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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

RASHID KAMBAROV,	
Plaintiff,	Civil No.
v.	**COMPLAINT**
TROY BOWSER, DONALD HODNEY, HEIDI STEWARD, STUART YOUNG, and JOHN/JANE DOES 1-10,	CIVIL RIGHTS 42 USC 1983; RLUIPA 42 USC SEC. 2000 1(A)(1)(2); DEMAND FOR DAMAGES AND ATTORNEY FEES
Defendants.	**JURY TRIAL DEMANDED**

I. INTRODUCTION

1. Plaintiff Rashid Kambarov, a prisoner at the Two Rivers Correctional Facility in Umatilla, Oregon, has been denied the ability to practice his religion in accordance with religious strictures. Particularly, he has been denied access to halal meat, despite ready alternatives available to the Oregon Department of Corrections. Additionally, what has been offered, a vegetarian diet, does not meet halal dietary restrictions because of consistent cross-contamination

with pork. Plaintiff seeks redress for the violation the Religious Land Use and Institutionalized Person Act of 2000 (RLUIPA) and the First and Fourteenth Amendment for denying plaintiff a halal diet or alternatively a kosher diet despite his sincere religious belief.

2. Through this action for injunctive and or declaratory relief and for damages and attorney fees plaintiff seeks (i) a declaration that plaintiff's rights under the First and Fourteenth Amendment, and RLUIPA have been violated, (ii) an injunction preventing the United States from violating the rights specified herein in the future, (iii) an order that halal meals including halal meat are provided to plaintiff while incarcerated, (iv) alternatively an order that kosher meals are provided to plaintiff, and (viii) monetary damages and attorney fees for the events specified in this complaint.

II. PARTIES

3. Plaintiff is a legal permanent resident of Tukish descent. He currently resides at Two Rivers Correctional Institution in Umatilla, OR.

4. Defendant Troy Bowser is the Superintendent of Two Rivers Correctional Institution, and an employee of the State of Oregon. At all relevant times, Defendant Bowser was acting under color of law. Defendant Bowser is sued in his official capacity.

5. Defendant Donald Hodney is the religious coordinator at Two Rivers Correctional Institution, and an employee of the State of Oregon. At all relevant times, Defendant Hodney was acting under color of law. Defendant Hodney is sued in his individual and official capacity.

6. Defendant Heidi Steward is the Assistant Director for the Offender Management and Rehabilitation with the Oregon Department of Corrections, and an employee of the State of Oregon. At all relevant times, Defendant Steward was acting under color of law. Defendant Steward is sued only in her individual and official capacity.

7. Defendant Stewart Young is the Assistant Administrator for Central Office Administration with the Oregon Department of Corrections, and an employee of the State of Oregon. At all relevant times, Defendant Young was acting under color of law. Defendant Young is sued in his official and personal capacity.

8. John/Jane Does 1-10 are unknown employees of the State of Oregon, who ordered, directed, undertook, or in some manner participated in the violation of plaintiffs rights as alleged in this complaint.

III. JURISDICTION AND VENUE

9. This is a complaint for injunctive and declaratory relief, and for damages, and attorney fees based upon defendants' violation of plaintiff's constitutional, statutory, and common law rights. This court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. § 1983, and 28 U.S.C. §§ 1331, 1343(a)(3), (4).

10. This Court has subject matter jurisdiction pursuant to the Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

11. Venue is proper within the District of Oregon because all the events giving rise to this claim occurred in this judicial district, and all defendants reside in this judicial district. 28 U.S.C. § 1391(b). The acts and practices alleged herein occurred in Two Rivers Correctional Institution, Umatilla County, Oregon.

II. FACTUAL ALLEGATIONS

General Overview of Halal Meal Requirements

12. Plaintiff upon arriving at Two Rivers Correctional Facility (hereinafter Two Rivers) put in religious service request on December 21, 2015 for a special diet to accommodate to his Muslim faith. Plaintiff is a Muslim whose faith requires him not to eat pork or drink

alcohol or consume food or products containing or having come into contact with Pork and Alcohol. *See* Koran 5:90, 5:3, 2:173. ("As a Muslim he is to eat meats that have been properly slaughtered and prepared.")

