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Conscientious Objectors - The New Parallel Belief Test - United States v. Seeger, 33 U.S.L. Week 4247 (U.S. March 8, 1965)

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Comment/Conscientious Objectors—The New “Parallel
Belief” Test—*United States v. Seeger*,
33 U.S.L. Week 4247 (U.S. March 8, 1965).

Test—*United States v. Seeger*,

“... (T)he test of belief ‘in relation to a Supreme Being’
is whether a given belief that is sincere and meaningful oc-
cupies a place in the life of its possessor parrallel to
that filled by the orthodox belief in God of one who
clearly qualifies for the exemption.”¹

IN THE ABOVE WORDS, our highest Court has now formulated what it considers an objective test for determining qualification for conscientious objector status under the Universal Military Training and Service Act.² In recent decades, numerous cases bearing on the concept of conscientious objection have been decided by the Supreme Court;³ its approach has consisted of summarily rejecting or ignoring any contention that immunity for all “religious” beliefs was a first amendment constitutional necessity for draft exemption status.⁴ This comment will consider whether the Court’s latest attempt to pre-

¹ *United States v. Seeger*, 33 U.S.L. WEEK 4247 (U.S. March 8, 1965).

² The pertinent provision of the act, section 6 (j), reads:

“Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces . . . who, by reason of religious training and belief is conscientiously opposed to participation in war in any form. Religious training and belief . . . means an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological views or a merely personal moral code.” 62 Stat. 612 (1948), 50 U.S.C. App. Sec. 456 (j) (1958).

³ See *e.g.*, *United States v. Schwimmer*, 279 U.S. 644 (1929) (Oath to bear arms for naturalization); *United States v. Macintosh*, 283 U.S. 605 (1931); *Girouard v. United States*, 328 U.S. 61 (1946) (Overruled prior two cases on naturalization issue); *Cohnstaedt v. Immigration and Naturalization Service*, 167 Kan. 451, 207 P. 2d 425 (1949), *cert. granted* 338 U.S. 890, *Mem.* 339 U.S. 901 (1950); *In re Summers*, 325 U.S. 561 (1945) (Admission to the bar); *Hamilton v. Regents of the Univ. of Cal.*, 293 U.S. 245 (1934) (Required military training in college).

⁴ *Selective Draft Law Cases*, 245 U.S. 366 (1918); *Goldman v. United States*, 245 U.S. 474 (1918); *Kramer v. United States*, 245 U.S. 478 (1918); See Russell, *Development of Conscientious Objector Recognition in the United States*, 20 GEO. WASH. L. REV. 409, 439 (1952); Conklin, *Conscientious Objector Provisions: A View in the Light of Torcaso v. Watkins*, 51 GEO. L. J. 252, 261-262 (1963); Note, *RUTGERS L. REV.* 924, 927 (1964).

serve the validity of the "religious training and belief" standard, as contained in section 6 (j) of the act, by the newly promulgated "parallel belief" test,⁵ will prove to be an equivocal and unworkable standard.

The Supreme Court *Seeger* case represents three circuit courts of appeal decisions consolidated for argument.⁶ All three defendants were denied exemptions by their local draft boards and, after exhaustion of their administrative remedies,⁷ were convicted in lower courts for refusal to submit to induction. The *Seeger* and *Jakobson* convictions were reversed by the Second Circuit Court of Appeals, but *Peter's* conviction was upheld in the Ninth Circuit Court of Appeals.⁸

Seeger claimed a "belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed."⁹ (Emphasis added.) This belief was found to be sincere and based on individual training and belief.¹⁰ The Second Circuit held the "Supreme Being" section unconstitutional under the due process clause of the fifth amendment.¹¹

The defendant *Jakobson* claimed a belief in a "Supreme Being Who was 'Creator of man' in the sense of being 'ultimately responsible for the existence of' man and Who was 'the Supreme Reality' of which 'the existence of man is the result.'" (Emphasis in original.) The Department of Justice recommended denial of the claim because its hearing officer reportedly found that it was based on a personal moral code and that *Jakobson* was not sincere. The Appeal Board affirmed the recommendation, but the Second Circuit reversed because the Board did not indicate on what ground it had relied.¹²

In contrast, the belief of *Peter* was found not to be within the exemption. He based his belief on the statement of Reverend John Haynes Holmes that religion was "the consciousness of some power manifest in nature which helps man in the ordering of his life in harmony with its demands. . . (it) is the supreme expression of human value; it is man thinking his highest, feeling his deepest, and living his best."¹³ In the District Court trial, he prof-

⁵ *United States v. Seeger*, *supra* note 1.

