Supreme Court upholds inmates' religious rights: Unanimous decision may have impact beyond prisons

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A unanimous Supreme Court has upheld a five-year-old federal law that makes it easier for prison inmates—and others—to assert their religious freedom.

The justices validated on May 31 the constitutionality of the Religious Land Use and Institutionalized Persons Act, or RLUIPA. The law was passed by Congress and signed by President Bill Clinton in 2000. It was designed to make it harder for government entities to curtail significantly a group's or individual's religious rights.

One section of RLUIPA requires states to accommodate religious practices by inmates in their prisons—such as providing a special diet or allowing them to wear a particular kind of religious dress—unless prison officials can show a compelling reason not to grant such requests. If the officials can provide such a justification, they must then also show they have burdened the inmate's religious exercise in the least restrictive manner possible.

Justice Ruth Bader Ginsburg, in writing the court's opinion, said the relevant section of the statute "does not, on its face, exceed the limits of permissible government accommodation of religious practices."

At stake was whether Congress may pass laws creating special protections for religious practices among institutionalized persons. The court's decision also is seen to have the potential to extend far beyond prison walls—to any laws making it easier for individuals or organizations to practice their faith.

The case, *Cutter v*. *Wilkinson*, involved several current and former inmates of Ohio prisons who sued the state to gain accommodations for their various nonmainstream religious practices. They included practitioners of Satanism, the Wicca religion and a white-supremacist form of Christianity.

Although RLUIPA passed with support from a broad spectrum of political and religious leaders, the Sixth U.S. Circuit Court of Appeals in 2003 used the lawsuit to overturn the section of the law that relates to prisoners.

A three-judge panel of the appeals court said RLUIPA's Section 3 violates the First Amendment's establishment clause, which prevents Congress from establishing a religion or giving any religion a legal preference. By specifically accommodating religious rights, the appeals court said, RLUIPA advances religion in general and gives religious prisoners preference over nonreligious prisoners.

But other federal appeals courts have upheld the law's constitutionality. The Supreme Court's decision settles the question in their favor, reversing the Sixth Circuit.

"Foremost, we find RLUIPA's institutionalized-persons provision compatible with the establishment clause because it alleviates exceptional government-created burdens on private religious exercise," Ginsburg wrote.

Attorneys for the state of Ohio argued that the law could effectively encourage inmates to "get religion" by offering them benefits that are not available to nonreligious prisoners. But the Supreme Court dismissed that argument. Ginsburg noted that Ohio already provides accommodations to Christian, Jewish and other prisoners who practice mainstream religions.

"RLUIPA presents no such defect," she wrote. "It confers no privileged status on any particular religious sect, and singles out no bona fide faith for disadvantageous treatment."

The justices also rejected Ohio's argument that the burdens the law imposed on corrections officials would create problems in the unique prison environment. "We do not read RLUIPA to elevate accommodation of religious observances over an institution's need to maintain order and safety," Ginsburg wrote. She noted that both the law's legislative history and previous court precedent on similar cases suggest that courts should generally defer to the judgment of prison officials when such questions arise.

Ginsburg also said the court would have to endanger many other government allowances for religious freedom if it were to uphold the Sixth Circuit's reasoning in the case. "Were the Court of Appeals' view the correct reading of our decisions, all

manner of religious accommodations would fall," she wrote. For example, she said, "Congressional permission for members of the military to wear religious apparel while in uniform would fail, as would accommodations Ohio itself makes."

Ohio solicitor general Douglas Cole, who argued the state's case before the Supreme Court in March, said the decision was a "mixed bag," but that he was heartened by parts of it. "We are, of course, disappointed that the court reversed the Sixth Circuit, but at the same time we are encouraged that the court recognized that there are some very serious safety concerns at issue, so courts will have to defer," he told Associated Baptist Press.

An array of religious and civil rights groups backed the inmates' case, including the Baptist Joint Committee for Religious Liberty. –*Robert Marus*, *American Baptist Press*