13. The term "halal" is an Arabic/Muslim reference to what is allowed for Muslims, where the term "haram" is a reference to what is forbidden. The term halal as applied to foods is similar to the Hebrew/Jewish designation kosher (for allowable foods).

14. The proper preparation of meats includes cutting an animals throats with a sharp knife, insuring the animal did not die of natural causes or a violent blow. Further Muslims should not eat meat on which other than the name of God has been pronounced. *See* Koran 5:3, 2:173.

15. Given the above requirements, it is acceptable for Muslims to eat food that is lawful to those of the Jewish faith and law as fellow "people of the book." *See* Koran 5:5 (The Koran provides that was is lawful to the people of the book is lawful to you).

16. Kosher restrictions are slightly more rigorous in many respects. For example, some Muslims eat shellfish where many orthodox Jews do not. Similarly, it is permissible for Muslims to eat food out of a porcelain dish that is later cleaned, or to eat meat that touches dairy, whereas orthodox Jews cannot.

17. However, many Jews (arguably even some orthodox) would allow consumption of food that is prepared with alcohol whether it has evaporated or not. Generally, this would not be acceptable for strict Muslim adherents, including Plaintiff, making a halal meal necessary for full religious compliance.

Plaintiff's Attempt to Receive Religious Dietary Accommodations

18. OAR 291-143-0112(1) provides: "The department will satisfy the special religious dietary needs of inmates within the context of the Food Services cyclical menu."

Inmates may petition to have a religious accommodation for meals from the facility religious coordinator. OAR 291-143-0115(1)(c).

19. Plaintiff upon arriving at Two Rivers Correctional Facility (hereinafter Two Rivers) put in religious service request on December 21, 2015 for a special diet to accommodate to his Muslim faith. His request was denied.

20. He filed a grievance on February 2, 2016. He was told by a letter dated March 24, 2016 by the Assistant Administrator of the Dept. of Corrections Defendant Stuart Young that the department supports the dietary needs of Muslims by providing them a pork free meat alternative diet which includes fresh and cooked fruits and vegetables. The letter further explained that the food is prepared in a manner that avoids contamination by not coming into contact with pork or alcohol.

21. Plaintiff filed a grievance appeal on April 8, 2016. Again, DOC told Plaintiff that a vegetarian tray would be sufficient. Plaintiff filed a second grievance appeal stating he is not a vegetarian and cannot eat a veggie tray or a regular tray because they are not prepared properly and may contain pork. He as an alternative asked for a kosher tray with kosher meat. Plaintiff received a letter dated June 3, 2016 from Defendant Heidi Steward, the Assistant Director of the Department of Corrections, stating that in consultation with an Imam Muslims do not eat Kosher. It further said that the Imam confirmed that the self-select veggie tray from mainline is the best option for a Muslim. This is misleading or inaccurate and a contrary to Plaintiff's sincerely held religious beliefs, as discussed above.

Cross-Contamination with Pork Products

22. Two Rivers inmates receiving the vegetarian meals do so in the same line as the rest of the non-halal inmates. Inmates receiving kosher meals receive their meals before other

inmates as to avoid cross-contamination. Additionally, the kosher meals are clearly marked noting that they had been cooked separately, and that the server should avoid cross-contamination. Halal meals are neither marked nor processed separately.

23. On July 26, 2017, Plaintiff observed the inmate workers in the kitchen were handling both the cut vegetables for the vegetarian meals and salami for sandwiches, contaminating the meat and no longer making the vegetarian meals halal. Additionally, the signs listing which foods contained pork were inconsistent. The listing for the salami sandwiches did not indicate that it was a pork product, but the listing for the salami pizza did. Plaintiff brought this to the kitchen work coordinator's attention, and was told that this problem would be addressed.

24. On August 1st, 2017, Plaintiff went through the serving line for lunch. The meal board indicated that the prison would be serving ham sandwiches. Plaintiff opted for the cut vegetables and soup instead. The signage did not indicate that the soup contained pork products. After consuming some of the soup, another inmate pointed out that the soup contained pork. Plaintiff asked a correctional officer to be allowed back into the food line to get a new tray, as his vegetables were likewise contaminated. The correctional officer reluctantly allowed Plaintiff to get a new tray.

