UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

GORDON BOCK, Plaintiff,	)	
v.	)	File No. 1:05-CV-151
STEVEN GOLD, JANICE RYAN, SUSAN BLAIR, DAVID TURNER, STUART GLADDING, acting in official and individual capacity, Defendants.	)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

NOW COME Defendants, Steven Gold, Janice Ryan, Susan Blair, David Turner and Stuart Gladding, by and through General William H. Sorrell, pursuant to Fed. R. Civ. P. 56, and respectfully move this Honorable Court for summary judgment because there is no genuine issue of material fact and Defendants are entitled to judgment as a matter of law. In support hereof, Defendants submit the following Memorandum of Law and Statement of Undisputed, Material Facts.

MEMORANDUM OF LAW

I. Legal Standard.

Summary judgment should be granted if, viewing the facts in the lights most favorable to the nonmoving party, there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); see Celotex v. Catrett, 477 U.S. 317, 322-23 (1986); Moller v. North Shore Univ. Hosp., 12 F.3d 13, 15 (2d Cir. 1993). A fact is material if it affects the outcome of the suit under governing law. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). The moving party bears the initial burden of demonstrating the absence of a genuine issue of

material fact. See Celotex, 477 U.S. at 323. The moving party may satisfy that burden by "showing – that is pointing out to the district court – that there is an absence of evidence to support the nonmoving party's case." PepsiCo, Inc. v. Coca-Cola Co., 315 F.3d 101, 105 (2d Cir. 2002) (per curiam) (internal quotation marks and citations omitted); accord Goenaga v. March of Dimes Birth Defects Found., 51 F.3d 14, 18 (2d Cir. 1995). After discovery, if the nonmoving party "has failed to make a sufficient showing on an essential element of [his] case with respect to which [he] has the burden of proof," then summary judgment is appropriate. Celotex, 477 U.S. at 323. Once the moving party has made a sufficient showing, "[t]he non-moving party may not rely on mere conclusory allegations nor speculation, but instead must offer some hard evidence showing that its version of the events is not wholly fanciful." Golden Pacific Bancorp. v. F.D.I.C., 375 F.3d 196, 200 (2d Cir. 2004) (quoting D'Amico v. City of New York, 132 F.3d 145, 149 (2d Cir. 1998)). "The non-movant cannot escape summary judgment merely by vaguely asserting the existence of some unspecified disputed material facts, or defeat the motion through mere speculation or conjecture." Western World Ins. Co. v. Stack Oil, Inc., 922 F.2d 118, 121 (2d Cir. 1990). Even if the parties dispute material facts, summary judgment must be granted "unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." Golden Pacific Bancorp, 375 F.3d at 200 (2d Cir. 2004) (internal citations and quotation marks omitted). A party may not create a genuine issue of material fact by presenting contradictory or unsupported statements. See Securities & Exchange Comm'n v. Research Automation Corp., 585 F.2d 31, 33 (2d Cir. 1978). Nor may he rest on the "mere allegations or denials" contained in his pleadings. Goenaga, 51 F.3d at 18. See also Ying Jing Gan v.

New York, 996 F.2d 522, 532 (2d Cir. 1993) (holding that party may not rely on conclusory statement).

II. Background.

Plaintiff Gordon Bock ("Bock") brings this claim pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, et seq. ("RLUIPA"). See Complaint. He alleges that during his incarceration at Northwest State Correctional Facility ("NWSCF") and Northern State Correctional Facility ("NSCF") between October 12, 2004 and May 10, 2005, Defendants denied him "minor accommodations" that would have allowed him "to observe the Jewish religion in a meaningful manner without jeopardizing security or disrupting facility operations." See Complaint; Exhibit 1 at 9:4 – 10:18. Specifically, Bock claims that Defendants denied his requests that he be provided certain food and religious items so that he could practice his religion, particularly the Hanukkah, Purim, and Passover festivals. See Exhibit 9 at Exhibit A and Exhibit 3 at interrog. 11. Defendant Steven Gold was the Commissioner of the Vermont Department of Corrections during Bock's incarceration until February 2005. See Exhibit 4 at interrog. 2.[1] He has not been employed by the Department since that time. See id. Defendant Janice Ryan was the Deputy Commissioner of the Department during Bock's incarceration. See Exhibit 5 at interrog. 1. Her tenure as Deputy Commissioner ended on September 15, 2006 and she is no longer employed by the Department. See id. at interrog. 2. Defendant Stuart Gladding was the Corrections Services Manager and Superintendent of NSCF during Bock's incarceration. See Exhibit

