

**IN THE DISTRICT COURT OF MARYLAND FOR ST. MARY'S COUNTY**

23110 Leonard Hall Drive, Leonardtown, MD

STATE OF MARYLAND

vs.

TEHRON RENELIUS GEORGE,

Defendant.

Case # D-043-CR-22-000716

**AMENDED MOTIONS TO DISMISS BASED ON UNCONSTITUTIONAL  
APPLICATION OF CONTROLLED DANGEROUS SUBSTANCE LAWS TO THE  
DEFENDANT IN VIOLATION OF HIS RIGHT TO FREE EXERCISE OF RELIGION  
AND MOTIONS IN THE ALTERNATIVE**

**AMENDED MOTION TO DISMISS #1**

The Defendant, Baba Tehron Renelius George-El<sup>1</sup>, by and through his attorney, Daniel John Smith Peterson, hereby respectfully amends and restates his June 14, 2022, motion to dismiss all charges against him for violation of Maryland's controlled dangerous substances ("CDS") laws relating to psilocybin and cannabis. Application of these statutes to Baba George-El under these circumstances is unconstitutional as it violates his right to free exercise of

---

<sup>1</sup> The Defendant's legal name is Tehron Renelius George, which he styles with the suffix "-El". "El" means "God" or "of God" in many names, including my own first name, and is used as an added suffix in Moorish communities by those who have experienced a spiritual rebirth.

"Baba" is a term of respect meaning "father" or "teacher" in many languages and spiritual traditions across Africa, the Middle East and Asia. As the Defendant and I share a religious community and I consider him a spiritual teacher, I ask the court's indulgence in allowing me to refer to him with this honorific that our community has informally bestowed on him.

religion. This motion is timely because, given the chilling effect of having to stand trial for one's constitutionally protected rights has on the exercise of those rights, it is appropriate for the Court to determine in advance of trial whether the trial itself would be a further violation of Baba George-El's rights.

### **APPLICABLE LEGAL STANDARD**

Article 36 of the Declaration of Rights of the Maryland Constitution<sup>2</sup> states in relevant part:

...all persons are equally entitled to protection in their religious liberty; wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights....

### **FACTS**

1. Baba George-El is being molested in his person and/or estate by the application of CDS laws in this matter.
2. Sacramental use of cannabis and psilocybin- and psilocin-containing mushrooms (hereafter simply "psilocybin mushrooms") is central to Baba George-El's religious practice.
3. The charges against Baba George-El stem entirely from the seizure of psilocybin mushrooms, cannabis and related paraphernalia intended for use in his religious practice.<sup>3</sup>

---

<sup>2</sup> Baba George-El's rights are similarly enshrined in and protected by the First Amendment of the U.S. Constitution.

<sup>3</sup> Among the charges against Baba George-El is misdemeanor possession of phencyclidine, based on the seizure of "a small vial, which possessed a strong, sharp odor of acetone" according to the charging document. No further corroboration of the vial's contents has been done since this

4. Baba George-El is therefore being molested by CDS laws for and solely on account of his religious practice.

5. Cannabis and psilocybin mushrooms are among the safest psychotropic substances in terms of needing to seek emergency medical treatment and in terms of potential harms to the user and society. See Memorandum in Support.

6. Because of the minimal risk presented to both the user and society by these substances, Baba George-El's possession of psilocybin mushrooms and/or cannabis under color of religion does not *per se* disturb the good order, peace or safety of the State, or infringe the laws of morality, or injure others in their natural, civil or religious rights.

### **ARGUMENT**

This case presents an issue of first impression for the courts of Maryland—exemption from application of CDS laws under color of religion—but the principle of religious toleration has been enshrined in the laws of Maryland since the landing of the *Ark* and the *Dove* at was to become St. Mary's City in 1634, where settlers arrived with instructions from the Catholic Lord Baltimore that the "Governors and Commissioners treat Protestants with as much mildness and favor as justice will permit." The history of religious freedom in Maryland is one of slow expansion, and occasional regression, in the recognition of what constitutes a religion and who is

---

initial "smell" test by the arresting officer. Based on this description, Baba George-El believes the vial almost certainly contains cologne and not any controlled dangerous substance. Acetone is used as a solvent in many colognes. Baba George-El makes no claim to religious use of phencyclidine and strongly opposes its use in any context, having seen its ravages in the communities of his youth, and having abused it himself during his "darker years."

entitled to claim the right. This Court now has an opportunity before it to continue to bend the arc of history toward justice.

