

STATE OF VERMONT

SUPERIOR COURT

Washington Unit

CIVIL DIVISION

Docket No. 21-CV-1853

WILLIAM McLAUGHLIN

Plaintiff,

v.

JAMES BAKER, et. al.,

Defendants

RULING ON THE MERITS

Plaintiff William McLaughlin, an inmate in the custody of the Vermont Commissioner of Corrections, brings this civil rights suit against various employees and agents of the Vermont Department of Corrections (“DOC”) in their official capacity, alleging that they have unlawfully impeded the free exercise of his religion in violation of his rights under 42 U.S.C. § 1983 and the First Amendment to the U.S. Constitution.¹

This matter came before the Court for an evidentiary hearing on the merits on September 22, 2022. Plaintiff William McLaughlin represented himself, and Attorney Patrick T. Gaudet represented the Defendants at the hearing. At the conclusion of the hearing, the parties asked the Court to stay the case for 60 days to give them an opportunity to explore a possible settlement of their dispute. Because the 60 days have expired without a settlement, the Court will now proceed to decide the case. Based upon the credible evidence, the Court finds, concludes and orders as follows.

I. FINDINGS OF FACT

Plaintiff has been a Sunni Muslim since 1996. As a Muslim, he may not use hygiene products, such as soaps, lotions and shampoos, that contain animal fat ingredients because to do so would violate his religious beliefs. Inmates can purchase hygiene products such as soaps, lotions and shampoos from the prison commissary, but those products contain animal fats and other ingredients not allowed by the Muslim religion. If a Muslim inmate wishes to purchase

¹ The Plaintiff also sued the Defendants in their individual capacity, but, at the conclusion of the hearing on the merits, the Court dismissed those claims for lack of evidence of any personal involvement by the individual defendants. The only claim remaining before the Court, therefore, is Plaintiff’s claim against the Vermont Department of Corrections (i.e., the Defendants acting in their official capacity).

hygiene products that accord with his or her Muslim faith, he or she must seek the permission of prison authorities to order them from an approved outside vendor.

On May 8, 2021, while incarcerated at the Southern State Correctional Facility in Springfield, Vermont, Plaintiff submitted to the prison authorities a request for permission to place an order with Madina Industrial Corporation for eight hygiene items, consisting of soap, lotion and shampoo, costing \$37.00. Madina Industrial Corporation is located in Brooklyn New York and is one of the Department of Correction's approved vendors for Muslim inmates seeking or order items not available in the commissary. Madina Industrial is owned by Muslims, and its hygiene products are manufactured and blessed by Muslims.

Plaintiff was told that he would have to submit a religious accommodation request in order to get the items that he wanted approved in the allowed numbers. Plaintiff submitted the special accommodation request, but on May 27, 2021, his request was denied. The reason given was: "You can order non-flammable oils from commissary to pray with. Hygiene is only approved to be ordered from commissary." Plaintiff appealed the denial to the Commissioner of Corrections, but he got no response.

In 2020, while incarcerated at the Northern State Correctional Facility in Newport, Vermont, the Plaintiff had been permitted by prison officials to purchase hygiene products, including soaps and lotions, from Madina Industrial. After the products arrived, the Department of Corrections transferred the Plaintiff to the Northwestern State Correctional Facility in St. Albans, Vermont. When the transfer occurred, Plaintiff was allowed to bring his soaps and lotions with him, but, once they were used up, the Plaintiff could not order any more soap from Madina because Madina required a minimum order of ten items but prison officials refused to allow Plaintiff to order more than three items at a time.

II. CONCLUSIONS OF LAW

Plaintiff seeks injunctive relief and damages against Defendants in their official capacities for violating of his First Amendment rights.² Relief is available pursuant to 42 U.S.C. § 1983 where "federal rights have been violated through the use or misuse of a power derived from a State." *Kletschka v. Driver*, 411 F.2d 436, 448–49 (2d Cir. 1969). More specifically,

[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State...subjects, or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

² At the commencement of the hearing on the merits, counsel for the Defendants argued that the Plaintiff cannot pursue his free exercise of religion claim because he failed to exhaust his administrative remedies before instituting this action. However, DOC offered no evidence at the hearing as to what, if any, available administrative remedy the Plaintiff may have failed to exhaust. Moreover, the witness whom the Defendants called to testify at the hearing, Superintendent Makaila Merrill, testified that DOC's grievance process does not apply to religious accommodation requests. Therefore, DOC's argument is without merit.

42 U.S.C. § 1983.³

The United States Supreme Court has long recognized that “[i]nmates clearly retain protections afforded by the First Amendment including its directive that no law shall prohibit the free exercise of religion.” O’Lone v. Estate of Shabazz, 482 U.S. 342, 348 (1987) (“internal citations omitted). However, “to ensure that courts afford appropriate deference to prison officials, [the Supreme Court has] determined that prison regulations alleged to infringe constitutional rights are judged under a ‘reasonableness’ test less restrictive than that ordinarily applied to alleged infringements of fundamental constitutional rights.” Id. at 349. Thus, when an inmate alleges that prison regulations burden fundamental rights, such as those protected by the Free Exercise Clause of the First Amendment, “the regulation is valid if it is reasonably related to legitimate penological interests.” Turner v. Safley, 482 U.S. 78, 89 (1987). This standard of review is “responsive both to the policy of judicial restraint regarding prisoner complaints and to the need to protect constitutional rights.” Id. at 85 (internal quotation marks omitted).

DOC recognizes the foregoing principles and has incorporated them into its own formal policies:

The DOC acknowledges the inherent and constitutionally protected right of inmates to believe, express, and exercise the faith of their choice. The DOC works to accommodate an inmate’s opportunity to participate in religious programming and the practice of their faith....

It is the policy of the DOC to ensure that inmates, who wish to do so, may subscribe to any faith belief they choose. Inmate faith practices, as opposed to belief, may be subject to reasonable time, place, and manner restrictions.... The opportunity for inmates to engage in particular faith practices shall be subject to legitimate DOC or institutional interests and concerns, including security, safety, health, discipline, rehabilitation, order, and the limitations and allocations of resources.

DOC Directive #380.01 “Religious Services” (effective 4/3/17),, at 2.

Plaintiff has demonstrated that DOC substantially burdened the free exercise of his Muslim religion when prison officials at the Southern State Correctional Facility denied his request to purchase hygiene products from Madina Industrial and required him to purchase them from the commissary instead. DOC also substantially burdened the free exercise of Plaintiff’s Muslim religion when prison officials at the Northwestern State Correctional Facility insisted that Plaintiff order no more than three hygiene products at a time, thereby making it impossible for him to purchase anything from Madina Industrial, which required orders to contain a minimum of ten items. These actions forced the Plaintiff to get his hygiene products at the commissary, even though those products contained animal fat ingredients, the use of which

³ The Plaintiff did not assert a claim under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc-2000cc-5. Therefore, the Court will not discuss that statute.

violated his Islamic religious principles. “In general, a plaintiff will have stated a free exercise claim if ... ‘the claimant’s proffered belief [is] sincerely held’ ... and ‘the claim [is] rooted in religious belief, not in purely secular philosophical concerns.’” Walker v. Beard, 789 F.3d 1125, 1138 (9th Cir. 2015). DOC does not deny that Plaintiff’s religious beliefs are sincerely held. Therefore, the burden shifts to DOC to demonstrate that its policy of not allowing Muslim inmates to purchase their hygiene products from Madina Industrial, or some other outside vendor of Muslim products, is “reasonably related to legitimate penological interests.” Turner, 483 U.S. at 89.

In evaluating the reasonableness of a prison regulation, Turner instructs us to consider four factors: (1) whether there is a “valid, rational connection between the prison regulation and the legitimate governmental interest put forward to justify it”; (2) “whether there are alternative means of exercising the right that remain open to prison inmates”; (3) “the impact accommodation ... will have on guards and other inmates, and on the allocation of prison resources generally”; and (4) whether there are “ready alternatives that could fully accommodate [] the prisoner’s right at *de minimis* cost to valid penological interests.” Turner, 482 U.S. at 89-91 (internal citations and quotation marks omitted). Turner’s standard also includes a neutrality requirement, i.e., “whether prison regulation restricting inmates’ First Amendment rights operated in a neutral fashion.” Id. at 90.

