


FEB 19 2016

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

Alfonza Hardy Greenhill
Plaintiff,

v.

Harold W. Clarke, director Virginia Department
of Corrections; A. David Robinson, Chief of Corrections
Operations; Earl Barksdale, Warden Red Onion State Prison,
individually and in their official capacities,

Defendants,

Civil Action No. 16cv00068
COMPLAINT

I. JURISDICTION AND VENUE

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. section 1331 and 1343 (a)(3). Plaintiff Greenhill seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff Greenhill's claims for injunctive relief are authorized by 28 U.S.C. section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.
2. The Western District of Virginia is an appropriate venue under 28 U.S.C. section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFF

3. Plaintiff Alfonza Hardy Greenhill, is and was at all times mentioned herein a prisoner of the State of Virginia in the custody of the Virginia Department of Corrections. He is currently confined in Red Onion State Prison, in Pound, Virginia.

III. DEFENDANTS

4. Defendant Harold W. Clarke is the Director of the state of Virginia Department of Corrections. He is legally responsible for the overall operation of the Department and each institution under its jurisdiction, including Red Onion State Prison.
5. Defendant A. David Robinson is the Chief of Corrections operations of the state of Virginia Department of Corrections. He is the writer/editor of all Departmental operating Procedures that govern each institution under the jurisdiction of the Virginia Department of Corrections.

6. Defendant Earl Barksdale is the Warden of Red Onion State Prison. He is legally responsible for the operation of Red Onion State Prison and for the welfare of all the inmates in that prison.

7. Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant acted under color of state law.

IV. FACTS

8. Plaintiff Greenhill is a Muslim, sincere in his Islamic beliefs. Plaintiff Greenhill practices Islam in its Sufi context; sufism is a genre of Islam that emphasizes a strict adherence, outwardly and inwardly, to the Sunnah (ways, habits, traditions) of the Prophet Muhammad (peace be upon him), his Sahabah (companions) and Sufi Masters. Plaintiff Greenhill has been a Muslim since the year 2000.

9. Plaintiff Greenhill's religion, Islam, obligates him to be present, bodily or visually, at the weekly Islamic gathering known as Jum'ah. Jum'ah means, in English, "a gathering." Jum'ah takes place, world-wide, every Friday. Jum'ah consists of a two-part Khutbah (sermon) and a Salah (ritual prayer) of two rakat (cycles). For Sufi Muslims, it is also obligatory to give or share a meal after Jum'ah. There is an entire Surah (chapter) of the Holy Qur'an entitled, "al-Jum'ah" (Surah 62), and it is one of the places wherein the commandment to attend Jum'ah can be found. Jum'ah is a central tenet of Islam; any adult Muslim male who is absent therefrom incurs a terrible sin and is deprived of the opportunity to acquire many blessings.

10. Plaintiff Greenhill is currently a Security level "segregation" (hereinafter level 5) prisoner and is located in level 5 housing (C-building) at Red Onion State Prison (ROSP). The warden of ROSP is Earl Barksdale. In level 5 housing, Plaintiff Greenhill is confined to his cell for 23 hours a day and is only released therefrom to be escorted, in handcuffs and shackles, to an outside man-cage (the same size as his cell - approximately 12 ft. x 7 ft.), shower, medical building, etc. As a level 5 prisoner, Plaintiff Greenhill is not permitted to be bodily present at Jum'ah.

11. ROSP broadcasts a videotape of Jum'ah every Friday. ROSP has done this for many years. The videotape of Jum'ah is aired to ROSP prisoners in the general prisoner population and level 5 housing. The only level 5 prisoners who may view the videotape of Jum'ah are those who own a personal television. As for those level 5 prisoners who do not own a personal television, they have no way to visually access, and participate in, Jum'ah. A personal television costs \$212 and can be purchased from the facility commissary. Plaintiff Greenhill is a financially indigent prisoner and cannot afford a personal television. Because he does not own, and cannot afford to purchase, a personal television, Plaintiff Greenhill is precluded from visually accessing, and participating in, Jum'ah; that preclusion places a substantial burden upon Plaintiff Greenhill's religious exercise of Jum'ah, a central tenet of Islam.

