

Katz v. Superior Court (1977)

73 Cal. App 952

Katz arose out of the activities of religious cults—in particular, the Unification Church of the Reverend Sun Moon. At the trial court level, the parents of five adult members of the Unification Church testified that their children, through involvement with the Unification Church, had been exposed to psychological pressures that caused impairment of their physical and mental health and loss of their free will. Testimony from former members of the Unification Church indicated that members were exposed to coercive persuasion of "brainwashing." On the basis of this testimony the parents obtained court orders appointing them temporary conservators of their children and began deprogramming efforts.

Opinion of the Court: Sims, Elkington, Lazarus.

ACTING PRESIDING JUDGE SIMS delivered the opinion of the Court

. . . We are asked to find that the temporary orders violated the conservatees' rights to freedom of religion and association under the federal and state Constitutions. (U.S. Const., 1st Amend.; Cal. Const., art. I, SSI and 4.) The parents claim that there is no freedom of action, freedom of religion, or freedom of assembly involved, that the sole issue is whether or not the conservatees have been deprived of their reasoning powers by artful and designing persons. On behalf of the conservatees it is urged that since an alleged religious group is involved, there can be no inquiry into the validity of the beliefs held by the members of that group, and the proceedings below trespassed into that field. We find that the law applicable to this case is not as myopic, but is more perceptive than the conservatees assert, and that the facts cannot be as simply interpreted as the parents contend.

There is a distinction between interference with a person's beliefs and a person's acts. Nevertheless where does belief end and action begin? . . . Evidence was introduced of the actions of the proposed conservatees in changing their life style. When the court is asked to determine whether that change was induced by faith or by coercive persuasion is it not in turn investigating and questioning the validity of that faith? At the same time the trier of fact is asked to adjudge the good faith and bona fideness of the beliefs of the conservatees preceptors. If it be assumed that certain leaders were using psychological methods to proselytize and hold the allegiance of recruits to the church or cult, call it what we will, can it be said their actions were not dictated by faith merely because others who engaged in such practices have recanted? The total picture dis. closed must be tested by principles applicable to the regulation of acts of religious organizations and their members....

The test of interference with action in the above fields, which are protected by the First Amendment, is a compelling state interest. . . . The state may have a compelling state interest in preventing fraud under the guise of religious belief. If such is the case criminal sanctions may be imposed where there is no bona fide conviction on the part of the actors. . . . We conclude that in the absence of such actions as render the adult believer himself gravely disabled as defined in the law of this state, the processes of this state cannot be used to deprive the believer of his freedom of action and to subject him to involuntary treatment. As Justice Jackson stated

in dissenting in *United States v. Ballard*, "The wrong of these things, as I see it, is not in the money the victims part with half so much as in the mental and spiritual poison they get. But that is precisely the thing the Constitution put beyond the reach of the prosecutor, for the price of freedom of religion or of speech or of the press is that we must put up with, and even pay for, a good deal of rubbish."...