

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

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MICHAEL L. WHITEHEAD

Petitioner,

v.

ORDER

02-C-0700-C

GARY McCAUGHTRY, JON E. LITSCHER,  
JOHN D. ASHCROFT and KATHLEEN  
HAWK SAWYER,

Respondents.  
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This is a proposed civil action for declaratory and injunctive relief brought pursuant to 42 U.S.C. § 1983. Plaintiff Michael L. Whitehead, an inmate at the Waupun Correctional Institution in Waupun, Wisconsin, alleges that he is an Orthodox Hasidic Jew and that the prison officials have denied him a kosher diet in violation of the First Amendment, the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc.

On January 9, 2003, I ordered defendants to show cause why plaintiff's motion for a preliminary injunction should not be granted. On January 15, 2003, defendants responded, arguing that plaintiff's motion and lawsuit are now moot because plaintiff has

been given a kosher diet. Although defendants failed to provide an affidavit confirming that plaintiff is being served a kosher diet, they did furnish a copy of a January 13, 2003 memorandum to plaintiff in which Darrell Aldrich, unit manager, informed plaintiff that his request for kosher meals had been approved and that the chaplain would be meeting with him to discuss the plan.

On January 13, 2003, the same day as Aldrich's memo, plaintiff filed a motion to supplement his complaint in which he alleges (in response to peripheral correspondence with Gerri Urbanek of the Federal Bureau of Prisons) that he still has not received a kosher diet. Because it appears that plaintiff's January 13 motion to supplement his complaint may have crossed in the mail with Aldrich's January 13 memo approving plaintiff's kosher meals, I will give plaintiff until February 7, 2003, to show cause why his preliminary injunction should not be denied and his lawsuit dismissed as moot.

#### ORDER

IT IS ORDERED that plaintiff Michael Whitehead may have until February 7, 2003, to show cause why his preliminary injunction should not be denied and his lawsuit dismissed as moot. If plaintiff fails to respond by February 7, 2003, I will enter an order denying the

motion and dismissing the lawsuit as moot.

Entered this 9th day of January, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge