No. 07-607

In The Supreme Court of the United States

AGUSTÍN AGUAYO,

Petitioner,

v.

PETE GEREN, Secretary, Department of the Army,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMICUS BRIEF BY THE CENTER ON CONSCIENCE & WAR

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QUESTIONS PRESENTED

I. The opinion of the lower court in denying a conscientious objection claim on the basis that the applicant's beliefs were not developed through "study or contemplation" violates the First Amendment's Establishment Clause and conflicts with the decisions of other Circuits.

II. RFRA requires accommodation of religious objections even in the military context, and Congress has thus mandated a doctrine-neutral religious CO exemption to military service by RFRA on its face. This exemption would be one without any of the restrictions that have been written in to the regulations such as to selective objection.

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INTEREST OF THE CENTER ON CONSCIENCE & WAR

The Center on Conscience & War, founded in 1940 as the National Service Board for Religious Objectors, and later known as the National Interreligious Service Board for Conscientious Objectors, is a 501(c)(3) educational and religious organization that works to protect and strengthen the rights of conscientious objectors to war. Founded by a diverse coalition of Christian churches and now benefiting from an advisory council representing a tremendous breadth of religious traditions, the Center advises conscientious objectors and their counselors throughout the nation. Having different standards in different Circuits creates confusion and an additional burden on the rights of the individuals we represent.

Conscientious objection to participation in war has been a right respected in the United States since long prior to the writing of the Constitution.

We believe the petition of Agustin Aguayo for *writ of certiorari* to the United States Supreme Court is of monumental importance to the protection of the rights of conscientious objectors. We write in support of the petitioner's request for issuance of a *writ of certiorari*.

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STATEMENT OF CASE[1]

The underlying petition arose out of a *habeas corpus* proceeding, in which petitioner sought review of the decision of the Secretary of the Army, denying his application for discharge as a conscientious objector. A conscientious objector, as defined by the applicable regulations, is a person who has firm, fixed, and sincerely held convictions which require that individual to refuse personal participation in war in any form, or at least (in some cases) to oppose the bearing of arms. Those convictions must be religious in nature, and must not have pre-existed the individual's enlistment.

The petitioner, Agustin Aguayo, a decorated combat medic, sought discharge from the United States Army pursuant to Army Reg. (AR) AR 600-43, as a conscientious objector. After the Army's Conscientious Objector Review Board ("DACORB")

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[1]The parties have consented to the filing of this brief. Counsel of record for Petitioner received notice 10 days prior to the due date and for respondent 5 days prior to the due date of the *amicus curiae's* intention to file this brief. Delay was oversight by counsel of the new rules.

No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members or its counsel made a monetary contribution to its preparation or submission.

rejected petitioner's discharge application, he sought district court for review of that decision though a writ of *habeas corpus*. The standard of review requires denial of the writ if the reasons given by the DACORB for its decision have any lawful "basis in fact." See *Dickinson v. United States*, 346 U.S. 389, 396 (1953).

In his *habeas* petition, petitioner advanced two principal contentions as to why the DACORB order was invalid. First, the Army violated its own regulation when it denied Mr. Aguayo's application for a legally insufficient reason and without making any legitimate reason for the denial part of the administrative record.

Second, even if the Army denied Mr. Aguayo's application for the reasons eventually considered by the district court, reasons articulated by the Army during the litigation -- those reasons have no legally sufficient basis in fact in the administrative record.

On appeal, the D.C. Circuit quoted the four reasons eventually given by the Army for denying the application: First, applicant lacked the religious foundation, the underpinning that supports Conscientious Objector beliefs. Second, applicant has not provided any significant source of his beliefs; conscience or moral views that would warrant conscientious objector status. Third, it appears that applicant held his beliefs prior to entry to the Army. Fourth, the Army found questionable timing of the application just prior to unit deployment. *Aguayo v. Harvey*, 476 F.3d 971, 975 (DC Cir. 2007).

