
In The
Supreme Court of the United States

◆

GREEN HAVEN PREPARATIVE MEETING, *et al.*,
Petitioners,

v.

**NEW YORK STATE DEPARTMENT
OF CORRECTIONS AND COMMUNITY
SUPERVISION, *et al.*,**
Respondents.

◆

**ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

◆

**BRIEF OF THE NATIONAL COUNCIL OF CHURCHES
OF CHRIST IN THE USA; THE NEW YORK STATE COUNCIL
OF CHURCHES; THE AMERICAN FRIENDS SERVICE
COMMITTEE; PHILADELPHIA YEARLY MEETING OF
THE RELIGIOUS SOCIETY OF FRIENDS; *ET AL.*,
AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS
(*Listing of Amici Curiae continued on inside front cover*)**

◆

*Stephen C. Leckar
Counsel of Record
KALBIAN HAGERTY LLP
888-17th Street, N.W., Suite 1200
Washington, D.C. 20006
(202) 419-3286
sleckar@kalbianhagerty.com

(Additional Counsel listed on inside front cover)

NEW ENGLAND YEARLY MEETING of THE RELIGIOUS SOCIETY OF FRIENDS; NORTHERN YEARLY MEETING of THE RELIGIOUS SOCIETY OF FRIENDS; PURCHASE QUARTERLY MEETING; ACADIA FRIENDS MEETING (ME); CAMPUS FRIENDS MEETING (OH); BLOOMINGTON FRIENDS MEETING (IN); BETHEL FRIENDS MEETING (VA); GREENSBORO FIRST FRIENDS MEETING (NC); JAMESTOWN FRIENDS MEETING (NC); NEW GARDEN FRIENDS MEETING (NC); SOMERTON FRIENDS MEETING (VA); THE QUEENS FEDERATION OF CHURCHES; THE ISLAM AND RELIGIOUS FREEDOM ACTION TEAM (“ IRF”) of THE RELIGIOUS FREEDOM INSTITUTE; UNITED MUSLIMS OF AMERICA INTERFAITH ALLIANCE; and, in their individual capacities, DWIGHT L. WILSON, Quaker Pastor and former General Secretary of Friends General Conference; HANNAH LUTZ, Coordinator for Wilmington Yearly Meeting; and KAREN REIXACH, active in New York prison ministry since 1974.

*(further listing of Counsel for
Amici Curiae continued from front cover)*

J. Thomas Bertrand
LAW OFFICES OF J. THOMAS BERTRAND
5902 Ocean Front Avenue
Virginia Beach, Virginia 23451
(757) 633-3783
bertrand.aspirlaw@gmail.com

Robert L. Greene
LAW OFFICES OF ROBERT GREENE
11 Broadway, Suite 615
New York, New York 10004
(212) 943-4343
robertgreenelaw@icloud.com

Counsel for Amici Curiae

Dated: February 22, 2022

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
IDENTITIES AND INTERESTS OF AMICI CURIAE.....	1
SUMMARY OF ARGUMENT	5
ARGUMENT	6
The Organizational Structure of the Practice of Quaker Faith	7
Prison Ministry and Its Rich Fruits.....	10
Why a Quaker Prison Ministry in New York?	14
The decisions below violate the First Amendment rights of non-prisoners and prisoners alike.....	18
CONCLUSION	22
APPENDIX	

TABLE OF AUTHORITIES

Page(s)

CASES

Burwell v. Hobby Lobby Stores, Inc.,
134 S. Ct. 2751 (2014) 20

Hernandez v. Commissioner,
490 U.S. 680, 109 S. Ct. 2136 (1989) 20

*Presbyterian Church in U.S. v. Mary Elizabeth Blue
Hull Memorial Presbyterian Church*,
393 U.S. 440, 89 S. Ct. 601 (1969) 21

Thornburgh v. Abbott,
490 U.S. 404, 109 S. Ct. 1874 (1989) 19, 20

Turner v. Safley,
482 US 78, 107 S. Ct. 2254 (1987) 19, 20

CONSTITUTIONAL PROVISION

U.S. CONST. amend. I 11, 18, 19

OTHER AUTHORITIES

Alternatives to Violence Project: AVP – New York,
<https://www.avpny.org/> 11

Barclay, Robert, *Barclay’s Apology in Modern
English*, Edited by Dean Freiday (Philadelphia:
Friends Book Store, 1967) 14

Brinton, Howard H, *Friends for 300 Years*
(New York:Harper and Brothers, 1952)..... 13

Letter from The Reverend Peter Cook,
Executive Director and Gary VanKennen,
President of the New York State Council of
Churches, Signed February 11, 2022..... 22

*Report to the Coordinating and Advisory
Committee of New England Yearly Meeting
(NEYM) re: Green Haven Preparative Meeting et.
al. v. New York State Department of Corrections
and Community Supervision et. al, a petition to
the Supreme Court on First Amendment Rights,*
by SarahGant, Acting Secretary of Governance
and Pastoral Care, dated 6 February 2022 10

S. J., Sheeran, Michael J., *Beyond Majority
Rule: Voteless Decisions in the Religious Society
of Friends*, (Philadelphia Yearly Meeting of the
Religious Society of Friends, 1983) 12, 14

**IDENTITIES AND INTERESTS OF
AMICI CURIAE¹**

Amici Curiae, who identify themselves and state their interests below, support the Petition by Green Haven Preparative Meeting, et al., for a Writ of Certiorari, asking the Court to review this case, including the affirmations of the original plaintiffs. An appraisal of the case readily demonstrates the failure of prison authorities and of the lower courts to honor the integrity of the Religious Society of Friends' ("Quakers" or "Friends") spiritual practice of Meetings for Worship with Concern for Business and Quarterly Meetings. These are religious programs that the Quakers have maintained for 375 years. These tenets were observed without incident for over 40 years at the Green Haven prison's Preparative Meeting, until disrupted in 2015 by prison officials who, in purported pursuit of a more efficient prison, ignored crucial nuances of Quaker faith.

THE NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE USA ("The National Council of Churches") is the largest ecumenical body in the United States, consisting of 37 Christian denominations. It includes more than 35 million people in over 100,000 congregations. Many of its constituent organizations are engaged in prison

¹ The parties were given notice more than 10 days before filing and have consented to the filing of this brief by individual consent. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity other than amicus curiae, its members, or its counsel made a monetary contribution to this brief's preparation or submission.

ministry and it is important for them to vindicate their incarcerated members' rights.