⁶ *United States v. Seeger*, 326 F. 2d 846 (2d Cir. 1964); *United States v. Jakobson*, 325 F. 2d 409 (2d Cir. 1963); *Peter v. United States*, 324 F. 2d 173 (9th Cir. 1963).

⁷ See generally, *Russell*, *supra* note 4, at 439.

⁸ *United States v. Seeger*, *supra* note 1, at 4254.

⁹ *Id.* at 4248.

¹⁰ *Id.* at 4254. All the defendants submitted lengthy statements concerning various other aspects to their beliefs.

¹¹ See Note, at note 4.

¹² *United States v. Seeger*, *supra* note 1, at 4254. The Court of Appeals stressed that if the Board had specifically based its rejection on sincerity alone, "there were enough 'objective facts before the Appeal Board to . . . cast doubt on the sincerity of his claim'" to satisfy the substantial evidence rule in *Estep v. United States*, 327 U.S. 114, 122-23 (1946). However, it also stated it would not have found insincerity on the cold record and that the local board did not find him to be insincere. *United States v. Jakobson*, *supra* note 5, at 412.

¹³ *United States v. Seeger*, *supra* note 1, at 4248.

ferred, "You could call that a belief in the Supreme Being or God. These just do not happen to be the words I use."¹⁴

The Supreme Court held by a unanimous vote that all three beliefs qualified under the new test for the exemption, and thereupon affirmed *Seeger* and *Jakobson* and reversed *Peter*.¹⁵ The Court did not reach the more complex question of whether section 6 (*f*) is unconstitutional because it does not exempt nonreligious conscientious objectors and discriminates between different forms of religious expressions in violation of the Constitution. Justice Douglas admits as much by saying:

"If I read the statute differently from the Court, I would have difficulties. For then those who embraced one religious faith rather than another would be subject to penalties; and that kind of discrimination . . . would violate the Free Exercise Clause of the First Amendment. It would also result in a denial of equal protection by preferring some religions over others—an invidious discrimination that would run afoul of the Due Process Clause of the Fifth Amendment."¹⁶

HISTORY OF THE ACT

The first federal conscription act was adopted on March 3, 1863, without any provision specifically exempting conscientious objectors.¹⁷ But, in 1864, Congress did enact a provision stating that members of religious denominations who by oath or affirmation declared that they were conscientiously opposed to the bearing of arms and who were prohibited from doing so by the rules and articles of faith and practices of their religious denominations would, when drafted into the military service, be considered non-combatants, or would pay the sum of \$300 to be applied to the benefit of sick and wounded soldiers.¹⁸ While this act was certainly not equitable in practice, in that only those affluent enough to render the substituted \$300 could evade military service altogether, the purpose of the law did further the traditional American moral principle of inviolability of conscience.

Conscription was reinstated when America entered World War I, in the Selective Service Act of 1917.¹⁹ Conscription was now of universal application, with no provision for hiring a substitute or paying a commutation fee. Congress provided an exemption limited to the members of any well-recognized sect or organization whose existing creed or principles forbade its members to participate in war in any form. It also included a provision that no one was to be exempted from services in any capacities which the Presi-

¹⁴ *Peter v. United States*, *supra* note 6, at 176-77.

¹⁵ *United States v. Seeger*, *supra* note 1, at 4254.

¹⁶ *Ibid.*

¹⁷ Act of March 3, 1863, ch. 75, Sec. 2, 12 Stat. 731.

¹⁸ Act of Feb. 24, 1864, ch. 13, Sec. 17, 13 Stat. 9.

¹⁹ Act of May 18, 1917, ch. 15, Sec. 4, 40 Stat. 78.

dent declared noncombatant. The burden was placed upon the individual registrant to show that his personal religious convictions against war or participation therein were aligned with the creed of his "pacifist church." The effect of the 1917 provision was to allow only those who were members of historic peace churches to exercise their religious beliefs without risk of punishment and imprisonment. Though Congress at that time intended that the requirement of membership in a pacifist sect was the test for measuring the registrant's sincerity of belief, the exemption provisions as drafted presented an obvious restriction upon the first amendment's protection of the free exercise of religion.

