

A high priest belonged to a small religious cult whose sincere beliefs required an annual animal sacrifice. The sacrifice required the priest to dissect the animal while it was still alive, which caused the animal excruciating pain and suffering. During one such sacrifice, the priest was arrested. He was charged and convicted under a state statute prohibiting animal cruelty. The priest appealed his conviction.

Will the appellate court likely overturn the priest's conviction?

- A. No, because the First Amendment does not protect animal sacrifices.
- B. No, because the state statute is rationally related to the state's legitimate interest in protecting animals.
- C. Yes, because the state statute directly burdened the priest's sincerely held religious belief in animal sacrifice.
- D. Yes, because the state statute is not necessary to achieve the state's compelling interest in protecting animals.

Explanation:

First Amendment free exercise of religion

Burden	Applicability	Level of scrutiny
Incidental	Generally applicable to all persons	Rational basis scrutiny: <ul style="list-style-type: none">• burden rationally related to• legitimate government interest
Direct	Intentionally targets religious belief/practice	Strict scrutiny: <ul style="list-style-type: none">• burden necessary to achieve• compelling government interest

The First Amendment **free exercise clause**, applicable to the states through the Fourteenth Amendment, **prohibits government interference** with or discrimination against **sincere religious beliefs** or conduct. As a result, criminal prosecution under a statute that burdens a defendant's religion can be challenged on these constitutional grounds. However, the defendant's likelihood of success depends on whether that burden is:

- **direct** – the law **intentionally targets religion** and is usually **unconstitutional** under **strict scrutiny** *or*
- **incidental** – the law **generally applies** to all and is usually **constitutional** under **rational basis scrutiny**.

Here, the priest's sincere religious practice of animal sacrifice was burdened when he was convicted under the state's animal-cruelty statute. Since this statute applies equally to all—regardless of their religion—that burden is merely *incidental* **(Choice C)**. And that burden is constitutional since the statute is rationally related to a legitimate state interest in protecting animals **(Choice D)**. As a result, the priest's sincere religious belief does not excuse him from prosecution under this valid statute, and his conviction will likely be sustained by the appellate court.

(Choice A) The free exercise clause applies to all religious practices—even those that are nontraditional or unpopular (eg, animal sacrifices). So had the state statute directly burdened the priest's religious beliefs and/or practices, it likely would be unconstitutional under strict scrutiny. But since it only incidentally burdens this practice, it is likely constitutional under rational basis scrutiny.

Educational objective:

The First Amendment protects the right to freely exercise a sincerely held religious belief, but it does not excuse persons from complying with an otherwise valid law. As a result, persons can be convicted of violating a law that *incidentally* burdens religion so long as the law is rationally related to a legitimate government interest.

References

- Emp't Div. v. Smith, 494 U.S. 872, 878–80 (1990) (upholding a generally applicable law that prohibits the use of peyote even though that law incidentally burdens Native American religious ceremonies).

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