filed an amicus brief in the Court of Appeals on January 16, The Ninth Circuit ruled on November 2, , holding that plaintiff pled a disparate treatment claim by alleging that "disabled individuals like Gomez were subject to the presumption that their SSDI award letters were insufficient evidence of income and [were] asked to meet a higher standard of proof [of income] than other applicants. On February 14, , the United States Court of Appeals for the Fourth Circuit issued an opinion holding that the SCRA amendments providing an express private right of action for damages should apply to this case. On October 27, , the Division participated in oral argument as amicus in Gordon v. The court ordered supplemental briefing on whether amendments made to the SCRA on October 13, , adding an explicit private right of action, are retroactive. On November 29, , the Division filed a supplemental amicus arguing that the amendment providing an express private right of action for damages should apply retroactively in this case. Groome and United States v. The Parish zoning ordinance required the group home

provider to seek an accommodation to house five persons instead of the permitted four. The court held that the Parish broke the law when it failed to act on the request because of opposition from neighborhood residents and a member of the Parish Board. The Parish appealed the decision to the Court of Appeals for the Fifth Circuit, arguing that the Fair Housing Act protections for persons with disabilities are unconstitutional. The Civil Rights Division intervened and filed a brief arguing that Congress had power to pass the legislation under both the Commerce Clause and the Fourteenth Amendment to the Constitution. The United States also filed an amicus brief in the district court. On November 20, , a unanimous three-judge panel joined three other Courts of Appeal holding that the Commerce Clause authorizes Congress to regulate the housing market. Woodcrest Condominiums Association E. On November 5, , the United States filed an amicus brief in Hamad v. The United States had also filed an amicus brief in January , taking the same position. In February, , the United States had entered into a settlement agreement with the defendants rescission of association bylaws restricting families with children to first floor units in the three story complex. The plaintiffs in the action were a young couple steered to a first floor unit because they planned to have children and a single woman in the process of obtaining custody of her minor nephew who was denied permission to live with her nephew in her third floor unit. Town of Milbridge, Maine D. Town of Milbridge, Maine C. The plaintiff alleges that the moratorium was adopted because of resident opposition based on the national origin and familial status of the prospective residents. We did not take a position on the merits, but set out our view as to the applicable legal principles. Capitol City Mortgage Corp. In this lawsuit against Capital City Mortgage Corp. The defendants filed a motion for summary judgment on the grounds that reverse redlining does not violate either law because they have provided credit to African Americans, and on the same terms that they would provide to whites. On March 23, , the United States filed an amicus brief , which supported the view that lending practices designed to induce minorities into loans destined to fail could violate the fair lending laws. The fact that a lender does business only in minority neighborhoods does not shield its business from scrutiny under federal fair lending laws. In addition, racially targeted loans that are designed to fail make housing unavailable because of race since the borrowers are likely to lose their homes through foreclosure. The matter was settled and dismissed on March 27, The Federal Trade Commission has filed a separate action charging the same defendants with violating a number of federal consumer protection laws. Capital City Mortgage Corp. The matter was settled on March 14, Jagannath Organization for Global Awareness, Inc. Howard County, Maryland D. The County has moved to dismiss the amended complaint. The settlement requires the respondents to retrofit the public use and common areas, post a nondiscrimination policy, provide staff training on the Fair Housing Act and submit periodic reports to the United States. In consolidated cases brought by the United States and Louisiana ACORN Fair Housing and Gene Lewis, plaintiffs alleged that the defendant, the owner and operator of an apartment complex in Lake Charles, Louisiana, intentionally discriminated on the basis of race against Gene Lewis when he refused to rent him a studio apartment.

Chapter 5 : Civil Rights of Institutionalized Persons Act | Revolvy

Religious Liberty Protection Act. In legislation was proposed in Congress that would have provided additional protection for religious activity that is governed by federal, local and state governments, even if the law was a neutral means of regulating and activity.

However, nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or the United States or any agency, officer, or employee thereof under other law, including section 4 d of this Act, to institute or intervene in any action or proceeding. C No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination. D No government with zoning authority shall unreasonably exclude from the jurisdiction over which it has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution. Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. Graham is recognized if you would like to make any comments. Let us proceed on. I waive any right I would have to speak. We will now proceed to our first panel which has been patiently waiting, and, as I indicated, will be the first of three panels of the afternoon. Our first speaker this afternoon will be Dr. Richard Land of the Southern Baptist Convention. Land, will be Professor Lawrence G. Professor Sager is the Robert B. McKay professor of law at the New York University. Our next witness on this panel will be Von G. His present practice includes the first amendment and church law. Brent Walker of the Baptist Joint Committee. Walker is an adjunct professor of law at the Georgetown University Law Center where he teaches an advanced seminar in church State law. Walker is an ordained Baptist minister. I want to thank all of you for being here, and we will recognize Dr. As you know, we have the 5 minute rule, and so I will encourage you to do everything you can to confine your spoken comments to the 5 minutes allotted. Of course, without objection, your full written statements will be made a part of the permanent record. Thank you for the opportunity to testify on this issue of critical important to all of us who cherish religious liberty. As president of the Ethics and Religious Liberty Commission, I am frequently in the position to hear from people across the America about their religious concerns. These individuals are not legal scholars. They do not spend their spare moments perusing legal opinions published by our judicial system. They are not familiar with the meaning behind legal terms. They do not talk about strict scrutiny or compelling interests or a least restrictive means. But despite their unfamiliarity with the nuances of specialized areas of the law, they sense that something is fundamentally wrong with the status of religious liberty in our country particularly when it clashes with the secular interests of government. The Religious Freedom Restoration Act was a courageous attempt to rectify an egregious decision by the U. Supreme Court in the Smith case. The Smith decision was the worst religious liberty decision handed down by the Supreme Court in my lifetime, and I am 52 years old. For a law substantially burdened religiously motivated conduct, we require government to justify that law with a compelling State interest and to use means narrowly tailored to achieve that interest. The record instead reveals that its drafters and ratifiers more likely viewed the Free Exercise Clause as a guarantee that government may not unnecessarily hinder believers from freely practicing their religion, a position consistent with our pre-Smith jurisprudence. Solicitor General Walter Dellinger told this court during oral arguments, minority religious groups will be discriminated against pervasively and consistently without RFRA protection. The practical effect of this is that there is barely any constitutional safeguard against governmental interference in the free exercise of religion. RFRA was based upon the simple premise that Congress had every right to afford religious liberty greater protection than what the Constitution provides as interpreted by this Supreme Court. Had they asked themselves the proper question, they would have reached an entirely different result than they reached in the Boerne case. It is important to note, this is genuinely not an issue of