THE NEW YORK STATE COUNCIL OF CHURCHES, which has been in existence since the late 19th Century, is comprised of nine denominations (American Baptist, Episcopal Church, Empire Baptist Missionary Convention of New York, Evangelical Lutheran Church of America, New York Yearly Meeting of the Religious Society of Friends (Quaker), Lutheran Church of America, Presbyterian, U.S.A., United Church of Christ, United Methodist Church) and approximately 7,000 congregations from those denominations throughout New York. The Council embraces a long history of jurisprudence to vindicate the First Amendment rights of the incarcerated to fully practice their religion. This jurisprudence complements its mission to offer the Gospel in word and deed in a broken world. Its denominations have well-developed theological positions to advocate for the incarcerated, who have historically been subjected to discrimination and marginalization. The Council has advocated for governmental intervention to prevent this unfairness and promote human flourishing.

THE AMERICAN FRIENDS SERVICE COMMITTEE ("AFSC") was founded in 1917 during World War I to allow young conscientious objectors to serve without joining the military or taking lives. They drove ambulances, ministered to the wounded, and remained in Europe after the Armistice to rebuild war-ravaged communities. Soon after, AFSC created a program to feed thousands of children in Germany and Austria. Since then, it has been on the forefront of social change movements, carrying out work that

many considered experimental and sometimes taking unpopular stands on controversial issues. The Nobel Peace Prize was awarded to AFSC (and the British Friends Service Council) for their work to heal rifts and oppose war. To build restorative and transformative forms of justice and community and a more just, peaceful society, the AFSC promotes healing — instead of naked punishment — in the criminal justice system. The United States currently has the highest incarceration rate of any country, disproportionately impacting poor people and people of color. AFSC advocates for human-centered alternatives to policing and incarceration, an end to prison privatization, more humane conditions of confinement, better reintegration after prison, and ultimately, the abolition of needless incarceration.

PHILADELPHIA YEARLY MEETING OF THE RELIGIOUS SOCIETY OF FRIENDS (“PYM”), the largest Quaker yearly meeting in North America, is centered in Pennsylvania, Maryland, and Virginia. The Meeting was founded in 1681, when William Penn founded Pennsylvania on the principle of religious liberty. In the late 1700s its members established the first prison, seeking not only to punish but to rehabilitate. The Quaker faith requires that Friends gather in quarterly meetings, and PYM believes that it is essential that Quaker organizations should have the right to gather with their incarcerated members.

Leaders of the NEW ENGLAND YEARLY MEETING (comprising various Friends congregations in the New England states), NORTHERN YEARLY MEETING (consisting of various Friends congregations in the upper Mid-West

of the United States), and PURCHASE QUARTERLY MEETING of NEW YORK YEARLY MEETING have joined this brief by tracing the histories of their spiritual practice of Quarterly Meetings and other Meetings.

The following monthly Friends meetings across our nation have written extensively to support this petition: ACADIA FRIENDS MEETING (ME) of NEW ENGLAND YEARLY MEETING; CAMPUS FRIENDS MEETING (OH) of WILMINGTON YEARLY MEETING; BLOOMINGTON FRIENDS MEETING (IN) of THE OHIO VALLEY YEARLY MEETING; and the FOLLOWING MONTHLY MEETINGS associated with NORTH CAROLINA FELLOWSHIP OF FRIENDS: BETHEL FRIENDS MEETING (VA), GREENSBORO FIRST FRIENDS MEETING (NC), JAMESTOWN FRIENDS MEETING (NC), NEW GARDEN FRIENDS MEETING (NC), and SOMERTON FRIENDS MEETING (VA).

THE QUEENS FEDERATION OF CHURCHES is an online ecumenical ministry embracing some 900 Christian congregations and some 200 congregations of other faiths in the New York City borough of Queens, amidst the most ethnically diverse county on earth.

THE ISLAM AND RELIGIOUS FREEDOM ACTION TEAM (“IRF”) OF THE RELIGIOUS FREEDOM INSTITUTE amplifies Muslim voices on religious freedom, seeks a deeper understanding of religious freedom inside the teachings of Islam, and protects Muslims’ religious freedom. To this end, it engages in research, education, and advocacy on freedom from

coercion in religion and equal citizenship for people of diverse faiths.

THE UNITED MUSLIMS OF AMERICA INTERFAITH ALLIANCE, headquartered in San Francisco, promotes understanding and cooperation among world religions through interfaith dialogue, thereby creating racial and religious harmony and encouraging faith-based communities to get involved for the good of all people and to promote healing and spiritual reconstruction.

In their individual capacities, the following Friends have written extensively to support this petition: DWIGHT L. WILSON, Quaker pastor and former General Secretary of Friends General Conference; HANNAH LUTZ, Coordinator of Wilmington Yearly Meeting; and KAREN REIXACH, active in New York prison ministry since 1974.

SUMMARY OF ARGUMENT

We contest the needless curtailment of Quaker Quarterly Meetings and “Meetings for Worship with Concern for Business” by officials at the Green Haven Correctional Facility (“GHCF”). Of particular concern to *amici* are two issues whereby the circuit court’s decision below conflicts with this Court’s teachings

1. We disagree first with the Circuit Court’s choice of the standard to be applied in prison cases implicating the rights of non-prisoners.
2. We also take issue with the lower courts’ determining for themselves what constitutes protected religious exercise, a matter which must be left in the hands of religious bodies.

We respectfully suggest that neither the GHCF officials nor the courts below discerned the essentially spiritual nature of a Quarterly Meeting and a Meeting for Worship with Concern for Business, as they have been practiced for almost 400 years within the Religious Society of Friends — and as they were practiced in the Correctional Facility for more than forty years. The record laid out by plaintiffs below was not deficient; rather, it was never thoughtfully considered.

This case is marred by a failure of prison authorities and of the lower courts to honor the integrity of the Friends' spiritual practice of Meetings for Worship with a Concern for Business and Quarterly Meetings.

