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# Free Exercise of Religion

# FREE EXERCISE OF RELIGION

*N.Y. CONST. art. I, § 3:*

*The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind . . . but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.*

*U.S. CONST. amend. I:*

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .*

## SUPREME COURT

## ROCKLAND COUNTY

Rockland Psychiatric Center v. Virginia G.[1]
(decided October 11, 1995)

Respondent, a diagnosed schizophrenic and a patient of petitioner, a psychiatric hospital, refused to take psychotropic medication because of her alleged belief in the Christian Science faith.[2] Petitioner sought a court order to authorize involuntary medication of respondent, who asserted that the Free Exercise Clauses of the New York State[3] and Federal Constitutions[4]

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1. 634 N.Y.S.2d 648 (Sup. Ct. Rockland County 1995).

2. *Id.* at 649.

3. N.Y. CONST. art. I, § 3. This section provides in pertinent part:

> The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind . . . but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

*Id.*

4. U.S. CONST. amend. I. This section provides in pertinent part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ." *Id.* The court noted that under the

protected her right to refuse the medication.[5] The Supreme Court, Rockland County, rejected the constitutional challenge, finding that respondent offered no evidence that her current religious beliefs prohibited the taking of such medication, due to the fact that she had not practiced Christian Science in the past two years.[6]

Respondent, a fifty-five year old woman, suffered from schizophrenia and two physicians certified, in compliance with New York Mental Hygiene Law section 9.27,[7] that she was in need of involuntary care.[8] According to petitioner, she was "incapable of determining the course of her medical treatment and . . . the benefits of proposed medication would outweigh the risks of the same."[9] Although respondent was raised as a Christian Scientist, her adult observance of the religion began only fifteen years ago.[10] About two years ago, after a gradual decline, "she stopped practicing the Christian Science religion completely."[11] In addition, respondent had "never sought any assistance from" other members of her faith for her current condition.[12] Therefore, the lack of evidence of current religious

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Fourteenth Amendment, the Free Exercise Clause of the First Amendment is made applicable to the states. *Rockland Psychiatric Ctr.*, 634 N.Y.S.2d at 649. *See also* JOHN E. NOWAK & RONALD D. ROTUNDA, CONSTITUTIONAL LAW § 11.6, at 397 (5th ed. 1995) (stating that the First Amendment has been incorporated through the Fourteenth Amendment in its entirety).

5. *Rockland Psychiatric Ctr.*, 634 N.Y.S.2d at 649.

6. *Id.* at 650.

7. N.Y. MENTAL HYG. LAW § 9.27 (McKinney 1988). Section 9.27(a) states:

> The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and in need of involuntary care and treatment upon the certificates of two examining physicians, accompanied by an application for the admission of such person. The examination may be conducted jointly but each examining physician shall execute a separate certificate.

*Id.*

8. *Rockland Psychiatric Ctr.*, 634 N.Y.S.2d at 649.

9. *Id.*

10. *Id.* at 650.

11. *Id.*

12. *Id.*

observance on the part of respondent enabled the court to agree with petitioner's contention that she had "failed to prove a valid religious objection to the administration of medication" under the Free Exercise Clauses of the Federal and New York State Constitutions.[13]

When true religious beliefs are demonstrated, objections to involuntary medical treatments have been upheld because the Free Exercise Clause "may be limited only in the face of overriding compelling state interest[s]."[14] An overriding "compelling state interest exists only where the free exercise of one's religion endangers, clearly and presently, the public health, welfare or morals."[15] In *Winters v. Miller*,[16] relied on by the *Rockland Psychiatric Center* court, the Second Circuit held that a plaintiff's First Amendment rights had been violated, finding no evidence "that would indicate that in forcing the unwanted medication on [plaintiff] the state was in any way protecting the interest of society or even any third party."[17] In *Winters*, the plaintiff, a fifty-nine year old female, was involuntarily admitted to Bellevue Hospital in New York City.[18] Over her objections, the hospital gave her "heavy doses of tranquilizers" even though they had clear notice that she was a Christian Scientist for about ten years before she was admitted to Bellevue.[19] In evaluating the evidence of her religious convictions, the *Winters* court noted that

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13. *Id.* at 649.

14. *Id.*

15. *Id.* at 649 (quotation omitted). *See* Prince v. Massachusetts, 321 U.S. 158 (1944) (holding that a state statute protecting the welfare of children by prohibiting them from selling magazines on the streets is not a denial of the Jehovah's Witnesses' freedom of religion); Jacobson v. Massachusetts, 197 U.S. 11 (1905) (holding that an outbreak of smallpox, a public health emergency, allows the state to subject its citizens to involuntary vaccinations in order to prevent the further spread of the disease); Lawson v. Commonwealth, 164 S.W.2d 972 (Ky. 1942) (holding that the state may prohibit the handling of snakes at religious services for public health and safety reasons).

