

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) CR No. 06-538 JH
)
 DANUEL DEAN QUAINANCE and)
 MARY HELEN QUAINANCE,)
)
 Defendants.)

GOVERNMENT’S CLOSING REMARKS

The defendants seek the protection of the Religious Freedom Restoration Act (RFRA). As set out in *United States v. Meyers*, 95 F. 3d. 1475, 1482 (10th Cir. 1996). Under RFRA, a plaintiff must establish, by a preponderance of the evidence, three threshold requirements to state a prima facie free exercise claim. *Meyers* further states that the governmental action must 1) substantially burden, 2) a religious belief rather than a philosophy or way of life, 3) which beliefs are sincerely held by the plaintiff. The government need only accommodate the exercise of actual religious convictions.

**THE DEFENDANTS FAILED TO ESTABLISH A RELIGIOUS
BELIEF AS REQUIRED IN *U.S. v. Meyers***

The defendants demonstrated a philosophy which holds that marijuana use should be the focus of one’s life. The philosophy maintains that every individual member of the “Church of the Cognizance” (COC) is a “monastery” unto him/her self, free to pick and choose what they

wish to believe, creating a milieu of religious concepts haphazardly and randomly blurred together. The only consistent element common amongst the individual members of COC is that they smoke marijuana. The defendants have developed a pseudo-religious façade of religion in an attempt to justify the use, transportation and distribution of marijuana.

The defendants failed to establish by a preponderance of the evidence that their way of life is a religion pursuant to the factors set out by the court in *Meyers*, Id.

1. The defendants did not establish that their philosophy deals with Ultimate Ideas. Since every COC member decides for themselves what is or is not significant, there cannot be uniformity of ideas, let alone any semblance of ultimate ones. The COC philosophy was summed up by defense witness Michael D. Senger who testified that members were “individual orthodox member monasteries.”

2. The defendants failed to establish that they hold Metaphysical Beliefs, that is, a belief in a reality which transcends the physical and immediately apparent world. Danuel Quaintance testified that he himself did not believe in an afterlife or any such notion. He stated that some COC members do hold such beliefs, and some don't. Again, this lack of uniformity of metaphysical beliefs cuts hard against a finding that the defendants beliefs are tantamount to a religion as set out in *Meyers*.

3. The defendants claim the Zorastrian moto “good thoughts, good words, good deeds” as their own. This philosophy in part meets the third *Meyers* factor, Moral or Ethical System, but only in part, as the philosophy allows each “monastery” to interpret this phase independently and not as part of a moral or ethical system. Further, the defendants and their philosophy does not “require the believer to abnegate elemental self-interest”. *Id.* at 1483. The

philosophy maintains a “do your own thing” ethos. This philosophy is in sharp contrast to the testimony of defense witness Dr. Pruitt who stated that each culture/society will dictate rules, norms of behavior and values as part of their religions.

4. The defendants most certainly did not establish that their philosophy demonstrates a Comprehensiveness of Beliefs. To the contrary, the defendants are obsessed and focused on marijuana and are therefore, generally confined to a single teaching.

5. Accouterments of Religion, the final *Meyers* factor, which is divided into ten (10) sub-factors, is likewise not satisfied by the defendants.

a. *Founder, Profit or Teacher*

The defendants in their filing initially claimed a neo-Zoroastrian belief system. But after being advised of what the government’s witness, Zoroastrian Everst Dr. Jehan Bagli, would and did testify to, defendants, during the motion hearing, began to withdraw from their initial position. Dr. Bagli testified that smoking marijuana was a double desecration in the Zoroastrian faith. Since Zoroaster himself would have disapproved of the COC central practice, hence the COC is deprived of a founder. They are left with Danuel Quaintance who espouses a narrow philosophical view to which smoking marijuana is central.

b. *Important Writings*

It is the government’s position that Danuel Quaintance’s disjointed, poorly supported, illogical ramblings on a website do not qualify as important writings.

c. *Gathering Place*

The defendants have no temples or churches in which to worship. This sub-factor remains unfulfilled since each COC member is an individual orthodox monastery and smokes marijuana when and where they please.

d. *Keeper of Knowledge*

This sub-factor was not met. Again, since each member is a monastery unto themselves there is no single body of knowledge to keep.

e. *Ceremonies or Rituals*

The defendants offered no evidence to satisfy this sub-factor. Government's witness Kripner testified that he smoked marijuana with the Quaintances and no fanfare accompanied the act. Further, Kripner testified that, absent a ceremony or ritual, he was given his "courier certificate" on the morning before the afternoon in which the stop of his vehicle occurred.

f. *Structure or Organization*

None was demonstrated by the defendants.

g. *Holidays*

This factor was also not met by the defendants.

h. *Diet or Fasting.*

Other than ingesting marijuana, neither does the COC have specific diet, nor is fasting involved.

i. *Appearance or Clothing*

In sharp contrast to the priestly vestments utilized by Dr. Bagli in Zoroastrian rituals conducted in Zoroastrian holy places, the defendants wear no particular attire when they smoke marijuana.

j. *Propagation*

Daniel Quaintance stated people contact him via telephone or e-mail, and apparently he makes no efforts to gain converts to his philosophy.

