U.S. Supreme Court

Welsh v. United States, 398 U.S. 333 (1970)

Welsh v. United States

No. 76

Argued January 20, 1970

Decided June 15, 1970

398 U.S. 333

*CERTIORARI TO THE UNITED STATES COURT OF APPEALS*

*FOR THE NINTH CIRCUIT*

# Syllabus

Petitioner was convicted of refusing to submit to induction into the Armed Forces despite his claim for conscientious objector status under § 6(j) of the Universal Military Training and Service Act. That provision exempts from military service persons who by reason of "religious training and belief" are conscientiously opposed to war in any form, that term being defined in the Act as "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation" but not including "essentially political, sociological, or philosophical views or a merely personal code." In his exemption application, petitioner stated that he could not affirm or deny belief in a "Supreme Being," and struck the words "my religious training and" from the form. He affirmed that he held deep conscientious scruples against participating in wars where people were killed. The Court of Appeals, while noting that petitioner's "beliefs are held with the strength of more traditional religious convictions," concluded that those beliefs were not sufficiently "religious" to meet the terms of § 6(j), and affirmed the conviction. Petitioner contends that the Act violates the First Amendment prohibition of establishment of religion, and that his conviction should be set aside on the basis of *United States v. Seeger,* 380 U. S. 163, which held that the test of religious belief under § 6(j) is whether it is a sincere and meaningful belief occupying in the life of its possessor a place parallel to that filled by the God of those admittedly qualified for the exemption.

*Held:* The judgment is reversed. Pp. 398 U. S. 335-367.

404 F.2d 1078, reversed.

MR. JUSTICE BLACK, joined by MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL, concluded that:

This case is controlled by *United States v. Seeger, supra,* to which it is factually similar. Under *Seeger,* § 6(j) is not limited to those whose opposition to war is prompted by orthodox or parochial religious beliefs. A registrant's conscientious objection to all war is "religious" within the meaning of § 6(j) if this **[p. 334]** opposition stems from the registrant's moral, ethical, or religious beliefs about what is right and wrong and these beliefs are held with the strength of traditional religious convictions. In view of the broad scope of the word "religious," a registrant's characterization of his beliefs as "nonreligious" is not a reliable guide to those administering the exemption. Pp.398 U. S. 335-344.

MR. JUSTICE HARLAN concluded that:

1. The language of § 6(j) cannot be construed (as it was in *United States v. Seeger, supra,* and as it is in the prevailing opinion) to exempt from military service all individuals who in good faith oppose all war, it being clear from both the legislative history and textual analysis of that provision that Congress used the words "by reason of religious training and belief" to limit religion to its theistic sense, and to confine it to formal, organized worship or shared beliefs by a recognizable and cohesive group. Pp. 348-354.

2. The question of the constitutionality of § 6(j) cannot be avoided by a construction of that provision that is contrary to its intended meaning. Pp. 398 U. S. 354-356.

3. Section 6(j) contravenes the Establishment Clause of the First Amendment by exempting those whose conscientious objection claims are founded on a theistic belief, while not exempting those whose claims are based on a secular belief. To comport with that clause, an exemption must be "neutral" and include those whose belief emanates from a purely moral, ethical, or philosophical source. Pp. 398 U. S. 356-361.

4. In view of the broad discretion conferred by the Act's severability clause and the longstanding policy of exempting religious conscientious objectors, the Court, rather than nullifying the exemption entirely, should extend its coverage to those like petitioner who have been unconstitutionally excluded from its coverage. Pp. 398 U. S. 361-367. **[p. 335]**