ARGUMENT

Quakers take Christ's words, "remember, I am with you always,"² seriously. They believe the Holy Spirit guides individuals and worshiping groups into greater and greater faithfulness to the Love of God and of neighbor. Quakers' distinctive worship and polity are direct outgrowths of this belief and are intended to support individuals and groups in attending to and respecting divine guidance. For this reason, listening worship is the fundamental action for all that they do together, whether in congregational "meetings for worship," pastoral work, or meetings to decide the right ordering of

² The Gospel of Matthew 28:20.

their affairs, *i.e.*, “meetings for worship with concern for business.”

Because some aspects of Quaker religious practices, while always peaceful, have been at various times provocative to majority social and governing forms, Friends have found themselves incarcerated for their beliefs and the forms that belief has taken. Due to the resultant intimate knowledge of prisons, prisoners, and prison conditions and because Quakers in prison worshiped together, prison-based worship and ministry has also been a key locus of collective religious life of the Religious Society of Friends.

Friends believe that it is no less than the very Spirit of Christ that places them in these circumstances and calls them to this witness and ministry. Friends have, therefore, been deeply and consistently involved in prisoners’ spiritual and material welfare since their founding.

Quakers learn and support each other as they live into this ministry through the organizational structures of their faith. Quakers believe in and speak to “that of God in everyone” and believe that “Christ has come to teach his people himself.” Therefore, the practice of the Quaker faith is no different inside of prisons than outside of prisons.

The Organizational Structure of the Practice of Quaker Faith

Worship, commonly called the “meeting for worship,” is grounded in contemplative silence. Individuals among those gathered may rise from and speak out of that silence to offer testimony, as it is given to them as vessels of the Spirit. Asgathered

bodies of worshippers grow in number and in faith, there is an organizational progression from “worship group” to “preparative meeting,” under the care and guidance of a more established body (monthly meeting) of Friends. Monthly meetings are under the care of regional gatherings (quarterly meetings), which together form the largest of regional Quaker organizational structures, the “yearly meetings.” The periodicity of these names (monthly, quarterly, yearly) indicates the frequency with which the gathered bodies meet for “meetings for worship with concern for business.” These “business meetings” are first and foremost meetings for worship. There the faithful seek Truth revealed in worship, with a focus on topics — agenda items, if you will.

Though an agenda item might on its surface consider, for example, how to have coffee beans available for periods of fellowship, the discernment practiced in the meeting for worship with attention to business, may well, with care and faithful attention, consider the conditions of workers harvesting the coffee and the environmental cost of growing and transporting the coffee. It is not, then, about having good coffee during fellowship. It is about how, in worship and the practice of their faith, the Spirit guides the Friends present to live as stewards of the Kingdom of God, living in a loving relationship with all of God’s Creation.

Because Quaker religious practices depend on the leadership of God rather than any internal religious elite, in this worshipful, listening discernment of the gathered body, a business meeting is as fundamental to the transmission of their faith as is scriptural study. It is where those newer to their

faith grow in it, and where those more experienced in their faith and practice teach and mentor. Where other denominations rely on sermons and lessons at services for this teaching, Friends rely on business meetings, which begin in prayer and are carried forward in prayer, the matrix of the whole.

Here is the way one of the amici of this brief described a recent meeting for worship with attention to business at her own monthly meeting:

With this concern for the abridgement of First Amendment religious freedom heavy in my heart, I sat in that deep, deep worship as we moved through the “business” before us. I wish I could have brought the Justices into that room so that they could experience the presence of God and the guidance of the Spirit among us. Did our “agenda” include, for example, a budgetary line item that might superficially look like a basic financial question? It did!

But as we listened in worship for the guidance of the Spirit, we talked not about what we paid in rent for physical space functionally unused during two years of Covid – the number was in fact never mentioned! What we talked about was stewardship of spiritual resources; what our ministry is; who is included in it and who is not included in it; whether our worship ought to be contained indoors or be conducted in public spaces as was the practice of early Friends. We

talked about many, many things, deep religious concerns of our faith. We talked about what Love calls us to. This is not “business” as the lower courts are defining it. This is our religious life finding voice in teaching and preaching. To circumscribe the fullness of this practice — meetings for worship and meetings for worship for the conduct of business — to deprive Friends of any aspect of this structure, is to substantially curtail the free exercise of their religion. Who is it to, in effect, say, ‘You may have the wine, but no wafer?’ For Quakers, worship is the blood; worship for the conduct of business is the Body.³

Prison Ministry and Its Rich Fruits

Quakerism is quintessentially congregational and non-creedal. As a communion of all believers, the “blessed children of God” are invited to carry all roles, responsibilities and disciplines of the Quaker faith. Their belief that every human being has the essence of the divine within them is made manifest in behaviors they aspire to live into: living peacefully, speaking truthfully, and respecting the essential divinity of others. Some prisoners find resonance and comfort with this faith and form of worship. Friends

³ Sarah Gant, Acting Secretary of Governance and Pastoral Care, *Report to the Coordinating and Advisory Committee of New England Yearly Meeting (NEYM) re: Green Haven Preparative Meeting et. al. v. New York State Department of Corrections and Community Supervision et. al, a petition to the Supreme Court on First Amendment Rights* (February 6, 2022).

do not anticipate that the unincarcerated will deliver spiritual gifts and faithful awakenings to the incarcerated. Quakers simply hold that fruits of the Spirit grow wherever they are bestowed freely by the Spirit to enrich those inside and those outside of prison walls.

The Alternatives to Violence Project (“AVP”) is one example of such a fruit. The project began in 1975 in Green Haven Prison, itself, even before Green Haven Preparative Meeting was established. Inmates invited local Quakers to facilitate ways to resolve conflict nonviolently – both in the prison setting and in anticipation of the potential for conflict after release. Developed through worship-based discernment between the unincarcerated and the incarcerated 47 years ago, AVP is now a non-denominational non-profit, offering programs in 33 states and 45 countries around the world. The key structure of Quaker faith, the “meeting for business” that shapes how practitioners live in the world, has brought – from the Prison itself – strategies for nonviolent responses to conflict to prisons, schools and other organizations, impacting incidences of violence in gangs, among refugee communities, in homeless shelters, workplaces and homes.

