

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

<p>BURT SMITH, KRIS JOHNSON, AND JAKE VOSHELL,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>JOHN AULT,</p> <p>Defendant.</p>	<p>4:05-cv-00068-RP-RAW</p> <p>ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING DEFENDANTS' MOTION TO BE RELIEVED FROM PROSPECTIVE RELIEF</p>
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This is an action filed by defendant pursuant to Federal Rule of Civil Procedure 60(b). On December 5, 2008, Magistrate Judge Ross A. Walters filed a Report and Recommendation that defendant's Rule 60(b) motion be granted and that defendant be relieved from the prospective application of the judgments in Remmers v. Brewer, 361 F. Supp. 537 (S.D. Iowa 1973), aff'd, 494 F.2d 1277 (8th Cir.), cert. denied, 419 U.S. 1012 (1974) and Wycoff v. Scurr, Civil No. 81-cv-303-D (S.D. Iowa 1986) (as modified June 22, 1987) by dissolution of the injunctions therein mandating, respectively, that the Church of the New Song members at Iowa State Prison (ISP) be granted the right to exercise their religion equally with other religions and that CONS inmate-ministers be allowed to visit segregated CONS inmates. Judge Walters allowed the parties time to file objections to the Report and Recommendation and then extended the deadline to March 9, 2009. To date, no objections have been filed.

When a magistrate judge submits a report and recommendation,

[a] judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is

made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge with instructions.

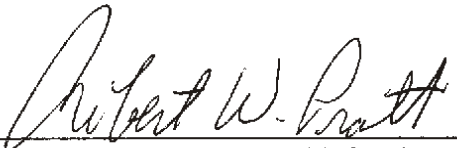
28 U.S.C. § 636(b)(1). “[W]hen no timely objection is filed . . . the [district] court need only satisfy itself that there is no clear error on the face of the record.” Taylor v. Farrier, 910 F.2d 518, 520 (8th Cir. 1990).

After making the required review, the Court finds no clear error in the proposed ruling; therefore, the Court adopts the Report and Recommendation. Judge Walters’s Report and Recommendation, including the evidentiary rulings, is well-thought out and reasonable. The Court relieves defendant from the prospective application of the judgments in Remmers v. Brewer, 361 F. Supp. 537 (S.D. Iowa 1973), aff’d, 494 F.2d 1277 (8th Cir.), cert. denied, 419 U.S. 1012 (1974) and Wycoff v. Scurr, Civil No. 81-cv-303-D (S.D. Iowa 1986) (as modified June 22, 1987) by dissolution of the injunctions therein mandating, respectively, that the Church of the New Song members at Iowa State Prison (ISP) be granted the right to exercise their religion equally with other religions and that CONS inmate-ministers be allowed to visit segregated CONS inmates. It is no longer equitable to apply the judgments in the cases prospectively. This case is **dismissed**.

The Court appreciates the diligent assistance of Mr. Patrick Ingram, court-appointed counsel for plaintiffs.

IT IS SO ORDERED.

Dated this ___2nd___ day of April, 2009.



ROBERT W. PRATT, Chief Judge
U.S. DISTRICT COURT