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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Andre Almond Dennison,
10 Plaintiff,

11 v.

12 Charles L. Ryan, et al.,
13 Defendants.
14

No. CV-13-01925-PHX-SPL (ESW)

ORDER

15 Plaintiff is confined in the Arizona State Prison Complex-Eyman. He filed a *pro*
16 *se* civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1), alleging three claims for
17 relief against Defendant Ryan.

18 In Count One, Plaintiff alleges that Defendant Ryan denied Plaintiff a diet
19 consistent with his religious beliefs in violation of the Religious Land Use and
20 Institutionalized Persons Act (RLUIPA). Plaintiff states that Defendant has placed
21 Plaintiff on a vegan diet inconsistent with the tenets of Plaintiff's Seventh-Day Adventist
22 faith. Plaintiff asserts that his faith requires a diet consisting of fresh fruit, vegetables,
23 eggs, grains, legumes, nuts, and dairy products. Plaintiff argues that the failure to
24 provide a proper diet substantially burdens the practice of Plaintiff's religion. (Doc. 1)

25 In Count Two, Plaintiff alleges that Defendant Ryan has violated Plaintiff's First
26 Amendment right to the free exercise of his religion due to the same factual basis as set
27 forth in Count One. (Doc. 1)

28 In Count Three, Plaintiff alleges that Defendant Ryan violated Plaintiff's equal

1 protection rights because similarly situated inmates of other religions receive diets
2 consistent with their religious beliefs. (Doc. 1)

3 On October 14, 2014, Plaintiff filed a Motion to Compel (Doc. 29). Plaintiff seeks
4 more complete responses to requests for interrogatories and production propounded on
5 Defendant on May 15, 2014. The parties first attempted to resolve the issues pending by
6 good faith personal consultation over the phone and in writing. Defendant's Response to
7 Plaintiff's Motion to Compel (Doc. 40) was filed November 12, 2014. Plaintiff's Reply
8 (Doc. 44) was filed December 2, 2014. The matter is deemed submitted for decision.

9 The law provides that a party may obtain discovery regarding any non-privileged
10 matter that is relevant to a party's claim. The relevant information need not be
11 admissible at trial if it is reasonably calculated to lead to the discovery of admissible
12 evidence. Fed. R. Civ. P. 26(b)(1). All discovery is, however, subject to reasonable
13 limitations by the Court when "the burden or expense of the proposed discovery
14 outweighs its likely benefit, considering the needs of the case, the amount in controversy,
15 the parties' resources, the importance of the issues at stake in the action, and the
16 importance of the discovery in resolving the issues." Fed. R. Civ. P. 26(b)(2)(C)(iii).

17 18 **I. INTERROGATORIES**

19 **No. 16: "How Many Jews, Who Receive Kosher Meals, Are There In ADC?"**

20 Defendant is able to provide the number of inmates who have established a
21 sincere, religious reason for requesting a Kosher diet and received a Kosher diet while
22 incarcerated at the Arizona Department of Corrections (ADC). This information is
23 tracked and relevant. The Court orders Defendant to disclose the number of inmates who
24 have established a sincere, religious reason for requesting Kosher meals and have
25 received them from January 2013 to the present. The Defendant also tracks the number
26 of inmates who identify Judaism as their religious preference. Various faiths have
27 recognized tenets inherent in those faiths. Judaism is one such faith. Therefore, the
28 number of inmates who identify themselves with Judaism is relevant. The Court orders

1 the Defendant to disclose the number of inmates who have identified Judaism as their
2 religious preference from January 2013 to the present. It is not necessary, however, to
3 hand count the overlap of these two fields of data. The burden of such an exercise is
4 outweighed by the minimal probative value of the data sought. Because presumably
5 religious diets offered by ADC are not restricted to a particular religion, and because the
6 Defendant admits that some inmates that identify as Jewish also receive Kosher diets, the
7 overlap number is not relevant. It is further undisputed that the cost to Defendant per
8 meal type offered is not related to or impacted by the number of people who request each
9 meal type or eat each meal type.