[1] Defendants' responses to Plaintiff's interrogatories and requests for production of documents (Exhibits 4-8) each contained two identical sets of documents identified as Exhibits 1 and 2. Defendants have only reproduced one set of those documents in Exhibit 4 to this motion so as not to add unnecessary paperwork to this motion.

6 at interrog. 2. Defendant Susan Blair was the Superintendent of NWSCF during Bock's incarceration. See Exhibit 7 at interrog. 2. Her tenure as Superintendent of NWSCF ended on December 31, 2006 and she is no longer employed by the Department. Defendant David Turner was a Corrections Living Unit Supervisor at NWSCF during Bock's incarcerations. See Exhibit 8 at interrog. 2. Bock was incarcerated at NWSCF during Hanukkah and Purim. See Exhibit 1 at 10:7-9 and Exhibit 9 at Exhibit B. He was incarcerated at NSCF during Passover. See Exhibit 1 at 10:14-15 and Exhibit 9 at Exhibit B.

III. Defendants are entitled to summary judgment on Bock's § 1983 official capacity claims for monetary damages because the Eleventh Amendment bars such claims.

Defendants are entitled to summary judgment on Bock's § 1983 claim for monetary damages against them in their official capacities because such a suit is barred by sovereign immunity. Under the doctrine of sovereign immunity, the Eleventh Amendment of the United States Constitution bars suits by private citizens against a state or its agencies in federal court unless the state has waived its immunity or Congress has properly abrogated that immunity. See Pennhurst State School & Hosp. v. Halderman, 465 U.S. 89, 98-99 (1984); Seminole Tribe v. Florida, 517 U.S. 44, 45 (1996). The protection of the Eleventh Amendment also extends to suits for monetary damages against state officers sued in their official capacities. See Brandon v. Holt, 469 U.S. 464, 471 (1985). Moreover, the Supreme Court has held that, just as states and state agencies are not "persons" under § 1983, state officers acting in their official capacities are not "persons" within the meaning of the statute since they assume the identity of the government that employs them. See Hafer v. Melo, 502 U.S. 21, 27 (1991).

With respect to this case, it is clear that neither Vermont nor Congress has waived the sovereign immunity that protects Defendants from a damage action brought against them in their official capacities. There is no indication in 42 U.S.C. § 1983 that Congress intended to abrogate state sovereign immunity, and the Supreme Court has specifically held that Congress did not intend to override well-established immunities such as state sovereign immunity when it enacted § 1983. See Will v. Michigan Dept. of State Police, 491 U.S. 58, 67 (1989). It is equally clear that Vermont has not waived its sovereign immunity under § 1983. See 12 V.S.A. § 5601(g) (Vermont Tort Claims Act reserves Eleventh Amendment immunity for all claims not explicitly waived). Therefore, Bock's § 1983 claim for monetary damages against Defendants in their official capacities should be dismissed.

IV. Sovereign immunity precludes Bock from recovering monetary damages on his RLUIPA claims against Defendants in their official capacities.

