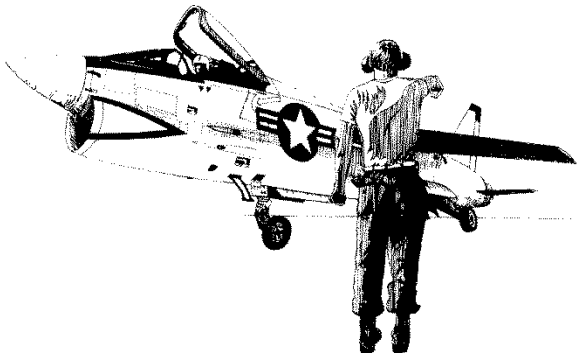

UNITED STATES v. SEEGER
SUPREME COURT OF THE UNITED STATES
380 U.S. 163
March 8, 1965
[9 - 0]

OPINION: CLARK...These cases involve claims of conscientious objectors under § 6(j) of the Universal Military Training and Service Act which exempts from combatant training and service in the armed forces of the United States **those persons who by reason of their religious training and belief are conscientiously opposed to participation in war <u>in any form</u>.** The cases were consolidated for argument and we consider them together although each involves different facts and circumstances. The parties raise the basic question of the constitutionality of the section which defines the term 'religious training and belief,' as used in the Act, as 'an individual's 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 moral code.' The constitutional attack is launched under the First Amendment's Establishment and Free Exercise Clauses and is twofold: (1) The section does not exempt nonreligious conscientious objectors; and (2) it discriminates between different forms of religious expression in violation of the Due Process Clause of the Fifth Amendment. Jakobson (No. 51) and Peter (No. 29) also claim that their beliefs come within the meaning of the section. Jakobson claims that he meets the standards of § 6(j) because his opposition to war is based on belief in a Supreme Reality and is therefore an obligation superior to one resulting from man's relationship to his fellow man. Peter contends that his opposition to war derives from his acceptance of the existence of a universal power beyond that of man and that this acceptance in fact constitutes belief in a Supreme Being, qualifying him for exemption. We granted certiorari...

We have concluded that Congress, in using the expression 'Supreme Being' rather than the designation 'God,' was merely clarifying the meaning of religious training and belief so as to embrace all religions and to exclude essentially political, sociological, or philosophical views. We believe that under this construction, the test of belief 'in a relation to a Supreme Being' is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption. Where such beliefs have parallel positions in the lives of their respective holders we cannot say that one is 'in a relation to a Supreme Being' and the other is not. We have concluded that the beliefs of the objectors in these cases meet these criteria, and, accordingly, we affirm the judgments in Nos. 50 and 51 and reverse the judgment in No. 29.

Although these three cases come to the Supreme Court in various settings, in the end, the individuals all win their conscientious objector status.

THE FACTS IN THE CASES.

No. 50: Seeger was convicted in the District Court for the Southern District of New York of having refused to submit to induction in the armed forces. He was originally classified 1A in 1953 by his local board, but this classification was changed in 1955 to 2S (student) and he remained in this status until 1958 when he was reclassified 1A. He first claimed exemption as a conscientious objector in 1957 after successive annual renewals of his student classification. Although he did not adopt verbatim the printed Selective Service System form, he declared that he was conscientiously opposed to participation in war in any form by reason of his 'religious' belief; that he preferred to leave the question as to his belief in a Supreme Being open, 'rather than answer ‘yes’ or ‘no’; that his 'skepticism or disbelief in the existence of God' did 'not necessarily mean lack of faith in anything whatsoever'; that his was a 'belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed.' He cited such personages as Plato, Aristotle and Spinoza for support of his ethical belief in intellectual and moral integrity 'without belief in God, except in the remotest sense.' His belief was found to be sincere, honest, and made in good faith; and his conscientious objection to be based upon individual training and belief, both of which included research in religious and cultural fields. **Seeger's claim, however, was denied solely because it was not based upon a 'belief in a relation to a Supreme Being'** as required by § 6(j) of the Act. At trial Seeger's counsel admitted that Seeger's belief was not in relation to a Supreme Being as commonly understood, but contended that he was entitled to the exemption because 'under the present law Mr. Seeger's position would also include definitions of religion which have been stated more recently' and could be 'accommodated' under the definition of religious training and belief in the Act. He was convicted and **the Court of Appeals reversed, holding that the Supreme Being requirement of the section distinguished 'between internally derived and externally compelled beliefs' and was, therefore, an 'impermissible classification' under the Due Process Clause of the Fifth Amendment.**

No. 51: Jakobson was also convicted in the Southern District of New York on a charge of refusing to submit to induction. On his appeal the Court of Appeals reversed on the ground that rejection of his claim may have rested on the factual finding, erroneously made, that he did not believe in a Supreme Being as required by § 6(j).

Jakobson was originally classified 1A in 1953 and intermittently enjoyed a student classification until 1956. It was not until April 1958 that he made claim to noncombatant classification (1AO) as a conscientious objector. He stated on the Selective Service System form that he believed in a 'Supreme Being' who was 'Creator of Man' in the sense of being 'ultimately responsible for the existence of' man and who was 'the Supreme Reality' of which 'the existence of man is the result.' He explained that his religious and social thinking had developed after much meditation and thought. He had concluded that man must be 'partly spiritual' and, therefore, 'partly akin to the Supreme Reality'; and that his 'most important religious law' was that 'no man ought ever to wilfully sacrifice another man's life as a means to any other end....' In December 1958 he requested a 1O classification since he felt that participation in any form of military service would

involve him in 'too many situations and relationships that would be a strain on his conscience that he felt he must avoid.' He submitted a long memorandum of 'notes on religion' in which he defined religion as the 'sum and essence of one's basic attitudes to the fundamental problems of human existence; he said that he believed in 'Godness' which was 'the Ultimate Cause for the fact of the Being of the Universe'; that to deny its existence would but deny the existence of the universe because 'anything that Is, has an Ultimate Cause for its Being.' There was a relationship to Godness, he stated, in two directions, i.e., 'vertically, towards Godness directly,' and 'horizontally, towards Godness through Mankind and the World.' He accepted the latter one. The Board classified him 1AO and Jakobson appealed. **The hearing officer found that the claim was based upon a personal moral code and that he was not sincere in his claim.** The Appeal Board classified him 1A. It did not indicate upon what ground it based its decision, i.e., insincerity or a conclusion that his belief was only a personal moral code. **The Court of Appeals reversed**, finding that his claim came within the requirements of § 6(j). Because it could not determine whether the Appeal Board had found that Jakobson's beliefs failed to come within the statutory definition, or whether it had concluded that he lacked sincerity, it directed dismissal of the indictment.

No. 29: Forest Britt Peter was convicted in the Northern District of California on a charge of refusing to submit to induction. In his Selective Service System form he stated that he was not a member of a religious sect or organization; he failed to execute section VII of the questionnaire but attached to it a quotation expressing opposition to war, in which he stated that he concurred. In a later form he hedged the question as to his belief in a Supreme Being by saying that it depended on the definition and he appended a statement that he felt it a violation of his moral code to take human life and that he considered this belief superior to his obligation to the state. As to whether his conviction was religious, he quoted with approval Reverend John Haynes Holmes' definition of religion as 'the consciousness of some power manifest in nature which helps man in the ordering of his life in harmony with its demands...; it is the supreme expression of human nature; it is man thinking his highest, feeling his deepest, and living his best.' The source of his conviction he attributed to reading and meditation 'in our democratic American culture, with its values derived from the western religious and philosophical tradition.' As to his belief in a Supreme Being, Peter stated that he supposed 'you could call that a belief in the Supreme Being or God. These just do not happen to be the words I use.' In 1959 he was classified 1A, although there was no evidence in the record that he was not sincere in his beliefs. **After his conviction for failure to report for induction the Court of Appeals, assuming arguendo that he was sincere, affirmed.**

BACKGROUND OF § 6(j).

Chief Justice Hughes, in his opinion in United States v. Macintosh[1], enunciated the rationale behind the long recognition of conscientious objection to participation in war accorded by Congress in our various conscription laws when he declared that

[1] Case 1A-R-008 on this website.

'in the forum of conscience, duty to a moral power higher than the state has always been maintained.' **In a similar vein Harlan Fiske Stone, later Chief Justice, drew from the Nation's past when he declared that 'both morals and sound policy require that the state should not violate the conscience of the individual. All our history gives confirmation to the view that liberty of conscience has a moral and social value which makes it worthy of preservation at the hands of the state. So deep in its significance and vital, indeed, is it to the integrity of man's moral and spiritual nature that nothing short of the self-preservation of the state should warrant its violation; and it may well be questioned whether the state which preserves its life by a settled policy of violation of the conscience of the individual will not in fact ultimately lose it by the process.'**

Governmental recognition of the moral dilemma posed for persons of certain religious faiths by the call to arms came early in the history of this country. Various methods of ameliorating their difficulty were adopted by the Colonies, and were later perpetuated in state statutes and constitutions. **Thus by the time of the Civil War there existed a state pattern of exempting conscientious objectors on religious grounds.** In the Federal Militia Act of 1862 control of conscription was left primarily in the States. However, General Order No. 99, issued by the Adjutant General pursuant to that Act, provided for striking from the conscription list those who were exempted by the States; it also established a commutation or substitution system fashioned from earlier state enactments. With the Federal Conscription Act of 1863, which enacted the commutation and substitution provisions of General Order No. 99, the Federal Government occupied the field entirely and in the 1864 Draft Act it extended exemptions to those conscientious objectors who were members of religious denominations opposed to the bearing of arms and who were prohibited from doing so by the articles of faith of their denominations. In that same year the Confederacy exempted certain pacifist sects from military duty.

The need for conscription did not again arise until World War I. The Draft Act of 1917 afforded exemptions to conscientious objectors who were affiliated with a 'well-recognized religious sect or organization then organized and existing and whose existing creed or principles forbade its members to participate in war in any form...' The Act required that all persons be inducted into the armed services, but allowed the conscientious objectors to perform noncombatant service in capacities designated by the President of the United States. Although the 1917 Act excused religious objectors only, in December 1917, the Secretary of War instructed that 'personal scruples against war' be considered as constituting 'conscientious objection.' This Act, including its conscientious objector provisions, was upheld against constitutional attack in the Selective Draft Law Cases.

In adopting the 1940 Selective Training and Service Act Congress broadened the exemption afforded in the 1917 Act by making it unnecessary to belong to a pacifist religious sect if the claimant's own opposition to war was based on 'religious training and belief.' Those found to be within the exemption were not inducted into the armed services but were assigned to noncombatant service under the supervision of the Selective Service System. The Congress recognized that one might be religious without belonging to an organized church just as surely as minority members of a faith not opposed to war might through religious reading reach a conviction against participation in war. **Indeed, the consensus of the witnesses appearing before the congressional committees was that individual belief—rather than membership in a church or sect—determined the duties that God imposed upon a person in his everyday**

conduct; and that 'there is a higher loyalty than loyalty to this country, loyalty to God.' Thus, while shifting the test from membership in such a church to one's individual belief the Congress nevertheless continued its historic practice of excusing from armed service those who believed that they owed an obligation, superior to that due the state, of not participating in war in any form.

Between 1940 and 1948 two courts of appeals held that the phrase 'religious training and belief' did not include philosophical, social or political policy. Then in 1948 the Congress amended the language of the statute and declared that 'religious training and belief' was to be defined as 'an individual's 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 moral code.' The only significant mention of this change in the provision appears in the report of the Senate Armed Services Committee recommending adoption. It said simply this: 'This section reenacts substantially the same provisions as were found in subsection 5(g) of the 1940 act. Exemption extends to anyone who, because of religious training and belief in his relation to a Supreme Being, is conscientiously opposed to combatant military service or to both combatant and non-combatant military service.

INTERPRETATION OF § 6(j).

