19-P-988 Appeals Court

DAVID T. MILLER vs. SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION, SHIRLEY,[1] & others.[2]

No. 19-P-988.

Middlesex. December 11, 2020. – April 5, 2021.

Present: Vuono, Milkey, & Ditkoff, JJ.

Imprisonment. Religion. Constitutional Law, Freedom of religion, Imprisonment. Religious Land Use and Institutionalized Persons Act of 2000.

Civil action commenced in the Superior Court Department on June 28, 2016.

The case was heard by Christopher K. Barry-Smith, J., on motions for judgment on the pleadings.

David T. Miller, pro se.
Joan T. Kennedy for the defendants.

[1] Raymond Marchilli.

[2] Monika K. Forrest, grievance coordinator, Massachusetts Correctional Institution, Shirley (MCI-Shirley); Gregg McCann, deputy superintendent, MCI-Shirley; and Darel Oja, lieutenant property officer, MCI-Shirley. It is not entirely clear in what capacity the defendants are being sued.

MILKEY, J. The plaintiff, David T. Miller, is a practicing Muslim currently incarcerated at the Massachusetts Correctional Institution at Shirley (MCI-Shirley). At issue here is whether he has a right to possess a religious medallion of particular significance to him. Officials at other State correctional facilities allowed Miller to wear the medallion on a chain around his neck. However, when Miller was transferred to MCI-Shirley in 2015, a Department of Correction (DOC) official confiscated the medallion and chain based on his belief that their market value exceeded the amount allowed by DOC's inmate property policies (a limitation in turn based on general security interests). After DOC denied Miller's requests for the return of his medallion, he brought this action. Among other grounds, Miller invoked the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. §§ 2000cc-2000cc-5 (2000), a Federal statute that protects the rights of institutionalized individuals to practice their religions. A Superior Court judge allowed DOC's motion for judgment on the pleadings, and entered judgment dismissing Miller's case. As explained below, the judge failed to conduct the thorough and individualized analysis that the RLUIPA requires. We therefore vacate the judgment in part and remand for further proceedings.

Background. 1. DOC's regulations and policies. DOC's property regulations recognize an inmate's right to possess

certain approved religious items. 103 Code Mass. Regs. § 403.10(2)(e) (2017).[3] The regulations themselves do not specify what is acceptable, but instead reflect that DOC is to post in inmate libraries "[a] list of approved religious articles." Id. At least some of the items on such lists can be purchased through each correctional facility's (facility or prison) canteen. By regulation, any items "available for purchase at the institutional inmate canteen or through approved vendors" must be purchased through those means.[4] 103 Code Mass. Regs. § 403.13(4) (2017). "Any items that cannot be purchased via the inmate canteen may enter the institution, but only with

[3] DOC updated many of its regulations in 2017, which was after its administrative decisions in this case, but before briefing in the trial court. Those regulations are 103 Code Mass. Regs. § 403.00 (governing property); 103 Code Mass. Regs. § 471.00 (governing religious programs and services); and 103 Code Mass. Regs. § 491.00 (governing grievances).

Here, we generally refer to the 2017 property regulations, as these are the regulations under which DOC must justify the continued withholding of Miller's medallion. Except as noted, we discern no significant differences between the two versions of the property regulations.

[4] Compelling inmates to acquire preapproved items through the canteen also helps DOC to ensure compliance with its property regulations and to limit the introduction of contraband into the facility. Cf. Rasheed v. Commissioner of Correction, 446 Mass. 463, 475 (2006) ("prison officials must be permitted latitude in determining what products can come into the prison and what vendors can provide them").

the approval of the [s]uperintendent or a designee." 103 Code Mass. Regs. § 403.13(1) (2017).

Prior to 2017, when DOC updated its regulations, an inmate who wished to acquire a religious item that had not been preapproved for sale at the canteen could seek approval to obtain the item by making a request of the superintendent at the prison.[5] 403 Code Mass. Regs. § 403.10(9) (2001). The superintendent would then refer the request to the religious services review committee, which would make a recommendation to the DOC commissioner. Id.

