

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

RONALD HUFF, WENDALL )  
CHAMBERS, and SHAMSIDIN )  
ALI, a/k/a ROBERT SAUNDERS, )

Petitioners, )

v. )

CA No. 02M-08-002-JEB

DR. MICHAEL HOOPER, RANDY )  
PARKER, WARDEN RICK )  
KEARNEY AND COMMISSIONER )  
STAN TAYLOR, )

Respondents.

Submitted: October 10, 2002

Decided: January 22, 2003

*Upon Respondents' Motion to Dismiss Petitioners' Request  
for a Writ of Mandamus. Motion Granted.*

*Upon Respondents' Motion to Enjoin. Motion Denied.*

**OPINION**

*Appearances:*

Ronald Huff, Wendel Chambers and Robert Saunders  
*Pro Se* Petitioners.

Ophelia M. Waters, Esquire  
Attorney for Respondents.

JOHN E. BABIARZ, JR., JUDGE.

This is the Court's decision on the State's motion for summary judgment on a petition for a writ of mandamus<sup>1</sup> filed by Ronald Huff, Wendall Chambers, and Shamsidin Ali, a/k/a Robert Saunders. Petitioners seek an order from the Court directing officials and officers at Sussex Correctional Institute (SCI) to offer Islamic inmates the same privileges afforded to inmates of other religions.<sup>2</sup> The State argues that Petitioners have failed to state a claim upon which relief can be based.<sup>3</sup>

In seeking a writ of mandamus, Petitioners move the Court to order Respondents to (1) allow outside guests to attend the annual Eid al Adah celebration; (2) permit Muslim participants in the Key Program to attend weekly Taleem Services, even when they conflict with the Key Program schedule; (3) apply the same standards to Muslim and Christian inmates; (4) designate the SCI chapel as non-

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<sup>1</sup>See Del. Code Ann. tit. 10, § 564.

<sup>2</sup>Petitioners request that the Court order Respondents to desist from treating Muslim inmates unfairly and differently from the way that inmates of other religions are treated. Because this Court has no jurisdiction to order injunctive relief, Del. Code Ann. tit. § 341 (1999), and because Petitioners are *pro se* litigants, *Vicks v. Haller*, Del. Supr., No. 149, 1986, Christie, C.J. (March 2, 1987), the Court addresses their requests in the form that is proper under a petition for a writ of mandamus, that is, as requests to order Respondents to fulfill a duty. In so doing, the Court notes that Petitioners frame their requests in both forms, as requests for Respondents to stop certain conduct and also to fulfill their duties.

<sup>3</sup>Although the State moves to dismiss, the Court treats the motion as one for summary judgment because both parties have submitted affidavits and other matters outside the pleadings. Super. Ct. Civ. R. 12(b)(6).

denominational; (5) coordinate with a liaison from the local mosque to develop regulations governing the practice of Islam in all Delaware correctional facilities; and (6) incorporate sensitivity classes into SCI staff training.

Respondents move for judgment as a matter of law on all these requests. On a motion for summary judgment, the moving party may prevail where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law.<sup>4</sup> The extraordinary writ of mandamus is a command from a court of law to a lower court, board or tribunal requiring the performance of a nondiscretionary duty where no other remedy exists.<sup>5</sup> Thus the Court reviews Respondents' motion to determine if there are any issues of material fact and whether Respondents are entitled to the writ of mandamus as a matter of law.

While prisoners retain their First Amendment right to practice their religion,<sup>6</sup> that right is limited by the practicalities of incarceration.<sup>7</sup> In general, prison policies alleged to infringe on inmates' constitutional rights are considered under a

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<sup>4</sup>*Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979).

<sup>5</sup>*In re Brookins*, 736 A.2d 204, 206 (Del. 1999).

<sup>6</sup>*Bell v. Wolfish*, 441 U.S. 520, 545 (1979).

<sup>7</sup>*O'Lone v. Estate of Shabazz*, 482 U.S. 342, 348 (1987).

reasonableness test, that is, whether the policy is reasonably related to a penological interest.<sup>8</sup>

In response to Petitioners' allegation that Muslim inmates are not allowed to practice their religion, Respondents submit the affidavit of Lawrence Lilley, Chaplain at SCI. Lilley avers that the primary Islamic worship service, Jumah Prayer, is held in the prison chapel every Friday afternoon from 12:30 p.m. to 2:00 p.m., and that Imam Rudolph Ali, a volunteer from the Wilmington Masjid visits the inmates once each month. Islamic inmates are also permitted to conduct religious study in their housing units at designated times. Lilley also states that the Eid al Adah Feast has been celebrated at SCI since 1994. Outside guests prepare the food and attend, while SCI staff and inmate workers assist with the kitchen work. The prison requires that inmates provide a list of guests prior to the event to facilitate food preparation and security measures. Since 1997, Islamic inmates have also been permitted to celebrate a second annual banquet, the Feast of Abraham, albeit without outside guests. The Court takes these facts to be true and finds that Respondents' management of Islamic services, including the Eid al Adah Feast, is reasonably related to penological

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<sup>8</sup>*Turner v. Safley*, 482 U.S. 78, 89 (1987); *Washington v. Taylor*, D.Del., C.A. No. 97-144, McKelvie, J. (June 19, 1998) (ORDER).

interests. Respondents are entitled to judgment as a matter of law.

Respondents also move for summary judgment on Petitioners' request that they be allowed to attend Taleem study groups even when they conflict with the Key Program. Petitioners assert that the time for Taleem is prescribed by their religion and must be conducted only at specific times. Lilley avers that when there is no schedule conflict Muslim inmates are allowed to attend Taleem. He states that the times scheduled for classes are decided by prison officials to accommodate both the both the requirements of programs such as Key as well as the preferences of various religious groups. He also states that no inmate, Christian, Muslim or otherwise, is allowed to attend a religious class that conflicts with the Key Program.

Furthermore, Exhibit D to Petitioners' Response is a copy of a weekly schedule at SCI. It shows several times each day of the week when specific Muslim events are scheduled. The exhibit shows that each day's schedule includes free time and faith-based time, as well as prison-related meetings and events. Coordinating the prison schedule is the duty of the prison officials, and the Court will not substitute its judgment on matters of institutional administration for that of prison officials.<sup>9</sup>

Respondents also move for summary judgment on Petitioners' request for an

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<sup>9</sup>*O'Lone v. Estate of Shabazz*, 482 U.S. at 353 (citations omitted).

order directing prison officials to cease from treating Muslims and Christians differently, which is based on an underlying claim that Respondents have violated Petitioners' equal protection rights. As examples of the discrepancies, Petitioners point to the Christian symbols in the SCI chapel, Chaplain Lilley's absence from Muslim services, funds spent for Christian but not for Muslim materials, and higher security measures for Muslim visitors.

To show a violation of the Equal Protection Clause, Petitioners must show that there could be no rational basis for different treatment of similarly situated individuals.<sup>10</sup> As a threshold matter, however, Petitioners may not rely on conclusory allegations to establish a genuine issue of material fact.<sup>11</sup> Petitioners do not cite concrete examples of differing treatment, other than the lack of Muslim symbols in the chapel. Even if this allegation is true, it does not provide a basis for an equal protection claim because Petitioners have not shown any effort to include symbols of their faith in the chapel or that they have been prevented from so doing. Without specific instances of heightened security procedures for Muslim visitors or state funds

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<sup>10</sup>*Allah v. Stachelek*, 1998 WL 281930, \*12 (E.D. Pa.) (citing *Lewis v. Casey*, 518 U.S. 343 (1996)).

<sup>11</sup>*Id.* (citing *Lujan v. Nat'l Wildlife Federation*, 497 U.S. 871, 888 (1990)).

spent only on Christian materials, Petitioners' equal protection claim cannot survive the motion for summary judgment.

Respondents also move for summary judgment on Petitioners' request that Commissioner Taylor work with a liaison from the Wilmington Mosque to coordinate statewide services for Muslim inmates and that he incorporate sensitivity classes into staff training. There is no constitutional basis for either of these requests and therefore no duty on Respondents' part to fulfill them. Thus Respondents are entitled to judgment as a matter of law on these requests.

Respondents also assert that Petitioner Saunders has unsuccessfully filed at least two similar motions *in forma pauperis* and ask the Court to enjoin him from doing so in the future, pursuant to Del.Code Ann. tit. 10, § 8803(e). The Court declines to so rule at this time, partly because Petitioners have raised factual questions as to whether Saunders' previous motions proceeded *in forma pauperis*, as required under section 8803.

In their response to the motion for summary judgment, Petitioners ask the Court to order Respondents to provide them with a pork-free diet and information on food content. In *Masjid Muhammad v. Keve*,<sup>12</sup> the district court for Delaware held

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<sup>12</sup>479 F.Supp. 1311, 1320 (D.Del.1979).

that Muslim inmates have a First Amendment right to a pork-free diet as well as any information food service personnel have regarding the content of prison food. The *Keve* court issued an injunction directing the DCC defendants to institute a system reasonably designed to provide inmates with information on pork content that is available to food service staff.<sup>13</sup> In the instant case, Petitioners have not presented any persuasive evidence (or any evidence at all other than mere assertions) that the *Keve* directive is not followed at SCI. The request for a writ of mandamus is denied.

Finally, to the extent that Petitioners seek injunctive relief, Respondents' motion to dismiss for lack of jurisdiction is also granted.<sup>14</sup>

For all these reasons, Respondents' motions to dismiss the petition are ***Granted***, and Respondents' motion to enjoin Petitioner Saunders from filing similar motions is ***Denied***.

***It Is So Ordered.***

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Judge John E. Babiarz, Jr.

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<sup>13</sup>*Id.*

<sup>14</sup>*Kerns v. Dukes*, 707 A.2d 363, 368 (Del. 1998) (citing Del. Code Ann. tit. 10, §341 (1999)).



Huff, et al. v. Hooper, et al.  
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JEB,jr/rmp/bjw  
Original to Prothonotary