

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES F. MENEFIELD,

Plaintiff,

v.

MATTHEW CATE,

Defendant.

No. C 08-00751 CRB (PR)

**ORDER GRANTING PRELIMINARY
INJUNCTION**

Plaintiff James Menefield moves for a preliminary injunction compelling Defendant Cate to provide Plaintiff access to Halal meals that would include a Halal meat option whenever Kosher meat is served. Alternatively, Plaintiff asks this Court to order Defendant to permit him to participate in the Kosher meal program.

For the reasons the follow, the motion is GRANTED. Defendant Cate is hereby ORDERED to provide Plaintiff with access to the Kosher meal program. If and when the State succeeds in implementing its proposed Halal option, and is prepared to provide Plaintiff with access to that program, it may come before this Court to seek dissolution of this injunction.

1 **Background**

2 Plaintiff argues that the California Department of Corrections and Rehabilitation
3 (“CDCR”) has an official policy of ignoring the dietary prescriptions of Islam. Mot. at 2.
4 While Kosher meals are provided to qualifying Jewish inmates, no similar accommodation is
5 made for Muslim inmates. Under current regulations, “Jewish inmates may participate in the
6 [Kosher] program, as determined by a Jewish Chaplain.” Cal. Cod Regs. tit. 15, § 3054.2.
7 On December 8, 2006, Plaintiff requested to participate in the Kosher diet program provided
8 by the CDCR. Menefield Decl. ¶ 7. While Plaintiff does not believe Kosher meals fully
9 satisfy his religious obligations, the ritualistic preparation is more similar to Halal foods than
10 is the standard prison fare. Upon his application to participate in the Kosher program,
11 Plaintiff was led to believe that the request would be granted. *Id.* ¶ 6. When he received his
12 Religious Diet Card the next month, however, it listed his religious diet as “Islam,” which
13 permitted him only vegetarian meals instead of Kosher meals. He was informed by the
14 prison chaplain that state regulations did not permit him to approve Muslim inmates for
15 Kosher meals. According to Plaintiff, “a vegetarian meal is not an equal substitute for Halal
16 because a meat-free diet conflicts with the Holy Qur’an’s directive to eat what Allah has
17 provided us. . . . I sincerely believe that vegetarianism is utterly foreign to the religion of
18 Islam.” *Id.* ¶ 8. Plaintiff appealed the chaplain’s decision within the prison system, but his
19 appeal was denied.

20 **Discussion**

21 A plaintiff “seeking a preliminary injunction must establish that (1) they are likely to
22 succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of
23 preliminary relief; (3) the balance of equities tips in their favor; and (4) a preliminary
24 injunction is in the public interest.” *Sierra Forest Legacy v. Rey*, 577 F.3d 1015, 1021 (9th
25 Cir. 2009) (citing *Winter v. Nat. Resources Def. Council, Inc.*, 129 S.Ct. 365 (2008)). The
26 relevant factors all lean in Plaintiff’s favor.

27 **1. Likelihood of Success on the Merits**

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1 Plaintiff asserts a number of legal theories to support a preliminary injunction, both
2 Constitutional and statutory. First, he relies upon the Equal Protection Clause. This Clause
3 has been held to provide “that prison officials cannot discriminate against particular
4 religions.” Freeman v. Arpaio, 125 F.3d 732, 737 (9th Cir. 1997), rev'd on other grounds by
5 Shakur v. Schriro, 514 F.3d 878 (9th Cir. 2008). In addition, prisons must provide an inmate
6 “a reasonable opportunity of pursuing his faith comparable to the opportunity afforded fellow
7 prisoners who adhere to conventional religious precepts.” Cruz v. Beto, 405 U.S. 319, 322
8 (1972). “Prisons need not provide identical facilities or personnel to different faiths, but
9 must make ‘good faith accommodation of the [prisoners'] rights in light of practical
10 considerations.’” Freeman, 125 F.3d at 737 (quoting Allen v. Toombs, 827 F.2d 563, 569
11 (9th Cir. 1987)).

12 It is the Court’s view that a “good faith accommodation” of Plaintiff’s rights requires
13 Defendant to grant, at minimum, Plaintiff’s request for a Kosher meal. Such an option is
14 provided to Jewish inmates, and Defendant presents no “practical consideration[.]” that
15 counsels against providing the same option to Plaintiff. Plaintiff has therefore established a
16 likelihood of success on his Equal Protection claim with regard to his entitlement to a Kosher
17 meal.¹

18 Plaintiff has similarly established a likelihood of success with regard to his other
19 claims: free exercise of religion under the First Amendment and the RLUIPA. As to the free
20 exercise claim, the Ninth Circuit has held that inmates “have the right to be provided with
21 food sufficient to sustain them in good health that satisfies the dietary laws of their religion.”
22 Ward v. Walsh, 1 F.3d 873, 877 (9th Cir. 1993). While these rights can be restricted to
23 achieve legitimate penological goals and maintain prison security, the State has not made any
24 arguments with regard to how these factors apply to Plaintiff’s request for Kosher meals.
25 Without such practical concerns, a Plaintiff must satisfy two criteria (1) the proffered belief
26 must be sincerely held, and (2) the claim must be rooted in religious belief. Lewis v. Ryan,

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28 ¹ This Court does not address the likelihood of success as to Plaintiff’s request for a Halal meal. As explained below, even assuming a likelihood of success on this claim, the balance of equities counsels against ordering the provision of Halal meals at this time.

