

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

DWAYNE LAW, JR.,
Inmate No. 1585287;

Plaintiff,

v.

DAVID ZOOK, Baskerville Correctional
Center Warden, in his official capacity only;

ROBERT WHITT, Baskerville Correctional
Center Assistant Warden, in his official
capacity only; and

CAPTAIN L. BUTCHER (First Name
Unknown), Baskerville Correctional Center
Officer, in his official capacity only;

Defendants.

Civil Action No.
Hon.

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

VERIFIED COMPLAINT

Plaintiff DWAYNE LAW, JR., by and through his undersigned counsel, files this Verified Complaint for Declaratory and Injunctive Relief against Baskerville Correctional Center officials, Warden DAVID ZOOK, Assistant Warden ROBERT WHITT, and Captain L. BUTCHER (collectively, "Defendants") for violations of the First and Fourteenth Amendments to the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. § 2000cc *et seq.*, pursuant to 42 U.S.C § 1983 and 28 U.S.C. § 1331, and states as follows:

PRELIMINARY STATEMENT

1. For decades and mostly without the need for judicial intervention, prisons and jails across the country have provided Muslims in their custody with meals before dawn and at sunset so that they may observe Ramadan¹ by fasting from dawn to sunset in a healthy manner.

2. Just as in the free world, Muslims in prisons and jails are provided a morning meal—*suhoor*—before dawn to prepare for each day’s fast and an evening meal—*iftar*—at sunset to break each day’s fast. Prisons and jails take a variety of approaches to accommodating fasting Muslims, including, but not limited to, providing Muslims with nonperishable, well-balanced bagged meals they can eat in their cells when it is permissible to eat during Ramadan.

3. Despite this simple and long-standing accommodation offered by prisons and jails to individuals in their custody during Ramadan, officials at Green Rock Correctional Center (“Green Rock”), where Mr. Law (hereinafter “Mr. Law” or Plaintiff) began Ramadan, prevented him from receiving meals before dawn and after sunset from the start of Ramadan on April 2, 2022, until his transfer to the Baskerville Correctional Center on April 7, 2022.

4. After accommodating Mr. Law for nine days after his transfer, from April 7, 2022, until April 16, 2022, Baskerville Correctional Center officials, Warden Zook, Assistant Warden Whitt, and Captain Butcher prevented and continue to prevent Mr. Law from receiving meals before dawn and after sunset. Ramadan will end on or around May 2, 2022.

5. In accordance with his sincerely held religious beliefs, Mr. Law is fasting during daylight hours and has no choice but to seek sustenance through items he purchases from the commissary to consume at night.

¹ Ramadan is the ninth month of the Islamic calendar, which is based on a lunar calendar. Muslims worldwide are required to observe Ramadan as a month of fasting and spirituality. This annual observance is regarded as one of the Five Pillars of Islam. Among other things, while fasting from dawn until sunset, Muslims refrain from consuming food and drinking liquids. Muslims have a morning meal known as *suhoor* and cease eating at or before dawn, the time of the Fajr prayer; and Muslims break their fast by eating the *iftar* meal at sunset, the time of the Maghrib prayer.

6. Mr. Law is subsisting on microwaveable ramen, canned mackerel, and potato chips. He has lost weight and his bowel movements have become irregular.

7. Defendants have provided inconsistent reasons for Mr. Law's removal from the Ramadan List.

8. One guard explained that Mr. Law was stopped from fasting because he was not properly documented as permitted to attend group prayer at Green Rock—an activity he was not permitted to attend due to his vaccination status and a practice entirely distinct from Ramadan fasting.

9. At a different time, however, Captain Butcher, stated that Mr. Law was removed from the accommodations list because he was not taking meals during the accommodated times.

10. At still a different time, Captain Butcher stated that Mr. Law was removed because he was purportedly seen taking a meal tray during daylight hours. Mr. Law has not done so.

11. Defendants have essentially appointed themselves judges of Islamic practices. Captain Butcher explained Mr. Law's removal from being able to participate in the Ramadan accommodations to other Muslim inmates, stating that Mr. Law "is not a real Muslim," so they should not concern themselves with him.

12. The federal Constitution does not allow prison guards to serve as religious police of Muslims' sincerely held beliefs. To do so would be to disregard the very spirit of our nation's founding. Defendants did that and more.

13. Mr. Law wanted to participate in Islamic activities at Green Rock, but was simply ineligible to due to his vaccination status. This constructive ban was erroneously used by officials at Green Rock Correctional Center and is now one among several pretextual reasons given by Baskerville Correctional Center officials to impede Mr. Law from properly fasting during the month of Ramadan.

14. Mr. Law is a devout Muslim and adheres to Islam's teachings about Ramadan that instruct him and other Muslims to refrain from eating and drinking between dawn and sunset for the entire month. Thus, he should not be forced to choose between practicing his faith and eating well-balanced meals for days upon days. Defendants have forced just this choice.