This religiously-based blossoming of non-violence was explored and ultimately implemented through the free functioning of the particular forms of Quaker religious practice, which should be fully protected under the First Amendment. The New York State Department of Corrections’ arbitrary decision to cancel the Quarterly Meetings in the Correctional Facility needlessly impedes this practice for both Quakers in prison and for those who minister to them.

Lest there be any doubt, the meaning and method of this central part of the religious experience of Friends has been articulated repeatedly in the books of Faith and Practice created and used by various Yearly Meetings. For those who are new to Quakerism or are looking at it from outside the faith, a systematic account of Meetings' importance appears in an exhaustive study by a Jesuit Scholar, Michael J. Sheeran, S. J., *Beyond Majority Rule: Voteless Decisions in the Religious Society of Friends*, published by the Philadelphia Yearly Meeting of the Religious Society of Friends, in 1983. An excerpt aptly describes Sheeran's key conclusions and explains why denying the Green Haven Preparative Meeting the right to hold Meetings would fundamentally transgress the members' rights to freedom of religion:

In [George] Fox's Journal, the most common observation of a Quaker meeting is to the effect that "we had a blessed meeting; the Lord's power and presence was felt among us."

At the center of Quakerism is this communal experience. Quakers do not begin with a theory. They begin with an event in which, ideally, the presence of God is experienced by each person as part of a group experience. Rufus Jones emphasizes that "Quakerism is peculiar in being a group mysticism, grounded in Christian concepts." The experience is "mystical" in the extended sense of a "self-evident conviction" of the divine presence, a "vital discovery of divine Life revealing itself here and now in and

through a group of persons who are bent on transmitting that Life.”

The entire Quaker format of worship, as described by Howard Brinton, can be understood best in terms of seeking this experience:

At first sight, it might appear that the meeting can only be described by negatives—there is no altar, no liturgy, no pulpit, no sermon, no organ, no choir, no sacrament, and no person in authority. No external object of attention prevents the worshipper from turning inward and there finding the revelation of the Divine Will. Whatever is outward in worship must come as a direct result of what is inward — otherwise, it will be form without power. There must first be withdrawal to the source of power and then a return with power.

Gerald K. Hibbert expresses the experiences in the language of sacrament:

Suddenly or gradually we realise “the Presence in the midst”, and the silence becomes fully sacramental. Thus comes the sense of our communion one with another through partaking together of the Bread of Life, and we go forth to actualise that communion and fellowship in our daily lives.

In Quaker parlance, a special term is used to identify this phenomenon. During the time the group is aware of “the Presence in the midst,” the meeting is “covered” or “gathered” or, in Barclay the Apologist's phrase, “gathered into the Life.”

Now the early meeting for business (a decision-making meeting) is a type of meeting for worship, an outgrowth of the latter. It seeks to reach decisions “in the Life,” decisions which grow out of the experience of God's invitations, his “leadings” during the time of gathered prayer. One might oversimplify, but only slightly, that the regular meeting for worship seeks corporately for God's presence; the special meeting for worship which focuses on matters of business seeks corporately for God's will. And, at least in serious matters, the group finds God's will by first finding God.⁴

Why a Quaker Prison Ministry in New York?

Quakers have been conducting Meetings within various New York State correctional institutions for many years, including the prisons at Auburn, Attica, FivePoints, Elmira, and Sing Sing. For instance, the Purchase Quarterly Meeting of New York Yearly Meeting is directly impacted by the authorities' decision because it has oversight of, and

⁴ Michael J. Sheeran, *BEYOND MAJORITY RULE: VOTELESS DECISIONS IN THE RELIGIOUS SOCIETY OF FRIENDS* (Philadelphia: Philadelphia Yearly Meeting, 1983), pp. 5-7.

its members attend the Quaker Worship Group at the Sing Sing Correctional Facility, another maximum security prison in New York. Quarterly Meetings have also been held there for over 30 years. If the underlying decisions are permitted to stand, then the Respondents also may be emboldened to end the Sing Sing Quaker Worship Group's Quarterly Meetings, as well. Such a decision would directly infringe the Sing Sing Quaker Worship Group and the Purchase Quarterly Meeting members' rights to practice their faith.

A perhaps instructive understanding of the importance of spiritual community is described in the agenda for the December 7, 2019, Sing Sing Quarterly Meeting. This description was composed by the Sing Sing Quaker Worship Group:

In prison, our Quaker community helps us live by our values, when the prison culture could make us act otherwise. When we are treated badly by correction officers or other people in prison, the culture says to return that behavior in kind. Our community helps us stay strong and not allow others to dictate how we will live our values. Our friends call us out when we seem to be succumbing to the prison culture and get us to reflect on what kind of person we would like to be. Maintaining a community in prison can be difficult

when our friends are transferred to another prison on short notice. They leave a hole behind when they go.⁵

The day-long Quarterly Meetings at Sing Sing enable the men there to practice their faith meaningfully by living, at least for 7 hours, the Testimony of Community in a Quaker gathering, just as their counterparts did at Green Haven for so many years. These Quarterly Meetings have been designed, through presentations, small group discussions, song, and table fellowship to provide an experience of living in a Quaker community – *i.e.*, to live in the type of community that Jesus created with his followers. This experience of community needs an extended time together to flourish. Limiting these meetings to a couple of hours late in the evening of a workday, as the prison administration at GHCF arbitrarily did, cripples this central practice of the Quaker faith.

So much is demonstrated by the Gospels upon which the Quaker faith was constructed and by empirical observation. The Gospels reveal that a central part of Jesus' ministry was to spend extended time with his disciples: preaching, traveling, healing, and being together. The instances in the Gospels when Jesus is by himself are rare. He is almost always in community. That is because the fruits of community only blossom by people spending extended periods of time together. Quakers continue that practice in their Monthly, Quarterly and Yearly

⁵ See Appendix for agendas from Quarterly Meetings of the Sing Sing Correctional Facility for the years 2014 through 2018. Since 2020 Quarterly Meetings of the Sing Sing Friends Meeting have been suspended because of Covid.

gatherings. And this belief is central to Quarterly Meetings inside prison and outside.