12. Virginia Department of Corrections Operating Procedure 841.3 "Offender Religious Programs," signed by Defendant A. David Robinson, mandates that the only Virginia Department of Corrections (VDOC) segregation prisoners who may visually access and participate in religious programs are those who own a personal television. Operating Procedure 841.3 is enforced at all VDOC prisons.
13. Plaintiff Greenhill submitted an Informal Complaint form, on October 1, 2015, addressed to Defendants Harold W. Clarke and A. David Robinson, regarding his inability to visually access Jum'ah by way of the Jum'ah videos aired at ROSP, and that his visual access to Jum'ah has been conditioned upon the purchase and ownership of a personal television that he cannot afford (see exhibit A). Plaintiff Greenhill was sent a response dated October 13, 2015 denying Plaintiff Greenhill a personal television by which he can visually access Jum'ah and fulfill his religious Islamic obligation (see exhibit A). In his appeal to that response, Plaintiff Greenhill proposed, as an alternative to a personal television, that he be allowed to bodily attend Jum'ah, or that communal televisions be placed in all level S pods at ROSP, and that Plaintiff Greenhill could visually access, and participate in, Jum'ah thereby (see exhibits B and C).
14. VDOC officials have maintained, throughout the exhaustion process, that Plaintiff Greenhill, if he desires to visually access Jum'ah, seek institutional employment and earn enough money to purchase a \$212 television (see exhibits A, B, and C). Currently, Plaintiff Greenhill is regarded by VDOC officials as "Special Management O" (SMO). As SMO, Plaintiff Greenhill is not permitted to attain institutional employment. Also, Plaintiff Greenhill, for religious reasons, refuses to comply with the VDOC's quarter-inch length limitation on prisoner beards. Plaintiff Greenhill's beard is currently two inches in length; he intends to grow his beard to, and maintain it at, the length of four inches until his death as his religion, Islam, commands. Until Plaintiff Greenhill complies with the VDOC's beard length limitation (which is something he has vowed to Allah never to do), he will not be permitted to attain institutional employment.
15. In every level S pod at ROSP, there are electrical outlets on the walls. Some of those electrical outlets have cable connectors approximately two inches beside them. ROSP used to have communal televisions in its segregation pods whereby segregation prisoners could visually access, and participate in, their weekly religious services as well as school programs. At the present, no pod in ROSP's C-building has communal televisions.
16. Plaintiff Greenhill's religion, Islam, obligates him to grow his beard to, and maintain it at, the length of his fist. Plaintiff Greenhill's fist is four inches in length. It is noted in a rigorously authenticated hadith (report of tradition) that the Prophet Muhammad (peace be upon him) said:
- "Differ from the Polytheists; let your beard grow and shave your mustache."
(Bukhari Collection of Hadith)

That command has been defined by a close companion of the Prophet and foundational jurist of Islamic Law, Ibn'Umar:

"When Ibn'Umar made his hajj (pilgrimage) and 'Umrah (lesser pilgrimage), he would hold his beard in his fist, and whatever exceeded his fist he would cutoff."
(Bukhari and Muslim Collections of Hadith)

#7. Prior to 1999, the VDOC had no policy forbidding beards. In 1999, the VDOC implemented a policy forbidding prisoners to have beards of any length. In 2013, the VDOC began to permit beards not exceeding the length of a quarter-inch (see exhibit D, section IV. F. c.). Plaintiff Greenhill entered the VDOC in 2007 and he has never been permitted to grow his beard to, and maintain it at, the length of four inches as his religion, Islam, obligates him to. At present, Plaintiff Greenhill is still disallowed to grow his beard to, and maintain it at, the length of four inches, as his religion, Islam, obligates him to; that disallowance, which places a substantial burden on Plaintiff Greenhill's religious exercise of growing and maintaining a four inch beard, was occurring on October 10, 2015, and is presently occurring.

#8. Currently, in obedience to his religion, Islam, Plaintiff Greenhill is not in compliance with the VDOC's grooming policy, Operating Procedure 864.1 "Offender Grooming and Hygiene" (O.P. 864.1) (see exhibit D). Plaintiff Greenhill's beard is, at present, approximately two inches in length; he intends to let it reach the length of four inches and maintain it at that length until the day of his death. As long as Plaintiff Greenhill refuses to comply with O.P. 864.1, he will not be allowed into the VDOC's general prisoner population; he will remain locked in a cell 23 hours a day 5 days a week, and 24 hours a day 2 days a week; he will not have the opportunity to bodily attend Jum'ah; he will not be allowed to congregate with fellow muslim prisoners for obligatory prayer and study classes; he will not be allowed to attain institutional employment; he will not be allowed the recreational activities such as basketball and soccer; he will not be able to earn any good-time credits. For all of the aforementioned reasons, Plaintiff Greenhill's religious exercise of fulfilling his Islamic commandment to grow his beard to, and maintain it at, the length of four inches has been, and is being, substantially burdened.

