

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

JERRY CHARLES,

Plaintiff,

v.

MATTHEW J. FRANK, JON LITSCHER,
and DICK VERHAGAN,

Defendants.

ORDER

02-C-0626-C

Judgment was entered in this action on February 26, 2004, granting defendants' motion for summary judgment and closing the case. On June 9, 2005, the Court of Appeals for the Seventh Circuit affirmed this court's judgment. Now plaintiff has filed a document titled "Motion for Relief from Judgment Pursuant to Fed. R. Civ. P. 60(b)(3).

It is difficult to understand exactly why plaintiff Charles believes he is entitled to modification of the judgment. In his motion, he appears to be contending that defendants misled this court by suggesting on summary judgment that in his attempt to gain permission to wear Dhikr beads outside of his cell, plaintiff had failed to follow the procedure for requesting a new religious practice. Plaintiff seems to be saying now that he has tried to

utilize the procedure but that the chaplain has either refused to respond to his request or has “not compl[ied] with the procedure.”

This court’s decision granting defendants summary judgment did not turn on the question whether plaintiff did or did not utilize a prison procedure for requesting a new religious practice. I found as fact that defendants’ enforcement of IMP 6A to forbid plaintiff from wearing his prayer beads around his neck whenever he chooses imposed a substantial burden on his religious exercise. However, I concluded, and the court of appeals affirmed the conclusion, that defendants have a compelling interest in suppressing gang activity to promote a secure and safe prison environment, and that enforcing IMP 6A with respect to plaintiff’s wearing of his Dhikr beads outside his cell was the least restrictive means of furthering that interest. Nothing in plaintiff’s Rule 60 motion persuades me that defendants misrepresented any of the facts going to the heart of that decision.

ORDER

IT IS ORDERED that plaintiff’s motion to alter or amend the judgment pursuant to

Fed. R. Civ. P. 60(b)(3) is DENIED.

Entered this 29th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge