

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JERRY CHARLES,

Plaintiff,

v.

DICK VERHAGEN and JON LITSCHER,

Defendants.

ORDER

01-C-253-C

Judgment was entered in this case on August 30, 2002, after I held in an order dated August 28, 2002, that the Religious Land Use and Institutionalized Persons Act is constitutional and that under the Act plaintiff is entitled to possess a reasonable quantity of prayer oil in connection with his religious practice. Presently before the court is plaintiff's "Motion to Vacate and Amend Order, Pursuant to F.R.C.P. 60." In his motion, plaintiff seeks clarification of the August 28 order and reconsideration of an earlier order dated November 15, 2001, in which he was allowed to make certain amendments to his complaint and was denied leave to make other amendments.

A review of the record shows that in an order dated June 11, 2001, I granted plaintiff leave to proceed on claims that defendants burdened his free exercise of religion in violation of the First Amendment by restricting his access to prayer oil and limiting the number of religious feasts he may celebrate. I denied plaintiff leave to proceed on several other claims under the First Amendment relating

to the impact of certain prison regulations on prison worship groups, inmate religious articles and inmate dietary requests. The November 15, 2001 order allowed petitioner to amend his complaint to add claims under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc - 2000cc-5, relating to his prayer oil and religious feasts claims and to add an additional defendant. Plaintiff's motion to amend was denied in all other respects. Now plaintiff argues that the court erred in its November 15, 2001 order by denying him leave to add claims under the Religious Land Use and Institutionalized Persons Act relating to the impact of prison regulations on prison worship groups, inmate religious articles and inmate dietary requests. Plaintiff has known for more than 10 months that he was denied leave to amend his complaint to add additional claims under the Act. It is unreasonable for him to seek reconsideration of the November 15, 2001 order at this late date and Rule 60 provides him no mechanism to do so. Likewise, Rule 60 does not provide for possible amendment of a complaint to add new claims after a case is closed, as plaintiff requests.

Finally, plaintiff asks the court to "amend it's [sic] order dated 28th of August, 2002 at p.30 #3." The portion of the August 28 order to which plaintiff refers provides that defendants "are enjoined from enforcing religious property Internal Management Procedure 6A to prevent plaintiff from possessing a reasonable quantity of prayer oil in his cell." Plaintiff asks the court to define "reasonable quantity" to mean three 16 ounce bottles. However, nothing in plaintiff's motion convinces me that defendants are not entitled to some latitude in determining what quantity of prayer oil it is reasonable to allow plaintiff to keep in his cell.

ORDER

IT IS ORDERED that plaintiff's "Motion to Vacate and Amend Order, Pursuant to F.R.C.P. Rule 60" is DENIED in all respects.

Entered this 20th day of September, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge