

Members of a religious group believe in Lucifer as their Supreme Being. The members of this group meet once a year on top of a mountain, located in a national park, to hold an overnight encampment and a midnight dance around a large campfire. They believe that this overnight encampment and ritual are required by Lucifer to be held on the top of that mountain. U.S. National Park Service rules that have been consistently enforced prohibit all overnight camping and all campfires on the mountain because of the very great dangers overnight camping and campfires would pose in that particular location. As a result, the park superintendent denied a request by the religious group for a permit to conduct these activities on top of the mountain. The park superintendent, who was known to be violently opposed to cults and other unconventional groups, had previously issued permits to conventional religious groups to conduct sunrise services in other areas of that national park.

The religious group brought suit in federal court against the U.S. National Park Service and the superintendent of the park to compel issuance of the requested permit.

As a matter of constitutional law, was the denial of the permit valid?

- A. No, because the free exercise clause of the First Amendment prohibits the Park Service from knowingly interfering with religious conduct.
- B. No, because these facts demonstrate that the action of the Park Service purposefully and invidiously discriminated against the religious group.
- C. Yes, because religiously motivated conduct may be subjected to nondiscriminatory time, place, and manner restrictions that advance important public interests.
- D. Yes, because the establishment clause of the First Amendment prohibits the holding of religious ceremonies on federal land.

### Explanation:

The permit denial restricts the religious group's **right to free expression** by preventing its religiously motivated conduct. However, the permit was denied because of a **content-neutral** (ie, nondiscriminatory) rule prohibiting *all* overnight camping and campfires on the mountain—not because of the content of the group's religious conduct. As a result, this time, place, or manner restriction is valid under **intermediate scrutiny** if it:

- is **narrowly tailored** (ie, no greater than necessary) to serve a substantial or **important government interest** *and*
- leaves open ample **alternative channels of communication**.

The park has an important interest in avoiding the "very great dangers" posed by overnight camping and campfires. And the park rule is narrowly tailored to that interest since (1) park safety would be compromised by allowing the prohibited activities and (2) there is no evidence that the group's conduct poses no such safety threat. The rule also provides alternative channels of communication since the group can conduct religious rituals at other times and places. Therefore, this speech restriction is valid.

The permit denial also interferes with the group's right to free exercise of religion, which largely prohibits **intentional** government interference with religion (**Choice A**). But an *incidental* interference is permissible if it is rationally related to a legitimate government interest. Here, the permit was denied under a generally applicable park rule (not the superintendent's beliefs), so the religious interference was *incidental*. And since the rule is rationally related to a legitimate interest in park safety, the permit denial complied with this right (**Choice B**).

**(Choice D)** The establishment clause prohibits the government from favoring a particular religion or religion generally. Therefore, religious ceremonies on federal land are permissible so long as the government remains neutral toward religion.

### Educational objective:

First Amendment free speech protections extend to religious conduct. But the government can impose content-neutral restrictions on such conduct so long as they (1) are narrowly tailored to serve an important government interest and (2) leave open ample alternative channels of communication.

### References

- Clark v. Cmty. for Creative Non-Violence, 468 U.S. 288, 298–99 (1984) (holding that the denial of a camping permit for a demonstration is a constitutional time, place, and manner restriction on speech).

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