## **United States Court of Appeals**FOR THE EIGHTH CIRCUIT

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	No. 07-2161							
Grady Newingham,	*							
Malik A. Khabir,	*							
,	*							
Appellants,	*							
11	*	Appeal from the United States						
V.	*	District Court for the Eastern						
	*	District of Arkansas.						
Benny Magness, Chairman,	*							
Arkansas Board of Correction;	*	[UNPUBLISHED]						
Drew Allen Baker, Vice Chairman	*							
Arkansas Board of Correction;	*							
Kelly Pace, Arkansas Board of	*							
Correction; Mary Parker, Dr.,	*							
Arkansas Board of Correction;	*							
Leroy Brownlee, Arkansas Board	*							
of Correction; W L Ferren, (Bill),	*							
Arkansas Board of Correction; J.	*							
Aaron Hawkins, Sr., Pastor,	*							
Arkansas Board of Correction; Mil	ке *							
Huckabee, Governor of Arkansas;	*							
Mike Beebe, Attorney General of	*							
Arkansas; Larry Norris, Director,	*							
Arkansas Department of Correction	n; *							
Ray Hobbs, Deputy Director,	*							
Arkansas Department of Correction	n; *							
Grant Harris, Warden, Varner Unit	*							
ADC; Thomas Hurst, Assistant	*							
Warden, Varner Unit, ADC; Kim	*							
Luckett, Assistant Warden, Varner	*							
Unit, ADC; Yolanda Clark, Captain	n, *							
Varner Unit, ADC; Charles Freyde	r, *							
Chaplin, ADC; Tim Moncrief,	*							

Assistant Warden, Varner Super	*				
Max, ADC; James Gibson, Assistant	*				
Director, ADC; David White,					
Warden, Maximum Security Unit,					
ADC; Justine Minor, Disciplinary					
Hearing Officer, ADC; Juanita					
Mathis, Disciplinary Hearing Officer,					
ADC; Minnie Drayer, Disciplinary					
Hearing Officer, ADC; Keith Waddle,					
Disciplinary Hearing Officer, ADC;	*				
Chris Coody, Disciplinary Hearing	*				
Officer, ADC; Lorie Taylor,					
Disciplinary Hearing Officer, ADC;					
Michael Hutchinson, Sgt., Varner					
Super Max, ADC; Kenneth Tillman,					
Lt., Varner Super Max, ADC; James					
Barnett, Captain, Varner Super Max,					
ADC; Jacqueline Owens, Disciplinary	*				
Officer, Varner Super Max, ADC;					
Brian Cockrell, Corporal,					
Maximum Security Unit, ADC; F.	*				
Raspberry, Sgt., Maximum Security					
Unit, ADC; Larry May, Assistant					
Director, ADC; Tommy James,					
Assistant Warden, Maximum Security					
Unit, ADC; Rick Toney, Warden,					
Varner Super Max, ADC; Ronald	*				
Bailey, Lt., Maximum Security Unit,	*				
ADC; Does, John & Jane,	*				
,	*				
Appellees.	*				
1 1					

Submitted: June 20, 2008 Filed: August 21, 2008

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Before MURPHY, COLLOTON, and SHEPHERD, Circuit Judges.

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## PER CURIAM.

Arkansas inmates Grady Newingham and Malik Khabir appeal three interlocutory orders entered in their action challenging prison dietary and grooming policies under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc-1(a)(1)-(2). We lack jurisdiction in this appeal to review two of the orders – one denying leave to amend the complaint and the other dismissing certain defendants – because the orders were not final when this appeal was filed, and did not otherwise qualify for interlocutory appeal. See 28 U.S.C. §§ 1291, 1292; Kassuelke v. Alliant Techsys., Inc., 223 F.3d 929, 930-31 (8th Cir. 2000).

As to the order denying a preliminary injunction to stop enforcement of the grooming policy, we conclude that the district court<sup>1</sup> employed the proper legal analysis under RLUIPA and did not err in determining that plaintiffs failed to show a likelihood of success on the merits or irreparable harm. See Fegans v. Norris, No. 06-3473, 2008 WL 3266653 (8th Cir. Aug. 11, 2008) (upholding Arkansas grooming policies against RLUIPA challenge); Hamilton v. Schriro, 74 F.3d 1545, 1550-51 (8th Cir. 1996); see also Safety-Kleen Sys., Inc. v. Hennkens, 301 F.3d 931, 935 (8th Cir. 2002) (standard of review); Dataphase Sys., Inc. v. C L Sys., Inc., 640 F.2d 109, 113 (8th Cir. 1981) (en banc) (preliminary injunction factors).

Accordingly, we affirm the district court's order denying preliminary injunctive relief. We also deny plaintiffs' request for a writ of mandamus based on conclusory

<sup>&</sup>lt;sup>1</sup>The Honorable William R. Wilson, Jr., United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable H. David Young, United States Magistrate Judge for the Eastern District of Arkansas.

assertions	of the	district	court's	bias,	and	we	deny	as	moot	plaintiffs'	motion	to
consolidate this appeal with Appeal No. 07-3835.												