JURISDICTION AND VENUE

15. This Court has jurisdiction over Plaintiff's claims of violations of the First and Fourteenth Amendments to the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc et seq., pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1331.

16. Plaintiff's claims for declaratory and injunctive relief are sought under 28 U.S.C. §§ 2201-2202, Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general, legal, and equitable powers of this Court.

17. Plaintiff's claims for attorneys' fees and costs are predicated upon 42 U.S.C. §§ 1988 and 2000cc-2(d), which authorize the award of attorneys' fees and costs to prevailing parties, pursuant to 42 U.S.C. § 1983 and RLUIPA.

18. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391 because Defendants work in Baskerville, Virginia, and a substantial part of the events giving rise to the claims occurred and continue to occur there.

PARTIES

19. Plaintiff Dwayne Law, Jr. is a 34-year-old Muslim man formerly incarcerated at Green Rock Correctional Center ("Green Rock") in Chatham, Virginia, and currently incarcerated at Baskerville Correctional Center ("Baskerville") in Baskerville, Virginia (Inmate No. 1585287).

He is and was at all relevant times a “person confined to an institution” as the term is defined in 42 U.S.C. § 2000cc *et seq.*

20. Defendant David Zook is the Warden of the Baskerville Correctional Center. As Warden, Defendant Zook’s responsibilities encompass all functions associated with Baskerville’s operations, including, but not limited to, ensuring compliance with applicable federal and state laws, regulations, standards, and guidelines. As a state employee acting within the contours of his employment, Warden Zook has acted, and continues to act, under color of state law at all times relevant to this action. Baskerville, where Plaintiff is in custody, is and was at all relevant times an “institution” as the term is defined in 42 U.S.C. § 2000cc-1(a) and 42 U.S.C. § 1997.

21. Defendant Robert Whitt is the Assistant Warden of the Baskerville Correctional Center. As Assistant Warden Defendant Whitt’s responsibilities encompass all functions associated with Baskerville operations, including, but not limited to, ensuring compliance with applicable federal and state laws, regulations, standards, and guidelines. As a state employee acting within the contours of his employment, Assistant Warden Whitt has acted, and continues to act, under color of state law at all times relevant to this action.

22. Defendant L. Butcher is a correctional officer at the Baskerville Correctional Center. As a correctional officer, Captain Butcher’s responsibilities include supervising inmates and complying with applicable federal and state laws, regulations, standards, and guidelines. As a state employee acting within the contours of his employment, Captain Butcher has acted, and continues to act, under color of state law at all times relevant to this action.

FACTUAL ALLEGATIONS

Mistreatment at Green Rock Correctional Center

23. Mr. Law has been an observant Muslim since 2016. As such, during the initial intake process at Green Rock in May 2021, Mr. Law identified himself as Sunni Muslim.

24. Since Mr. Law has been in the custody of the Virginia Department of Corrections, he has been transferred multiple times, including most recently from Green Rock to Baskerville on April 7, 2022.

25. Prior to being transferred to Green Rock, Mr. Law fasted for Ramadan at other Virginia Department of Corrections facilities without issue.

26. Prior to Ramadan's start on April 2, 2022, Mr. Law was detained at Green Rock, which required all practicing Muslims to formally request to be added Green Rock's Ramadan fasting list before March 1, 2022. In advance of the deadline, Mr. Law made a timely request to be added to the Ramadan fasting list.

27. Officials at Green Rock denied Mr. Law's request based on their purported inability to locate Mr. Law's "Request to Attend Religious Activities" form. Mr. Law was allegedly supposed to have submitted this form almost a year earlier, which he did not do because of his vaccination status. Since Mr. Law was unvaccinated, he was not permitted to attend religious services thus obviating the need for him to complete this form.

28. Mr. Law was not aware nor instructed that not futilely submitting this general form in 2021 would preclude him from being added to the Ramadan fasting list almost a year later. At the time this form was required, he was instructed that he would be unable to participate in religious services if he was not vaccinated against COVID-19. At no time was he instructed that fasting for Ramadan a year later was considered a religious activity requiring him to fill out the form. Nor would that have been a reasonable deduction by anyone, because the religious activities requiring

vaccination involved congregating for prayers and sermons, whereas fasting is a purely individual activity.

29. As dictated by his sincerely held religious beliefs, Mr. Law began his fast with all other Muslims worldwide on April 2, 2022. Green Rock refused to accommodate him despite the fact he was registered as Muslim with the Virginia Department of Corrections. Thus, Mr. Law abstained from food and drink during the day and sought sustenance from what he could buy from the commissary at night.