Defendants are also entitled to summary judgment on Bock's RLUIPA claim for monetary damages against them in their official capacities because such a suit is barred by sovereign immunity. As discussed in Section III, *supra*, neither Vermont nor Congress has waived the sovereign immunity that protects Defendants from a damage action brought against them in their official capacities. Although it does not appear that the Second Circuit has addressed the issue of whether the Eleventh Amendment bars a RLUIPA claim for monetary damages against a state officer sued in his official capacity, numerous courts that have addressed the issue have concluded that the Eleventh Amendment bars such an action. See Orafan v. Goord, 2003 WL 21972735, at *6 (N.D.N.Y. Aug. 11, 2003) (Magistrate's Report and Recommendation) (noting that court previously dismissed Plaintiffs' RLUIPA claim for monetary damages against a state

officers sued in official capacities because such claim is barred by Eleventh Amendment); Rowe v. Davis, 373 F.Supp.2d 822, 825 (N.D.Ind. 2005) (dismissing RLUIPA claim against Indiana Department of Corrections pursuant to Eleventh Amendment); Daker v. Ferrero, 2006 WL 346440, at *8, n.5 (N.D.Ga. Feb. 13, 2006) (noting that Eleventh Amendment bars claims for damages against defendants in their official capacities under RLUIPA). It is clear that Vermont has not waived its sovereign immunity under § 1983. See 12 V.S.A. § 5601(g) (Vermont Tort Claims Act reserves Eleventh Amendment immunity for all claims not explicitly waived).

Moreover, Congress did not, in its exercise of its spending power, condition its grant of funds to the states on their consent to waive immunity from suit under RLUIPA. The "mere receipt of federal funds [does not] establish that a State has consented to suit in federal court." Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 246-47 (1985). Rather, Congress must demonstrate a clear intent to require a state to waive its immunity in exchange for its receipt of federal funds and it must express that intent "unambiguously" Pennhurst State School & Hosp. v. Halderman, 451 U.S. 1, 17 (1981), using "unmistakably clear language", MCI Telecommunications Corp. v. Illinois Commerce Comm'n, 183 F.3d 558, 563 (7th Cir. 1999). The Supreme Court has instructed federal courts to "find waiver only where stated by the most express language or by such overwhelming implications from the text as [will] leave no room for any other reasonably construction." College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd., 527 U.S. 666, 678 (1999) (quoting Edelman v. Jordan, 415 U.S. 651, 673 (1974)). See also Lane v. Pena, 518 U.S. 187, 192 (1996) (the general rule is that a sovereign immunity waiver "will be strictly construed ... in favor of the sovereign").

RLUIPA contains no such explicit language. Although RLUIPA applies where a "program or activity" receives federal funds, 42 U.S.C. § 2000cc-1(b)(1), and additionally creates a cause of action against state and local governments and their officials for "appropriate relief," 42 U.S.C. § 2000cc-2(a), nothing in RLUIPA explicitly ties the two provisions together or explicitly declares that states cannot assert sovereign immunity. Therefore, Bock's RLUIPA claim for monetary damages against Defendants in their official capacities is barred by the Eleventh Amendment and should be dismissed.

V. Bock's claim for injunctive relief is moot because he has been released from the correctional facilities where the Defendants from whom he seeks injunctive relief worked and he has not demonstrated the threat of irreparable harm or the likelihood of success on the merits of his claim.

Bock requests injunctive relief "barring D.O.C. from further denying or limiting Plaintiff's exercise of his religion..." See Complaint. He has not named the Department as a party to this action. See id. Thus, he is not entitled to the requested relief. However, he has sued each Defendant in his or her official capacity as Department employees. Thus, construed liberally, he asserts claims for injunctive relief against each Defendant in his or her official capacity.

The Second Circuit has held that an inmate's request for injunctive relief against correctional staff or conditions of confinement at a particular correctional institution becomes moot when the inmate is discharged or transferred to a different correctional institution. See Mawhinney v. Henderson, 542 F.2d 1, 2 (2d Cir. 1976). See also Salahuddin v. Goord, 467 F.3d 263, 273 (2d Cir. 2006); Young v. Coughlin, 866 F2d 567, 568 n. 1 (2d Cir. 1989); Martin-Trigona v. Shiff, 702 F.2d 380, 386 (2d Cir. 1983). Other courts concur with this result. See, e.g., McAlpine v. Thompson, 187 F.3d 1213, 1215 (10th Cir. 1999) (noting that an inmate's claim for prospective injunctive relief

regarding conditions of confinement is rendered moot upon his release from confinement).