**THE DEFENDANTS FAILED TO ESTABLISH THE SINCERITY
OF THEIR BELIEFS AS A RESULT OF ENGAGING IN THE
TRANSPORTATION AND DISTRIBUTION OF LARGE SCALE
AMOUNTS OF MARIJUANA**

The defendants' lack of sincerity is patent. The defendants', in their filings, initially asserted their beliefs were neo-Zoroastrian. This strongly mirrors the hypothesis set out by Judge Brimmer in *U.S. v. Meyers*, 906 F. Supp 1494, 1508, (10th Cir. 1996), wherein it was stated:

Had Meyers asserted that the Church of Marijuana was a Christian sect, and that his beliefs were related to Christianity, the Court probably would have been compelled to conclude that his beliefs were religious. Under these hypothetical circumstances, Meyers would have been able to fit his beliefs into a tradition that is indisputably religious.

When confronted with the government's expert, Dr. Jehan Bagli, who testified that marijuana smoking is totally incompatible with the Zoroastrian faith, the defendants retreated from their initial position. At the hearing before this honorable Court, the defendants argued that their beliefs were drawn from a myriad of religious traditions. They further claimed each

member of their “church” to be an “Individual Orthodox Member Monastery”, free to choose what to believe. This sudden change of position clearly demonstrates the defendant’s insincerity. Dr. Bagli demonstrated how the defendants’ beliefs were distinctly not Zoroastrian. The defendants’ belief system becomes a “stand alone” belief system that is unattached to any tradition which is indisputably religious. *Id.* at 1508.

Daniel Quaintance admitted under cross-examination that Joseph Butts was transporting approximately 338 pounds of marijuana at his (Quaintance’s) direction. Daniel Quaintance also conceded the aforementioned load of marijuana was for distribution. Mr. Quaintance stated the marijuana was destined for a “wellness center” north of Indianapolis, Indiana. It is improbable that the defendants were to receive no compensation. As government witness Kripner stated, “Nobody does it for free. It’s about the money.”

The Quaintances oversaw the transportation of the 77 kilograms ten days after the arrest of defendant Butts. The Quaintances distanced themselves from their deity/sacrament by taking steps to conceal their involvement in the conspiracy. Daniel Quaintance stated “that wasn’t our role” when asked why he did not drive the marijuana-laden vehicle. This, the government contends, is true. Daniel and Mary Quaintance are leaders, managers and organizers within the conspiracy. The Quaintances secured a cell phone and a walkie-talkie, in order to maintain contact with their courier, defendant Kripner. The Quaintances also provided the monies, at least in part, which enabled Kripner to lease the load vehicle. Defendant Quaintance admitted on cross examination to the aforementioned criminal acts. These admissions corroborate government witness Kripner’s testimony. These corroborating admissions by Mr. Quaintance make Mr. Kripner worthy of belief.

By claiming their philosophy to be a religion, the defendants avail themselves of a premeditated, preconceived defense if arrested while transporting and distributing marijuana. It is obvious from the hearing that the Quaintances, Butts and associates all advocate the use, including for medical purposes, of marijuana. The defendants maintained a website for all to see, but transported large amounts of marijuana clandestinely.

The motive for the defendants is obviously financial gain, as testified to by defendant Kripner. Mr. Kripner was being paid for his services, including his transportation of drug sale proceeds from California to the Quaintances' compound. As a result of their involvement in a large scale marijuana conspiracy, the defendants have failed to prove their sincerity as to their beliefs, even assuming their philosophy a religion.

CONCLUSION

The defendants proved neither the sincerity of their beliefs nor that those beliefs are tantamount to a religion as envisioned by the 10th Circuit in *Meyers*. Their hidden agenda, now brought to light, is marijuana smuggling for financial gain and the legalization of marijuana. Their "religion", too, is revealed for what it truly is: a hodge podge, schizophrenic jumble of ideas amounting to nothing more than individual philosophies with marijuana use at the core of each.

Respectfully submitted,

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I HEREBY CERTIFY that a true copy
of the foregoing was mailed
to counsel for Defendants, on this ____
day of August, 2006.

LUIS A. MARTINEZ
Assistant U.S. Attorney