When the constitutionality of the limited exemption for conscientious objectors was challenged in the courts, the United States Supreme Court in the *Selective Draft Law Cases*²⁰ summarily dismissed this question by the following: "[a]nd we pass without anything but statement the proposition that an establishment of a religion or an interference with the free exercise thereof repugnant to the First Amendment resulted from the exemption clauses of the Act . . . because we think its unsoundness is too apparent to require us to do more."²¹

The 1940 Selective Service Act ended the necessity of the conscientious objector being a member of a pacifist church and extended the exemption to both combatant and non-combatant service. It broadened the possibility for exemption to include anyone who "by reason of religious training and belief" had conscientious scruples against "participation in war in any form."²² Thus, without membership in a particular sect, one of whose tenets was pacifism, a person could be exempted.

However, in *United States v. Kauten*,²³ which arose in the Second Circuit, it was held by Judge Augustus Hand that mere scruples based on a "political and social philosophy respecting the folly and futility of war" were insufficient for exemption from participation in military service. As dictum, Judge Hand attempted to redefine the term "religious belief" in the 1940 Act by stating that true conscientious objection "may justly be regarded as a response of the individual to an inward mentor, call it conscience or God, that is for many persons . . . the equivalent of what has always been thought a religious impulse."²⁴

Subsequently, the Second Circuit in *United States v. Downer*,²⁵ expanded the dictum by holding that a sincere conscientious scruple against war in any

²⁰ 245 U.S. 366 (1918).

²¹ *Id.* at 389-90.

²² Selective Training and Service Act of 1940, ch. 720, 5(g), 54 Stat. 889.

²³ 133 F. 2d 703 (2d Cir. 1943).

²⁴ *Id.* at 708.

²⁵ 135 F. 2d 521 (2d Cir. 1943).

form was a basis for exemption—though it cautioned that a “course of reasoning” would not result in exemption.

The question of the meaning of the phrase “religious training” arose in *Berman v. United States*,²⁶ wherein the Court of Appeals for the Ninth Circuit considered the dictum of *Kauten* and, in a lengthy opinion, rejected it. The *Berman* Court stated that: “[w]ithout the concept of a deity [one’s belief] cannot be said to be religion in the sense of that term as it is used in the statute.”²⁷ The court quoted from *United States v. Macintosh*²⁸ in which “religion” was defined by the dissenting opinion of Chief Justice Hughes as “a belief in a relation to God involving duties superior to those arising from any human relation.”²⁹

The conflict raised by the decision in *Kauten* and *Berman* was supposedly resolved by Congress in the enactment of the Universal Military Training and Service Act in 1948, by the insertion of the following provision defining “religious training and belief” as “an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a purely personal moral code.”³⁰ (Emphasis added.)

That Congress signified that *Berman* constituted the correct interpretation of its views by adopting the definition of “religious training and belief” which the Ninth Circuit used is supported by the legislative history,³¹ by various commentators,³² and by the brief for the United States in *Seeger*.³³ However, all this carried no decisive weight with the Supreme Court in *Seeger*, for

“... if [Congress] thought that two clashing interpretations as to what amounted to ‘religious belief’ had to be resolved, it would have said so somewhere in its

²⁶ 156 F. 2d 377 (9th Cir. 1946).

²⁷ *Id.* at 381.

²⁸ 283 U.S. 605 (1931).

²⁹ *Berman v. United States*, *supra* note 26, at 381.

³⁰ 62 Stat. 613 (1948), 50 U.S.C. App. Sec. 456(j). Many courts have stressed that the exemption is a matter of legislative grace, and not a constitutional right. *Etcheverry v. United States*, 320 F. 2d 873 (9th Cir. 1963) *cert. denied*, 375 U.S. 930 (1963), *rehearing denied* 375 U.S. 989 (1964), *rehearing denied* 376 U.S. 939 (1964); *United States v. Leberherz*, 129 F. Supp. 444 (D.C.N.J. 1955); *United States v. Crawford*, 119 F. Supp. 729 (D.C. Cal. 1954). Assignment of conscientious objectors to work at civilian jobs is not involuntary servitude under the thirteenth amendment, *Badger v. United States*, 322 F. 2d 902 (9th Cir. 1963), *cert. denied* 376 U.S. 914 (1964), *rehearing denied* 376 U.S. 973 (1964); *Niles v. United States*, 122 F. Supp. 382 (D.C. Cal. 1954), *aff’d* 220 F. 2d 278 (1954), *cert. denied* 349 U.S. 939 (1955). Congress can compel conscientious objectors to perform civilian work. *United States v. Smith*, 124 F. Supp. 406 (D.C. Ill. 1954), *aff’d* 223 F. 2d 921 (7th Cir. 1955), *cert. denied* 350 U.S. 841 (1955).