Defendant Steven Gold is no longer Commissioner of the Department, nor is he employed by the Department in a different position. See Exhibit 4 at interrog. 2. His tenure with the Department ended in February 2005. See id. Accordingly, he cannot provide the relief requested. Therefore, Bock's request for injunctive relief against Defendant Gold is moot.

Similarly, Defendant Janice Ryan is no longer Deputy Commissioner of the Department and is not employed by the Department in a different capacity. See Exhibit 5 at interrog. 2. Her tenure with the Department ended on September 15, 2006. See id. Accordingly, she cannot provide the relief requested. Therefore, Bock's request for injunctive relief against Defendant Ryan is moot.

Defendant Susan Blair is no longer the Superintendent of NWSCF and is not employed by the Department in a different capacity. Her tenure with the Department ended on December 31, 2006. Bock was incarcerated at NWSCF from October 22, 2004 until April 15, 2005. See Exhibit 1 at 9:8 -10:9. He was then transferred to NSCF where he remained incarcerated until his release on May 10, 2005. See id. at 10:10-15. He has not been incarcerated since his release on May 10, 2005. See id. at 10:16-21. Because Bock has not been incarcerated at NWSCF for nearly two years and the Department no longer employs Defendant Blair, his claim for injunctive relief against Defendant Blair is moot. See Mawhinney, 542 F.2d at 2.

Defendant David Turner is a Corrections Living Unit Supervisor at NWSCF. See Exhibit 8 at interrog. 1; Complaint at ¶ 3(d). Since Bock has not been incarcerated at

NWSCF for more than one and one-half years, his claim for injunctive relief against Defendant Turner is moot. See Mawhinney, 542 F.2d at 2.

Defendant Stuart Gladding is the Superintendent of NSCF. See complaint at ¶ 3(e). Bock was incarcerated at NSCF from April 15, 2005 until May 10, 2005. See Exhibit 1 at 10:10-18. He was released from incarceration on May 10, 2005 and has not been incarcerated at time since that date. See id. at 10:16-21. Since Bock has not been incarcerated at NSCF for more than one and one-half years, his claim for injunctive relief against Defendant Gladding is moot. See Mawhinney, 542 F.2d at 2.

Furthermore, at his deposition Bock testified that he does not have any knowledge that any of the Defendants have burdened or prevented him from practicing his religion since his release from incarceration. See Exhibit 1 at 187:23 – 199:11. Bock also stated in his responses to Defendant Gold's discovery that he does not intend to commit any act that may violate a condition or requirement by which he must abide. See Exhibit 3 at interrog. 13. Indeed, Bock has not been incarcerated since his release on May 10, 2005. See id. at 10:16-21. "[A] party seeking a preliminary injunction must establish that (1) absent injunctive relief, it will suffer an irreparable injury and (2) either (a) a likelihood of success on the merits or (b) sufficiently serious questions going to the merits to make them a fair ground for litigation and the balance of hardships tips in favor of the movant." Hickerson v. City of New York, 146 F.3d 99, 103 (2d Cir. 1998). A party moving for a mandatory injunction that alters the status quo by commanding a positive act must meet a higher standard, however. Tom Doherty Assocs., Inc. v. Saban Entm't, Inc., 60 F.3d 27, 33-34 (2d Cir. 1995). That is, in addition to demonstrating irreparable harm, "[t]he moving party must make a clear or substantial showing of a likelihood of success" on the

