



## Supreme Court of the United States

### Jerry Brown v. Jason Owens

By Christopher Ballesteros

#### Case Summary

The case *Brown v. Owens* begins with the 2004 establishment of the California Promise Scholarship Program. The scholarship provides tuition, room, and board at select colleges for exemplary students, provided that the individuals show financial need and agree to one additional condition. This second requirement is the basis of the lawsuit – the Promise Scholarship did not allow students to study at a religious institution or declare theology as their academic major. Jason Owens, a high achieving student eligible for the Promise Scholarship, hoped to study theology with the aid of California’s funds, but was barred from pursuing his chosen major. Owens is now bringing a lawsuit against the state of California, arguing that the Promise Scholarship Program violates the Free Exercise of the First Amendment.

#### The First Amendment to the Constitution

##### *Background*

The First Amendment is possibly the best known and broadest of the twenty-seven amendments to the United States Constitution. Included as one of the ten original amendments to the Constitution, known as the Bill of Rights, the First Amendment covers a lot of ground, including the rights to assembly and freedom of expression. For the purposes of this case, however, the portion of the First Amendment that deals with freedom of religion is most important. The First Amendment arose largely as a result of the historical background of the American colonies, which were built by a variety of groups seeking, among other things, religious freedom. In the aftermath of the American Revolution, which was, of course, fought against the religiously homogeneous British Empire, the so-called “separation of church and state” was enforced quite strictly. The First Amendment has two clauses dealing with religion – the establishment clause and the free exercise clause. In *Brown v. Owens*, you will be arguing a case that will require you to understand both of these clauses and their potential conflicts with each other. However, you will not be arguing the First Amendment directly; the Supreme Court has dealt with the issue of religious freedom and the separation of church and state in several previous cases which will serve as precedents.

#### Reynolds v. United States

##### *Background*

In 1878, the Supreme Court first confronted the conflict between the rule of law and religious duties. George Reynolds, a member of the Church of Jesus Christ of Latter-day Saints, sued that his prosecution under the Utah Territory’s anti-bigamy laws was unconstitutional. Reynolds actually challenged his conviction on six different fronts, claiming among other things that the entire United States legal system was illegitimate, and the testimony of certain jurors was improperly used during the adjudication of the case. Most importantly for this case,

however, was Reynolds' claim that his Mormon religion obligated him to take more than one spouse. Therefore, Reynolds argued, the Constitution's First Amendment protected his right to bigamy and invalidated the relevant Utah statute.

### *Opinion of the Court*

The opinion of the court was delivered by Chief Justice Morrison Waite, joined with seven other justices. (One justice, Stephen Johnson Field, delivered a concurring opinion, but it only differed regarding the admissibility of certain evidence.) The entire court agreed upon an important precedent for future cases – religious duties cannot be used to escape legal obligations. In other words, claiming that an illegal act is a part of one's religious convictions is not sufficient to release one from criminal prosecution. The Supreme Court realized that setting such a precedent would allow any lawbreaker to evade legal responsibility for virtually any crime.

## **Wisconsin v. Yoder**

### *Background*

In 1971, the Supreme Court agreed to hear the case of three Amish families who claimed that a Wisconsin statute requiring all students to attend at least two years of high school violated their religious beliefs. After graduating from eighth grade, three Amish students stopped attending high school at the behest of their parents and in violation of the Wisconsin Compulsory School Attendance Law. The three students' families were fined five dollars in the Green County Court, and subsequently appealed their convictions all the way to the Supreme Court on the grounds that their Amish faith precluded them from attending high school.

### *Opinion of the Court*

The majority opinion was delivered by Chief Justice Warren Burger, joined by five other justices (Neither Justice Powell nor Justice Rehnquist considered or decided the case). The Supreme Court decided that the Wisconsin statute was in conflict with the Free Exercise Clause, as it denied parents the right to direct the religious rearing of their children. In part, the Court decided that Amish children could not be compelled to attend secondary school because some lessons taught in public schools violated fundamental tenets of the Amish faith. The Court realized that forcing Amish families to send their children to public schools would fundamentally conflict with the Amish faith and restrict its free exercise. Therefore, the unanimous decision ruled that the government of Wisconsin was required to present a compelling state interest which outweighed the Amish interest in perpetuating their religious beliefs. The Court held that, in this case, Wisconsin's proffered compelling interest – the desire to have educated individuals – did not reach the required standard.

### *Dissenting Opinion*

While the fundamental holding of the court was unanimous, Justice William O. Douglas wrote a partial dissent arguing that the Court had not considered all of the relevant interests. Specifically, Douglas believed that the majority was incomplete in its deliberations, since it had only weighed the interests of the state against those of the parents. Douglas held that the opinions and desires of the children involved should have also factored into the decision.