who may interpret the Constitution. The real issue is whether or not it is constitutional for Congress to give greater protection to religious liberty than is provided for in the Constitution as interpreted by this Supreme Court. The Boerne decision was wrong. It is a good faith and magnanimous effort at legislation which conforms to the ruling in Boerne. I am convinced that one of the greatest threats that we face as Americans is the suppression and the restriction of our free exercise rights in the area of religious conviction in the United States, and I believe that H. They are not familiar with the meaning behind technical legal terms. The Smith decision was the worst religious liberty decision handed down by the Supreme Court in my lifetime. Before Smith, our free exercise cases were generally in keeping with this idea: Where a law substantially burdened religiously motivated conduct. It is difficult to improve on such straightforward and trenchant prose. The Supreme Court dealt an extremely damaging blow to free-exercise, religious-liberty rights in Smith. The practical effect of this is that there is barely any constitutional safeguard against government interference in the free exercise of religion. As the members of this committee are well aware, RFRA passed through Congress and was signed into law with strong bipartisan support. RFRA was based upon the simple premise that Congress had every right to afford religious liberty greater protection than what the Constitution provides, as interpreted by this Supreme Court. Had they asked themselves the proper question, they would have reached an entirely different result than they did reach in the Boerne case. The Supreme Court incorrectly focused on the issue of whose right it is to interpret the Constitution. However, it is important to note, that this is genuinely not an issue of who may interpret the Constitution. The real issue is whether or not it is constitutional for Congress to give greater protection to religious liberty than is provided for in the Constitution, as interpreted by this Supreme Court. In other words, you cannot treat a church or a mosque or a synagogue the same way you treat a bowling alley or a used car dealership. RLPA is an attempt to give religious liberty the greatest protection possible, given the framework within which the Supreme Court has given to make that happen. Let me be clear, that while I may be sympathetic to the concerns of those who object to this legislation on the grounds of anti-federalism, I think that their concerns are misguided in this instance. The purpose of this legislation is not to empower the federal government. The purpose of this legislation is to restrain the use of power of any government which interferes with religious liberty. Admittedly, the act invokes the power of the federal government to extend this protection. However, this is no less true when speaking of invoking the powers of the federal government on the basis of the First Amendment. In other words, we should be less concerned about where the federal government finds its authority to act, than we are concerned with what will result if the federal government fails to act. We believe that the anti-federalist argument is not only misguided, but it also places a higher value upon governmental process than it does upon religious liberty. Greater weight must be given to the precious value of religious liberty than to the value of strictly adhering to a political theory to which no one is bound. I will not attempt to review RLPA. Others will be doing that. I want to close my testimony by again emphasizing how important it is that Congress do everything within its power to respond to the U. Let me be even more blunt than I have been to this point, and state that I believe that the Boerne decision is one of the worst decisions rendered by the Supreme Court in its long history. It is consistent with a pattern on the part of this Court to restructure the basic values of our society in a manner consistent with its own set of values and not those prescribed by the Constitution to which it should be bound. Land has served as the president of the agency since Chairman and members of the subcommittee. I want to say at the outset, in light of the position that I plan to take about H. RLPA is unnecessary, unwise, and unconstitutional. But in the brief time I have to speak to you today, I plan to just single out two propositions and emphasize them. So, to begin with, I would like the subcommittee to consider three groups of people; two sets of parents, first. Each of set of parents wish to educate their child at home or, perhaps, to send their child to public school but to exempt that child from sex education. That is one pair; a group of two sets of parents who have this view. The second is two charitable groups who wish to enlarge their non-residential facility in a residential neighborhood and feed the homeless and house the homeless in a shelter facility but find themselves blocked by zoning laws. We may very well discriminate

among these cases. But what I want to emphasize is the core vice of RLPA is that RLPA makes the opportunity of these two sets of parents, these two charitable groups, or these two landlords turn on the deep structure of their moral commitments. If one set of parents is recognizably religious and the other set of parents merely have strong moral views about how children should be raised in America, RLPA gives the religiously-motivated parents almost certain assurance to be able to home school their children or very strong arguments to exempt their children from sex education. But the non-religiously-motivated parents, the parents whose sole concern is the sound raising of their children and the moral commitment to that raising, they have no benefits from RLPA. They are at a loss under this provision. If there is a church group which wishes to add a third story to a facility of an extant church facility in a residential neighborhood under RLPA, wishes to have a homeless shelter and a food kitchen in that neighborhood in contravention of local zoning laws, it is given a presumptive right to do so under RLPA, but if it is merely a group which has spent 25 years deeply committed to the plight of the homeless and the hungry in their community, that group has no claim under RLPA. The church group could be experimenting for the first time with one aspect of its commitment to good works. It could be a flyer for the church group. The non-church group could be fulfilling 40 years of commitment to its community of feeding and housing the homeless and the hungry, and, nevertheless, have no such opportunity. Likewise, the two landlords. It is recognizably religious motivation that signifies. Now, if there is one value that is at the absolute core of religious liberty in the United States, it is this: My complaint about RLPA is not that it extends liberty; it is that it extends liberty selectively and makes recognizable religious motivation a talisman of advantage. That is a flat contradiction of religious liberty at its essence, and the Supreme Court would say so pursuant to the Establishment Clause of the first amendment. Now, as to the second point that I wish to make which concerns the particular provision of section 3 b 1 a of RLPA, which is the most robust of the land use provisions, I want to go back to the church in a residential neighborhood. This church wants to add a floor or two to an extant building. It wishes to house the homeless, and it wishes to feed the hungry, and it finds that some aspect of its desires are blocked by residential zoning restraints on the height of building, on the persons in attendance, on the residential versus non-residential activities that take place. RLPA, in section 3 b 1 a gives that church group an almost irrebuttable presumption of liberty to disregard local zoning procedures. It is a remarkable intrusion by the United States Congress on local zoning autonomy.