³¹ S. Rep. No. 1268, 80th Cong., 2d Sess., 14 (1948).

³² See Smith & Derrick, *The Conscientious Objector Program—A Search for Sincerity*, 19 U. PITT. L. REV. 695, 709 (1958); Russell, *supra* note 4, at 427; Conklin, *supra* note 4, at 274-75. Note, *supra* note 4.

³³ Brief for Petitioner, p. 70-71, *United States v. Seeger*, *supra* note 1.

deliberations. Thus, we think that rather than citing *Berman* for what it said 'religious belief' was, Congress cited it for what it said 'religious belief' was not."⁸⁴

ANALYSIS OF THE SUPREME COURT'S APPROACH

Although in the course of rendering the opinion, Justice Clark stresses the objective character of the "parallel belief" test,⁸⁵ lower courts, agencies and boards after attempting to apply these new esoteric guidelines may be forced, by necessity, to resort to subjective considerations. Initially, the decision states that "the claim of the registrant that his belief is an essential part of a religious faith must be given great weight."⁸⁶ Later it asserts "the validity of what he believes cannot be questioned," and finally proclaims that "local boards and courts in this sense are not free to reject beliefs because they consider them 'incomprehensible'," but are limited to determining if the registrant is sincere and if the beliefs "are, in his own scheme of things, religious."⁸⁷

Realistically, it is not clear what will happen when a subjective self-analysis by some future registrant, that his belief is religious "in his own scheme of things," does not coincide with objective determination by the adjudicating authority. There are so many diverse methods of religious expression in this country it would seem that the former would control. And, of course, outward silence can hardly be presumed to be indicative of a non-religious nature.

The concurring opinion of Douglas confesses that a strained interpretation was essential to save the constitutionality of the section. This device is emphasized by his remarkably bold statement that "if it is a *tour de force* so to hold, it is no more so than other instances where we have gone to extremes to construe an Act of Congress to save it from demise on constitutional grounds."⁸⁸ Justice Douglas informs us that the opinion "construes the word 'Supreme Being' to include the cosmos as well as anthropomorphic en-

⁸⁴ *United States v. Seeger*, *supra* note 1, at 4251.

⁸⁵ *Id.* at 4253. It is apparently clear that a given belief that is "sincere and meaningful" is supposed to indicate what the examiners are to look for, but this phrase gives little hint as to how they are to carry out the inquiry.

⁸⁶ *Id.* at 4253. In the past such statements by a registrant were given similar consideration. See *Smith & Derrick*, *supra* note 32, at 718.

⁸⁷ *Ibid.* Lower courts have acknowledged that the subjective religious beliefs of the registrant, rather than the formal dogma of his religion, controlled his classification. But the courts stressed that his mere assertion of such a belief was not, of itself, enough. *Keefer v. United States*, 313 F. 2d 773 (9th Cir. 1963). And the courts have consistently placed the burden of proving his claim on the registrant. *Gaston v. United States*, 222 F. 2d 818 (4th Cir. 1955). Also, many courts have said that the mere willingness to kill in self-defense is not enough to deny the exemption. *Pitts v. United States*, 217 F. 2d 590 (9th Cir. 1954); *Blevins v. United States*, 217 F. 2d 506 (9th Cir. 1954).

⁸⁸ *Id.* at 4254.

tity."³⁹ This very liberal interpretation is heralded as comprising the outermost limits that can be construed as complying with Congressional intent. But these new guidelines, both in theory and in practice, delineate no such boundary. For, in applying the new test, which "orthodox belief in God" sets the measuring standard?⁴⁰ What beliefs in God in our present age can really be isolated as orthodox—and, conversely, which can be designated as non-orthodox?⁴¹ What if the registrant's belief parallels that of an orthodox believer who does not "clearly qualify"? The Court provides no answers.

