

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

DURRELL SIMS,

Plaintiff,

v.

4:16cv49–WS/CAS

JULIE L. JONES, SECRETARY
FLORIDA DEPARTMENT OF
CORRECTIONS,

Defendant.

ORDER ADOPTING IN PART AND REJECTING IN PART THE
MAGISTRATE JUDGE’S THIRD REPORT AND RECOMMENDATION

Before the court is the magistrate judge's third report and recommendation (doc. 74) docketed August 8, 2018. The magistrate judge recommends that Defendant’s renewed motion for summary judgment (doc. 68) be granted as to Plaintiff’s RLUIPA claim regarding Defendant’s strip-search rule but denied as Plaintiff’s RLUIPA claim regarding Defendant’s beard-length rule. The magistrate judge also recommends that Plaintiff’s motion for summary judgment (doc. 42) be granted as to the beard-length rule and that an injunction be entered allowing Plaintiff to grow a 3-inch beard in accordance with his religious faith. Both parties

have filed objections (docs. 76 & 82) to the report and recommendation, and Defendant has responded (doc. 83) in opposition to Plaintiff's objections.

Having reviewed the record in light of the parties' objections, the court has determined that the magistrate judge's report and recommendation is due to be adopted as to Plaintiff's strip-search claim. Because Plaintiff has not shown that Defendant's strip-search rule imposes a substantial burden on his sincerely held religious beliefs, Defendant is entitled to summary judgment on Plaintiff's strip-search claim. As to Plaintiff's beard-length claim, however, the undersigned is unable to agree that, on this record, Plaintiff is entitled to summary judgment. Defendant has submitted sufficient evidence to survive summary judgment as to whether the prison's beard-length rule furthers a compelling government interest and is a least restrictive means to advance that interest.

Accordingly, it is ORDERED:

1. The magistrate judge's third report and recommendation (doc. 74) is ADOPTED in part and REJECTED in part. The report and recommendation is ADOPTED to the extent it addresses Plaintiff's strip-search claim but REJECTED to the extent it addresses Plaintiff's beard-length claim.

2. Defendant's renewed motion for summary judgment (doc. 68) is GRANTED as to Plaintiff's strip-search claim only.

3. Plaintiff's strip-search claim is DISMISSED with prejudice.
4. Plaintiff's motion for summary judgment (doc. 42) is DENIED.
5. Defendant's motion for summary judgment (doc. 68) is DENIED as to Plaintiff's beard-length claim.
6. The clerk shall refer the case to another district judge for an evidentiary hearing or bench trial as to Plaintiff's beard-length claim.

DONE AND ORDERED this 9th day of October, 2018.

s/ William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE