

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAMES E. DAMRON, *et al.*, :  
 :  
 Plaintiffs, : Civil Action 2:09-cv-50  
 :  
 v. : Judge Marbley  
 :  
 GARY SIMS, : Magistrate Judge Abel  
 :  
 Defendant. :

**OPINION AND ORDER**

The prisoner plaintiffs in this case, who are adherents of the Christian Separatist Church, ask the Court to order Defendant to grant them certain religious accommodations, such as work proscription on their Sabbath and permitting them separate worship and study for the members of their faith. This matter is now before the Court for *de novo* review pursuant to Fed. R. Civ. P. 72(b) of the Magistrate Judge's August 5, 2010 Report and Recommendation that the March 9, 2010 Motion for Partial Summary Judgment filed by Plaintiff James E. Damron ("Damron") be denied (Doc. 249.)

In his motion for partial summary judgment, Damron presented what he asserted was evidence that Defendant had formally recognized the Christian

Separatist Church.<sup>1</sup> This took the form of a January 14, 2010 decision of Defendant, in his capacity as Religious Services Administrator, granting a Request for Accommodation of Religious Practice permitting Michael Nelson, an inmate at the Lake Erie Correctional Institution, to grow long hair for religious reasons. (Doc. 140 at 4.) On his form decision, Defendant identified Nelson as “RELIGIOUS: Christian Seperatist [sic]”. (*Id.*) This, Damron asserted, should lead the Court to conclude that Defendant has authorized the Christian Separatist Church as a recognized religious group equal to all others, and that Defendant must therefore grant all accommodations which its adherents have requested.

The Magistrate Judge rejected this reasoning. He found in the first place that there does not seem to be any formal basis in Ohio law or administrative regulation for categorically recognizing or authorizing a religious denomination, although inmates are permitted to identify their own religion at intake and to request religious accommodations. He also noted that Ohio Department of Rehabilitation and Corrections regulation 72-REG-02, which governs religious accommodations, specifically states that religious accommodations shall not be automatically granted based upon an inmate’s stated affiliation alone. He then concluded that, whether or not Defendant had ever acknowledged that another inmate claimed to be a Christian Separatist, this did not automatically compel Defendant to grant Damron the entire list of accommodations which he states a

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<sup>1</sup> Defendant objected to this evidence on grounds that it was inadmissible. (Doc. 206 at 2.) The Court need not address this question in reaching its decision.

Christian Separatist needs.

Damron subsequently filed a document which stated in its caption that it constituted objections to this Report and Recommendation. (Doc. 258.) In it, however, he stated instead that he required additional time to provide proof of the facts which he had alleged in his motion for partial summary judgment, and asked the Court to extend him at least a twenty-day extension of time to file objections, in order “to come forth with the appropriate material facts to support the claims in” his motion. In a subsequent order addressing the request for extension of time (Doc. 271), the Magistrate Judge denied the request on grounds that it was untimely because it had been filed after the period for objections, that S. D. Ohio Civ. R. 7.2(e) requires that evidence supporting a motion for summary judgment be submitted along with that motion, and that it was not clear how any new factual evidence could refute the legal conclusion in the Report and Recommendation that acknowledgment of one inmate’s stated affiliation did not automatically mandate the granting of a list of accommodations to another inmate claiming the same affiliation.

No plaintiff filed any other objections to the Report and Recommendation. Furthermore, the Magistrate Judge’s reasoning is correct. Whether or not Defendant has ever issued a formal decision on another inmate’s request for religious accommodation, in which Defendant recited that the inmate identified himself as “Christian Separatist”, this does not compel a legal conclusion that Defendant is now obligated to grant inmates who claim the same affiliation every

religious accommodation which they request. Accordingly, upon *de novo* review pursuant to Fed. R. Civ. P. 72(b) and 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation (Doc. 249) and **DENIES** Plaintiff Damron's motion for partial summary judgment (Doc. 140).

s/Algenon L. Marbley  
United States District Judge