30. After unsuccessful or ignored informal and formal grievances, Mr. Law continued to fast without accommodation until his transfer to Baskerville on April 7, 2022.

Further Denial of Accommodations and Retaliatory Intimidation at Baskerville

31. Upon his transfer to Baskerville, Mr. Law informed a guard that he wished to continue his fast and requested permission to take his meals before dawn and after sunset. The guard added him to the Ramadan list and allowed him to sign up for Jumu'ah services on Fridays.

32. For the first nine days of his time at Baskerville, Mr. Law was accommodated. He was permitted to eat with other fasting inmates before dawn and after sunset.

33. On April 17, 2022, Mr. Law was informed that Baskerville received notice from Green Rock that he was not permitted to fast because they did not have a "Request to Attend Religious Activities" form on file at that facility. Although Mr. Law explained the situation, he was told that, nevertheless, he would no longer be permitted to eat on the Ramadan schedule.

34. Mr. Law attempted to continue attending *iftar* on April 18, 2022, but was stopped by Captain Butcher who told Mr. Law he was no longer permitted because he had allegedly missed meals—a different reason than that given by the guard the day before.

35. On a different occasion, Captain Butcher stated that Mr. Law was removed from the Ramadan list because he was seen taking meal trays during the day. Mr. Law did not take any trays during the day.

36. When other Muslim inmates attempted to advocate for Mr. Law, Captain Butcher deterred them by telling them to stop because Mr. Law “is not a real Muslim.”

37. Due to this unlawful refusal to provide him his meals at the same time as other fasting Muslims, Mr. Law had no choice but to return to obtaining whatever sustenance he could from the commissary at night while he fasted during the day.

38. Mr. Law was further told by Baskerville staff that the grievances he had previously filed at Green Rock seeking proper accommodations for Ramadan are irrelevant to the situation he now faces at Baskerville. Accordingly, he was instructed to begin the process again.

39. Expedited emergency grievances are available for “conditions that may subject the offender to an immediate risk of . . . irreparable harm.” Virginia Dep’t of Corrections, *Offender Grievance Procedure*, Operating Procedure 866.1, 13 (Feb. 1, 2021).

40. Understanding that Ramadan’s end is fast approaching on May 2, 2022, and out of concern for his health on account of not being able to receive adequate nutrition, Mr. Law asked that his grievance be processed urgently according to emergency grievance procedures. Captain Butcher refused to process it as such, claiming that this situation did not qualify.

41. Mr. Law again began the regular grievance process only to be taken to see Assistant Warden Whitt on April 20, 2022. During this meeting, Assistant Warden Whitt sought to intimidate Mr. Law by telling him to stop making a fuss over Ramadan and that he would not be accommodated this year no matter what he did.

42. When Mr. Law explained that he was being forced to choose between his religious beliefs and eating properly, Assistant Warden Whitt replied that he was not being so forced because Mr. Law could go down during the day to eat with all the non-fasting inmates. Despite Mr. Law's statements that he was unable to eat during the day and knowing that Mr. Law could not bring food back to his cell to eat at night, Whitt continued to deny his request.

Baskerville Can Easily Accommodate Mr. Law's Fast

43. The meals provided to inmates fasting for Ramadan are not significantly different than the meals provided to non-fasting inmates during the day. Ramadan meals are bagged and contain dates.

44. Baskerville could easily alter the timing of Mr. Law's meals to accommodate his fast and indeed did for the first nine days after his transfer from Green Rock and continues to do so for other fasting Muslim inmates.

Mr. Law Has Exhausted All Available Administrative Remedies

45. Virginia Department of Corrections regular grievance policy requires inmates to first submit a verbal complaint, and then a written complaint, before the "Regular Grievance Process" may begin. *See id.* at 5-6.

46. Staff have fifteen days to respond to a written complaint. *Id.* at 5.

47. After either receiving a response or fifteen days from filing a written complaint, an inmate may submit a regular grievance. Staff have thirty days from accepting the grievance to respond. *Id.* at 10.

48. Assistant Warden Whitt gave the thirty-day window as a reason Mr. Law should not pursue the grievance process.

49. The process from the initial complaint to response may take up to 180 days if continuances are authorized. *Id.*

50. If an inmate appeals a grievance decision, staff have twenty days to respond to that appeal, with a possible thirty-day continuance. *Id.* at 12.

51. Exhaustion of this process can take up to 230 days. A grievance process based on the denial of Ramadan accommodations started on April 1, 2022, may not be finished until November 17, 2022. If only working days are counted, the process may stretch until March 4, 2023, roughly two weeks before *next* Ramadan is projected to begin.

52. Mr. Law made a verbal complaint and attempted to file an emergency grievance on April 18, 2022, but was told by Captain Butcher that he could not do so.