#9. Plaintiff Greenhill submitted an Informal Complaint on October 10, 2015, addressed to Defendants Harold W. Clarke and A. David Robinson, regarding the substantial burden placed upon his Islamic religious exercise of growing his beard to, and maintaining it at, the length of four inches (see exhibit E). In his appeal, Plaintiff Greenhill requested a revision of O.P. 864.1 that would allow him to grow his beard to, and maintain it at, the length of four inches and thereby remove the substantial burden currently upon his exercise of religion. That request was denied (see exhibit F)

20. Plaintiff Greenhill's religion, Islam, obligates him to eat only what is Halal (Islamically lawful) or Kosher (Judaically lawful). In Islam, whatever is not Halal is not Kosher. Plaintiff Greenhill's religion, Islam, forbids him from eating any food that is not Halal.
21. Halal food and the utensils used to prepare and serve such food must never, at anytime, have contact with Islamically unclean items and places; if such contact occurs, the food is rendered non-Halal and Plaintiff Greenhill is forbidden by his religion, Islam, from eating such food.
22. The VDOC offers its prisoners a religious dietary option known as "common fare." The food served on the common-fare food trays is said to be Kosher (see exhibit G, section IV. B. 3. b. 4.). Plaintiff Greenhill has been receiving common-fare food trays since 2012.
23. Plaintiff Greenhill is classified by the VDOC as a level 5 prisoner and is housed in level 5 housing at ROSP. ROSP's C-building is designated exclusively for level 5 housing. In level 5 housing, prisoners are locked in their cells 23 hours a day and must receive, and eat, their breakfast, lunch, and dinner within their cells. Each cell's door in level 5 housing at ROSP has, at its middle, a 1 1/2 foot wide x 6 inch rectangular slot. The slot has a door that is locked and unlocked by prison guards; and it is through that slot that level 5 prisoners receive their food-trays 3 times a day. The slot is commonly referred to as the "tray-slot."
24. The entirety of C-building at ROSP serves as the housing unit for the VDOC's level 5 prisoners. There are six pods in C-building: C-1, C-2, C-3, C-4, C-5, C-6. C-1 and C-6 pods both have 44 cells, and all other pods in C-building have 22 cells each.
25. The cell doors of every pod in C-building, with the exception of those in C-6 pod, have steel boxes bolted on to them in the place of the tray-slot. Anything that must enter or leave the cell, while the cell's door is closed, is first placed into the steel box bolted on to the cell's door. The item, whatever it may be, is placed into the box, then the box's lid is locked and a sliding rectangular door is opened so that the prisoner can retrieve whatever is in the box. When an item is being put out of the, the sliding door is opened while the box's lid is locked, and the prisoner puts the item, whatever it may be, into the box, then the sliding door is shut and locked and the prison guard opens the lid and retrieves the item.
26. As for C-6 pod, there are no boxes bolted on to the cell doors; rather, when anything must enter or leave the cell, while the cell's door is closed, the tray-slot is opened by the prison guard and the item is placed upon the tray-slot's door and retrieved.

27. Level S prisoners at ROSP are allotted one hour of outside recreation five days per week, and three showers per week. Whenever a level S prisoner is to leave his cell for recreation, shower, medical visit, etc., he must undergo a "strip search." The level S prisoner must, before his cell's door is opened, remove absolutely all clothing from his body and put that clothing into the box bolted onto his cell's door, or upon the tray-slot's door if his cell's door has no box; that clothing includes shoes, socks, and underwear. The prison guards search all of that clothing for contraband. The level S prisoner then puts his clothing back on and is then handcuffed and shackled and escorted to the recreation man-cages, showers, medical building, etc.

28. Each level S prisoner is allotted two yellow 6 inch long x 4.2 inch wide x 1.6 inch thick sponges to clean his cell with, including his toilet and floor. Every Monday, each level S prisoner is offered sanitation liquid; he is directed, by prison guards, to place his sponges in the box bolted onto his cell's door, or upon the tray-slot's door if his cell's door has no box bolted thereon. Sanitation liquid is then sprayed onto the sponges and the level S prisoner retrieves those sponges and commences the cell's cleaning.