The November 2016 authorized list of approved religious items that appears in the record included a general listing for religious medals and pendants that are equal to, or less than, fifty dollars in value, one-eighth of an inch in thickness, and one and one-half inches in diameter. The list also included a general listing for religious chains valued at fifty dollars or less, not to exceed twenty inches in length. In addition to these general listings, the list also included listings for two specific Islamic medallion and chain combinations. One was for a "sterling silver Allah Medallion and Chain" (Allah medallion). The other was for an "Islam Star/Crescent Medallion and Chain"

[5] Now, an inmate must file a religious services request, as described in 103 Code Mass. Regs. § 471.08(10) (2017). See note 20, infra.

(star/crescent medallion). An inmate can purchase either of these two items from the prison's canteen. The regulations expressly allow inmates to seek case-specific exemptions for religious items that do not appear on the approved lists.[6] See 103 Code Mass. Regs. § 403.10(9) (2001); 103 Code Mass. Regs. § 403.10(2)(e) (2017).

2. Facts.[7] a. Miller's medallion. The medallion confiscated from Miller is made of an undetermined metal that is silver in color. It is rectangular in shape, and approximately one inch wide and one and three-quarters inches long. Around the border of the medallion there are a number of what DOC's records list as "faux diamonds."

Miller contends that possessing this particular medallion is important to his faith. Inscribed on the medallion's face is a passage from the Quran that was the favorite of his late

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[6] Accordingly, DOC's position that its regulations make religious items above fifty dollars "contraband" is misleading to the extent that it suggests that such items are per se banned. Compare 103 Code Mass. Regs. § 403.10(6)(d) (2001), with 103 Code Mass. Regs. § 403.10(9) (2001), and 103 Code Mass. Regs. § 403.10(2)(e) (2017).

[7] Because this case was resolved on the defendants' motion for judgment on the pleadings, we accept as true the allegations of Miller's amended complaint. See Pacific Indem. Co. v. Lampro, 86 Mass. App. Ct. 60, 63 (2014). As is discussed below, the procedural posture of this case was complicated by the fact that the defendants filed an affidavit and various other documents in support of their cross motion for judgment on the pleadings. In any event, the historical facts, however limited, appear to be largely uncontested.

mother, who raised him as a Muslim. According to Miller, the quoted passage is a "protection verse" that provides a "remembrance of God when it's recited." The medallion once belonged to Miller's older brother and was given to Miller after his father passed away.

For religious reasons, Miller refuses to wear either of the two Islamic medallions available through the canteen. The Allah medallion is unacceptable to him precisely because it includes the word "Allah."[8] The star/crescent medallion is not acceptable to Miller because it represents the Nation of Islam, of which he decidedly is not a member. In addition, neither of the two available options has the special significance that the one passed down through his family has to him. DOC does not dispute the sincerity of Miller's objections to the available alternatives, or of his religious beliefs more generally.

b. DOC's practices at other institutions. Before being transferred to MCI-Shirley, Miller was incarcerated at two other correctional facilities. When he was held at the Souza-Baranowski Correctional Center, Miller was allowed to possess and wear the medallion on a chain around his neck. He similarly was permitted to wear the chain and medallion when he was housed for a period of time at the Old Colony Correctional Center. DOC

[8] According to Miller, it would be sacrilegious for him to wear a medallion bearing the word "Allah" in certain settings.

does not assert, and there is nothing in the record to suggest, that Miller's wearing of the medallion caused tensions with other inmates, or created any other security problems.

c. DOC's confiscation of the medallion. Once Miller was transferred to MCI-Shirley in 2015, a DOC officer there confiscated the medallion and chain as contraband because he believed that their value exceeded fifty dollars.[9] Another DOC officer told Miller that he could regain the medallion if he had its chain made smaller. According to Miller, relying on that representation, he had the chain downsized at a considerable cost to him, but DOC continued to withhold the medallion and chain.

d. Miller's exemption request. In 2016, Miller submitted to DOC a request asking that his medallion and chain be returned to him. DOC's religious services review committee (committee) recommended denial of Miller's request after concluding that the size and value of the items rendered them "contraband" under

[9] It is not clear whether the officer came to this conclusion by applying the fifty-dollar limit to the medallion and chain separately, or by applying it to the two items taken together. Although Miller has, at various points, disputed that the value of the medallion exceeds fifty dollars, he abandoned that contention at oral argument. For present purposes, we therefore assume arguendo that DOC is correct that the value of the medallion exceeds fifty dollars. Miller has also abandoned his effort to recover the chain, which he has since given to his son.

