

SAVE: COALITION TO STOP ABUSE AND VIOLENCE EVERYWHERE

REFORM THE PRISON LITIGATION REFORM ACT:

TOP 10 HARMFUL EFFECTS ON RELIGIOUS FREEDOM

1. Prison officials confiscated two bibles from a prisoner. When the bibles were not returned, he filed a *pro se* suit alleging that officials had unlawfully withheld religious materials. The court dismissed the suit, finding that he had failed to exhaust administrative remedies only because his grievances did not explicitly state that the deprivation of his bibles impeded his ability to practice his religion.
2. Prison officials refused to comply with a Jewish prisoner's request for Kosher meals. A jury awarded the man damages for the violation of his religious rights. But the appellate court threw out the award because forcing a man to violate his religious beliefs did not meet the PLRA's "physical injury" requirement.
3. A Jewish prisoner claimed that the prison's grooming, housing, and food policies made it impossible to observe the Sabbath and other religious beliefs. The court dismissed his suit without an evidentiary hearing, because there was no "physical injury," as required by the PLRA.
4. A Christian prisoner alleged that a prison rule prohibiting outgoing funds of more than \$30 impeded him from practicing his religious belief in tithing. The court dismissed his *pro se* suit because he had submitted grievances (true?) but had not submitted a specific Religious Accommodation Request Form.
5. A Jewish prisoner who had been prohibited from participating in Jewish services won his suit before a jury in the district court. The court found that non-exhaustion was excusable because prison officials had effectively prevented the inmate from pursuing the grievance process. Prison officials had repeatedly told him that "Jewish consultants" were responsible for deciding who could participate in Jewish services and holidays, not the officials who adjudicated the grievance process. Nevertheless, the court of appeals threw out the award, finding that the inmate had failed to exhaust his administrative remedies as required by the PLRA.
6. A *pro se* prisoner alleged that prison official's refusal to schedule his religious services caused him "migraines, insomnia, cramps and nervous problems." The court dismissed his case under the PLRA's "physical injury" requirement on the theory that only expert testimony could establish the connection between his injuries and the prison's denial of religious services.
7. An Orthodox Jewish prisoner alleged in a *pro se* complaint that prison officials refused to allow him to attend Jewish services and celebrate Passover because he was, "not Jewish enough." He had properly filed a special religious accommodation form, which subsequently went missing from his file. The court held that he had not exhausted his administrative remedies because he failed to re-file the special form that he had correctly filed in the first place.
8. The court dismissed a Muslim inmate's claims that a prison failed to accommodate his religious diet because he failed to exhaust administrative remedies. The court refused to excuse non-exhaustion even though the prison officials had refused to process the prisoner's grievances because he used his legally changed religious name rather than the name that was on file with corrections officials. The court also found that post-traumatic stress disorder and weight loss due to an inadequate diet did not satisfy the PLRA physical injury requirement for compensatory damages.
9. Twenty-six members of the Nation of Islam protested the appointment of an "outside minister" who was neither a member of the their religion nor a follower of the teachings of that religion. Prison officials conceded on appeal that the prisoners' First Amendment rights had been violated, but the court held that an individual prisoner's claim for compensatory damages was barred because he had not met the PLRA requirement of physical harm.
10. In a suit for an alleged free exercise of religion violation, the court noted that in general, even though the Religious Land Use and Institutionalized Persons Act (RLUIPA) would allow a prison inmate to recover monetary damages when his Free Exercise Rights have been violated, the PLRA's physical injury requirement would effectively prevent an inmate from recovering anything but nominal damages (usually \$1) for a violation of religious rights.

REFERENCES

1. Dye v. Kingston, 2005 WL 1006292 (7th Cir. Apr. 27, 2005) (Nonprecedential Disposition) (42 U.S.C. 1997e(a)).
2. Searles v. Van Bebber, 251 F.3d 869 (10th Cir. 2001) (42 U.S.C. 1997e(e)).
3. Massingill v. Livingston, 2006 WL 2571366 (E.D. Texas Sept. 1, 2006) (42 U.S.C. § 1997e(e)).
4. Timly v. Nelson, 2001 WL 309120 (D. Kansas Feb. 16, 2001) (42 U.S.C. 1997e(a)).
5. Lyon v. Vande Krol, 305 F.3d 806 (8th Cir. 2002) (42 U.S.C. 1997e(a)).
6. Quin'ley v. Corrections Corporation of America, 2007 WL 1101285, No. 2:05CV190-P-D (N.D.Miss Feb. 23, 2007) (42 U.S.C. 1997e(e)).
7. Wallace v. Burbury, 305 F.Supp.2d 801 (N.D. Ohio 2003). (42 U.S.C.A. 1997e(a)).
8. Al Ghashiyah v. Wisconsin Department of Corrections, 2006 WL 2845701 (E.D.Wis. Sept. 29, 2006). (42 U.S.C. 1997e(a), (e)).
9. Allah v. Al- Hafeez, 226 F.3d 247 (3rd Cir. 2000) (42 U.S.C. § 1997e(e)).
10. Smith v. Allen, 2007 WL 2826759, No. 05-16010 (11th Cir. Oct. 2, 2007) (42 U.S.C. § 1997e(e)).