DOC cannot meet its burden of demonstrating that its policy of requiring Plaintiff to purchase his soaps from the commissary is reasonably related to legitimate penological interests. Makaila Merrill, the Superintendent of the Southern State Correctional Facility in Springfield, Vermont, testified at the hearing on the merits. She testified unequivocally that there was no penological reason to deny Plaintiff the hygiene products that he had requested permission to purchase from Madina Industrials. Moreover, Madina Industrials was DOC’s approved outside vendor for its Muslim population of inmates. The hygiene products that the Plaintiff sought to order did not threaten the safety or security of the facility in any way. Indeed, Plaintiff had been allowed to purchase the same hygiene products from Madina Industrial while an inmate at the Northern State Correctional Facility in Newport, Vermont, and there is no evidence that this threatened the safety or security of that facility. DOC’s act of forcing Plaintiff to purchase his hygiene products from the commissary, even though they contained animal fat ingredients, the use of which violated his Islamic religious principles, left Plaintiff with no alternative method by which to conform with the requirements of his religion. Therefore, the Court concludes the DOC violated Plaintiff’s First Amendment right to practice his religion when it denied him the right to purchase hygiene products from the approved outside vendor.

Having determined that DOC violated Plaintiff’s First Amendment rights by denying him the use of hygiene products that conform to his religion, the Court must determine what remedy Plaintiff is be entitled to. Plaintiff cannot recover damages from the Defendants in their official capacity because “[t]he doctrine of sovereign immunity under the Eleventh Amendment ... protects state officials sued for damages in their official capacity.” Murphy v. State of Vermont Department of Corrections, et al., 2016 WL 890031, *7 (D. Vt. Feb. 25, 2016) adopted by

Murphy v. State of Vermont department of Corrections, et al., 2016 WL 907769, *1 (D. Vt. March 8, 2016) (internal quotation marks omitted).

For similar reasons, Plaintiff also cannot recover punitive damages from the Defendants. Punitive damages may be assessed in an action under § 1983 “when the defendant’s conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others.” DiSorbo v. Hoy, 343 F.3d 172, 186 (2d Cir. 2003). Thus, “[t]o be entitled to an award of punitive damages, a claimant must show a ‘positive element of conscious wrongdoing.’” Byrne v. Trudell, 2013 WL 2237820, *26 (d. Vt. May 21, 2003) (quoting New Windsor volunteer Ambulance Corps, Inc. v. Meyers, 442 F.3d 101, 121 (2d Cir. 2006)). Here, there is no evidence that Defendants acted with evil motive or intent or with reckless or callous indifference to Plaintiff’s federally protected rights.

Plaintiff can, however, obtain injunctive relief against the Commissioner of Corrections, acting in his official capacity. Ford v. Reynolds, 316 F.3d 351, 354-55 (2d Cir. 2003) (recognizing “a limited exception to the general principle of sovereign immunity [that] allows a suit for injunctive relief challenging the constitutionality of a state official’s actions in enforcing state law under the theory that such a suit is not one against the State, and therefore not barred by the Eleventh Amendment.”).

A plaintiff must satisfy a four-factor test before the court can grant a permanent injunction. The plaintiff must demonstrate (1) that he has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendants, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. eBay Inc. v. MercExchange, L.L.D., 547 U.S. 388, 391 (2006).

The Court has determined that the DOC’s policy of forbidding Plaintiff from ordering hygiene products from an approved outside vendor substantially burdened Plaintiff’s exercise of his religion. “[I]rreparable harm accompanies a substantial burden on an individual’s rights to the free exercise of religion....” Jolly v. Coughlin, 76 F.3d 468, 482 (2d Cir. 1996). Therefore, Plaintiff has demonstrated that DOC’s policy caused him to suffer an irreparable injury. No remedy at law would be adequate or even available to compensate Plaintiff for this injury. The balance of hardships also weighs in favor of Plaintiff because DOC cannot point to any penological justification for its policy, while Plaintiff has no other way to practice his religion except with the use of hygiene products that accord with his religion. Moreover, the public interest would not be disserved by a permanent injunction. DOC can maintain safe prisons while permitting Plaintiff to freely exercise his religion by ordering from an approved outside vendor hygiene products that conform with his religious beliefs.

III. Judgment Order

1. Judgment is hereby entered in favor of the Plaintiff on his claim that DOC violated his First Amendment right to practice his religion when jt forced Plaintiff to purchase his hygiene products from the commissary, even though those products contained animal fat ingredients, the use of which violated his Islamic religious principles;

2. Judgment is hereby entered in favor of the Defendants on Plaintiff's claims for damages; and
3. The Commissioner of Corrections, his agents and employees, and those in active concert with them, are hereby permanently enjoined from forbidding the Plaintiff from purchasing from Madina Industrials or some other approved outside vendor, hygiene products, including soaps, lotions and shampoos, that conform with his Islamic religious principles, so long as comparable items are not available in the commissary.

SO ORDERED this 7th day of December, 2022.



Robert A. Mello
Superior Judge