DOC's policies.[10] In recommending denial of Miller's exemption request, the committee acknowledged and did not question Miller's beliefs. While recommending denial, the committee indicated its willingness to "work with the vendor to provide a reasonable alternative for inmate Miller to purchase." DOC's commissioner accepted the committee's recommendation and denied Miller's request.

e. Miller's grievances. Miller did not accept DOC's offer to "work with the vendor" to try to develop a mutually acceptable alternative.[11] Instead, he filed a series of grievances over DOC's continued withholding of his chain and medallion. DOC denied Miller's grievances on the merits on the ground "that the items in question remain not authorized for retention." Miller then filed an administrative appeal of the denial of his last grievance. This, too, was denied.

f. The current action. In June of 2016, Miller filed the current action against various DOC officials (collectively, DOC). As originally framed, his complaint was an appeal from

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[10] Again, the officials involved did not specify whether they were estimating the value of the medallion and chain separately or together, or provide any information as to how they determined the items' market value.

[11] DOC has not asserted that Miller failed to exhaust his administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e. Failure to exhaust under that statute is an affirmative defense that can be waived. See Jones v. Bock, 549 U.S. 199, 216 (2007).

the denial of his grievance, and brought pursuant to G. L. c. 30A, § 14, and G. L. c. 127, § 38H. A few months later, Miller filed an amended complaint that broadened his claims, e.g., by alleging that DOC's actions violated the RLUIPA and the First Amendment to the United States Constitution.

For two full years after Miller filed his original complaint, DOC did not file an answer or otherwise respond. In June of 2018, DOC finally filed, as its answer to the original complaint, the eight-page administrative record that had been generated during the grievance process. See Superior Court Standing Order 1-96. DOC never filed an answer to Miller's amended complaint.[12]

Miller filed a "motion for judgment" based on DOC's tardiness and the slim record that DOC had filed. DOC then cross moved for judgment on the pleadings, while simultaneously submitting an additional fifty-four pages of "exhibits" outside of the administrative record it had filed. That material included documentation of Miller's exemption request, an

[12] DOC argues, as it did in the trial court, that Miller needed court approval to file his amended complaint. This is incorrect. See Mass. R. Civ. P. 15, 365 Mass. 761 (1974). At the same time, where Miller never requested that the clerk default DOC for failing to answer his amended complaint, DOC's not having been defaulted was not error. Cf. Riley v. Davison Constr. Co., 381 Mass. 432, 442 (1980) ("We find no abuse of discretion in refusing to enter default here where the plaintiff did not move for default until after the trial had begun").

affidavit describing how DOC had handled Miller's request, and photographs of the medallion and chain. In the memorandum it filed in support of its motion, DOC addressed not only Miller's c. 30A appeal of the denial of his grievance, but also those claims raised in his amended complaint, including his RLUIPA claim. DOC specifically argued that where DOC officials "determin[ed] that [Miller's] possession of this religious medallion and chain created compelling security concerns and where the photographs of the contrabanded item bolster[ed] their concerns and a reasonable alternative was offered to the plaintiff, the RLUIPA claim against [DOC] fail[ed]."

The judge allowed DOC's motion and entered judgment in its favor "substantially for the reasons set forth in DOC's memorandum." As to Miller's RLUIPA claim, the judge wrote "that DOC regulations, and the DOC's confiscation of the medallion under those regulations, do not violate" RLUIPA.

Discussion. The procedural posture of this case is complicated by two facts. First, review of Miller's c. 30A claim is limited to the administrative record, while review of his other claims is not. See, e.g., 42 U.S.C. § 2000cc-2(a) (creating private right of action under RLUIPA). Second, although DOC labeled its motion as one for judgment on the pleadings, it submitted an affidavit and various documents that effectively converted its motion into one for summary judgment

with respect to the non-c. 30A claims.[13] See Mass. R. Civ. P. 12 (c), 365 Mass. 754 (1974) ("If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment . . . and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by [Mass. R. Civ. P. 56, 365 Mass. 824 (1974)]").