The Maryland Court of Appeals articulated the relevant principle of law most clearly in *McMillan v. State*, 258 Md. 147 (1970). In that case, the appellant refused to remove his religious headgear while being arraigned before the Criminal Court of Baltimore and was sentenced to jail for contempt of court. The Court of Appeals reversed this decision, holding that the free exercise right “includes not only protection to assure the practice of universally known and conventionally accepted religions but a myriad of seldom heard of, off-brand and off-beat religious concepts.”

While the Court of Appeals recognized that the free exercise right is not absolute, it also affirmed that “the State may abridge the religious practices of any individual only upon a demonstration that some compelling state interest outweighs the interest of the individual in his religious tenets.” (Emphasis added.) The Court of Appeals recognized that the State does in fact have a compelling interest in respect for the courts, but found that “in the instant case it would appear that the wearing of the filaas [religious headgear] by the defendant was not disruptive of the decorum and respect to which a court is entitled.”

Here, as in *MacMillan*, is a religious practice that many may view as an “off-beat”: ceremonial consumption of cannabis and psilocybin mushrooms. Baba George-El does not dispute that the State has a compelling interest in the health and safety of the people of Maryland. But in the instant case, because of the minimal risk presented by the sacramental

substances in question, the State's interest cannot possibly outweigh Baba George-El's interest in practicing his religion.<sup>4</sup>

Because this prosecution abridges Baba George-El's religious practice and no compelling state interest outweighs his interest in practicing his religion, it is an unconstitutional violation of his right to free exercise of religion. The Court should order that the charges against Baba George-El be dismissed to spare him the burden of having to stand for trial, and to end the chilling effect his prosecution is having on the free exercise of religion in Saint Mary's County and the State of Maryland.

### **AMENDED MOTION TO DISMISS #2**

Baba George-El hereby amends and restates his June 16, 2022, motion to dismiss because the State has exhibited hostility to his religious views in this matter, in violation of his right to free exercise of religion.

---

<sup>4</sup> The Court may also wish to draw guidance from the Supreme Court of New Hampshire, a fellow original colony, which recently addressed a similar fact pattern in *New Hampshire v. Mack*, 173 N.H. 793, (N.H. 2020). In that case, which involved sacramental use of psilocybin mushrooms, the court declined to rely on federal precedent when interpreting the free exercise protections of the New Hampshire Constitution because of the "substantial linguistic differences" between the two. In particular the New Hampshire Supreme Court departed from the precedent of *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990), in which the U.S. Supreme Court broke with its own precedents to dispense with the "compelling government interest" test, and held that "the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." *Smith* at 890. While the Court need not reach the question, Baba George-El would prevail under the *Smith* standard as well because the laws in question are not neutral and generally applicable. Baba George-El will brief further on this matter at the Court's request.

**FACTS**

1. Baba George-El identified himself as a spiritual healer en route to a ceremony at the outset of the traffic stop, made a claim to religious exemption from application of CDS laws at the time of his arrest, and provided the arresting officers ample evidence supporting this claim.
2. The conduct of the arresting officers was not respectful of Baba George-El as a person, nor of his claims to religious exemption.
3. The search leading to Baba George-El's arrest was unlawful.
4. While in custody, Baba George-El was denied any opportunity to urinate for hours, despite showing the arresting officers the large jug of water he had been drinking from and had nearly finished in the vehicle as part of a spiritual cleansing process.
5. The arresting officer, Trooper Rachel Kaszubski, failed to appear for the initial scheduled date of Baba George-El's preliminary hearing on June 13, 2022, despite having received a hand-delivered subpoena.
6. In requesting postponement of the hearing, the State promised this Court that Trooper Kaszubski would appear at a hearing scheduled for the following day, thirty-one days after Baba George-El's arrest.
7. Trooper Kaszubski failed to appear yet again, and the hearing proceeded on the testimony of Trooper Drew Baker over Baba George-El's objection.
8. It has been 60 days since Baba George-El's arrest at the time of this writing, during which time he has been held by the State without bond.
9. The State has given no consideration at all to Baba George-El's claim to religious exemption to date, and certainly not neutral and respectful consideration.