The court of appeals noted that there was no basis in fact to support the Army's conclusion that Mr. Aguayo held qualifying beliefs before he enlisted, and held that the timing of Mr. Aguayo's application for discharge could not in and of itself support the denial of his application for discharge. 476 F.3d at 981. The court nevertheless found basis in fact in the record to support the Army's first two reasons for denying Mr. Aguayo's application, and on that ground affirmed the district court's denial of habeas relief.

ARGUMENT

HISTORY

Conscientious objection to war has been a part of the fabric of the basic rights of the people of the United States since before it was founded.

> 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.

(Chief Justice Harlan F. Stone, "The Conscientious Objector," Columbia University Quarterly, vol. 21, October 1919)

Many of those who first came to America came to escape forced military service against their beliefs. As colonial America took shape, Friends, Mennonites, Brethren, and others stood out as active, law-abiding segments of society that were unshakably committed to nonviolence who would not drill with local militias or build forts and battle Native Americans.

These early experiences set up a pattern in American history. At first objectors were persecuted for refusing to fight. Gradually, as they remained firm in their nonviolence and it was obvious that no persecution could induce them to fight, citizens came to respect the pacifist position, and by the mid-1700s most colonies had laws exempting "men of tender conscience" from any requirement to bear arms.

Tolerance decreased as the colonies began the Revolutionary War; this decline was another stage in the pattern. While members of the pacifist sects may have been equally eager for freedom, they did not compromise their nonviolent convictions.

In the heat of war conscientious objection was seen as cowardice and was punished. Some pacifists were dragged from their homes into military units and had muskets tied to their bodies. General George Washington was appalled by this treatment and sent the objectors home.

As the United States began building a new nation, conscientious objectors once again gained a measure of acceptance. Most of the state constitutions included exemption from military service for those religiously opposed. Many governing officials of early America supported conscientious objection. A conscientious objector clause was nearly included in the Bill of Rights.[2]

By the mid-1800s, individuals outside the peace churches argued for conscientious objection based on ethical reasons, mostly famously, Henry David Thoreau.

A change took place when the country headed into civil war and adopted the first national draft in 1863 which made no provision for exemption of conscientious objectors. Resistance was strong enough that in 1864 Congress provided that members of peace churches could serve in hospitals or work for freed slaves instead of fighting.

The general public, once again in the heat of war, was unsympathetic towards conscientious objectors in general. President Lincoln, though, was extremely sympathetic towards conscientious objectors, telling Secretary of War Stanton that unless these people's religious scruples were

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[2] Lillian Schlissel, ed., Conscience in America (New York: E.P. Dutton & Co., Inc., 1968) 30.

respected, the Union could not expect the blessing of heaven.[3]

It is during this period that truly brutal treatment of conscientious objectors (an estimated 1,500 throughout the Civil War) first became frequent. However, it was during this period that the pro-War publication *Harper's Weekly* made the first public statement that members of peace churches should not be given special treatment over conscientious objectors from other denominations.[4]

During World War I, the Selective Service Act provided only a narrowly defined exemption for conscientious objectors from established peace churches to perform non-combatant service. More than 500 conscientious objectors spent time in military prisons where they withstood brutal treatment while serving: 86 jail terms of more than 24 years, 142 life sentences, and 17 sentences of execution.[5] None, in fact, were executed. Some died in confinement, however, due, in part, to ill treatment.

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[3]United States, Selective Service System, Selective Service Special Monograph No. 11, Part I: Conscientious Objection (Washington: GPO, 1950)38.

[4] Selective Service 43.

[5] Norman Thomas, The Conscientious Objector in America (New York: B.W. Huebsch, Inc., 1923) 179.

The "War to End All Wars" did cause many young people to question whether they would fight again. A political objector and atheist named Louis Fraina challenged the narrow view that conscientious objection must stem from traditional religion, asking the Court of Appeals, "Since when must a man necessarily belong to a church before he can have a conscience?"[6]

In 1940, pacifist and civil liberties groups, with the brutal treatment of conscientious objectors during the last war in mind, sought to secure basic rights of conscience before a draft began. At hearings on the Burke-Wadsworth conscription bill, groups ranging from the Socialist Workers Party to major Christian denominations testified that conscientious objectors must be respected and treated justly. It was then that the National Service Board for Religious Objectors (NSBRO) was formed to serve and protect the rights of conscientious objectors, as remains true today for NSBRO's successor, the Center on Conscience & War.