In the end, these complications do not affect our review. Regardless of how the motions were framed, our review is de novo, and the overarching question we face is whether DOC has demonstrated an entitlement to judgment in its favor as a matter of law. See Moretalara v. Boston Hous. Auth., 99 Mass. App. Ct. 1, 7 (2020). Miller has not demonstrated how he was deprived of an opportunity to respond to the largely uncontested materials that DOC submitted such that he suffered material prejudice. See Reliance Ins. Co. v. Boston, 71 Mass. App. Ct. 550, 555 (2008) (judge's consideration of material outside pleadings without giving parties opportunity to present all pertinent

[13] DOC suggests that its submission of an affidavit and other documents did not convert its motion into one for summary judgment, on the grounds that it simply was bringing to the judge's attention undisputed facts referenced by, or relied upon, by Miller in his complaint. See Vranos v. Skinner, 77 Mass. App. Ct. 280, 282 n.3 (2010). Whatever the scope of that principle, DOC plainly exceeded it here.

material can constitute reversible error where nonmoving party can demonstrate prejudice).

We address Miller's First Amendment, RLUIPA, and c. 30A claims in turn.

1. First Amendment claim. We agree with the judge that Miller's First Amendment claim fails as a matter of law. Under longstanding precedent, "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." Turner v. Safley, 482 U.S. 78, 89 (1987). The United States Supreme Court established this test "[t]o ensure that courts afford appropriate deference to prison officials." O'Lone v. Estate of Shabazz, 482 U.S. 342, 349 (1987). Notably, courts have not interpreted the First Amendment to require DOC to implement the least restrictive policy possible. See Turner, supra at 90. The case law reflects the deferential approach charted by the Supreme Court precedent. See, e.g., Kane v. Muir, 431 Mass. 1001, 1001-1002 (2000) (upholding dismissal of First Amendment challenge to DOC policy that prohibited inmates from possessing multicolored rosary beads, which could be construed as signifying gang membership, where DOC allowed possession of unicolor beads).

Here, there plainly is a reasonable relation between DOC's fifty-dollar limit on the value of religious property and DOC's

legitimate interest in maintaining prison safety (e.g., by reducing the likelihood of conflict among inmates over valuables). For First Amendment purposes, it is also relevant that Miller may practice his religion in ways other than wearing this exact medallion.[14] See O'Lone, 482 U.S. at 351. For that reason, DOC's offering to work with Miller and the vendor to develop an alternative medallion undercuts Miller's claim to have demonstrated a violation of the First Amendment. See Kane, 431 Mass. at 1001-1002. We discern no error in the judge's conclusion that, as a matter of law, Miller has not made out a violation of the First Amendment.

2. RLUIPA claim. We reach a different conclusion with respect to Miller's RLUIPA claim. Congress enacted that statute in order to provide inmates significant religious liberty rights beyond those recognized by First Amendment jurisprudence. See Holt v. Hobbs, 574 U.S. 352, 356-358 (2015). The RLUIPA mandates that

> "[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution . . . even if the burden results from a rule of general applicability, unless the government

[14] In O'Lone, for example, the United States Supreme Court rejected a challenge to policies that prevented Muslim inmates from attending Jumu'ah, in part because Muslim inmates could "participate in other Muslim religious ceremonies," had access to a State-provided imam, could avoid consuming pork, and benefited from special arrangements to facilitate the observance of Ramadan. O'Lone, 482 U.S. at 345, 351-352.

> demonstrates that imposition of the burden on that person --
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> "(1) is in furtherance of a compelling governmental interest; and
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> "(2) is the least restrictive means of furthering that compelling governmental interest."

42 U.S.C. § 2000cc-1(a). To further that rule, the RLUIPA provides a private cause of action in 42 U.S.C. § 2000cc-2(a).

In an RLUIPA action, the inmate must make a prima facie showing that the government has "substantially burdened" his free exercise of religion rights. Holt, 574 U.S. at 360-361. If the inmate makes such a showing, the government then bears the burden of justifying its infringement on the inmate's rights. See 42 U.S.C. § 2000cc-2(b). That burden is a heavy one. The "RLUIPA requires us to scrutinize the asserted harm of granting specific exemptions to particular religious claimants and to look to the marginal interest in enforcing the challenged government action in that particular context" (quotation and citation omitted), and it "does not permit . . . unquestioning deference" to prison officials. Holt, supra at 363-364. See Trapp v. Roden, 473 Mass. 210, 217 (2015) ("Prison officials may not declare a compelling governmental interest by fiat" [quotation and citation omitted]). The least restrictive means analysis, too, is "exceptionally demanding" (quotation and citation omitted). Id. at 218. In this manner, the enactment