1. **The crux of the problem lies in the phrase 'religious training and belief' which Congress has defined as 'belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.' In assigning meaning to this statutory language we may narrow the inquiry by noting briefly those scruples expressly excepted from the definition. The section excludes those persons who, disavowing religious belief, decide on the basis of essentially political, sociological or economic considerations that war is wrong and that they will have no part of it.** These judgments have historically been reserved for the Government, and in matters which can be said to fall within these areas the conviction of the individual has never been permitted to override that of the state. The statute further excludes those whose opposition to war stems from a 'merely personal moral code,' a phrase to which we shall have occasion to turn later in discussing the application of § 6(j) to these cases. We also pause to take note of what is not involved in this litigation. No party claims to be an atheist or attacks the statute on this ground. The question is not, therefore, one between theistic and atheistic beliefs. We do not deal with or intimate any decision on that situation in these cases. Nor do the parties claim the monotheistic belief that there is but one God; what they claim (with the possible exception of Seeger who bases his position here not on factual but on purely constitutional grounds) is that they adhere to theism, which is the 'Belief in the existence of a god or gods;...Belief in superhuman powers or spiritual agencies in one or many gods,' as opposed to atheism. Our question, therefore, is the narrow one: **Does the term 'Supreme Being' as used in § 6(j) mean the orthodox God or the broader concept of a power or being, or a faith, 'to which all else is subordinate or upon which all else is ultimately dependent'? In considering this question we resolve it solely in relation to the language of § 6(j) and not otherwise.**

2. Few would quarrel, we think, with the proposition that in no field of human endeavor has the tool of language proved so inadequate in the communication of ideas as it has in dealing with the fundamental questions of man's predicament in life, in death or in final judgment and retribution. This fact makes the task of discerning the intent of Congress in using the phrase 'Supreme Being'

a complex one. Nor is it made the easier by the richness and variety of spiritual life in our country. Over 250 sects inhabit our land...This vast panoply of beliefs reveals the magnitude of the problem which faced the Congress when it set about providing an exemption from armed service. It also emphasizes the care that Congress realized was necessary in the fashioning of an exemption which would be in keeping with its long-established policy of not picking and choosing among religious beliefs.

In spite of the elusive nature of the inquiry, we are not without certain guidelines. In amending the 1940 Act, Congress adopted almost intact the language of Chief Justice Hughes in United States v. Macintosh:

> 'The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation.'

By comparing the statutory definition with those words, however, it becomes readily apparent that the Congress deliberately broadened them by substituting the phrase 'Supreme Being' for the appellation 'God.' And in so doing it is also significant that Congress did not elaborate on the form or nature of this higher authority which it chose to designate as 'Supreme Being.' By so refraining it must have had in mind the admonitions of the Chief Justice when he said in the same opinion that even the word 'God' had myriad meanings for men of faith:

> 'Putting aside dogmas with their particular conceptions of deity, freedom of conscience itself implies respect for an innate conviction of paramount duty. The battle for religious liberty has been fought and won with respect to religious beliefs and practices, which are not in conflict with good order, upon the very ground of the supremacy of conscience within its proper field.'

Moreover, the Senate Report on the bill specifically states that § 6(j) was intended to re-enact 'substantially the same provisions as were found' in the 1940 Act. That statute, of course, refers to 'religious training and belief' without more. Admittedly, all of the parties here purport to base their objection on religious belief. It appears, therefore, that we need only look to this clear statement of congressional intent as set out in the report. **Under the 1940 Act it was necessary only to have a conviction based upon religious training and belief; we believe that is all that is required here. Within that phrase would come all sincere religious beliefs which are based upon a power or being, or upon a faith, to which all else is subordinate or upon which all else is ultimately dependent. The test might be stated in these words: A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition. This construction avoids imputing to Congress an intent to classify different religious beliefs, exempting some and excluding others, and is in accord with the well-established congressional policy of equal treatment for those whose opposition to service is grounded in their religious tenets...**

We conclude that...Section 6(j), then, is no more than a clarification of the 1940 provision involving only certain 'technical amendments,' to use the words of Senator Gurney. As such it continues the congressional policy of providing exemption from military service for those whose opposition is based on grounds that can fairly be said to be 'religious.' To hold otherwise would

not only fly in the face of Congress' entire action in the past; it would ignore the historic position of our country on this issue since its founding...

4. Moreover, we believe this construction embraces the ever-broadening understanding of the modern religious community...