As a result of the work of NSBRO, there were some exemptions from military service. Exemption was allowed for men who "by reason of religious training or belief" objected to participation in all warfare. The Selective Training and Service Act, while it did not require that a conscientious objector belong to a pacifist sect, did require that the objector have a religious basis for his objections.

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[6] Schlissel 182.

Even conscientious objectors who fit into the requirements of the act were viewed with hostility. Nevertheless, 75,000 men filed for conscientious objector status. Altogether there were 15,758 convictions of draft law violations throughout the war, including objectors who were denied conscientious objector status and absolutist objectors who would not work in their assigned camps.

While resisting war, conscientious objectors made many contributions to society. Objectors who provided desperately needed care in mental hospitals helped expose inadequacies and enact reforms in the treatment of mentally ill people. Others volunteered as human guinea pigs for dangerous medical experiments or provided essential fire safety services in the national forests. Imprisoned conscientious objectors were also responsible for breaking down and bringing an end to racial segregation in the federal prison system.

From 1948 to 1952, conscientious objectors were allowed total exemption from service, but in 1952, as the Korean "police action" raged, conscription again required that those drafted must perform either military or alternative service. This time, though, alternative service was handled much more liberally. From 1952 to 1972, conscientious objectors generally chose their own civilian placements, subject to approval by the Selective Service.

Significantly, the United States' participation in the Vietnam War, from 1959 to 1972, drew a conscientious "no" to fighting not only from religious

pacifists and political progressives, but also from mainstream American youths, minorities and disadvantaged groups, and even from those within the military. There was an upsurge in support for conscientious objectors, including public officials like former Montana Congresswoman Jeanette Rankin and members of the peace churches, student leaders, child-care authority Dr. Benjamin Spock, and activist Catholic priests Philip and Daniel Berrigan. Civil rights leaders Julian Bond and Martin Luther King, Jr. encouraged young men, particularly blacks, to resist the war.

This Court's 1965 decision in *United States v. Seeger*, 380 U.S. 163 reinforced by the 1970 *Welsh* decision, 398 U.S. 333, defined "religious" beliefs, as that term is used in the Military Selective Service Act, as any sincere conviction of ultimate importance in one's life. In 1962, the Defense Department created the first policy authorizing the honorable discharge of both draftees and voluntary enlistees who became conscientious objectors after joining the military. The criteria were modeled on those found in the draft law. The policy was reissued in 1971, with the criteria modified to incorporate the Selective Service standards as then-recently interpreted by this Court.

By 1972—for the first time in U.S. history—more registrants were claiming conscientious objector status than being inducted into the Army. The draft ended in 1973. The military, however, continued to offer an honorable discharge to those members who, through a change of religious or

ethical views, had become qualifying conscientous objectors after enlistment.

The U.S. involvement in the Gulf War, which began in 1991, caused renewed problems for conscientious objectors serving in the military. With rapid troop buildup in the Persian Gulf, the processing of conscientious objector claims came to a halt.

Yet by May 1991, as many as 2,000 military members had applied for discharge as conscientious objectors. During the Gulf War, which ended in March 1991, conscientious objectors who applied for discharge were told they could not get the discharge unless they went to the Persian Gulf. Many instead left their military units or refused to work, and were arrested for disobeying orders, desertion, or being Absent Without Leave. Some received jail sentences ranging from one month to 40 months. Many more were given punitive discharges, reductions in rank, and fines.

In the United States today, the conscientious objector is likely to be a member of the military. As many as 100 service men and women each year realize that war is wrong and apply for discharge as conscientious objectors. Not surprisingly, they are not always treated fairly or told of their legal rights as conscientious objectors. Organizations such as the Center on Conscience & War exist to provide this information to conscientious objectors both civilians and members of the military.