10 Therefore, the Motion to Compel is granted in part and denied in part as set forth
11 above as to Interrogatory No. 16.

12
13 **No. 17: “How Many Jewish Prisoners Are Receiving Kosher Meals At**
14 **Rynning Unit?”**

15 For the reasons set forth in the Court’s analysis of Interrogatory No. 16,

16 It is ordered that Defendant provide the number of inmates at Rynning Unit who
17 have established a sincere, religious reason for requesting a Kosher diet while
18 incarcerated and received a Kosher meal plan from January 2013 to the present.

19 It is further ordered that Defendant provide the number of inmates at Rynning Unit
20 who have identified Judaism as their religious preference from January 2013 to the
21 present. Plaintiff’s Motion to Compel is granted in part and denied in part as to
22 Interrogatory No. 17.

23
24 **No. 18: “How Many Halaal practicing Muslims Are Receiving Halaal**
25 **Compliant Meals in ADC?”**

26 The Defendant has indicated that ADC tracks religious preference and meal plan.
27 There is no meal plan designated as “Halaal Compliant.” However, Defendant tracks
28 individuals who identify their religious preference as Muslim. There are also individuals

1 who express a sincere, religious reason for requesting Kosher and/or vegan meals. For
2 the reasons set forth in the Court’s analysis of Interrogatory No. 16,

3 It is ordered that Defendant provide the number of inmates from January 2013 to
4 the present who are on each tracked meal plan and the number of inmates who identify
5 their religious preference as Muslim. The Motion to Compel is denied in part and
6 granted in part as to Interrogatory No. 18.

7
8 **No. 19: How Many Halaal Practicing Muslims Are Receiving Halaal**
9 **Compliant Meals At Rynning Unit?”**

10 The Motion to Compel is denied in part and granted in part for the reasons
11 previously set forth herein.

12 It is ordered that the Defendant provide the number of inmates at Rynning Unit
13 who have identified Muslim as their religious preference from January 2013 to the
14 present.

15 It is further ordered that Defendant provide the number of inmates at Rynning Unit
16 who have established a sincere, religious reason for requesting a Kosher diet, a vegan
17 diet, and any other tracked religious diet while incarcerated and received such meals from
18 January 2013 to the present.

19
20 **No. 20: “How Many Actual Vegan Prisoners, Not Those Put Onto The Vegan**
21 **Diet From Other Religions, Are There in the ADC?”**

22 The Court sustains Defendant’s objection to this interrogatory. The Court has
23 ordered Defendant to provide the number of prisoners who claim a religious preference
24 for the Muslim and Jewish faiths and the number of prisoners who receive a specific diet
25 (Kosher, vegan, or other) for religious reasons from January 2013 to the present. For the
26 reasons previously set forth in the Court’s rulings contained herein, as well as reasons set
27 forth in Defendant’s objections, the Motion to Compel is denied as to Interrogatory No.
28 20.

1 The Court finds that the information sought is relevant to the issues raised by
2 Plaintiff's claims.

3 It is ordered granting Plaintiff's Motion to Compel as to Request No. 3.
4 Defendant has a continuing obligation to produce any documentation in existence in their
5 possession responsive to No. 3. The parties have given the Court no reason to believe
6 Defendant has not done so.

7
8 **No. 6: "All Restricted Diet Orders and Diet Cards Issued Regarding**
9 **Dennison From 2006 to May 2008."**

10 The Court finds that the information sought is relevant to the issues raised by
11 Plaintiff's claims.

12 It is ordered granting Plaintiff's Motion to Compel as to Request No. 6.
13 Defendant has a continuing obligation to produce any documentation in existence in their
14 possession responsive to No. 6. The parties have given the Court no reason to believe
15 Defendant has not done so.

