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Sincerely Held Religious Belief

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Abstract

Translating religious belief to legal action has been a long unsolved conundrum for the judicial system. The authors of our constitution assumed that “religion” would continually contain universally reasonable beliefs, but the courts have fought over the definition and legality of religious beliefs since the constitution was ratified. Therefore, religious cases have been taken case-by-case with precedent creating a new status quo. Mainly, there are a few main homogenous characteristics that have created patterns in these cases. There are cases that have blatantly labeled a religion as “untrue” and therefore unprotected or have even questioned the validity of the belief itself. Subsequently, this research also makes the proposition that such characteristics incentivize or employ the marginalization of minority groups

The case of *People v. Ashley* hinged not on the sincerity of the belief, but on the validity of the belief. At the time of the case, the New York Code of Criminal Procedure defined fortune telling as “pretending,” which completely negated the possibility of spiritualism being conceived as a religion before Ashley’s case. In her defense, she claimed that she was a medium and a member of the Brooklyn Spiritualist Society and denied the notion that she was a “Person[] pretending to tell fortunes.” However, she still lost her case.

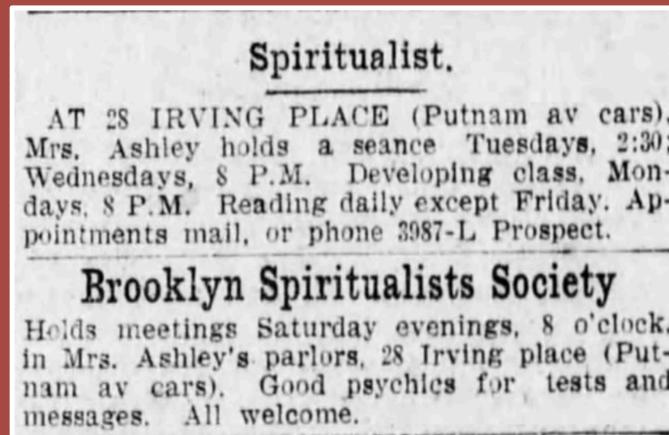
Later, the case of *Africa v. Commonwealth of Pennsylvania* in 1981 fell to the same fate. This case occurred after the advent of the sincerity test and still, Africa lost his case. He was, at the time, serving time in jail and requested a special diet that satisfied his beliefs in MOVE, an African American belief system in Pennsylvania. Even though Africa proved that he sincerely believed in MOVE, the religion was deemed invalid and, therefore, not protected. This is the same problem that Ashley encountered, but the sincerity test was meant to circumvent such issues. Perhaps Africa and Ashley’s minority status excluded them from the luxury of the first amendment.

Methods

This research principally uses primary sources to support its thesis. These primary sources were mostly comprised of court summaries from the cases of study. By analyzing the rhetoric and language surrounding these court cases we could test whether or not they framed the decision in a way that excluded “false” religions. In court cases after the advent of the “sincerity test,” it was even more important to understand the way “sincerity” was defined and how exactly “belief” was translated into “religion.” Primary sources regarding the Seeger case were found and scanned from the NYSSV and used for the context of the case. Using dictionary sources from the time also gave similar insight as we could track the evolution of the word, “sincerity,” based on the time period of the case. Secondary sources were also used to understand the historical context and interworking of the spiritualist church. This was necessary to understand what possibly led to these fortune tellers not having their rights as American citizens upheld. Also, secondary sources were important in understanding the historical diffusion of the MOVE religion that lead to particular practices of their cult-like theology.

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<http://www.nypl.org>
<http://www.phillymag.com/tag/move/>
<http://onamove.com/john-africa/>

Discussion

The case of *People v. Ashley* in 1918 hinged not on the sincerity of the belief, but on the validity of the belief. Alice Ashley was arrested after a sting operation found her guilty of accepting monetary compensation in exchange for telling fortunes. At the time of the case, the New York Code of Criminal Procedure defined fortune telling as “pretending” and anyone who admitted to being a medium was classified as a “disorderly person” which completely negated the possibility of spiritualism being conceived as a religion before Ashley’s case. In her defense, she claimed that she was a medium and a member of the Brooklyn Spiritualist Society and denied the notion that she was a “Person[] pretending to tell fortunes.” However, she still lost her case. The case of *Davis v. State of Ohio* in 1928 followed the same narrative as Ashley’s. This case went all the way to the Supreme Court of Ohio. The defendant, Gertrude Davis, appealed her original ruling that deemed her guilty of violating Section 13145, General Code, which states:

"Whoever, not having been legally licensed so to do, represents himself to be an astrologer, fortune-teller, clairvoyant or palmister, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned in jail not less than thirty days nor more than three months, or both."

Given the verdict, the defendant argued that there were 13 points of error in her trial, one of them being "religious prejudice". She said that she was a fortune-teller due to her religion. She was the pastor of the Asti-Universal Church, a Spiritualist Church, and should be protected under the first Amendment. However, the court equated fortune-telling to polygamy and said that it cannot protect religious acts that directly violate state or federal law and fortune-telling, at this time, was illegal in the state of Ohio. The rhetoric surrounding fortune telling and mediums at this time was to label their religion as false, but the first amendment gives no indication that religion needs to be proven to be protected.

The case of *Africa v. Commonwealth of Pennsylvania* occurred in 1981, decades after these fortune telling cases. This was a prisoner accommodation plea in which the plaintiff, Frank Africa, requested a raw food diet from the Holmesburg Prison. When the facility refused, Africa petitioned the court, saying that this was a violation of his first amendment right to freedom of religion. Africa was a Naturalist Minister of the MOVE organization, a black activism group that believed that the world had become tainted and polluted in every way possible and they needed to be purified of such wickedness. Even though the organization never explicitly claimed to be “religious,” Africa said that it was his religious right to be served raw foods just as Jewish prisoners are given Kosher meals and Hare Krishna people are given a Krishna diet. However, Africa was denied this right. Since this case occurred after the advent of the Sincerity Test, Africa was given a passive two-fold examination to evaluate whether or not this belief fell under the protection of the state. The first part of the test is the most notable in that Frank Africa had to prove that his beliefs were sincere: Did Africa believe what he claimed to believe? The answer was yes, according to the court. However, Africa failed the second portion of the test: Is that belief “religious”? In this court case, religion was defined as something that “addresses fundamental and ultimate questions having to do with deep and imponderable matters” and is “comprehensive in nature.” This definition was ultimately derived from the *Founding Church of Scientology v. United States* case. In future research, we hope to understand how exactly this “comprehensive” definition came to be in order to understand why Africa was denied his first amendment rights.

Conclusion

Religious freedom in American history has not been universal, but actually exclusionary. In the cases of Davis and Ashley not receiving their religious freedom, it shows that the knowledge binary in the legal realm was never truly “religious” or “secular”, but actually “true” or “not true”, where both were determined by the state, but the truth was protected by the state and the non-truth was not protected. We also conclude that this research implies that minority religions are less likely to be protected by the state. The cases of Davis and Ashley were already prohibited from winning before actually reaching the court room, but the case of Africa was almost systematically lost due to the negative view of black activism in the latter part of the 20th century.