53. Plaintiff submitted a grievance on April 19, 2022. He was denied a remedy on the same day.

54. Mr. Law was called into Assistant Warden Whitt's office on April 20, 2022, and informed that the facility would not accommodate his fast this year and instructed the Plaintiff to stop submitting complaints or grievances.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

(Violation of the Religious Land Use and Institutionalized Persons Act of 2000, 42

U.S.C. § 2000cc(a) *et seq.*)

55. Plaintiff hereby realleges and incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

56. Defendants have refused to provide Mr. Law with food during his non-fasting hours despite Mr. Law having properly made a timely request to be included on the Ramadan meal accommodation list.

57. Defendants have imposed unlawful scrutiny on Mr. Law, testing his adherence to other religious practices as an improper condition of eligibility for Ramadan-timed meals.

58. Defendants' above-mentioned unlawful actions caused and continue to cause Mr. Law harm because they are forcing him to choose, daily during Ramadan, between violating his core religious belief that he must fast during the month of Ramadan and foregoing his right to receive meals.

59. Defendants have imposed a substantial burden on Plaintiff's exercise of Islam as secured by the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc(a) *et seq.*

60. Defendants' imposition of such a burden is not in furtherance of a compelling government interest and is not the least restrictive means of furthering any governmental interest, compelling or otherwise.

61. Plaintiff is entitled to a declaration that Defendants' described conduct causes a substantial burden to the free exercise of Plaintiff's religion, is not justified by a compelling government interest, and is in violation of RLUIPA.

62. Plaintiff is entitled to issuance of an injunction granting the relief described in the Request for Relief below.

63. Defendants' unlawful actions caused Plaintiff harm, and Plaintiff is entitled to injunctive and declaratory relief, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiff requests this Honorable Court grant declaratory relief and injunctive relief instructing Defendants to provide Plaintiff meals before sunset and after sunrise

during Ramadan. Plaintiff further requests any other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

**SECOND CAUSE OF ACTION
(Violation of First Amendment Free Exercise of Religion)**

64. Plaintiff hereby realleges and incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

65. Defendants' above-mentioned unlawful actions caused and continue to cause Mr. Law harm because they force him to choose on a daily basis between adhering to his sincerely held religious belief that he must fast during the month of Ramadan, and receiving meals from the facility charged with his care.

66. Defendants have arbitrarily and unjustly required Mr. Law to have submitted a futile form almost a year before Ramadan 2022 at a different facility in order to be eligible for an accommodated meal schedule in accordance with Mr. Law's sincerely held religious beliefs.

67. The restrictions imposed on Mr. Law have imposed a substantial burden on his exercise of Islam as secured by the First Amendment of the federal Constitution.

68. Imposition of such a burden is not in furtherance of a compelling government interest and is not the least restrictive means of furthering any governmental interest, compelling or otherwise.

69. Plaintiff is entitled to a declaration that Defendants' above-described conduct causes a substantial burden to the free exercise of Plaintiff's religion, is not justified by a compelling government interest, and is in violation of Plaintiff's First Amendment rights to his free exercise of religion.

70. Plaintiff is entitled to issuance of an injunction granting the relief described in the Request for Relief below.

71. Defendants' unlawful actions caused Plaintiff harm and Plaintiff is entitled to injunctive and declaratory relief and all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiff requests this Honorable Court grant declaratory relief and injunctive relief instructing Defendants to provide Plaintiff meals after sunset and before dawn during Ramadan. Plaintiff further requests any other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment in his favor and against Defendants on each and every count in this Complaint, and enter an Order awarding the following relief:

1. A declaratory judgment that:
 - a. Defendants' Ramadan policies, practices, and customs, as applied to Mr. Law, violate the First and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), and 42 U.S.C. § 1983;
 - b. Defendants' denial of Mr. Law's requests to have his Ramadan fast accommodated is a substantial burden on the free exercise of his religion and is not justified by a compelling government interest; and
 - c. Defendants' use of a request to attend group services as a proxy for participation in the Ramadan fast is an impermissible religious sincerity test;
2. An injunction that:

- a. Enjoins Defendants from using attendance at group services as a prerequisite for participating in the Ramadan fast;
 - b. Enjoins Defendants from denying accommodation of Mr. Law's sincerely held belief that he should fast during the month of Ramadan, irrespective of his other religious activities;
3. An award of attorneys' fees, costs, and expenses of all litigation, pursuant to 42 U.S.C. § 1988; and,
 4. Such other and further relief as the Court may deem just and proper.

Dated: April 25, 2022

Respectfully submitted,

By: /s/ Eden Heilman

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*Application pro hac vice forthcoming

VERIFICATION

I solemnly affirm under penalties of perjury that the contents of the foregoing Complaint are true to the best of my knowledge, information, and belief.

Dwayne M. Law, Jr.

Dwayne Law, Jr.
Plaintiff