

**Handout 4**  
*Analyzing the RFRA Test*

**The Law**

**I. The First Amendment of the U.S. Constitution:** “Congress shall make no law **respecting an establishment of religion, or prohibiting the free exercise thereof**, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

**II. The Religious Freedom Restoration Act (RFRA):**

Congress passed the Religious Freedom Restoration Act (RFRA) to apply protections to individuals practicing their religions.

**(a) In general**

Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

**(b) Exception**

Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

**(c) Judicial relief**

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. [ . . . ]

**Applying the Law in *Holt v. Hobbs***

**Facts:** The Supreme Court in *Holt v. Hobbs* used the same test to analyze whether a prohibition on the growing of a beard in an Arkansas prison violated a Muslim inmate’s right to freedom of religion under the Religious Land Use and Institutionalized Persons Act (RLUIPA), which operates in the same way as RFRA, except in the prison context.

Petitioner Gregory Holt was an inmate of the Arkansas Department of Corrections and was also a devout Muslim. He wished to grow a 1/2-inch beard in accordance with his religious beliefs. But the Arkansas Department of Corrections had a grooming policy which prohibited inmates from growing beards. The policy made no exceptions for inmates who object on religious grounds, but contained an exemption for prisoners with medical needs; those prisoners with a diagnosed skin problem could wear facial hair up to 1/4-inch long. The District Court ruled in favor of the Director of the Department of Corrections, and the Court of Appeals affirmed. The Supreme Court granted certiorari and accepted the petitioner’s request to hear the case.

**The Test:** The Court analyzed whether prohibiting the petitioner from growing a beard was unlawful by looking to the RFRA test. The Court must determine the following:

## Unit 6: Lesson 2

### Religious Freedom

- 1) Does the government policy “substantially burden” the individual’s freedom to exercise his religion?
  - a) If the Court answers “no,” then the individual’s freedom to exercise his religion is *not* violated.
  - b) If the Court answers “yes,” then the individual’s freedom to exercise his religion might be violated, and the Court must proceed to answer whether:
- 2) The government has a compelling governmental interest; and
- 3) The government’s policy is the least restrictive means to further that compelling government interest.

Applying these factors, the Supreme Court held that the government’s policy (1) “substantially burdened” Mr. Holt’s freedom to exercise his religion. While the Court also recognized that (2) the government had a compelling governmental interest to restrict the growing of beards, (3) it also determined that the government’s policy was *not* the least restrictive means to further that compelling interest.

### How Courts Apply the RFRA Test