Chapter 6 : LGBT rights vs. 'religious freedom' on full display at hearing

On July 22, at the same White House event at which the Combating Religious Discrimination Today final report was released, the Civil Rights Division released a report focusing on its enforcement of the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Civil Rights of Institutionalized Persons Act Save The Civil Rights of Institutionalized Persons Act CRIPA of is a United States federal law[1] intended to protect the rights of people in state or local correctional facilities , nursing homes , mental health facilities and institutions for people with intellectual and developmental disabilities. They are also not allowed to represent individuals or address specific individual cases, but they are able to file lawsuits against facilities as a whole. This law was enacted to give statutory authority to the Department of Justice to protect the civil rights cases of institutionalized people. These reports can range from a number of informal means such as news reports, family members, the prisoners or inhabitants themselves, and from former and current employees of the institution. Usually, the first question they ask is whether the institution in question is a public institution or not. To qualify as a public institution, there are two requirements that must be satisfied: An institution must be owned, operated or managed by or provides services on behalf of any state or political subdivision of the state. An institution must be one of the five types of facilities described in the statute. Once a facility is determined to have met the requirements, the CRT reviews all complaints to determine whether the allegations merit a more extensive investigation. The attorney general has delegated the Assistant Attorney General to have the final decision on whether an investigation is warranted. In general, allegations against publicly operated facilities result in an investigation when the Division has received sufficient evidence of potential systemic violations of Federal rights, such as physical abuse, neglect, or lack of adequate medical or mental health care or education. Following the notice, the DOJ must contact State or Local government parties and arranges for a tour of the facility or facilities and may ask the parties to produce any number of documents that are deemed relevant to the case. If, after the investigation, no civil rights violations are uncovered, the DOJ notifies jurisdiction and closes the investigation. If a pattern of civil violations is uncovered, the Assistant Attorney General sends a "findings letter" that states the alleged violations, explains evidence that was found to support the findings and defines the minimum steps required to correct the violations. Congress believed that States should have the opportunity to fix conditions through certain processes voluntarily and informally. As a result, the DOJ must wait 49 days after issuing a findings letter before they can file a suit against an institution. The DOJ, within the day period, must make a good faith effort to work with the facility and ensure that it has had reasonable time to take corrective action. This is to ensure that every effort has been exhausted before filing a complaint. Therefore, some investigations and negotiations can last for years. Many investigations result in court-endorsed agreements called consent decrees. They are either filed with the court in conjunction with a CRIPA complaint, or they can be filed after a CRIPA complaint has been filed and the case has been through numerous steps of litigation. CRIPA allows only for equitable relief as a remedy to any violations. These may include the institutions being given an injunction to stop certain practices, being ordered to upgrade facilities or increasing the size of the staff. The attorney general may seek the minimum necessary to ensure the rights of institutionalized people are guaranteed. CRIPA ensures protections for juvenile offenders. As opposed to state adult institutions, juvenile correctional facilities are subject to more robust federal protections that regulate the treatment of youth, and thus are easier to bring investigations against when the DOJ is notified. In addition to actions under CRIPA, the attorney general has the power to enforce parts of the Violent Crime Control and Law Enforcement Act of , which allows the attorney general to file lawsuits against administrators of juvenile justice systems who violate the rights of incarcerated juveniles. They are to be provided sanitary living quarters, and they are not to be excessively isolated or unreasonably restrained. Juvenile offenders must also receive proper medical and mental health care. They also have the right to be

educated, to have access to legal counsel, and to have family communication, recreation, and exercise. These include 18 in the adult correctional docket, three in the juvenile rights docket, and five in the disabled rights docket. This was a rare example of the DOJ bringing a case against the entire corrections system of a state. Generally the vast majority of cases are brought against individual facilities or counties. The enforcement mechanism of the CRIPA Act makes effective change difficult and extensively litigious, a key flaw in applicability. This case highlights the breadth of correction the CRIPA Act covers, as well as the universal applicability to any institutional facilities resting within the U.

