CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – "Contemplation of Justice"

Church of the Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520 (1993)

Although the practice of animal sacrifice may seem abhorrent to some, ***"religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection."*** *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 450 U. S. 707, 714 (1981). Emphasis added

In our Establishment Clause cases we have often stated the principle that the First Amendment forbids an official purpose to disapprove of a particular religion or of religion in general. See, *e. g., Board of Ed. of Westside Community Schools (Dist.* 66) v. *Mergens*, 496 U. S. 226, 248 (1990) (plurality opinion); *School Dist. of Grand Rapids* v. *Ball*, *473* U. S. 373, 389 (1985); *Wallace* v. *Jaffree*, 472 U. S. 38, 56 (1985); *Epperson* v. *Arkansas*, 393 U. S. 97, 106-107 (1968); *School Dist. of Abington* v. *Schempp*, 374 U. S. 203, 225 (1963); *Everson* v. *Board of Ed. of Ewing*, 330 U. S. 1, 15-16 (1947). The Free Exercise Clause, like the Establishment Clause, extends beyond facial discrimination. The Clause "forbids subtle departures from neutrality," *Gillette* v. *United States*, 401 U. S. 437, 452 (1971), and "covert suppression of particular religious beliefs," *Bowen* v. *Roy*, *supra*, at 703 (opinion of Burger, C. J.).

The Free Exercise Clause protects against governmental hostility which is masked as well as overt.

"The Court must survey meticulously the circumstances of governmental categories to eliminate, as it were, religious gerrymanders." Walz v. *Tax Comm'n of New York City*, 397 U. S. 664, 696 (1970) (Harlan, J., concurring).