Modern psychological studies have demonstrated what Jesus knew intuitively, that most of the communication between people is non-verbal and only occurs when people are together. The topics on the Sing Sing agendas –Testimonies, Service to Others, Transforming Violence, Healing, Transformation, the Practice of Circles, Spiritual Writing – are learned through interactions among Quakers meeting in community. At Sing Sing, the faith experience of the Quarterly Meeting has occurred both before, during and after the event. The men in the Worship Group prepare the agenda among themselves in the months and weeks preceding the Quarterly Meeting. Then they reflect on and discuss what happened in the Quarterly Meeting in the following weeks.

In 2015, prison officials at Green Haven Prison canceled the annual regional Quaker gathering. In 2018, they canceled the weekly Quaker Meeting for Worship with Concern for Business. A regular weekly Meeting for Worship and a weekly study group continue at the prison. For prison administrators arbitrarily to cancel one-third of the regular Quaker religious activities, including those that have been engaged in for decades and that are integral to Quaker faith and practice, is of great concern.

The cancelled activities are customary and essential Quaker religious procedures. The goal of a Quaker Meeting for Worship with Concern for Business is to collectively follow God's leading as informed by Quaker practices, testimonies and

Scripture. A Meeting for Worship with Concern for Business begins with a period of silent worship. Out of the silence, Friends at the meeting address issues of shared concern and make decisions grounded in the “inner light” that guides and illumines their deliberations. Decisions are taken by the “sense of the meeting” –the shared sense of unity in the Spirit. This “business” is collective, deeply spiritual, and an integral part of the faith and practice of Friends. Meeting for Worship with Concern for Business is a necessary practice for Quakers in any circumstance, including those confined in prison. To deny a group of Friends the opportunity to hold such Meetings is to deny them the opportunity to make decisions in a manner that is faithful to their tradition and their beliefs.

If the Respondents’ decision to reduce the Quarterly Meeting to a couple of hours on weekday evening is allowed to stand, it will fracture the Quaker practice of Quarterly Meetings for those Quakers who are in prison and those who visit them – a practice extending back to the earliest Quakers who sought to recreate the community that gathered around Jesus. This community gathering has remained a central part of the practice of the Quaker faith.

The decisions below violate the First Amendment rights of non-prisoners and prisoners alike.

Of particular concern to the *amici* are two issues in which the court of appeals’ decision conflicts with this Court’s teachings: (1) the standard to be applied in prison cases that implicate non-prisoner’

First Amendment rights and (2) whether and when courts can unilaterally determine what constitutes protected religious exercise, a matter which in most cases must be left in the hands of religious bodies. The circuit court improperly limited the inquiry into the propriety of prison regulations that limit First Amendment rights of non-prisoners in the prison context, to the detriment of non-incarcerated co-religionists. That court describes the standard of scrutiny in such cases as “whether the regulations are ‘reasonably related to legitimate penological interests,’” 16 F.4th at 84 (*quoting Thornburgh v. Abbott*, 490 US 401, 404 (1989)).

That formulation by the second circuit omits several key factors of the so-called *Turner/O’Lone* test, high among them being that the regulations are neutral and rationally related to that objective. *Thornburgh*, 490 U.S. at 414; *Turner v. Safley*, 482 U.S. 78 (1987). The GHCF prison officials’ actions greatly restructure --indeed forbid -- two forms of the Quaker worship. And these actions are on their face not neutral: they fundamentally impinge on Quaker practice.

Nor could these novel restrictions relate to any legitimate security concerns: Quarterly Meetings at Green Haven have occurred for forty years with no security problems As *Thornburgh* and *Turner* recognized:

“[T]he existence of obvious, easy alternatives may be evidence that the regulation is not reasonable, but is an ‘exaggerated response’ to prison concerns.... But if an inmate claimant can point to an alternative that fully accommodates the prisoner’s rights at *de minimis* cost to valid penological interests, a court may consider that as evidence that the regulation does not satisfy the reasonable relationship standard.”

Thornburgh, 490 U.S. at 481; *Turner*, 482 U.S. at 90-91. Consideration of these factors is crucial to all religious organizations involved in prison ministry, lest the Government’s bald assertion of a penological interest place the intrusion on religious exercise beyond the reach of judicial review.

Furthermore, the lower court decision is premised on the Department of Corrections and the lower court’s unfounded determinations as to what is proper Quaker worship and what it requires. The Authorities and courts determined that a Meeting for Worship with Concern for Business was not necessary and that the Quarterly Meeting with other Quakers present could be compressed from six hours to two hours, notwithstanding extensive evidence from Petitioners that these arbitrary conclusions simply transgressed Quaker religious practice. And yet, “Repeatedly and in many different contexts, we have warned that courts must not presume to determine ... the plausibility of a religious claim.” *Hernandez v. Commissioner*, 490 U.S. 680, 699 (1989). See also *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682,

724 (2014); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 450 (1969).

The right of religious organizations, rather than governmental agencies or courts, to determine integral practices and beliefs that are worthy of protection is of fundamental importance to the *amici*. A report from the New York State Council of Churches made the following observation about this case:

As we embrace our mission, the Council is well aware that one of our partners, the Religious Society of Friends (Quaker), has a particular reputation for doing rehabilitative work which they have done in our prison system from its inception in the United States in general and New York in particular. It is distressing to us that the very religious body which is most respected for fulfilling the mission of Corrections which is to rehabilitate those who are incarcerated, now has their work severely limited at Green Haven Correctional Facility. This is all the more grievous since Quakers in other New York State Correctional facilities, both medium and maximum, are able to fully function consistent with the rules and safety guidelines of the facilities in which they work. It seems,

however, that Green Haven Correctional Facility is a very unfortunate exception.⁶

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully Submitted,

***Stephen C. Leckar**

Counsel of Record

Kalbian Hagerty LLP

888-17th Street, N.W., Suite 1200

Washington, D.C. 20006

Direct: 202 419 3286

Fax: 202 225 6625

Alternate Direct: 202 742 4242

sleckar@kalbianhagerty.com

J. Thomas Bertrand

Law Offices of J. Thomas Bertrand

5902 Ocean Front Avenue

Virginia Beach, VA 23451

Tel: 757 633 3783

Fax: 757 422 1017

bertrand.aspirlaw@gmail.com

⁶ Letter from The Reverend Peter Cook, Executive Director and Gary VanKennen, President of the New York State Council of Churches (February 11, 2022).