I. The opinion of the lower court in denying a conscientious objection claim on the basis that the applicant's beliefs were not developed through "study or contemplation" violates the First Amendment's Establishment Clause and conflicts with the decisions of other Circuits.

The lower court's decision in the instant case has created a reading of the conscientious objection regulations that places those applicants with traditional religious beliefs on unequal footing with those applicants whose conscientious objection beliefs are based on moral or ethical considerations. As such, the lower court has interpreted the conscientious objection regulations in a manner that is contrary to the Establishment Clause as well as this Court's precedent. We ask that this Court grant petitioner's request for *writ of certiorari* in order to correct the lower court's decision in a manner that complies with the Establishment Clause.

The Establishment Clause of the First Amendment of the U.S. Constitution prohibits the government from favoring any one religious belief over another. U.S. Const. amend. I. The government is not required by the Constitution itself to recognize conscientious objection claims. *Gillette v. United States*, 401 U.S. 437, 462 (1971). However, once conscientious objection claims are recognized, the government cannot choose or favor one religious belief as a basis for conscientious objector status over the other. The ruling in the instant case is in violation of the Establishment Clause and is in

direct conflict with other circuit decisions, who construe the military conscientious objector regulations to give no preference of traditional religion over other religions. In situations where a conflict with the Establishment Clause should arise, the courts have looked to interpret the law in a manner that avoids conflict. See *Welsh v. United States*, 398 U.S. 333 (1970).

A conscientious objector, as defined by the applicable Army regulations, is a person who has a firm, fixed, and sincere objection to their personal participation in war in any form. AR 600-43, Section II. The applicant must show that these beliefs are sincerely held. Furthermore, these convictions must be based on religious, moral or ethical beliefs, as defined by the courts, and must not have pre-existed the individual's enlistment. When an application for discharge as a conscientious objector is based on moral or ethical beliefs, the Army regulations provide that relevant factors include whether the applicant gained his convictions "through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated." AR 600-43, ¶ 1-5.a(5)(a). It is this latter test that is at issue in the instant case.

This Court has been careful to avoid any conflict between the Establishment Clause and the conscientious objection regulations when it comes to determining "religious training or belief." In *Seeger v. United States*, the Court expanded the definition of "Supreme Being" to include all religions, while still excluding mere political, sociological and

philosophical views. 380 U.S. 163, 165 (1965). The court stated that such an interpretation "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." *Id.* at 176. In further avoiding a conflict with the Establishment Clause, this Court in *Welsh v. United States* expanded on the definition of religious training and belief to include ethical and moral convictions that are held with the strength of more traditional religious beliefs. 398 U.S. 333, 339-40 (1970).

This Court in *Gillette v. United States* found that the conscientious objection regulations were created for a secular purpose, that purpose being "the hopelessness of converting a sincere conscientious objector into an effective fighting man." 401 U.S. 454, 452-53 (1971). In finding that the reasoning for the conscientious objection laws was secular, this Court found that the Establishment Clause did not apply to the creation of these laws. However, the court did recognize that the Establishment Clause did apply to the application of the conscientious objection regulations, as is the issue in the instant case. This Court in *Gillette* found that

> the relevant individual belief is simply objection to all war, not adherence to any extraneous theological viewpoint. While the objection must have roots in conscience and personality that are

> "religious" in nature, this requirement has never been construed to elevate conventional piety or religiosity of any kind above the imperatives of a personal faith.

Id. at 454. The Gillette court justified its decision by stating that "the Establishment Clause stands at least for the proposition that when government activities touch on the religious sphere, they must be secular in purpose, evenhanded in operation, and neutral in primary impact." *Id.* at 450.