In the recent case of *Torcaso v. Watkins*⁴² Justice Black reaffirmed the statement that "... neither [state or federal governments] can aid these religions based on a belief in the existence of God against those religions founded on different beliefs."⁴³ The Court also noted "[a]mong religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism and others."⁴⁴ Certainly *Seeger* is a restatement of *Torcaso* in this respect.

References were made in both the Court's⁴⁵ and in the concurring opinion⁴⁶ to the proposition that the rejection of an atheist under section 6 (j) would cause an entirely different problem when considering any constitutional question.⁴⁷ But just how would the Court treat such a case? Obviously, the *tour de force* statement by Justice Douglas plus the reference by Justice Clark to the *Estep* decision⁴⁸ emphasizes the desire to relegate the problem

³⁹ What exactly Justice Douglas meant by the term "cosmos" is not too clear, though he may have been referring to some form of pantheism, or to a framework of concepts and relations which man erects, in satisfaction of some emotional or intellectual drive, for the purpose of bringing descriptive order into the world as a whole (including oneself as one of its elements). See 4 Encyclopaedia Britannica 502. (1957 ed.).

⁴⁰ See generally ROSTEN, RELIGIONS IN AMERICA (1960 ed.) for a vivid analysis of some different orthodox beliefs in God and the varying methods of worship which have developed within them.

⁴¹ For example, an attempted classification would be compounded by an adherent of Unitarianism. Unitarians do not follow any formal or central creed. "Freedom of belief among Unitarians is broad enough to include agnosticism, humanism, even atheism, on the one hand, and, on the other, a belief in God which can be manifested in a wide range of definitions from that of a 'personal God' to an 'Ultimate Reality.'" ROSTEN, *id.* at 158.

⁴² 367 U.S. 488 (1961).

⁴³ *Id.* at 495.

⁴⁴ *Id.* at 495, n.11.

⁴⁵ "No party claims to be an atheist or attacks the statute on this ground. The question is not, therefore, one between theistic and atheistic beliefs." *United States v. Seeger*, *supra* note 1, at 4250.

⁴⁶ "If he were an atheist, quite different problems would be presented." *Id.* at 4256, n.2.

⁴⁷ At least one writer has suggested that if some of the groups (Ethical Culture, Secular Humanism) referred to in *Torcaso* are to be considered religious, so should the less organized atheists and agnostics. RICE, THE SUPREME COURT AND PUBLIC PRAYER 75 (1st ed. 1964).

⁴⁸ *Estep v. United States*, 327 U.S. 114 (1946). The "rational basis of fact" or "substantial evidence" test holds that an abuse of a local board's discretion must be clearly shown before a court will overturn its classification. *Elder v. United States*, 202 F. 2d 465 (9th Cir. 1953), *cert. denied* 345 U.S. 999 (1953).

cases in this field to the courts of appeal in the future. Despite admonishments to the contrary, this may actually result in placing atheists within section 6 (j). It seems tenable that an intelligent and enterprising atheist would have little trouble fitting his beliefs under the new nebulous standard. Apparently any type of statement similar to Seeger's profession of "a religious faith in a purely ethical creed" would suffice. Supposedly, it would be permissible to advocate that merely by living, reading and observing, one could receive "religious" training and belief and thereby formulate a conscientious objection to war? The final result would be almost tantamount to a lifeless definition of "religious" in the same context as "conscientiously," as when used by a layman, *e.g.*, in favorably describing another's work—*i.e.*, that he works at his job very religiously.

In its analysis of *Torcaso*, the Brief for the United States in *Seeger* surmised:

"We submit the Court was assuming that these groups (Buddhists, Taoists, Ethical Culturists, Secular Humanists) hold a belief in something beyond mere moral commitment to one's fellow man. Otherwise, all thoughtful people would be believers in religion, and the court's allusion to non-believers would include only those unwilling to take any position at all."⁴⁹

The fact remains, at least one of these groups just does not require holding such beliefs or creed.⁵⁰

By construing the "merely personal moral code" exception provision of section 6 (j) into meaning a belief that is not merely personal but which is the sole basis for the registrant's belief and is in no way related to a Supreme Being⁵¹ is mere tautology. The aforementioned guidelines vitiate any validity a lower board might desire to attribute to this exception provision. By widening the definition of religion under the statute at least to the cosmos, the exception provision would seem to have been effectively eliminated. What belief held by any registrant, which he himself characterizes as religious and which expresses an objection to combatant training can be said to be derived solely from "essentially political, sociological views or a merely personal moral code?"