Robert L. Greene

Law Offices of Robert Greene

11 Broadway, Suite 615

New York, NY 10004

Tel: 212 943 4343

Fax: 917 793 4515

robertgreenelaw@icloud.com

Counsel for the Amici Curiae

APPENDIX

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING
December 7, 2019

**QUAKER WRITINGS: JOURNALS, MINUTES,
QUERIES, ADVICES, EPISTLES**

- | | |
|--------------------------------|--|
| 8:30 -9:00 | Arrival |
| 9:00 - 9:30 | Check in |
| 9:30 - 10:30 | Peace Testimony and Barriers to
Unity in our Community (Impact
of slavery and racism,
forgiveness, submissiveness,
criticism anger to fear, From
Rodney King to OJ Simpson)
1. Panel Discussion
2. Report of Recorders |
| 10:30-10:45 | Break: |
| Guitar & Singing 10:45 - 11:00 | |
| | Examples of Quaker
Writings |
| | <ul style="list-style-type: none">• George Fox Journal p.22• John Woolman Journal p 104• Declaration of Friends to
Charles II p 50-51• NYYM Advice # 7 p.80• NYYM Query #14 p. 85• NYYM Summer Sessions
Epistle• Minute: Apology |
| 11:00 - 11:30 | Silent Worship |
| 11:30 - 11:45 | Worship Sharing |

11:45 - 12:30	Lunch
12:30 - 1:30	Community Testimony and Lifting the Barriers to Unity in our Community (Heal ourselves, self-reflection, confront normalization of racism, learn cultural impact of slavery, not be agents of oppression, slow down whirlwind of energy, do not be agent of oppression, undertake conflict resolution and agreement, recognize jealousy) <ul style="list-style-type: none">• Panel Discussion• Report of Recorders
1:45 - 2:00	Break: Guitar & Singing
2:00 - 2:45	Integrity Testimony and Changing the Drug/Prison Culture (give responsibility for welfare of the community, the 1% impacts the 99%, drugs are a health problem, reaching the younger men, confronting the chaos-status belief) <ul style="list-style-type: none">• Panel Discussion• Report of Recorders
2:45 - 3:15	Large Group Discussion: Next Step With Reports
3:15 - 3:30	Closing Circle - A Word to Share Farewell

Materials. Writing Pads, Pens, George Fox Journal,
John Woolman Journal, NYYM Faith & Practice..
NYYM Epistle, NYYM Minute on Apology, Agendas,
Guitar

Sing Sing Quaker Worship Group

Peace Testimony:

Making the Peace Testimony a way of life in a maximum security prison like Sing Sing is very challenging. When first coming to prison, it is common for a man to show himself being willing to and capable of inflicting harm, in order to gain respect and live peacefully. Gaining respect is a matter of survival. It is important not to show weakness or vulnerability. After respect is established it's possible to walk a different path. In prison, peace is the ability to cope with conflict by controlling our impulses and not lashing out. The internal process of transformation to get to that point can be lengthy. The Quaker Worship Group provides a place where the "prison code" is not operative. It is a place where we can act peacefully among ourselves without fear that doing so will provoke a challenge or attack. In the Worship Group we listen and communicate with each other and treat each other with kindness. To the extent we can, we use those skills in interacting with others outside the Worship Group, both correction officers and other people in prison. But always being careful to assess the state and condition of the other person.

Community Testimony:

In prison, our Quaker community helps us live by our values, when the prison culture could make us act otherwise. When we are treated badly by correction officers or other people in prison, the culture says to return that behavior in kind. Our community helps us stay strong and not allow others to dictate how we will live our values. Our friends call us out

when we seem to be succumbing to the prison culture and get us to reflect on what kind of person we would like to be. Maintaining a community in prison can be difficult when our friends are transferred to another prison on short notice. They leave a hole behind when they go.

Integrity Testimony:

We rely on our friends to help us maintain our Integrity in prison. There are many people in prison who make maintaining integrity very difficult. Other people in prison and corrections officers can be overbearing and sometimes violent. It becomes a balancing act to interact with them with Integrity without completely hiding our true self and without becoming like them. Friends help check us when we are in danger of hiding our self or succumbing to the prison culture. We learn not to give energy to those who are overbearing or violent by not reacting to them in kind. We understand that an important part of Integrity is intent. No matter how an interaction turns out, we, and those who support us, focus on our intent to decide whether we are maintaining our Integrity.

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING
JUNE 14, 2014

IF MY LIFE WERE A TESTIMONY WHAT
WOULD IT BE?

- | | |
|---------------|---|
| 8:30 -9:00 | Arrival |
| 9:00 - 9:30 | Breakfast & Check in |
| 9:30 - 9:45 | What are Testimonies (James) |
| 10:45 - 10:15 | Silent Worship |
| 10:15 - 10:25 | Testimony of Simplicity: How I
first met the Testimony and
What it Means in my life today
(Mulumba) |
| 10:30-11:00 | Small Group Discussion on the
Testimony of Simplicity
Facilitators: K, Cole, Najee, Rose,
Chay, Matt |
| 11:00-11:10 | Testimony of Integrity: How I
first met the Testimony and
What it Means in my life today
(Steph) |
| 11:15 - 11:45 | Small Group Discussion on the
Testimony of Integrity
Facilitators: K, Cole, Najee, Rose,
Chay, Matt |
| 11:45 - 12:30 | Lunch |

1:30-	2:15	Large Group Sharing on Testimonies
2:15-	2:30	Break
2:30 -	3:15	Large Group Claremont Dialogue: Apology to Afro-Descendents
3:15		Closing Circle - A Word to Share
3:30		Farewell

Possible Small Group Questions:

1. How did I not follow a Testimony
2. How did someone who was released from prison and was successful use a Testimony
3. What Testimonies do I practice and I'm not aware of doing so,

Give an example

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING

June 13, 2015

AMERICAN FRIENDS SERVICE COMMITTEE
HOW CAN WE HELP OUR COMMUNITIES

8:30 -9:00	Arrival
9:00- 9:30	Breakfast, Welcome & Check in Khary
9:30 - 10:00	Silent Worship Divine <i>First Song</i>
10:00 - 10:30	American Friends Service Committee an Overview Lewis Webb
10:30 -10:45	Break/Consultation
10:45 - 11:30	AFSC and Poverty and the Importance of Motivation Khary Small Group Leaders: Khary, T'Quan, Prince, Wade How are poverty and motivation connected? How do we become accountable/responsible to ourselves?