25. When back in line, Plaintiff saw a kitchen worker use the same knife he used to serve ham to serve his vegetables. Because of this, his meal was no longer halal.

26. Plaintiff again brought this to the attention of Two Rivers, but was stymied by the prison staff. One staff member, Sgt. Goucher, made a dismissive gesture, and walked away. Plaintiff was told that as far as the prison was concerned, they were complying with his religious needs.

27. At other times, when inmates are put on lockdown, which happens frequently, the food trays are brought to the inmates. They do not have an option which foods to eat. As a result Plaintiff is forced to eat only a portion of his meal and forego those he has no opportunity to verify its source or preparation.

The Cost of Restrictions of Free Exercise and Ready Alternatives

28. As noted above, Plaintiff would not necessarily violate his religious beliefs by eating kosher meals. *See* Koran 5:5. Two Rivers makes kosher meals separately from its other meals, using clean, non-contaminated utensils, and serves these meals first, to prevent the contamination Plaintiff witnessed above.

29. The kosher meals use a soy-meat alternative for protein. Two Rivers does serve religious dietary meats to adherents of Odinism and to members of Native American tribes.

30. Plaintiff can purchase halal meat from the Canteen, and has done so in the past, incurring costs and economic damages. The cost of purchasing food from the Canteen are considerable for Plaintiff who has no outside means of income. Defendants have selectively decided to attach additional costs to Plaintiff's practice of his religion.

31. Additionally, because of the restrictive diet associated with both being halal-adherent and receiving vegetarian trays, Plaintiff is not consuming the same nutritionally and calorically balanced diet available to other inmates. As a result, Plaintiff's health is being compromised.

32. Because of Defendants' actions, Plaintiff has had to place his sincerely held religious beliefs at odds with his health and nutrition, creating a severe burden on him.

33. On information and belief Oregon's sister state, Washington, provides halal meals to its incarcerated persons at only marginally more cost than regular meals.

CLAIMS FOR RELIEF

34. Plaintiffs bring caims under 42 USC § 1983, for violations made by the named-Defendants, and John Does 1-10 of Plaintiffs' First and Fourteenth Amendment rights.

35. The Defendants are all persons within the meaning of 42 U.S.C. 1983.

36. Plaintiff seeks an award of economic damages, non-economic damages, injunctive relief, and attorney fees and litigation expenses/costs against defendants.

CLAIM ONE
FIRST AMENDMENT
(Unlawful restriction of free expression of religion, and violation of the establishment clause – 42 U.S.C. 1983 – Individual and official capacity)

37. Plaintiff realleges paragraphs 1 through 33.

38. The First Amendment protects the right to freely exercise one's religion. As well, it prevents the State from establishing a religion or preferring one religion to another.

39. While some restrictions are permissible in the context of prisons, there must exist a rational connection between the restriction and the termination of a right protected by the First Amendment. Additionally, there must be no ready alternatives to the restriction on a prisoner's constitutional right to secure the penological interest.

40. There is no compelling state interest, nor valid penlogical interest, in denying plaintiffs religious accommodation request of a halal meat diet which is part of his sincerely held belief.

41. Defendants can provide plaintiff a halal meat diet with little to no additional costs or restriction, or a kosher diet with no more costs to those already provided to Jewish inmates, and yet refuse to do so. Each Defendant sued in their individual capacity violated Plaintiff's First Amendment rights by denying him access to a halal or halal-approximate meal, and for failing to train their subordinates on properly addressing religious accommodations.

42. Defendants violated rights held by Plaintiffs which were clearly established, and no reasonable official similarly situated to the individual Defendants could have believed that their conduct was lawful or within the bounds of reasonable discretion. Defendants therefore do not have qualified or statutory immunity from suit or liability.

43. By these actions, defendants are irreparably harming plaintiff. Plaintiff has no adequate remedy at law for defendants' continuing unlawful conduct, and defendants will continue to violate plaintiff's legal rights unless enjoined and restrained by this Court.

44. Plaintiff has suffered economic and non-economic damages in an amount to be determined at trial.

CLAIM TWO
FOURTEENTH AMENDMENT
(Unequal treatment – 42 U.S.C. 1983 – Individual and official capacity)

45. Plaintiff realleges paragraphs 1 through 33.

46. Kosher-adherent inmates are provided a diet that consists of specially prepared meals free of pork with extra precautions to prevent cross contamination.

47. Plaintiff is not allowed a similar halal meal with the same preparations, assurances of source, and safeguards as the other inmates.

48. Other faiths, such as Odinist, and members of Native American tribes are assured a special meat diet in Oregon.

49. Equally situated classes of persons should be treated equally. The Equal Protection Clause of the Fourteenth Amendment entitles each prisoner to a reasonable opportunity of pursuing their faith comparable to the opportunity afforded fellow prisoners who adhere to conventional religious precepts.

50. The difference between the Defendants' treatment of Plaintiff and other similarly

situated inmates is not reasonably related to legitimate penological interests. Each Defendant sued in their individual capacity violated Plaintiff's Fourteenth Amendment rights by denying him access to a halal or halal-approximate meal, and for failing to train their subordinates on properly addressing religious accommodations.

51. Defendants violated rights held by Plaintiffs which were clearly established, and no reasonable official similarly situated to the individual Defendants could have believed that their conduct was lawful or within the bounds of reasonable discretion. Defendants therefore do not have qualified or statutory immunity from suit or liability.

52. By these actions, defendants are irreparably harming plaintiff. Plaintiff has no adequate remedy at law for defendants' continuing unlawful conduct, and defendants will continue to violate plaintiff's legal rights unless enjoined and restrained by this Court.

53. Plaintiff has suffered economic and non economic damages in an amount to be determined at trial.

CLAIM THREE
RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT
(Violation of rRLUIPA – 42 U.S.C. § 2000cc et seq. – Official capacity)

54. Plaintiff realleges paragraphs 1 through 41.

55. Plaintiffs sincere belief is that halal meat is a required part of his Muslim diet. Plaintiff is not only being denied a reasonable accommodation of his sincere belief he is being denied his free exercise even where there may be some Muslims who believe eating halal meat is optional.

56. Under the definition of "religious exercise," a religious exercise need not be mandatory for it to be protected under RLUIPA. 42 USC § 2000cc-5(7)(A).

57. RLUIPA includes no requirement that a plaintiff's sincerely held religious belief be fundamental to, or a central tenet of, his religion. In relevant part, RLUIPA provides as follows:

> No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.

42 USC § 2000cc-1(a).

58. Religious exercise includes "any exercise of religion, *whether or not compelled by, or central to*, a system of religious belief." 42 USC § 2000cc-5(7)(A) (emphasis added).

59. Defendants denial of Plaintiff halal meals does not further a compelling governmental interest.

60. Defendants denial based on a consulting Imam's opinion is not appropriate, nor should it be substituted for Plaintiff's sincerely held belief.

61. Pursuant to RLUIPA, Plaintiff requests "appropriate relief" from the court, including but not limited to declaratory and injunctive relief, as described below, and prevailing party fees, costs, and attorney's fees.

DECLARATORY RELIEF
(Official Capacity)

64. Plaintiff is entitled to declaratory relief naming that Defendants' system of providing Muslim inmates vegetarian tray violates the First and Fourteenth Amendment, and RLUIPA.

INJUNCTIVE RELIEF
(Official Capacity)

65. Plaintiff is entitled to injunctive relief requiring Defendants and their successors to:

a. Provide halal-meat products to Muslim inmates;

b. If not halal-meat products, provide separately-made halal meals to Muslim inmates;

c. In the alternative to halal meals, provide Muslims to receive kosher meals;

d. Train their employees as to the requirements of various religious faiths;

e. Restrain their employees from discriminating against Muslim inmates; and

f. Prevent the violation of sincerely held religious beliefs.

REASONABLE ATTORNEY'S FEES AND COSTS

57. 42 U.S.C. § 1988(b) allows "the prevailing party… a reasonable attorney's fee as part of the costs…" in an action brought under 42 U.S.C. § 1983.

58. Plaintiff requests that the Court grant a reasonable attorney's fee in this action.

CONCLUSION

WHEREFORE, Plaintiffs pray for relief as follows:

a. For judgment in favor of Plaintiffs against Defendants for their damages;

b. For reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

c. For such other and further relief as may appear just and appropriate.

DATED: January 29, 2018.

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