merits, Jolly v. Coughlin, 76 F.3d 468, 473 (2d Cir. 1996) (internal quotation marks omitted), a standard especially appropriate when a preliminary injunction is sought against government. Mastrovincenzo v. City of New York, 435 F.3d 78, 89 (2d Cir. 2006). "To satisfy the irreparable harm requirement, plaintiffs must demonstrate that absent a preliminary injunction they will suffer an injury that is neither remote nor speculative, but actual and imminent, and one that cannot be remedied if a court waits until the end of trial to resolve the harm." See Freedom Holding, Inc. v. Spitzer, 408 F.3d 112, 114 (2d Cir. 2005) (citation and internal quotation marks omitted). Bock has not alleged that he will suffer irreparable injury absent the requested injunctive relief, nor has he come forward with any evidence demonstrating such. Indeed, he claims that he does not intend to commit any act that may violate a condition or requirement by which he must abide as a condition of his release from confinement. Moreover, he testified at his deposition that he does not have any knowledge that the Defendants have prevented or burdened his practice of his religion since his release from incarceration. See Exhibit 1 at 188:2-5. Thus, the likelihood that he will be re-incarcerated at NWSCF or NSCF and that Defendants will deny of limit his exercise of his religious beliefs is speculative, at best. Accordingly, he has not demonstrated a clear or substantial showing of a likelihood of success on his claim for injunctive relief.

Three of the Defendants against whom Bock asserts a claim for injunctive relief are no longer employees of the Department. With regard to the two Defendants who are still employed by the Department, Bock has not been incarcerated at the correctional facilities where they work for nearly two years. Indeed, Bock has not been incarcerated

in any correctional facility for nearly two years. Therefore, Bock's claim for injunctive relief against Defendants is moot and that claim should be dismissed.

VI. Defendant Gold is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against him in his individual capacity because Defendant Gold was not personally involved in the alleged violations.

Bock sues Defendant Gold in his individual capacity and seeks compensatory and punitive damages for Defendant Gold's alleged denial of Bock's First Amendment right to exercise his asserted religious beliefs and for allegedly burdening Bock's free exercise of religion protected by RLUIPA. See Complaint. Bock alleges that Defendant Gold "had ultimate authority to approve minor requested accommodations in furtherance of affording Plaintiff the opportunity to practice his religion, and instead chose not to so order." See id. at ¶ 6(a). His § 1983 and RLUIPA claims against Defendant Gold fail because he has not produced any evidence that shows that Defendant Gold was involved in, much less aware of, the alleged violation of his free exercise rights. The uncontroverted evidence establishes that Defendant Gold was not aware that Bock was requesting accommodations to observe his religion and did not participate in the decisions regarding those requests.

It is well established that "personal involvement of defendants in alleged constitutional deprivations is a prerequisite to an award of damages under § 1983." Moffitt v. Town of Brookfield, 950 F.2d 880, 886 (2d Cir. 1991) (quotation marks and citation omitted). Accord Back v. Hastings on Hudson Union Free Sch. Dist., 365 F.3d 107, 122 (2d Cir. 2004). Similarly, the personal involvement of a state official sued in his individual capacity is a prerequisite to a plaintiff's recovery of damages from the official in a RLUIPA action. See Lee v. Wenderlich, 2006 WL 2711671, *10 (W.D.N.Y.

Sept. 21, 2006). Personal liability cannot be imposed on a state official under a theory of *respondeat superior*. See Black v. Coughlin II, 76 F.3d 72, 74 (2d Cir. 1996). A plaintiff must allege a "tangible connection between the acts of a defendant and the injuries suffered." Bass v. Jackson, 790 F.2d 260, 263 (2d Cir. 1986). Mere "linkage in the prison chain of command" is insufficient to implicate a state commissioner of corrections in a § 1983 claim. Ayers v. Coughlin, 780 F.2d 205, 210 (2d Cir. 1985).