- 11:30-12:15 AFSC and Youth and the Teaching of Non-Violence
Steph Small Group Leaders: Steph, Divine, Cole, Wade
How do we teach youth about Non-Violence?
How do we change the role models that youth follow?
How do we reach 16 year olds?
- 12:15-1:00 Lunch *Second Song*
- 1:00 - 1:45 AFSC and Jobs and Role of Self Esteem
Shay Small Group Leaders: Shay, Evans, Cole, C
How do we get kids to think about a career?
How do we keep poor kids in school? How does education lead to self esteem?
- 1:45- 2:30 "Community Resources" for Policing our Communities
Rose Small Group Leaders, Rose, Malumba, Prince, Shay
What is sound community policing?
What resources does the community have to police itself?
- 2:30- 2:45 Break
- 2:45-3:15 Large Group Claremont Dialogue: How Can we Help T'Quan/Prince

3:15 Closing Circle - A Word to Share
Divine

3:30 Farewell: *Third Song*

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING

Date

DRAFT

2016 7

FRIENDS' PEACE TESTIMONY: TRANSFORMING
VIOLENCE

8:30 -9:00 Arrival

9:00 - 9:30 Breakfast, Welcome & Check in

9:30 - 10:00 Silent Worship: Minute on Reducing
Violence. Why Are We Here? 10:00 - 10:30
Introduction : Into Violence ½ hour

- Why is violence so prevalent in the American culture and is it more so in urban communities?

- What do you believe are the root causes of violence? (Nature or Nurture) 10:30 -10:45 Break

10:45 - 11:45 Dehumanizing Words 1 hour 7 questions

- When was the first time you remember hearing dehumanizing words?

- Have you ever used dehumanizing words toward someone else?

- Have you ever experienced someone using dehumanizing words against you? How did you respond to it?

- Do you believe we can neutralize the effects of dehumanizing words? If so, how? If not why not?

- Do you think about the causes and effects of

dehumanizing words before or after using them? If so how does it make you feel?

- What do you believe is the end goal of dehumanizing a person?

- Do you see any connection between dehumanizing titles and names that can lead to acts of violence?

11:45 - 12:45 Media Violence Propaganda 1 hour 7 questions

- Why do you think children so often imitate negative images when the outcome is always fatal one way or another?

- Do you believe violent media images are more prevalent in urban communities?

- Do television images tie some children's self-esteem to violence? Please explain.

- Have you ever imitated acts of violent images? If so, what were they and did you realize you were reflecting fiction into your real life?

- Do you believe the media intentionally display words, names and images knowing they can lead to acts of violent behavior?

- Would you care to talk about the negative images portrayed by people of color?

- Do you think violent images desensitize the human mind?

- 1:45 - 1:30 Lunch

1:30 - 2:30 Commercialism Propaganda 7
Questions

- How would you define Commercialism?
- Do you believe there is a connection between poverty and commercialism in urban communities?
- Are there any psychological and/or sociological aspects to commercialism that unsuspecting children need to be made aware of?
- Do you think commercialism is a form of propaganda?
- Do you believe some commercialism helps undermine urban communities? Please explain How are urban communities affected from over-exposure to advertisement?
- Why do you think people of color spend \$1.2 trillion annually on consuming items advertised and not manufacturing them?

2:30 - 3:15 Wrap-Up: Reflections on Transforming Violence

3:30 Closing Circle

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING

JUNE 3, 2017

THE CHALLENGE OF TRANSITION AND
HEALING

- | | |
|---------------|--|
| 8:30 -9:00 | Arrival |
| 9:00 - 9:30 | Breakfast & Check in |
| 9:30 - 10:00 | Breakfast & Check in |
| 10:00 - 10:30 | What needs healing? : A Poem
Small group Queries:
Is there a harm we have caused
Is there a harm our family
caused
Is there a harm our community
caused |
| 10:45-11:15 | How do we heal?
Small group Queries:
How do we heal ourselves
How do we practice forgiveness
How can others help us heal
How can we help others heal
How can the Worship Group help
me heal
How does the Spirit, God, the
Divine help us heal
What does it mean to be healed |
| 11:15-11:30 | Break |
| 11:30 - 12:00 | Writing: my poem/expression on
healing |

15a

- | | |
|-------------|--|
| 12:00-12:30 | My poem/expression: A Group Discussion on Healing |
| 12:30-1:00 | Fellowship and Lunch |
| 1:00-1:15 | Walking Meditation |
| 1:15-1:45 | Transitions in Life
What was an important transition in my life
How well did I handle that transition |
| 1:45-2:15 | What do I need to make a successful transition from prison:
A Poem
What can I do for myself
What do I need help with
How can the Worship Group support my transition |
| 2:15 - 2:30 | Writing: Notes to myself on healing and transition |
| 2:30 - 3:15 | Large Group Discussion: My path for healing and transition |
| 3:15 - 3:30 | Closing Circle - A Word to Share
Farewell |

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING

November 4, 2017 NEW BEGINNINGS

- 8:30 -9:00 Arrival
- 9:00 - 9:30 Breakfast & Check in (Divine)
- 9:30 - 10:00 Silent Worship (Divine)
- 10:00 - 10:30 New Beginnings: (Zontell)
A Poem
Small group Reaction:
- 10:30-11:00 Reading from "Visions for Black Men" or
from "Know Thyself" Small group
Queries:
How, when and where did you learn to
be a man?What is hardest about being a
man?
- 11:00-11:15 Light and Livelies (Zontell)
- 11:15-11:30 Break
- 11:30 - 12:30 Emotions and Feelings (Wade)

Readings from "Anger" and "Ebony"
Small Group Queries:
What makes you most angry? Describe
when you resolved anger
- 12:30-1:00 Fellowship and Lunch : Report on FCNL
(Matt)
- 1:00-1:15 Meditation from Thich Nhat Hanh
(Chay)