## ARGUMENT

State actors must give religious views neutral and respectful consideration. They cannot show hostility to religious views.

The U.S. Supreme Court reaffirmed this principle recently in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 585 US \_\_\_\_ (2018). In that case, the owner of a Colorado bakery told a same-sex couple that he would not create a cake for their wedding because of his religious opposition to same-sex marriages. The couple filed a charge under the Colorado Anti-Discrimination Act, which prohibits discrimination based on sexual orientation in a “place of business engaged in any sales to the public.” An administrative law judge ruled in the couple’s favor, and the Colorado Court of Appeals affirmed. The Supreme Court reversed the decision, finding that while Colorado law can protect gay persons in acquiring products and services on the same terms as are offered to other members of the public, the law must be applied in a manner that is neutral toward religion. The Court identified evidence showing that the Colorado Civil Rights Commission had exhibited impermissible hostility toward the shop owner’s sincere religious beliefs in considering his claim to religious exemption. Citing *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 540–542 (1993), the Court reaffirmed that:

The government, if it is to respect the Constitution’s guarantee of free exercise, . . . cannot act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices. The Free Exercise Clause bars even “subtle departures from neutrality” on matters of religion. *Id.*, at 534. Here, that means the Commission was obliged under the Free Exercise Clause to proceed in a manner neutral toward and tolerant of Phillips’ religious beliefs. The Constitution “commits government itself to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures.” *Id.*, at 547.

Here, as in *Masterpiece Cakeshop*, the State must apply the law in a manner that is neutral toward religion. It has utterly failed to do so. State actors have ignored Baba George-El's claim from the beginning, violated his Fourth Amendment rights, subtly abused him in custody, delayed the judicial process unlawfully, failed to keep promises to this Court, and have not, to date, even bothered articulate an opposition to the religious exemption claim.

Just as the result in *Masterpiece Cakeshop* did not turn on the underlying merits of the religious exemption claim, the success of this motion does not turn on the success of the leading motion. Regardless of this Court's decision on that motion, Baba George-El's had at least a reasonable basis to claim religious exemption and was therefore entitled to neutral and respectful consideration of that claim by State, free of hostility. Because the State has failed in this duty, the charges against Baba George-El should be dismissed.

#### **MOTION #1 IN THE ALTERNATIVE**

Baba George-El moves this Court for an order suppressing all evidence flowing from the search of his bag at the time of his arrest. The search was conducted without a warrant, without consent, and without any reasonable basis, in violation of the Fourth and Fourteenth Amendments to the United States Constitution. All evidence obtained from this search were fruits of unlawful police activity and therefore should be suppressed.



**MOTION #2 IN THE ALTERNATIVE**

Baba George-El requests the conditions of his bond be reconsidered and that he be released on personal recognizance. Because of their low risk of toxicity and dependence, Mr. George's possession of psilocybin and cannabis in the quantities alleged presents no more risk to the public than would his possession of a prescription amount of a Schedule III or IV substance such as a synthetic antidepressant. See Memorandum in Support. Accordingly, as there is no alleged victim of his crime, nor any alleged risk that he will fail to appear for trial, Mr. George should be released on personal recognizance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel J. Peterson". The signature is fluid and cursive, with the first name "Daniel" and last name "Peterson" clearly legible.

Daniel John Smith Peterson, Attorney 0812180019  
2412 Homestead Drive  
Silver Spring, MD 20902  
dan@danielpetersonlaw.com | 240.460.3573

I hereby certify that on July 13, 2022, I electronically filed the foregoing Defendants' Motion to Dismiss using the Court's MDEC system, causing a notice of filing to be served upon all counsel of record.