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Seeking redress for civil rights violations originates in the _____ amendment. 14th amendment when an inmate is assigned to an employment or treatment program other than that of his or her choice, it is an example of subsuming trends of the inmate to what?

From March through June â€" in collaboration with U. Attorneys and Federal agency partners â€" the Civil Rights Division held seven roundtables in six cities to learn firsthand about religious discrimination and solicit feedback from diverse faith leaders, civil rights advocates, and community members about how the Federal government can address these issues. The final report provides an overview of the themes and concerns expressed at the roundtables, and the recommendations from communities about actions the federal government should take to provide greater protections in four areas: The White House Office of Faith-based and Neighborhood Partnerships published a White House blog post discussing this report and describing efforts federal agencies are undertaking to address religious discrimination. Among the findings of the report: That report, based on the observations and recommendations of diverse religious and civil rights leaders, indicated that mosque land-use cases were a large and growing problem, that municipal officials were not treating religious assemblies on equal terms with nonreligious assemblies as required by RLUIPA, and recommends that the federal government do more to educate religious communities and local officials about the requirements of RLUIPA. The complaint , filed in the U. The complaint also alleges that the township placed unreasonable limitations on religious assemblies through its land use regulations. Specifically, the complaint alleges that the Township only permits places of worship in one district without a variance or rezoning by the Township; no properties were available in that district when the Bensalem Masjid acquired the property. The court of appeals in United States v. The Department of Justice originally brought this case in following a month investigation. While the suit was pending, the DOC implemented a policy making kosher meals available, but continued to argue that RLUIPA did not require it to do so and that it could discontinue the program at any time. The United States continued to press for an injunction, and on April 30, , the district court entered summary judgment for the United States and issued a permanent injunction requiring the DOC to provide kosher meals. The court of appeals held that the DOC had failed to explain how it had a compelling interest based on cost for not providing kosher meals in light of the fact that it had in the past offered kosher meals, that it offers therapeutic meals, and that other large prison systems were able to offer kosher meals. The court held that the DOC failed to meet its burden to produce specific evidence showing how denying kosher meals is necessary to further a compelling interest in containing costs. The court further held that even assuming there were a compelling interest here, the DOC had not shown how denying kosher meals was the least restrictive means of achieving its cost-saving objective. The court observed that the DOC was not currently applying its rules strictly to screen out those who do not have a sincere need for kosher meals or enforcing participation rules, both of which would have reduced the costs of the program. The court therefore held that the permanent injunction requiring the DOC to provide kosher meals must remain in place. The superseding indictment follows an initial charge on May 2, , that Medina attempted to use a weapon of mass destruction â€" an explosive device â€" at a synagogue in Aventura, Florida. If convicted, Medina faces a maximum sentence of life in prison. The explosive device that he allegedly sought and attempted to use had been rendered inoperable by law enforcement and posed no threat to the public. According to allegations contained in the original complaint, in March Medina came to the attention of the FBI due to his conversations about attacking a synagogue in South Florida. The complaint further alleged that Medina wanted to use an explosive device to commit the attack and engaged the CHS and an undercover FBI employee about the details of his planned criminal conduct. In preparation for the proposed attack, Medina studied the synagogue property to assess its vulnerabilities. On April 29, , Medina took possession of an inert explosive device and was arrested while approaching the synagogue. A complaint and indictment are merely accusations and a

defendant is presumed innocent unless and until proven guilty in a court of law. Updated August 4,

Chapter 8 : Religion Clause: November

United States Department of Justice: Civil Rights Division, Housing and Civil Enforcement Section (provides a brief explanation of RLUIPA) The Becket Fund for Religious Liberty Law of the Land - Township Open Space Plan is a Land Use Regulation Subject to RLUIPA (blog).

Chapter 9 : LAYMAN LESSONS, INC. v. C | blog.quintoapp.com2d () | | blog.quintoapp.com

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