- 1:15- 1:45 Forgiveness (Smoke/Steph)
Reading from "Forgive: the new mantra
and practice for Black Men" Small
Group Queries
Describe a time when you did or could
have forgiven How can forgiveness be
used as a tool to move forward
- 1:45-2:15 My Mission in Life (Gif)
Reading from Parachute or Designing
Your Life Small Group Queries
What is the next step in your life? How
do you hope to be remembered?
- 2:15 - 2:45 Writing: Notes to myself on
New Beginnings (Scott)
- 2:45 - 3:15 Large Group Discussion: Claremont
Dialogue on Notes to Myself
- 3:15 - 3:30 Closing Circle - A Word to Share
Farewell

Small Group Facilitators: Divine, Bernard,
ChayZontell

SING SING QUAKER WORSHIP GROUP
QUARTERLY MEETING

November 3, 2018

**QUAKER PROCESS: CLAREMONT DIALOGUE
AND CIRCLES**

- | | |
|---------------|---|
| 8:30-9:00 | Arrival |
| 9:00 - 9:30 | Check in Universal |
| 9:30-10:00 | Silent Worship Universal |
| 10:00 - 10:30 | Circles: Principles, Values and Process
Zontell
P. 60 - 61: Circles and Groups;
Circles and Therapy Dalio:
Principles of Decision Making
What are the most important values in a circle?
How do you take others feelings into account in a circle? |
| 10:30 - 11:00 | Lessons and Stories from Circles
Zontell/George <ul style="list-style-type: none">• AVP• 12 Step Council of Unity• Challenge to ChangeRTA• Quaker Worship• Other Is there an experience in a Circle that has had an effect on you? What was it? Did it make a change in your life?
What did you like and not like in circles you have been in. |

11:00 - 11:15	Light and Livelies Zontell
11:15-11:30	Break
11:30-12:30	Remorse, Regret and Forgiveness in Circles Handout on Remorse and Regret Desmond Tutu: The Book of Forgiving Rose/George
12:30-1:00	Lunch
1:00-1:15	Poems and Reflections Ti'Quan What does the poem "say" to you? Have you had a similar experience to what the poem describes?
1:15-1:45	Circles in Families Steph The group's problem is no grander than the individual's problem multiplied and the individual's problem is no greater then the group's problem reduced. So in circles to solve the group problem we must first address the individual's problem How do family relationships transfer to other relationships? How do we mend or heal relationships damaged by incarceration?

- 1:45 - 2:15 Circles in Schools/B Model of Human Action **Reggie**
- How have you been effected by the different spheres?
 - How have you been protected by the different Spheres?
- 2:15- 2:45 Circles in Neighborhoods
Chay/Scott
P.47 A Circle Story
- How would you change your neighborhood?
 - How would you change the Belief System
- 2:45 - 3:15 Large Group Discussion: What Circles Promise **All**
- 3:15 - 3:30 Closing Circle - A Word to Share Farewell

**Letter from The Reverend Peter Cook,
Executive Director and Gary VanKennen,
President of the New York State Council of
Churches, Signed February 11, 2022:**

The Governing Board (Executive Committee) of the New York State Council of Churches has given its unanimous approval to serve as Amici.

The Council, which has been in existence since the late 19th Century, is comprised of nine denominations (American Baptist, Episcopal Church, Empire Baptist Missionary Convention of New York, Evangelical Lutheran Church of America, New York Yearly Meeting of the Religious Society of Friends (Quaker), Lutheran Church of America, Presbyterian, U.S.A., United Church of Christ, United Methodist Church) and approximately 7,000 congregations from those denominations in every part of New York State.

New York State Council of Churches states in its constitution that “It’s fitting that Christians should manifest their unity by joining together to proclaim the gospel of Jesus Christ and to show God’s good and just purposes throughout New York State. Therefore, we covenant to care for one another, safeguard the presence of vital Christian communities, provide hospitality to all, proclaim the gospel boldly in each place, and declare God’s just will among the powers and principalities.”

As a Council, we embrace a long history of jurisprudence which affords the incarcerated their first amendment rights to fully practice their religion. Such jurisprudence complements our mission to offer the good news of the Gospel in word and deed in a broken world. All of our denominations have well

developed theological positions to advocate for the incarcerated who have, over the years, been subjected to discrimination and marginalization. We have advocated for government policies and laws which prevent this discrimination and allow for human flourishing.

As we embrace our mission, the Council is well aware that one partner, the Religious Society of Friends (Quaker), has a particular reputation for doing rehabilitative work which they have done in our prison system from its inception in the United States in general and New York in particular. It is distressing to us that the very religious body which is most respected for fulfilling the mission of Corrections which is to rehabilitate those who are incarcerated, now has their work severely limited at Green Haven Correctional Facility. This is all the more grievous since Quakers in other New York State Correctional facilities, both medium and maximum, are able to fully function consistent with the rules and safety guidelines of the facilities in which they work. It seems, however, that Green Haven Correctional Facility is a very unfortunate exception. While each correctional facility is afforded a degree of independence in making administrative decisions about running their facility, they still must adhere to directives from Central Office and the general rehabilitative mission of the Department of Corrections and Community Supervision which states:

“The New York State Department of Corrections and Community Supervision, guided by the Departmental Mission, is responsible for

the confinement and rehabilitation with approximately 31,000 individuals under custody held at 50 state facilities and supervision of around 32,000 parolees throughout seven regional offices statewide. Our mission is to ensure public safety by operating safe and secure facilities, preparing individuals for release, and then supervising them to be successful when they return home from prison.

DOCCS' vision is to enhance public safety by having incarcerated persons return home under supportive supervision less likely to revert to criminal behavior.”

As a Council we help the Department of Corrections fulfill its purpose by certifying and supporting chaplains from a wide range of Protestant traditions. Indeed, you cannot serve as a chaplain until you are certified by us. We make every effort to ensure that our chaplains are properly credentialed and committed to pastoral work of DOCCS which includes chaplains supporting volunteers and programs which further this work of restoration. Our chaplains have been successful in other facilities supporting the work of the Quakers but it has been frustratingly challenging for them at Green Haven. It seems to us that Green Haven is making administrative decisions which impair this pastoral work that their employees are charged with doing and deprives the religious rights of those incarcerated.

Signed February 11, 2022, by: The Reverend Peter Cook, Executive Director; Gary VanKennen, President.