In his discovery to Bock, Defendant Gold asked him to "[s]et forth every fact that supports your contention that, as alleged in Paragraph 6 of the Complaint, that each of the defendants had authority to approve the requested accommodations and chose not to do so." See Exhibit 2 at interrog. 18. Bock responded as follows: "Defendant Gold, who is of Jewish descent and can be presumed to have familiarity with such matters as matzo and Passover seders, was the commissioner and thus had ultimate authority over the entire Department of Corrections." See id. Defendant Gold further requested that Bock "[s]et forth every fact that you contend supports your request for compensatory damages." See id. at interrog. 19. Bock responded as follows: "Defendants acted in violation of Vermont state statute, several of their own written policies and directives, the federal law known as RLUIPA and by virtue of their violation of RLUIPA, 42 USC 1983." See id. He subsequently amended his answer and stated that Defendants caused him psychological distress, mental anguish and trauma "[b]y their violations of federal law, state law and their own D.O.C. policies and directives[.]" See Exhibit 3 at interrog. 19. Finally, Defendant Gold requested that Bock "[s]et forth every fact that you contend supports your request for punitive damages." See Exhibit 2 at interrog. 20. Bock responded as follows: "See answer to preceding interrogatory." See id. He subsequently

amended his answer and stated that Defendants were repeatedly made aware of my religious needs on numerous occasions and failed to take any action and deliberately denied his requests for religious accommodations. See Exhibit 3 at interrog. 20.

At Bock's deposition, Defendants inquired whether Defendant Gold was aware that he was seeking accommodations to practice his religion. See Exhibit 1 at 86:17-18. Bock responded, "pending discovery I don't know." Id. at 86:19. Defendants also asked Bock what Defendant Gold should have done in order not violate Bock's First Amendment free exercise rights. See Exhibit 1 at 135:10-12. Bock responded that Defendant Gold should have granted his requests for accommodations to practice his religion. See id. at 135:13-21. However, when asked if he or anyone else communicated these request to Defendant Gold, Bock testified that he does not know, but hopes that discovery will reveal the answer. See id. at 136:2-22. In his interrogatories to Defendant Gold, Bock requested that he list everything you did about, including whatever manner you responded to, Plaintiff's requests for DOC accommodation for religious observances. See Exhibit 4 at interrog. 19. Defendant Gold answered as follows: "Plaintiff did not communicate to me any requests that the Department of Corrections or I provide him accommodations to observe his religion. No employee of the Department of Corrections communicated to me any requests made by Plaintiff to observe his religion. Therefore, I did not have knowledge that Plaintiff was requesting accommodations to observe his religion. Accordingly, I did not do anything about any requests Plaintiff made for accommodations to observe his religion." See id. Indeed, Bock conceded at his deposition that he doesn't know if Defendant Gold was aware that he was seeking accommodations to practice his religion. See Exhibit 1 at 86:13 – 87:6. He further

testified that he doesn't recall if he communicated his requests for accommodations to Defendant Gold and doesn't know if anyone did. See id. at 136:2-19.

It is undisputed that Defendant Gold was not aware that Bock was requesting accommodations to observe his religion and did not participate in the decisions regarding those requests. Bock has failed to come forward with any evidence that establishes Defendant Gold was personally involved in the alleged First Amendment and RLUIPA violations. Instead, he has only offered mere conclusory allegations that Defendant Gold violated his rights. Therefore, Defendant Gold is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against him in his individual capacity.

VII. Defendant Ryan is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against her in her individual capacity because Defendant Ryan was not personally involved in the alleged violations.

Bock sues Defendant Ryan in her individual capacity and seeks compensatory and punitive damages for her alleged denial of Bock's First Amendment right to exercise his asserted religious beliefs and for allegedly burdening Bock's free exercise of religion protected by RLUIPA. See Complaint. Bock alleges that Defendant Ryan "had authority to approve minor requested accommodations in furtherance of affording Plaintiff the opportunity to practice his religion, and instead chose not to so order." See id. at ¶ 6(b). His § 1983 and RLUIPA claims against Defendant Ryan fail because he has not produced any evidence that shows that Defendant Ryan was involved in, much less aware of, the alleged violation of his free exercise rights. In fact, the uncontroverted evidence establishes that Defendant Ryan was not aware that Bock was requesting accommodations to observe his religion and did not participate in the decisions regarding those requests.

