

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 opinion and order dated August 28, 2002, that the Religious Land Use and Institutionalized Persons Act is constitutional and that defendants were violating plaintiff's rights under the act by prohibiting him from keeping prayer oil in his cell. I enjoined defendants "from enforcing religious property Internal Management Procedure 6A to prevent plaintiff from possessing a reasonable quantity of prayer oil in his cell."

Plaintiff has now filed a document titled "Motion for Modifying of Its Order or in the Alternative Motion for Modifying the Injunction." Specifically, plaintiff seeks an order from the court preventing the successor of defendant Dick Verhagen "from restricting the accessibility to vendors and choice of Prayer Oil." According to plaintiff, a new

administrator has “taken away plaintiff[’s] ability to use vendors and types of fragrance Oil, reducing it to Oils in which plaintiff finds repugnant and because of it[’s] scent has left plaintiff without access to the Islamic Prayer Oil.”

Although plaintiff’s motion is not entirely clear, it appears that his primary point of contention is that he does not like the fragrance of the prayer oil that is available to him. This does not entitle plaintiff to a modification of the injunction. The Religious Land Use and Institutionalized Persons Act protects plaintiff’s right to exercise his religion; it does not give him the right to dictate the precise terms under which defendants must accommodate his religious beliefs. In his motion, plaintiff does not suggest that there is any religious significance to the particular fragrance of a prayer oil. Thus, the new restriction on plaintiff’s choice of oils cannot be considered a “substantial burden” on his religious exercise within the meaning of the act. So long as plaintiff is provided with a reasonable quantity of prayer oil that allows him to practice his faith, defendants are not violating the injunction or the act simply because they do not provide plaintiff with the oil of his choosing.

Plaintiff advances a second objection that to the new restriction: it was adopted without sufficient notice, in violation of state law. This argument goes well beyond the scope of this case. If plaintiff believes that defendants have violated state law, that is an

issue he should present in a separate action in state court.

ORDER

IT IS ORDERED that plaintiff Jerry Charles's "Motion for Modifying of Its Order or in the Alternative Motion for Modifying the Injunction" is DENIED.

Entered this 27th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge