

# Supreme Court Issues Rare Unanimous Opinion in Religious Freedom Case

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At the close of the Supreme Court's last term, a review of its decisions generated buzz about [the number of unanimous opinions](#) issued by a Court comprised of Justices with notably diverse judicial philosophies. Despite the broad agreement in a number of cases, the Court nonetheless was closely divided on many of the controversial political issues it faced, including [religious freedom](#). Six months later, the Court announced a unanimous decision in a religious freedom case, finding that a prisoner's statutory free exercise rights had been violated by Arkansas Department of Corrections (ADOC) grooming policy. In [Holt v. Hobbs](#), the Court held that the policy banning prisoners from growing beards unless they have a diagnosed skin condition violated the federal [Religious Land Use and Institutionalized Persons Act](#) (RLUIPA) and specifically infringed upon the right of a prisoner to grow a beard in accordance with his Muslim faith. Although the unanimity of the Court may have been surprising, the Court's decision reflects a number of previous religious freedom decisions which may suggest that the outcome was fairly predictable upon closer review.

ADOC argued that the policy was justified to prevent the flow of contraband, suggesting that even a half-inch beard may be used to conceal prohibited items in the prison. The lower courts expressed significant skepticism of the likelihood of a prisoner successfully hiding contraband in a short beard, but nonetheless deferred to the prison officials and noted that other avenues to exercise religion remained available to prison inmates. Emphasizing the broad protections for religious exercise under RLUIPA, the Supreme Court reversed the lower courts, citing errors in interpretation of the statute and Supreme Court precedent.

*Holt* appears to reinforce the breadth of federal statutory religious freedom rights generally, following the Court's landmark decision in [Burwell v. Hobby Lobby Stores](#) last summer, in which the Court clarified the scope of the [Religious Freedom Restoration Act](#) (RFRA) to protect closely-held, for-profit corporations. The Court emphasized that the statutory rights afforded by Congress under RFRA and RLUIPA augmented the protections available for religious exercise. Both prohibit the government from imposing a "substantial burden" on an individual's exercise of religion, rather than requiring only the provision of some means of practicing religion.

Furthermore, the Court criticized lower courts' assessment of the burden placed by the policy and the interpretation of the prisoner's religious beliefs. [At least since 1981](#), the Court has explained that an individual's religious beliefs are subject to a subjective standard – based solely on that individual's understanding and practice – and need not conform to a uniform set of beliefs held by any particular organized religious sect. As such, reliance on the argument that not all Muslims believe that beards are religiously required was improper.

Criticizing the deference given to the ADOC by each of the lower courts, the Court reaffirmed the government's obligation under the religious exercise statutes to demonstrate that denying a requested religious exemption be the least restrictive means to achieve a compelling interest. Previously, the Court has been reluctant to uphold the government's denial of a religious exemption in cases in which the particular regulatory scheme at issue already includes other similar exemptions offered for non-religious purposes. In *Holt*, the ADOC's policy already included an exemption for individuals with medically diagnosed skin conditions, but was being asserted to preclude an exemption based on religion. To provide some exemptions but deny exemptions based on religious objections has raised questions for the Court in the context of challenges related to exemptions [from the Controlled Substances Act](#) as well as [from the contraceptive coverage requirement of the Affordable Care Act](#). Notably, the Court's approach in *Holt* is consistent with [its longstanding interpretation](#) of the constitutional requirement to not show preference between religion and nonreligion.

As the first case considering the scope of statutory religious freedom protections since *Hobby Lobby*, the Court's decision in *Holt* has been examined closely to identify the implications of that landmark decision. Accordingly, Justice Ginsburg, who authored a highly critical dissent of the accommodation provided to closely-held for-profit corporations in *Hobby Lobby*, wrote a concurring opinion to distinguish the accommodation required under *Holt*. Her strong objection to the *Hobby Lobby* protection of closely-held corporations' religious rights was rooted in the idea that such protection came at significant cost to "third parties who do not share the corporation owners' religious faith." Unlike the accommodation of corporation owners, the accommodation for a prisoner's beard should be recognized, according to Justice Ginsburg, because it "would not detrimentally affect others who do not share [his] belief."