Supreme Court Religious Freedom Case Should Give Us Pride

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The Supreme Court's new term begins with the same issue it wrestled with at the end of its last term. When must the government exempt religious believers from following laws that interfere with their religious practice?

Last term, two for-profit corporations wanted an exemption from the Affordable Care Act's contraception mandate. The mandate required the companies to provide employees with health insurance coverage for all FDA-approved contraceptives. But the companies' owners said that their religion forbade them from subsidizing any contraceptives that could terminate a fertilized egg.

Tuesday the Court will hear an Arkansas inmate's challenge to a prison regulation that forbids prisoners from having beards. The plaintiff, Gregory Holt, who also goes by the name Abdul Maalik Muhammad, is a devout Muslim who claims that his religion requires him to have at least a half-inch beard. Holt is suing under a federal law that requires prisons to exempt inmates from rules that substantially burden their religious practices. The only exception is if a rule furthers a compelling interest and there is no other way to achieve the government's interest other than by burdening an inmate's religious practice.

This law has been similarly invoked by inmates who say that their religion requires them to eat kosher food.

Holt is claiming that there is no compelling interest to justify the Arkansas prison's no-beard policy. Arkansas says the rule is needed for security reasons because inmates can hide things in beards. But Holt points out that 44 other state and federal prison systems allow half-inch beards and remain safe. Arkansas additionally claims that allowing beards would make it easier for escaped inmates to conceal their identities by removing the beards. Holt says there is a simple solution to this problem: just take two photos of inmates, one with a beard and one without.

However this case comes out, we should feel proud that the nation's highest court is considering it. Holt represented himself when he filed a petition asking the Supreme Court to hear his case. The hand-written petition asked the Court to waive the usual costs because Holt had no income or assets.

The Supreme Court accepts only a tiny percentage of the cases brought to it. Even the vast majority of petitions filed by the nation's most prestigious law firms are rejected. But the Court accepted Holt's "in forma pauperis" petition. Now Holt is being represented by University of Virginia law professor Douglas Laycock, one of the nation's leading church-and-state scholars.

The more fundamental reason to be proud, however, is that we have a federal law that protects inmates' religious liberties and the Supreme Court takes it seriously.

Prisoners are among the least sympathetic members of our society. It would be easy for us to dismiss their demands for religious accommodations. The fact that we take inmates' religious liberties seriously is a tribute to our commitment to individual liberty and dignity.

Just look around the world and you'll find plenty of cultures that show no tolerance for religious minorities. It's the majority's way or the highway, sometimes at the price of a religious dissenter's life.

But in the United States, our government must come up with a compelling reason for why a Muslim prisoner can't have a half-inch beard. And if the government can't do it, the prisoner can grow his beard.

How lucky we are to live in a country that not only tolerates religious minorities but also tries to accommodate their religious practices.

Alan Garfield is a professor at Widener University School of Law.