

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cr. No. 06-538 JH

**DANUEL DEAN QUAINANCE,
MARY HELEN QUAINANCE,
TIMOTHY JASON KRIPNER, and
JOSEPH ALLEN BUTTS,**

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on cross motions in limine on the same subject matter. Defendant Danuel Quaintance moves for an order allowing him to present to the jury evidence of the nature and sincerity of his religious practices in order to support his Religious Freedom Restoration Act (“RFRA”) defense to the charges against him. The Government has filed a motion in limine in direct opposition, arguing that Defendants should not be permitted to present such evidence at trial. After considering the law, the facts, and the arguments of the parties, the Court concludes that Defendant’s motion should be denied, and the Government’s motion should be granted.

DISCUSSION

Defendants present several arguments in support of their request to present the evidence of their religious beliefs to the jury. First, they contend that the evidence demonstrates that they lacked the requisite intent to commit the crimes of possession of marijuana with intent to distribute it, as well as conspiracy to possess marijuana with intent to distribute. As grounds for this argument, they state that due to their religious beliefs, they believed they were not violating the law because they thought

they had a valid defense under RFRA, that therefore they did not intend to commit a crime, and therefore they were not committing a crime by possessing and distributing marijuana. In other words, they contend that the evidence of their religious beliefs will negate the element of intent. *See* Docket No. 227 at pp. 1-3; Docket No. 224 at p. 1. This argument fails because under the statutes at issue, the Government must prove only that the Defendants committed the alleged crimes “knowingly;” they do not require the Government to prove a wilful violation. *See* 21 U.S.C. 846(a)(1) (“Except as authorized by this subchapter, it shall be unlawful for any person *knowingly* or intentionally. . . to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”) (emphasis added); *see also* Superseding Indictment.

As the Supreme Court has observed, “unless the text of the statute dictates a different result, the term ‘knowingly’ merely requires proof of knowledge of the facts that constitute the offense.” *Bryan v. United States*, 524 U.S. 184, 193 (1998) (footnote omitted). The term does not require knowledge that one’s actions are unlawful or a desire to violate the law. *Id.* In contrast, “[a]s a general matter, when used in the criminal context, a ‘willful’ act is one undertaken with a ‘bad purpose.’ In other words, in order to establish a ‘willful’ violation of a statute, the Government must prove that the defendant acted with knowledge that his conduct was unlawful.” *Id.* at 191-92 (internal quotation marks omitted). Thus, Defendants’ subjective belief that they were acting lawfully would be relevant only to a charge of a wilful violation of the law. However, because they are charged with violating a statute that requires only a “knowing” violation, the Government need only prove that the Defendants had knowledge of the underlying facts to support the charge, e.g., that they knew that the substance was marijuana, and that they knew it was in their possession. Their lack of intent to violate the law is not relevant to the charges against them.

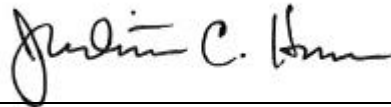
Defendants also argue that the Court’s pretrial ruling finding a lack of sincerity in their religious beliefs under RFRA does not preclude them from bringing the issue of sincerity—a fact question—before the jury at trial. Defendants rely upon *Crane v. Kentucky*, 476 U.S. 683 (1986), for this proposition. However, *Crane* is distinguishable. In that case, the defendant had filed a motion to suppress evidence of his confession, which he alleged was obtained through coercive tactics that violated his Fourth Amendment rights. Finding no Fourth Amendment violation, the Court declined to suppress the evidence and allowed it to be admitted at trial. As a result, the Government presented the evidence of defendant’s confession during the trial. However, the credibility of the confession, and therefore the weight to be given to that evidence, was an issue of fact for the jury, and one to which the voluntariness of the confession pertained. As a result, the trial court should have permitted the jury to hear evidence regarding the circumstances surrounding defendant’s confession. In short, the Court resolved fact issues in order to resolve the pretrial *legal* questions of voluntariness and admissibility, but the issue of the weight to give the evidence of the confession remained with the jury.

In this case, in contrast, in their motion to dismiss the indictment the Defendants asked the Court to resolve two separate pretrial issues: the legal question of whether their beliefs are “religious” as required by RFRA, and the fact question of the sincerity of their beliefs. Because the Court has concluded that Defendants’ beliefs are not religious under RFRA, that legal defense is no longer open to Defendants, and therefore there is no reason for the jury to resolve the fact issue of sincerity; it is simply moot. Thus, this situation is unlike that presented in *Crane*.

In sum, the Court concludes that evidence of Defendants’ religious beliefs, or of the sincerity of those beliefs, is not admissible to show that Defendants have a defense under RFRA, nor is it

admissible to show that they lacked the intent to violate the law.

IT IS THEREFORE ORDERED that *Mr. Quaintance's First Motion in Limine* [Doc. No. 187] is **DENIED**, and the *Government's Motion in Limine No. 1* [Doc. No. 217] is **GRANTED**.

A handwritten signature in black ink, appearing to read "Judith C. Herrera", is written above a horizontal line. A vertical line extends upwards from the right end of the horizontal line.

JUDITH C. HERRERA