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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,

Plaintiff,

No. CIV S-93-0767 LKK GGH P

vs.

THEO WHITE, et al.,

Defendants.

O R D E R

_____ /

On April 15, 2010, the court granted in part, plaintiff's motion for a preliminary injunction. Part of the relief ordered included allowing plaintiff access to a sweat lodge/fire pit used by Native American inmates.

On April 29, 2010, the court signed a stipulation filed by plaintiff and defendants. This stipulation indicated that defendant will be appealing the court's order to the Court of Appeals, but that the parties are also engaged in mediation. The stipulation was not clear as to whether defendants are currently implementing the preliminary injunction. Rather, it stated that because of the pending mediation, defendant need not seek a stay

1 of enforcement in the district court. On May 4, 2010, defendant
2 filed a notice of appeal.

3 On May 17, 2010, thirteen prisoners,¹ who are proceeding pro
4 se, filed a motion to intervene and a motion for reconsideration
5 of this court's order granting plaintiff's motion for a
6 preliminary injunction in part. These individuals are members of
7 the Spotted Eagle Circle at Lancaster State Prison. They seek to
8 bring a cross-claim against plaintiff.

9 In their motion to reconsider, the interveners argue that
10 allowing plaintiff access to their sweat lodge/fire pit would
11 desecrate the site for them. As such, they ask the court to
12 reconsider its order allowing plaintiff access to the site.

13 For the foregoing reasons, the court orders as follows:

14 (1) The motion to intervene, Dkt. No. 518, is GRANTED.

15 (2) The court has determined that it may be appropriate to
16 appoint counsel for the interveners. For this reason,
17 the court orders the Clerk of Court to serve copies of
18 this order, the court's order granting in part
19 plaintiff's motion for a preliminary injunction, Dkt.
20 No. 509, and the interveners motions, Dkt. Nos. 517,
21 518 upon California Indian Legal Services at the
22 following addresses:

23 ////

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25 ¹The court notes that while thirteen individuals signed the
26 motion to intervene and the declaration in support of the motion
for reconsideration, only twelve individuals signed the motion
for reconsideration.

1 (a) 609 S. Escondido Boulevard

2 Escondido, CA 92025; and

3 (b) 3814 Auburn Boulevard, Suite 72

4 Sacramento, CA 95821.

5 (3) California Indian Legal Services shall inform the court
6 within thirty (30) days of the issuance of this order
7 whether it will represent the interveners in this
8 action. If the organization declines to represent the
9 interveners the court will seek alternative volunteer
10 counsel for them.

11 (4) If the interveners do not want California Indian Legal
12 Services or other volunteer counsel to represent them
13 in this case, they shall inform the court that they
14 object to the appointment of counsel within thirty (30)
15 days of the issuance of this order.

16 (5) The court stays enforcement of the April 15, 2010 order
17 pending resolution of the intervener's motion to
18 reconsider as to **only** the following relief:


19 (a) that defendants grant Mr. Rouser access to the
20 fire pit adjacent to the Native American sweat
21 lodge during religious services; and

22 (b) that when Wiccan services are scheduled,
23 defendants must allow Mr. Rouser to access the
24 outdoor, nature-based religious area for group
25 services for the entire scheduled time, unless the
26 Yard is on modified program and no religious group

1 is allowed to meet that day **only insofar as access**
2 **to this area interferes with the interveners'**
3 **religious practice.**

4 IT IS SO ORDERED.

5 DATED: May 24, 2010.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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