In Defendant Gold's discovery to Bock, he asked him to "[s]et forth every fact that supports your contention that, as alleged in Paragraph 6 of the Complaint, that each of the defendants had authority to approve the requested accommodations and chose not to do so." See Exhibit 2 at interrog. 18. Bock responded as follows: "Defendant Ryan, a member of the Sisters of Mercy order who can be presumed to have familiarity with the general benefits of religiosity and faith, was the deputy commissioner under Gold." See id. Defendant Gold further requested that Bock "[s]et forth every fact that you contend supports your request for compensatory damages." See id. at interrog. 19. Bock responded as follows: "Defendants acted in violation of Vermont state statute, several of their own written policies and directives, the federal law known as RLUIPA and by virtue of their violation of RLUIPA, 42 USC 1983." See id. He subsequently amended his answer and stated that Defendants caused him psychological distress, mental anguish and trauma "[b]y their violations of federal law, state law and their own D.O.C. policies and directives[.]" See Exhibit 3 at interrog. 19. Finally, Defendant Gold requested that Bock "[s]et forth every fact that you contend supports your request for punitive damages." See Exhibit 2 at interrog. 20. Bock responded as follows: "See answer to preceding interrogatory." See id. He subsequently amended his answer and stated that Defendants were repeatedly made aware of my religious needs on numerous occasions and failed to take any action and deliberately denied his requests for religious accommodations. See Exhibit 3 at interrog. 20.

At Bock's deposition, Bock testified that that he did not verbally request that Defendant Ryan provide him accommodations to enable him to practice his religion. See Exhibit 1 at 51:24 – 52:5. He further testified that he does not know whether his requests

were communicated to Defendant Ryan. See id. at 52:9-11. He also testified that he doesn't know if Defendant Ryan was aware that he requested accommodations to enable him to practice his religion. See id. at 87:4-6. In his interrogatories to Defendant Ryan, Bock requested that she list everything you did about, including whatever manner you responded to, Plaintiff's requests for DOC accommodation for religious observances. See Exhibit 5 at interrog. 19. Defendant Ryan answered as follows: "Plaintiff did not communicate to me any requests that the Department of Corrections or I provide him accommodations to observe his religion. No employee of the Department of Corrections communicated to me any requests made by Plaintiff to observe his religion. Therefore, I did not have knowledge that Plaintiff was requesting accommodations to observe his religion. Accordingly, I did not do anything about any requests Plaintiff made for accommodations to observe his religion." See id.

It is undisputed that Defendant Ryan was not aware that Bock was requesting accommodations to observe his religion and did not participate in the decisions regarding those requests. Bock has failed to come forward with any evidence that establishes Defendant Ryan was personally involved in the alleged First Amendment and RLUIPA violations. Instead, he has only offered mere conclusory allegations that Defendant Ryan violated his rights. Therefore, Defendant Ryan is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against her in her individual capacity.

VIII. Defendant Gladding is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against him in his individual capacity because Defendant Gladding was not personally involved in the alleged violations.

Bock sues Defendant Gladding in his individual capacity and seeks compensatory and punitive damages for Defendant Gladding's alleged denial of Bock's First

Amendment right to exercise his asserted religious beliefs and for allegedly burdening Bock's free exercise of religion protected by RLUIPA. See Complaint. Bock alleges that Defendant Gladding "had authority to approve minor requested accommodations in furtherance of affording Plaintiff the opportunity to practice his religion, and instead chose not to so order." See id. at ¶ 6(e). His § 1983 and RLUIPA claims against Defendant Gladding fail because he has not produced any evidence that shows that Defendant Gladding was involved in, much less aware of, the alleged violation of his free exercise rights. In fact, the uncontroverted evidence establishes that Defendant Gladding was not aware that Bock requested the accommodations to observe his religion that he complains of in this lawsuit and did not participate in the decisions regarding those requests.