1 2008 WL 1944112, at *18 (S.D. Cal. May 1, 2008). Plaintiff's Declaration establishes both
2 criteria. Plaintiff explains that "vegetarianism is utterly foreign to the religion of Islam," and
3 that the standard meals include meat that has not been prepared according to the dictates of
4 his religion. Menefield Decl. ¶¶ 6, 8. The State provides no reason to doubt the sincerity of
5 Menefield's belief.

6 As for RLUIPA, that statute provides that "[n]o government shall impose a substantial
7 burden on the religious exercise of a person residing in or confined to an institution," unless
8 the government demonstrates that the burden is "in furtherance of a compelling governmental
9 interest" and is "the least restrictive means of furthering that . . . interest." 42 U.S.C. §
10 2000cc-1(a). RLUIPA defines "religious exercise" as "any exercise of religion, whether or
11 not compelled by, or central to, a system of religious belief. *Id.* § 2000cc-5(7)(A).

12 The State has not established a compelling governmental interest that would forbid
13 giving Plaintiff kosher meals. At oral argument the state conceded that providing such a
14 meal to Plaintiff would have a vanishingly small cost, given that it already provides Kosher
15 meals to Jewish inmates where Plaintiff is incarcerated.

16 For the reasons explained above, this Court concludes that Plaintiff has established a
17 high likelihood of success on the merits, at least as to the providing him access to Kosher
18 meals.

19 **2. Harm to the Plaintiff**

20 According to the Supreme Court, "loss of First Amendment freedoms, for even
21 minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427
22 U.S. 347, 373-74 (1976). Plaintiff's case has been pending for some time now, during which
23 time he has been forced to eat food that does not comport with his sincerely held religious
24 beliefs. We conclude, along with a magistrate judge in this district, that this constitutes
25 irreparable harm. *See Ashanti v. Tilton*, No. 07-0807, 2009 WL 413593, at *3 (E.D. Cal.
26 Feb. 18, 2009).

27 **3. Balance of Equities**

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1 Plaintiff argues that “providing [him] with Halal meals, or Kosher meals in the
2 alternative, would not cause significant harm to the CDCR. The fiscal and administrative
3 impact of providing Plaintiff with a Halal meal would result in no more than a de minimis
4 burden on the State.” Mot. at 14.

5 While we agree that providing Plaintiff a Kosher meal imposes only a very small
6 burden on the State, Plaintiff conceded at oral argument that ordering a Halal option to be
7 provided for Plaintiff at this time would be logistically far more complicated. As both parties
8 note, the State is actively working on enacting regulations that would substantially meet
9 Plaintiff’s concerns. According to the State’s briefing, it expects that the regulations will be
10 enacted by late November. Because the State is actively attempting to remedy this situation,
11 and because there are currently no established facilities or suppliers to provide Plaintiff with
12 Halal food, the balance of equities leans against ordering that Plaintiff be given Halal food.
13 Therefore, even if we assume he is likely to succeed on the merits of that claim, this Court
14 declines to issue that broad an injunction.

15 However, the balance comes out differently with regard to Plaintiff’s request that he
16 be allowed Kosher food. There is no logistical complication in making such food available,
17 and the State concedes that it would not be substantially more expensive. The balance of the
18 equities therefore leans in Plaintiff’s favor.

19 **4. Public Interest**

20 Neither Plaintiff nor Defendant makes arguments specific to this factor, and we
21 conclude that the other factors explained above are more relevant to this case.

22 **Conclusion**

23 This Court concludes that Plaintiff has established (1) likelihood of success with
24 regard to his request for kosher meals, (2) that failure to provide such food constitutes
25 irreparable harm, and (3) that the balance of equities leans in his favor. While this Court
26 appreciates that the regulatory process can be unavoidably complex and long, we see no
27 compelling reason not to permit Plaintiff access to the Kosher option while that process
28 continues. If, as the State expects, the relevant regulations enter into effect in late November

1 and Plaintiff is given access to Halal meals, the State will have the opportunity to present
2 such evidence to this Court and seek dissolution of this injunction.

3 Defendant is hereby ORDERED to provide Plaintiff with access to Kosher meals, and
4 Plaintiff is directed to enter a bond of \$20 with the clerk of the court.

5 **IT IS SO ORDERED.**

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8 Dated: October 2, 2009



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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