16. 446 F.2d 65 (2d Cir.), *cert. denied*, 404 U.S. 985 (1971).

17. *Id.* at 70.

18. *Id.* at 67.

19. *Id.* at 68.

"there was no contention that the current alleged mental illness in any way altered [her religious] views."[20]

Similarly, in *In re Melideo*,[21] Judge Leon D. Lazer held that "where there is no compelling state interest which justifies overriding an adult patient's decision" to refuse treatment, such treatments "should not be ordered."[22] In this case, respondent, a childless twenty-three year old member of the Jehovah's Witnesses who was fully competent, refused to allow a blood transfusion after "she developed a uterine hemorrhage."[23] However, in allowing respondent to refuse life saving treatment, Judge Lazer reasoned that "every human being of adult years and sound mind has a right to determine what shall be done with his own body."[24] Therefore, when a patient is not mentally competent, life saving treatment may be ordered "even though the medical treatment . . . may be contrary to the patient's religious beliefs."[25]

The *Rockland Psychiatric Center* court, relying on the reasoning of *Winters* and *Melideo*, determined that there was no "compelling state interest" in this case that required involuntary medication.[26] However, unlike *Winters* and *Melideo*, the court found that respondent was not mentally competent, nor capable of determining the course of her treatment.[27] Moreover, the respondent's mental incapacity, coupled with her failure to demonstrate a "sincere religious belief[]",[28] led the court to conclude that granting the court order for involuntary medication

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20. *Id.* at 69. Furthermore, there was no evidence that any court had ever determined that the plaintiff was not mentally competent. *Id.* at 68. Therefore, by examining the reasoning of the Illinois Supreme Court, the Second Circuit, in dicta, suggested that "even if [a patient] was found to be legally incompetent, she nevertheless [is] entitled to refuse treatment because of her religious beliefs." *Id.* at 69.

21. 88 Misc. 2d 974, 930 N.Y.S.2d 523 (Sup. Ct. Suffolk County 1976).

22. *Id.* at 975, 930 N.Y.S.2d at 524 (citations omitted).

23. *Id.* at 974-75, 930 N.Y.S.2d at 523-24.

24. *Id.* at 975, 930 N.Y.S.2d at 524 (citations omitted).

25. *Id.* (citations omitted).

26. *Rockland Psychiatric Ctr.*, 634 N.Y.S.2d at 650.

27. *Id.*

28. *Id.*

was a "narrowly tailored [treatment] . . . serv[ing] the best interests of the respondent."[29]

In conclusion, in order for a patient to successfully challenge involuntary medication with psychotropic drugs under the Free Exercise Clauses of either the Federal or New York State Constitutions, a psychiatric patient, mentally competent and capable of determining the course of his or her own treatment, must demonstrate a "sincere religious belief" through evidence showing that he or she currently practices the religion.[30] In addition, there must be no "overriding compelling state interest" in authorizing the treatment, such as the avoidance of a clear and present danger to the health and welfare of others. Absent such a showing, a court order authorizing an involuntary "narrowly tailored treatment" in the best interests of the patient will be granted.

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29. *Id.* (citing Rivers v. Katz, 67 N.Y.2d 485, 495 N.E.2d 337, 504 N.Y.S.2d 74 (1986)). In *Rivers*, two institutionalized psychiatric patients challenged involuntary medication under the New York State Constitution's Due Process Clause. *Rivers*, 67 N.Y.2d at 491-92, 495 N.E.2d at 339-41, 504 N.Y.S.2d at 76-78. The court held that under the Due Process Clause, the state may not involuntary medicate a patient with psychoactive drugs if the patient is mentally competent. *Id.* at 497, 495 N.E.2d at 344, 504 N.Y.S.2d at 81. However, the state may order involuntarily medication if the patient is adjudged to be mentally incompetent. *Id.* In order to determine the appropriate involuntary treatment if the patient is not mentally competent, "the court must determine whether the proposed treatment is narrowly tailored . . . taking into consideration all relevant circumstances, including the patient's best interests, the benefits gained from the treatment, the adverse side effects associated with the treatment and any less intrusive alternative treatments." *Id.* at 497-98, 495 N.E.2d at 344, 504 N.Y.S.2d at 81.

30. *See* NOWAK & ROTUNDA, *supra* note 4, § 17.9, at 1314 (stating that under the Free Exercise Clause, in the context of life saving procedures, the courts have ordered treatment where the person is mentally incompetent, "but where the person is a mentally competent adult, there is a split among the cases.").