

C. Employment Division v. Smith (1990) –Religious Practices and the Right to Work

Two Native American drug counselors employed by a private drug rehabilitation clinic were members of the Native American Church. As church members they took part in a religious ceremony in their church that included ingesting a small quantity of peyote for sacramental purposes. The men were fired for violating a company policy that forbade employees to use alcohol or illegal drugs. After being fired, the counselors sought unemployment benefits.

The government ruled that the men were ineligible for benefits because of work-related “misconduct.” The fired men claimed that the sacramental use of small quantities of the drug in their church was comparable to the use of small quantities of alcohol in Christian religious ceremonies. They claimed that such use as part of an established religious ritual was protected as free exercise of religion. Since their religious beliefs led to the behavior that caused their unemployment, they argued that it would be unfair to penalize them for that behavior by denying them unemployment benefits.

YOU BE THE JUDGE: WHAT SHOULD THE COURT DECIDE?

Your group’s spokesperson will need to convince the rest of us of WHY your decision is the best one.

- a. Be sure that your decision addresses the arguments made by both sides.
- b. Be sure that your decision addresses the First Amendment’s “establishment” AND “free exercise” clauses.

To help your group come to a decision, discuss the answers to the questions below. Each member of the group should write down the answer that the group agrees upon.

1. What was the state’s argument for denying unemployment benefits to the counselors?
2. Why did the men argue that denial of benefits violated their freedom of religion?
3. Should any group whose faith calls for a practice that runs contrary to law be exempted from compliance with that law?
4. Does the Native American Church present a special case that should be decided differently from most cases? Is this case different from the Amish case?