⁴⁹ Brief for Petitioner, p. 75, *United States v. Seeger*, *supra* note 1.

⁵⁰ *Washington Ethical Society v. District of Columbia*, 249 F.2d 127, 128 n.2 (1957); As to Ethical Culture: "varying theological opinions exist in every Ethical Society. In our free fellowship, theists, *agnostics*, *atheists*, and others unite on the basis of respect for one another's integrity and a common concern for human welfare." (Emphasis added.) Pamphlet of Ethical Culture and the Washington Ethical Society, *the Character of Ethical Culture* (1965). See also, *Fellowship of Humanity v. County of Alameda*, 153 Cal. App. 2d 673, 315 P. 2d 394 (1957); Brief for the American Ethical Union as *Amicus Curiae*, p. 6, *United States v. Seeger*, *supra* note 1; Brief for the American Humanist Association as *Amicus Curiae*, p. 2-3, *United States v. Seeger*, *supra* note 1. Also, in many ethical organizations "members are not committed to any creed." 8 *Encyclopaedia Britannica* 752 (1964 ed.).

⁵¹ *United States v. Seeger*, *supra* note 1. at 4253-54.

The Court's emphasis on the test of insincerity of the registrant's beliefs causes some concern. In effect, the determination of sincerity is now the only test for an exemption. At least in peacetime, the ultimate test of anyone's sincerity might be his determination to go to prison rather than be inducted into the armed services. By delimiting section 6 (j) to this standard poses new and myriad problems.⁵² With no objective religious standard remaining, the less objective sincerity standard carries the complete burden of eligibility.⁵³

CONCLUSION

The history of the draft acts indicates a desire by Congress to limit the conscientious objector section to traditional religious beliefs. In the instant case, the Court has held three persons to be within the act whose religious beliefs could not be so considered. *Torcaso* referred to certain religions which are not recognized as orthodox⁵⁴ and do not require dogmatic beliefs in a Supreme Being. Atheists as well as agnostics can belong to at least one of these, and thus it would seem that what in effect would be a mere personal moral code could suffice as a religious belief and be asserted as a parallel belief. Unless the exception provision is construed to prohibit certain religious beliefs, the new test would seem to encompass all beliefs, even those which do not require the acceptance of the cosmos. This would appear to render the new test a form without substance—a judicial “paper tiger.”

Perhaps it is doubtful that due process should permit any distinction, if one should arise, between registrants based on something as nebulous as the *Seeger* test of “parallel belief.”⁵⁵ But it is indeed an anomalous decision that could classify an atheist as a religious person. While the method used in *Seeger* might be more deft than *Torcaso*, the *Seeger* result, if it is desirable, should require direct congressional action. The Court has taken this task upon itself, by overruling indirectly what it purportedly refused to do directly.

⁵² If sincerity remains the sole criteria for qualification, it seems that the charge of possible unfairness from the centering of investigatory, advisory and possibly prosecution functions all within the same agency should be reevaluated. See Note, 4 DE PAUL L. REV. 296, 305 (1955); but see, Smith & Derrick, *supra* note 32, at 700, 706. England's system is based merely on sincerity. *Id.* at 710-11, 622-24. Other characteristics remaining constant, the ratio of granting to denying recommendations by the Justice Department will probably substantially increase. See Smith & Derrick, *supra* note 31, at 702, 708-11. For other aspects of the sincerity test, see *Id.* at 722-24; Conklin, *supra* note 4, at 279.

⁵³ Objective ways have been utilized by selective service officials in the past to prove sincerity: *Witmer v. United States*, 348 U.S. 375 (1955) (inconsistent testimony and behavior); *United States v. Wider*, 119 F. Supp. 676 (D.C. N.Y. 1954) (failure to produce witnesses and outside evidence); *United States v. Annett*, 108 F. Supp. 400 (D.C. Okla. 1952) *rev'd on other grounds*, 205 F. 2d 689 (10th Cir. 1953) (demeanor and lack of humility). The subjective nature of sincerity was discussed in *Parr v. United States*, 272 F. 2d 416 (9th Cir. 1959).

⁵⁴ Buddhism, Taoism, Ethical Culture, and Secular Humanism. *Torcaso v. Watkins*, *supra* note 42.

⁵⁵ See Note, note 4.