The ruling of the District Court and affirmation by the Court of Appeals has misconstrued the regulations in a manner that risks a violation of the Establishment Clause. The District Court determined that the Army found a basis in fact for denying Mr. Aguayo's claim because it found that Aguayo did not develop his beliefs through a process of "study or contemplation." *Aguayo v. Harvey*, 445 F. Supp. 2d 29, 32 (D.D.C. 2006). These words merely outline one of several elements to consider and are not a requirement of the regulation. The Court, however, stated "Aguayo's beliefs do not appear to be grounded in religious principles or developed through activity comparable in rigor and dedication to the process by which traditional religious convictions are formulated." *Id.* The Appeals Court agreed and stated that "Though Aguayo stated that his Army training caused him anguish and guilt, we find little indication that his beliefs were accompanied by study or contemplation, whether before or after he

joined the Army." *Aguayo v, Harvey*, 476 F.3d 971, 981 (D.C. Cir. 2007).

By deferring absolutely to the military, the D.C. Circuit has, in effect, accepted the construct that a finding of one factor in several is sufficient to constitute a basis in fact. By finding this factor and this factor alone, as sufficient basis in fact, the D.C. Circuit creates a separate standard for moral and ethical beliefs, contrary to established law in *Seeger* and *Welsh*.

The appellate court realized that "the 'crystallization' of conscientious objector beliefs, like the process of religious conversion, is not always the result of prolonged study and can instead be dramatic and quick, as when it is precipitated by a life crisis--in Aguayo's case, his experience in weapons training." *Id.* However the court is quick to dismiss any responsibility for scrutinizing whether the Army has followed the regulations in a manner that is consistent with the Establishment Clause and gives total deference to the Army in applying the regulation. *Id.* In doing so, the D.C. Circuit has misconstrued the regulations in a manner which risk an Establishment Clause violation.

A religious objector is allowed under this construct to have a "Road to Damascus" type, sudden conversion and be found a conscientious objector without "study or contemplation." A moral or ethical objector may only be found to be a conscientious objector with a finding by the Army of beliefs developed by "study or contemplation." In other

words, those conscientious objectors who had an epiphany as they stood at Ground Zero for a week or visited Hiroshima, or when they shot and watched a young man die at their feet, can only be found to be sincere if that epiphany came in a religious package, rather than moral or ethical. This is clearly in conflict with *Welsh*, *Gillette* and the Constitution.

The point of the regulation is not to prescribe a certain type of religious development, as the ruling of the lower courts has created, but rather to treat traditionally religious and non-religious objectors equally, as required by this Court in *Welsh*. The regulation simply presupposes that a potential factor in determining sincerity of non-religious objectors could be the development of their varied beliefs in ways that are similar to the range of paths by which traditionally religious people develop beliefs. Some will come to embrace a faith by study and contemplation, some by experience and reason, others by inspiration or through prayer as related in the regulation. But some may come by their beliefs by epiphany. The ruling of the D.C. Circuit would turn this reasoning on its head. Rather than putting traditional religious and non-religious objectors on equal footing, the ruling would allow the Army to make value judgments as to the beliefs of non-traditional objectors as to how they came to his/her beliefs, while no such value judgment would be made toward objectors who file a claim based upon traditional religious beliefs.

The majority of circuits have construed the military conscientious objector regulations to give no preference of traditional religion over other religions,

just as this Court itself avoided the same problem under the draft with its landmark *Seeger* and *Welsh* decisions. In *Caverly v. United States*, the court found that "the extent of religious training need not measure the depth of religious conviction." 429 F.2d 92 (8th Cir. 1970). Quoting *United States v. Hesse*, 417 F.2d 141, 146 (8th Cir. 1969), the court concluded, "one does not have to be a theologian" to hold a sincere religious conviction. *Id.* at 94.

Unlike the D.C. Circuit Court's decision, other Circuit Courts have found that the extent of one's training is not determinative of sincerity of belief. The Fifth Circuit in *United States v. Stetter* found that "It is not the form or amount of training that is crucial. Sincerity of belief is the touchstone. The extent of training may, and often does, have no correlation with sincerity." 445 F.2d 472, 479 (5th Cir. 1971). In *United States v. Burton*, the Eighth Circuit stated "The view of this Court has been that, under *Seeger*, the extent of a registrant's formal or traditional religious training is not determinative of his right to C.O. status." 472 F.2d 757, 760 (8th Cir. 1973). The court's decision below to place a large value on the extent of Aguayo's training is in conflict with these other Circuit decisions.

Since the decisions of the D.C. Circuit Courts conflict with the Establishment Clause and create a split in the Circuits, we request that the Court grant the petitioner's *writ of certiorari*.

II. Religious Freedom Restoration Act (RFRA) requires accommodation of religious objections even in the military context and Congress has thus mandated a religious conscientious objector exemption to military service by RFRA on its face. This exemption would be one without any of the restrictions that have been written in to the regulations such as to selective objection.

In 1993, Congress enacted the *Religious Freedom Restoration Act* 42 U.S.C. § 2000bb explicitly to reinstate the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened. The core requirement of RFRA itself is brief:

> **§ 2000bb–1. Free exercise of religion protected**
>
> **(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. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

Unlike many statutes, RFRA does not provide an exception to application to the United States military.

Thus, RFRA requires accommodation of religious beliefs even in the military context. Conscientious objector regulations, while in and of

themselves secular and neutral, *Gillette* at 462, require an individual to provide proof of the sincerity of their religious beliefs. AR 600-43 1-5 (5). RFRA applies to the Army conscientious objector regulations in so far as they pertain to religious beliefs. This Court's ruling in *Welsh*, that religious beliefs include beliefs that come from a moral or ethical context rather than solely from traditional religious beliefs, results in RFRA applying to the requirement of this regulation—as interpreted by the District Court below—that conscientious objector beliefs that are moral or ethical have an additional requirement of showing that the beliefs arose from "training, study, contemplation, or other activity." Traditional religious beliefs such as Christianity have no such requirement and can arise from an epiphany.

Army regulations which are neutral on their face, place a burden on the beliefs of conscientious objectors especially when applied as they are in this case. The substantial burden is placed by the government upon the person by requiring the person to prove a particular method by which they attained a religious belief rather than the holding of the religious belief itself. This Court has held that

> RFRA and its strict scrutiny test contemplate an inquiry more focused than the Governments' categorical approach. RFRA requires the Government to demonstrate that the compelling interest test is satisfied though application of the challenged law "to the person"—the particular

> claimant whose sincere exercise of religion is being substantially burdened.

Gonzales v. O Centro Espirta Benficente Uniao do Vegetal, 546 U. S. 418 (2006).

There is no compelling governmental interest in requiring a person to prove the method by which they attained a religious belief rather than the sincerity in the religious belief itself. There is even less governmental interest in treating one kind of religious belief—traditional religious beliefs—differently from religious beliefs that are moral or ethical beliefs.

There is no compelling government interest in allowing conscientious objector status for one religious belief—that all wars are wrong—over religious beliefs which include the belief that some wars are just. "RFRA makes it clear that it the obligation of the courts to consider whether exceptions are required under the test set forth by Congress." *Gonzales* , 546 U.S. at 420. There is no provision in RFRA to defer such decisions to the military.

RFRA, therefore, requires the treatment of all religious beliefs that provide a basis for conscientious objection to war without any of the restrictions that have been written in to the regulations such as selective objection. Affirmance of the DC Circuit's failure to apply the military's own more limited conscientious objector provision to *Aguayo* would require the Court to reach this more

far-reaching result, further suggesting that principles of judicial restraint and avoidance of unnecessary constitutional issues counsel reversal of the decision below.

CONCLUSION

Conscientious objection is a fundamental right long recognized by the great leaders of our nation—Washington, Lincoln, Martin Luther King, Jr. Both the Establishment clause of the Constitution and RFRA make clear that the DC District Court failed in assuring that the Army regulations were applied to Aguayo in a manner that did not burden his beliefs. The District Court has, in affirming the decision below, created uneven treatment for conscientious objectors across the country.

For these reasons, the petition for *writ of certiorari* should be granted.

/s/

Respectfully submitted,
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December 7, 2007