29. Every Monday, each level S prisoner is given the opportunity to have his clothing laundered. In order to have his dirty clothing laundered, the level S prisoner must place such dirty clothing within the box bolted onto his cell's door, or upon the tray-slot's door if his cell's door has no box bolted thereon. Once the level S prisoner's clothing returns from the laundry, it is placed back into the box bolted onto the cell's door, or upon the tray-slot's door, and retrieved by the level S prisoner.

30. The placing of shoes, socks, underwear, toilet and floor sponges, and dirty clothing into the boxes bolted onto the cell's doors, or upon the tray-slot's door, has rendered those boxes and tray-slot doors Islamically unclean and, therefore, unfit for contact with Halal food and its utensils. Due to the box bolted onto Plaintiff Greenhill's cell door being the recipient of shoes, socks, underwear, sponges used to clean toilet and floor, and dirty laundry, each time Plaintiff Greenhill's common-fare food tray is placed into that box the food upon that tray is rendered non-Halal. Plaintiff Greenhill's religion, Islam, forbids him from eating non-Halal food.

31. Plaintiff Greenhill's past 408 meals have been placed inside the box bolted to his cell's door. Those meals were placed into the box by prison guards of ROSP. All 408 meals were rendered non-Halal by being placed inside the box bolted onto Plaintiff Greenhill's cell door.

32. Islamically unclean items must be wholly immersed in clean water three times to be rendered fit for contact with Halal food and the utensils used to prepare and serve that food.

33. In order to live, Plaintiff Greenhill must eat. Being denied any option but to eat food that is not Halal places a substantial burden upon Plaintiff Greenhill's religious exercise of eating only what is Halal; that substantial burden was occurring when Plaintiff Greenhill submitted an Informal Complaint about it on October 25, 2015 (see exhibit H), and an appeal to the response on November 17, 2015. That substantial burden has not ceased occurring and is ongoing at the present, and is causing Plaintiff Greenhill to consistently violate a central tenet of his religion, Islam. Eating only what is Halal is a central tenet of Islam. Plaintiff Greenhill's appeal was denied (see exhibit I); he sent out a level II appeal (see exhibit J) which was also denied (see back of exhibit I).

V. LEGAL CLAIMS

34. Plaintiff realleges and incorporates by reference paragraphs 1-33
35. By denying Plaintiff Greenhill visual access to Jum'ah, Defendant Harold W. Clarke has substantially burdened and continues to substantially burden Plaintiff Greenhill's Islamic religious exercise of Jum'ah, in violation of Plaintiff Greenhill's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). That denial has caused and is causing Plaintiff Greenhill injury to his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA).
36. By denying Plaintiff Greenhill visual access to Jum'ah, Defendant A. David Robinson has substantially burdened and continues to substantially burden Plaintiff Greenhill's Islamic religious exercise of Jum'ah, in violation of Plaintiff Greenhill's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). That denial has caused and is causing Plaintiff Greenhill injury to his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA).
37. By prohibiting Plaintiff Greenhill from growing his beard to, and maintaining it at, the length of four inches as his religion, Islam, obligates him to, Defendant Harold W. Clarke has substantially burdened and continues to substantially burden Plaintiff Greenhill's religious exercise of growing his beard to, and maintaining it at, the length of four inches in violation of Plaintiff Greenhill's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). That prohibition has caused and is causing Plaintiff Greenhill injury to his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA).
38. By prohibiting Plaintiff Greenhill from growing his beard to, and maintaining it at, the length of four inches as his religion, Islam, obligates him to, Defendant Harold W. Clarke is denying Plaintiff Greenhill the free exercise of his religion, in violation of Plaintiff Greenhill's rights under the First Amendment to the United States Constitution. That denial has caused and is causing Plaintiff Greenhill injury to his First Amendment rights.

39. By leaving Plaintiff Greenhill with no choice but to eat food which violates the dietary laws of his Islamic religion, Defendant Harold W. Clarke has substantially burdened and continues to substantially burden Plaintiff Greenhill's religious exercise of eating only what is Halal, in violation of Plaintiff's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). This has caused and continues to cause Plaintiff Greenhill injury to his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA).

40. By leaving Plaintiff Greenhill with no choice but to eat food which violates the dietary laws of his Islamic religion, Defendant Earl Barksdale has substantially burdened and continues to substantially burden Plaintiff Greenhill's religious exercise of eating only what is Halal, in violation of Plaintiff Greenhill's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). This has caused and continues to cause Plaintiff Greenhill injury to his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA).