of the RLUIPA has transformed the legal framework applicable to religious freedom claims brought by inmates. "Simply put, [DOC] must 'demonstrate, and not just assert, that the rule at issue is the least restrictive means of achieving a compelling governmental interest.'" Spratt v. Rhode Island Dep't of Corrections, 482 F.3d 33, 42 (1st Cir. 2007), quoting O'Bryan v. Bureau of Prisons, 349 F.3d 399, 401 (7th Cir. 2003).

The judge acknowledged "that Mr. Miller's grievances, and this lawsuit, raise a legitimate issue concerning his free exercise of religion." The judge did not, however, directly address the key question whether DOC's withholding of the medallion constitutes a substantial burden on Miller's exercise of his religion. If it does, then DOC cannot defend its actions simply by asserting that its regulations and policies serve valid penological interests. Rather, DOC would have to bear the heavy burden of justifying its confiscation of Miller's medallion as "the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc-1(a).

DOC suggests that because it offered to work with the vendor to develop an alternative that might satisfy Miller's needs, we should decide as a matter of law that its actions did not have a substantial impact on Miller's exercise of his religious beliefs. Conversely, Miller appears to assume that because DOC has not contested that his medallion has special

significance to him, we may decide as a matter of law that DOC's actions did create a substantial burden. We decline both invitations. The extent to which DOC's actions pose a substantial burden is, at least to some extent, a factual question best addressed by a trial judge on an appropriately developed record. Cf. Trapp, 473 Mass. at 217 ("The DOC was obligated to put forth something more than conclusory assertions regarding health concerns, and it failed to do so"). For example, it is not at all clear on the current record whether DOC's offer to "work with the vendor" to develop suitable alternatives represents a meaningful commitment that could produce an adequate alternative in reasonable time. For another, while it appears undisputed that the medallion has some special significance to Miller because of its ties to his family, how that affects his exercise of religion would benefit from factual development. Such issues are not amenable to resolution on cross motions for judgment on the pleadings, or on a motion for summary judgment that is based on a record as thin as the one here. Contrast Rasheed v. Commissioner of Correction, 446 Mass. 463, 469-475 (2006) (affirming, based on well-developed summary judgment record, DOC's confiscation of various religious items).[15]

[15] The property confiscations at issue in Rasheed were analyzed under Massachusetts law, not the RLUIPA. See Rasheed,

There also are disputes of material fact with respect to whether DOC used the least restrictive means to achieve its compelling interest. For example, Miller's having worn his medallion in other prisons for a number of years without incident provides some evidence that DOC may not have needed to confiscate the medallion to advance its security interests, even though DOC is correct that that history does not estop the agency from confiscating the medallion now. See Spratt, 482 F.3d at 40 (inmate's "seven-year track record as a preacher, which is apparently unblemished by any hint of unsavory activity, at the very least casts doubt on the strength of the link between his activities and institutional security"). There also would be triable issues with respect to whether less

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446 Mass. at 472-475. However, the Supreme Judicial Court stated in Rasheed's companion case, Ahmad v. Department of Correction, 446 Mass. 479, 485-486 (2006), that RLUIPA's "standard is consistent with the stricter standard we adopted in Rasheed." Both Rasheed and Ahmad predate Holt, 574 U.S. 352, the seminal United States Supreme Court decision establishing how the RLUIPA is to be applied. DOC has not addressed the extent to which Holt calls into question the continued viability of Rasheed and Ahmad as a source of precedent for interpreting the RLUIPA. Perhaps notably, in its only case interpreting the RLUIPA since Holt was issued, the Supreme Judicial Court did not cite either Rasheed or Ahmad. See generally Trapp, 473 Mass. 210. In any event, there is no merit to DOC's argument that Rasheed's approval of DOC's religious-accommodation processes insulates DOC from further review. Rasheed, supra at 475-477. The RLUIPA requires as-applied analysis. If DOC violated Miller's rights, the lawfulness of the process DOC followed to arrive at that violation is beside the point.