5. **We recognize the difficulties that have always faced the trier of fact in these cases. We hope that the test that we lay down proves less onerous. The examiner is furnished a standard that permits consideration of criteria with which he has had considerable experience. While the applicant's words may differ, the test is simple of application. It is essentially an objective one, namely, does the claimed belief occupy the same place in the life of the objector as an orthodox belief in God holds in the life of one clearly qualified for exemption?**

...The validity of what he believes cannot be questioned. Some theologians, and indeed some examiners, might be tempted to question the existence of the registrant's 'Supreme Being' or the truth of his concepts. But these are inquiries foreclosed to Government. As Mr. Justice Douglas stated in United States v. Ballard[2]: 'Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others.' Local boards and courts in this sense are not free to reject beliefs because they consider them 'incomprehensible.' Their task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are, in his own scheme of things, religious.

But we hasten to emphasize that while the 'truth' of a belief is not open to question, there remains the significant question whether it is 'truly held.' This is the threshold question of sincerity which must be resolved in every case...

APPLICATION OF § 6(j) TO THE INSTANT CASES.

As we noted earlier, the statutory definition excepts those registrants whose beliefs are based on a 'merely personal moral code.' The records in these cases, however, show that at no time did any one of the applicants suggest that his objection was based on a 'merely personal moral code.' Indeed at the outset each of them claimed in his application that his objection was based on a religious belief. We have construed the statutory definition broadly and it follows that any exception to it must be interpreted narrowly. The use by Congress of the words 'merely personal' seems to us to restrict the exception to a moral code which is not only personal but which is the sole basis for the registrant's belief and is in no way related to a Supreme Being. It follows, therefore, that if the claimed religious beliefs of the respective registrants in these cases meet the test that we lay down then their objections cannot be based on a 'merely personal' moral code...

In summary, Seeger (No. 50) professed 'religious belief' and 'religious faith.' He did not disavow any belief 'in a relation to a Supreme Being'; indeed he stated that 'the cosmic order does, perhaps, suggest a creative intelligence.' He decried the tremendous 'spiritual' price man must

[2] Case 1A-R-021 on this website.

pay for his willingness to destroy human life. In light of his beliefs and the unquestioned sincerity with which he held them, we think the Board, had it applied the test we propose today, would have granted him the exemption. We think it clear that the beliefs which prompted his objection occupy the same place in his life as the belief in a traditional deity holds in the lives of his friends, the Quakers...

It may be that Seeger did not clearly demonstrate what his beliefs were with regard to the usual understanding of the term 'Supreme Being.' But as we have said Congress did not intend that to be the test. We therefore affirm the judgment in No. 50.

In Jakobson, No. 51, the Court of Appeals found that the registrant demonstrated that his belief as to opposition to war was related to a Supreme Being. We agree and affirm that judgment.

We reach a like conclusion in No. 29. It will be remembered that Peter acknowledged 'some power manifest in nature...the supreme expression' that helps man in ordering his life. As to whether he would call that belief in a Supreme Being, he replied, 'you could call that a belief in the Supreme Being or God. These just do not happen to be the words I use.' We think that under the test we establish here the Board would grant the exemption to Peter and we therefore reverse the judgment in No. 29. It is so ordered.

Judgment in Nos. 50 and 51 affirmed; judgment in No. 29 reversed.

CONCURRENCE: DOUGLAS...If I read the statute differently from the Court, I would have difficulties. For then those who embraced one religious faith rather than another would be subject to penalties; and that kind of discrimination, as we held in Sherbert v. Verner[3], would violate the Free Exercise Clause of the First Amendment. It would also result in a denial of equal protection by preferring some religions over others—an invidious discrimination that would run afoul of the Due Process Clause of the Fifth Amendment...

When the Congress spoke in the vague general terms of a Supreme Being I cannot, therefore, assume that it was so parochial as to use the words in the narrow sense urged on us. I would attribute tolerance and sophistication to the Congress, commensurate with the religious complexion of our communities. In sum, I agree with the Court that any person opposed to war on the basis of a sincere belief, which in his life fills the same place as a belief in God fills in the life of an orthodox religionist, is entitled to exemption under the statute. None comes to us an avowedly irreligious person or as an atheist; one, as a sincere believer in 'goodness and virtue for their own sakes.' His questions and doubts on theological issues, and his wonder, are no more alien to the statutory standard than are the awe-inspired questions of a devout Buddhist.

[3] Case 1A-R-035 on this website.