In Defendant Gold's discovery to Bock, he asked him to "[s]et forth every fact that supports your contention that, as alleged in Paragraph 6 of the Complaint, that each of the defendants had authority to approve the requested accommodations and chose not to do so." See Exhibit 2 at interrog. 18. Bock responded as follows: "Defendant Gladding was superintendent at NSCF during Plaintiff's imprisonment there and thus the person with ultimate authority over everything that transpired at the facility." See id. at interrog. 18. Defendant Gold further requested that Bock "[s]et forth every fact that you contend supports your request for compensatory damages." See id. at interrog. 19. Bock responded as follows: "Defendants acted in violation of Vermont state statute, several of their own written policies and directives, the federal law known as RLUIPA and by virtue of their violation of RLUIPA, 42 USC 1983." See id. 19. He subsequently amended his answer and stated that Defendants caused him psychological distress, mental anguish and

trauma "[b]y their violations of federal law, state law and their own D.O.C. policies and directives[.]" See Exhibit 3 at interrog. 19. Finally, Defendant Gold requested that Bock "[s]et forth every fact that you contend supports your request for punitive damages." See Exhibit 2 at interrog. 20. Bock responded as follows: "See answer to preceding interrogatory." See id. at interrog. 20. He subsequently amended his answer and stated that Defendants were repeatedly made aware of my religious needs on numerous occasions and failed to take any action and deliberately denied his requests for religious accommodations. See Exhibit 3 at interrog. 20.

Bock testified at his deposition that he does not know whether his requests for accommodations that he complains of in this lawsuit were communicated to Defendant Gladding. See Exhibit 1 at 52:6-13. He further testified that the only request for accommodations that Defendant Gladding could have granted was his request with regard to Passover because that is the only request that is germane to Bock's incarceration at NSCF, where Defendant Gladding is superintendent. See id. at 133:3-6; 146:14-19. Finally, Bock stated that he does not know that Defendant Gladding chose not to grant his request, as he alleged in his Complaint, "pending further discovery." See id. at 133:7-13.

In his interrogatories to Defendant Gladding, Bock requested that he list everything you did about, including whatever manner you responded to, Plaintiff's requests for DOC accommodation for religious observances. See Exhibit 6 at interrog. 19. Defendant Gladding answered as follows: "After I received the letter Plaintiff wrote to me requesting that he be permitted to wear a yarmulke, I referred the request to David Martinson to address." See id. Bock also requested that Defendant Gladding set forth the names of all persons involved in the decisions specific to Plaintiff's requests for

religious accommodation, or who should have been involved, between October 2004 and May 2005. See id. at interrog. 23. Defendant Gladding responded "Chris Barton, David Martinson, Brian Reed, David Turner, Brian Bilodeau, Mark Russell, and Robert Arkley were involved in the decisions specific to Plaintiff's requests for religious accommodation." See id. Thus, it is undisputed that Defendant Gladding was not, nor should have been, personally involved in the response to Bock's request for accommodations to observe his religion. Bock has failed to come forward with any evidence that establishes Defendant Gladding was personally involved in the alleged First Amendment and RLUIPA violations. Instead, he has only offered mere conclusory allegations that Defendant Gladding violated his rights. Therefore, Defendant Gladding is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against him in his individual capacity.

IX. Defendant Blair is entitled to summary judgment on Bock's § 1983 and RLUIPA claims against her in her individual capacity because Defendant Blair was not personally involved in the alleged violations.

Bock sues Defendant Blair in her individual capacity and seeks compensatory and punitive damages for Defendant Blair's alleged denial of Bock's First Amendment right to exercise his asserted religious beliefs and for allegedly burdening Bock's free exercise of religion protected by RLUIPA. See Complaint. Bock alleges that Defendant Blair "had authority to approve minor requested accommodations in furtherance of affording Plaintiff the opportunity to practice his religion, and instead chose not to so order." See id. at ¶ 6(c). His § 1983 and RLUIPA claims against Defendant Blair fail because he has not produced any evidence that shows that Defendant Blair was involved in the alleged