41. By denying Plaintiff Greenhill visual access to Jum'ah, a central tenet of Plaintiff Greenhill's Islamic religion, Defendant Harold W. Clarke is denying Plaintiff Greenhill the free exercise of his religion, in violation of Plaintiff Greenhill's rights under the First Amendment to the United States Constitution. That denial caused and continues to cause Plaintiff Greenhill injury to his First Amendment rights.

42. By denying Plaintiff Greenhill visual access to Jum'ah, a central tenet of Plaintiff Greenhill's Islamic religion, Defendant A. David Robinson is denying Plaintiff Greenhill the free exercise of his religion, in violation of Plaintiff Greenhill's rights under the First Amendment to the United States Constitution. That denial caused and continues to cause Plaintiff Greenhill injury to his First Amendment rights.

43. By leaving Plaintiff Greenhill with no choice but to eat food which violates the dietary laws of his Islamic religion, Defendant Harold W. Clarke has violated and continues to violate Plaintiff Greenhill's free exercise of his religion, in violation of Plaintiff Greenhill's rights under the First Amendment to the United States Constitution. This has caused and continues to cause Plaintiff Greenhill injury to his First Amendment rights.

44. By leaving Plaintiff Greenhill with no choice but to eat food which violates the dietary laws of his Islamic religion, Defendant Earl Barksdale has violated and continues to violate Plaintiff Greenhill's free exercise of his religion, in violation of Plaintiff Greenhill's rights under the First Amendment to the United States Constitution. This has caused and continues to cause Plaintiff Greenhill injury to his First Amendment rights.

VI. PRAYER FOR RELIEF

HEREFORE, plaintiff respectfully prays that this court enter judgement:

5. Granting Plaintiff Greenhill a declaration that the acts and omissions described herein violate his rights under the Constitution and laws of the United States, and
6. A preliminary and permanent injunction ordering defendant Harold W. Clarke to accommodate Plaintiff Greenhill with the means to visually access Jum'ah or allow him to access thereto; a preliminary and permanent injunction ordering defendant Harold W. Clarke to allow Plaintiff Greenhill to grow his beard to, and maintain it at, the length of four inches without incurring disciplinary measures as a result; a preliminary and permanent injunction ordering defendants Harold W. Clarke and Earl Barksdale to refrain from serving Plaintiff Greenhill food that has been rendered non-Halal as a result of it or its utensils having contact with items that are Islamically unclean, and
47. Granting Plaintiff Greenhill compensatory damages in the amount of \$5,000 against defendants Harold W. Clarke and Earl Barksdale, jointly and severally; punitive damages in the amount of \$5,000 against Harold W. Clarke.
48. Plaintiff Greenhill also seeks a jury trial on all issues triable by jury,
49. Plaintiff Greenhill also seeks recovery of his costs in this suit, and
50. Any additional relief this court deems just, proper, and equitable.

Dated: February 16, 2016

Respectfully submitted,
Alfonza Greenhill
1200160
Red Onion State Prison
P.O. Box 1900
Pound, Va. 24279

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Pound, Virginia on February 16, 2016

Alfonza Hardy Greenhill
Alfonza Hardy Greenhill

CERTIFICATE OF SERVICE

I, prisoner Alfonza Hardy Greenhill #1200160, hereby certifies that on this 16 day of February 2016 I did in fact deposit into the mail, at Red Onion State Prison, a manilla envelope, addressed to: Clerk, United States District Court - 210 Franklin Road, SW, Suite 540 - Roanoke, Virginia 24011-2208.

The manilla envelope contains a verified complaint, a summons, a motion for informing pauperis, a motion for an order to show cause for an preliminary injunction, and ten exhibits. Two carbon copies have been made of each page of the verified complaint, the summons, and the two motions.

To: Clerk, United States District Court
210 Franklin Road, SW, Suite 540
Roanoke, Va. 24011-2208

I swear under penalty of perjury that the foregoing is true and correct.
Executed at Pound, Virginia on February 16, 2016

Alfonza Hardy Greenhill
Alfonza Hardy Greenhill

Sworn to and subscribed before me in my presence this 16 day of February 2016.
Notary Public: *Clinton Deel*
My Commission Expires: Nov. 30, 2017

I certify that the above notary is not a party to this action, *Alfonza Hardy Greenhill*