restrictive alternatives could satisfy DOC's security interests.[16]

In sum, the judge erred by dismissing Miller's RLUIPA claim without conducting the analysis that the statute requires. We therefore vacate this aspect of the judgment.[17]

3. Chapter 30A appeal. A decision by DOC denying an inmate grievance is subject to review pursuant to G. L. c. 30A, § 14.[18] To the extent that Miller's c. 30A claim is based on

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[16] Miller has pointed to two alternatives that he asserts would, in any event, satisfy DOC's security interests: his wearing the medallion under his shirt while outside his cell, or his being required to keep the medallion inside his cell. See Knowles v. Pfister, 829 F.3d 516, 519 (7th Cir. 2016) (granting inmate preliminary injunction under RLUIPA allowing him to wear religious medallion under shirt).

[17] None of this is to say that Miller can pursue monetary damages under the RLUIPA. That statute does not provide for monetary damages against State officials acting in their official capacities. See Sossamon v. Texas, 563 U.S. 277, 280 (2011); Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 (1989). If Miller seeks damages from the individual defendants in their individual capacities, he has failed to explain how he is entitled to damages given that RLUIPA promises "appropriate relief against a government" (emphasis added). 42 U.S.C. § 2000cc-2(a). See 42 U.S.C. § 2000cc-5(4)(A) (defining government as "official of a[] [governmental] entity . . . [or] any other person acting under color of State law").

[18] DOC generally is excluded from the definition of "agency" set forth in G. L. c. 30A, § 1A. However, a separate statute subjects DOC grievance denials to review pursuant to G. L. c. 30A, § 14, despite the absence of a detailed record created through a formal adjudicatory hearing. See G. L. c. 127, § 38H; Grady v. Commissioner of Correction, 83 Mass. App. Ct. 126, 129-133 (2013).

religious grounds, it merely restates his First Amendment and RLUIPA claims, which we already have addressed. To the extent that Miller seeks to bring an independent c. 30A claim to assert a denial of his rights on nonreligious grounds, he has not made out a violation of such rights.[19] Either way, Miller has not explained how the c. 30A claim adds anything of substance to his potentially viable RLUIPA claim, and we therefore have no ground to overturn the judge's dismissal of it.[20]

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[19] Although Miller's amended complaint did not identify a separate claim for promissory estoppel, it does allege that he resized his chain in reliance on a promise from a prison official that he would get the chain back if he did so. At oral argument, he indicated his desire for damages on that ground. However, he did not press the issue in his briefs, stating instead that his "goal is not financial gain"; he "just wants his religious medallion." Any such claim therefore was waived, especially where he failed to address the manifest difficulties of prevailing in a claim for promissory estoppel under the circumstances presented. Courts are "reluctant to apply principles of estoppel to public entities where to do so would negate requirements of law intended to protect the public interest," such as DOC's property regulations. Sullivan v. Chief Justice for Admin. & Mgmt. of the Trial Court, 448 Mass. 15, 30 (2006), quoting Phipps Prods. Corp. v. Massachusetts Bay Transp. Auth., 387 Mass. 687, 693 (1982). This principle is grounded in part in "concern about the public fisc." Morton St. LLC v. Sheriff of Suffolk County, 453 Mass. 485, 492 (2009). Thus, the courts have applied it to claims for damages, not just claims for specific performance. See id. at 492-494; McAndrew v. School Comm. of Cambridge, 20 Mass. App. Ct. 356, 361 (1985). Miller did not assert a plausible case that any reliance on an oral promise here would have been reasonable. To the extent that a claim for promissory estoppel was pleaded below, we affirm its dismissal.

[20] Significantly, in 2017, DOC by regulation created a new administrative process specifically applicable to religious service requests (RSR), and it changed the process through which

Conclusion. For the foregoing reasons, we vacate the portion of the judgment dismissing Miller's RLUIPA claim and remand the case to Superior Court for further proceedings consistent with this opinion. The judgment is in all other respects affirmed.

So ordered.

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inmates can seek review of RSR decisions. See 103 Code Mass. Regs. §§ 471.08(10), 491.11(1)(a). As a part of these changes, RSR denials can no longer be challenged through the grievance process, which also means they are not subject to review pursuant to G. L. c. 30A, § 14.