16
17 **No. 7: Diet Reference and Food Service Technical Manuals from 2008 to**
18 **Present."**

19 The Court finds that the information sought is relevant to the issues raised by
20 Plaintiff's claims.

21 It is ordered granting Plaintiff's Motion to Compel as to Request No. 7.
22 Defendant has a continuing obligation to produce any documentation in existence in their
23 possession responsive to No. 7. The parties have given the Court no reason to believe
24 Defendant has not done so. Defendant's objection regarding redactions for security
25 reasons are sustained by the Court.

26
27 **No. 8: "All Diet Load Sheets From 2007 to Present."**

28 The Court finds that the information sought is relevant to the issues raised by

1 Plaintiff's claims.

2 It is ordered granting Plaintiff's Motion to Compel as to Request No. 8.
3 Defendant has a continuing obligation to produce any documentation in existence in their
4 possession responsive to No. 8. The parties have given the Court no reason to believe
5 Defendant has not done so.

6
7 **No. 11: "Full Name And Last Known Business And Home Address And**
8 **Phone Number Of The Following: Mike Linderman, John Thompson, ADC**
9 **Chaplain Vicklund, ADC Chaplain Miser, ADC Chaplain Franklin, Ms. Sneed, Mr.**
10 **Sneed, Ms. Pond, and Laura Donnelly."**

11 Defendant's objection is sustained as to current employees of ADC. Defendant's
12 objections as to former employees of ADC who will not be represented by the Attorney
13 General's Office should he/she be called to offer testimony is overruled. Should any
14 former employee listed not be represented if called to testify or provide sworn statements,
15 the last known address shall be filed under seal with the Court for purposes of the
16 issuance of a subpoena or the necessity of future sworn statements.

17 Defendant's objection is sustained regarding all individuals not in the employ of
18 ADC. The Motion to Compel is granted in part and denied in part as to Request No. 11.

19
20 **No. 19: "All Pricing Documents Utilized By Canteen/Trinity For Each**
21 **Service They Sell."**

22 Defendant's objection to this request is sustained. The Plaintiff seeks information
23 from the Defendant which is in the possession and control of a third party.

24 Plaintiff's Motion to Compel is denied as to Request No. 19.

25
26 **CONCLUSION**

27 Accordingly,

28 IT IS ORDERED that Plaintiff's Motion to Compel (Doc. 29) is granted as to

1 Interrogatory Numbers 16 through 19, subject to the limitations as set forth herein.

2 IT IS ORDERED that Plaintiff's Motion to Compel (Doc. 29) is denied as to
3 Interrogatory Numbers 20 and 21.

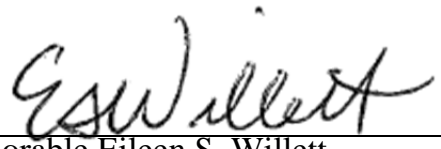
4 IT IS ORDERED that Plaintiff's Motion to Compel (Doc. 29) is granted as to
5 Request for Production Numbers 1 through 3, 6, 8, and 11, subject to the limitations as
6 set forth herein.

7 IT IS ORDERED that Plaintiff's Motion to Compel (Doc. 29) is denied as to
8 Request for Production Number 19.

9 IT IS FURTHER ORDERED that no further discovery motions shall be filed by
10 the parties without express leave of the Court. In the event of a discovery dispute, the
11 parties are ordered to confer as required by Rule 37(a)(1), Fed. R. Civ. P. If the parties in
12 good faith are unable to resolve their discovery dispute, the parties shall jointly call
13 chambers of the assigned Magistrate Judge and schedule a telephonic Discovery Dispute
14 Conference. All discovery disputes shall be discussed at the Conference. Only after
15 participating in the Court Conference and with express prior permission of the Magistrate
16 Judge shall any party file a discovery motion absent extraordinary circumstances and
17 good cause shown.

18 Dated this 16th day of January, 2015.

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Honorable Eileen S. Willett
United States Magistrate Judge