

violated his Fourteenth Amendment due process rights by imposing additional informal, unauthorized conditions on his confinement without due process of law.

4. Pursuant to 42 U.S.C. § 1983, Mr. Meza claims that policy and custom of the TCCC's Del Valle facility, described herein, resulted in violations of his Fourteenth Amendment due process rights.

5. Mr. Meza seeks damages, declaratory relief, injunctive relief, attorneys' fees and costs as a result of Defendants' violations.

JURISDICTION AND VENUE

6. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343.

7. Further, Defendants' actions and the events giving rise to the claims occurred in Del Valle, Texas. Accordingly, pursuant to 28 U.S.C. §1391, venue is proper for this Court.

PARTIES

8. Plaintiff is confined at the TCCC facility in Del Valle.

9. Defendant Sheriff of Travis County can be served with process through 501 W. 11th Street, Austin, TX 78701. He is responsible for the operation of the TCCC facility in Del Valle.

10. Defendant Brad Livingston is the executive director of the Texas Department of Criminal Justice ("TDCJ").

11. Defendant Brian Collier is the director of the TDCJ Parole Division.

12. In all the actions described herein, Defendant parole officers, Defendant Collier and Defendant Livingston ("TDCJ Defendants") each were acting under color of law and pursuant to legal authority. Defendant parole officers and Defendant Collier are each sued in their official and individual capacities; Defendant Livingston is sued only in his official capacity.

STATEMENT OF FACTS

13. On or about March 8, 1982, Plaintiff pled guilty to murder and was sentenced to thirty (30) years imprisonment in Texas Department of Criminal Justice (TDCJ) facilities.

14. On or about September 8, 1989, Plaintiff was sentenced to four (4) additional years imprisonment, to be served consecutively to the thirty (30) year term, for possession of a deadly weapon in a penal institution.

15. TDCJ released Plaintiff to the custody of Defendant Sheriff of Travis County on or about September 25, 2002, on "mandatory supervision." Plaintiff's release on mandatory supervision was required by statute because his calendar time served plus "good time" credits accumulated totaled the maximum length of his sentence. *See* Tex. Crim. Pro. Art. 42.18(8)(c) (1987).

16. Mandatory supervision is "the release of a prisoner from imprisonment, but not on parole, and not from the legal custody of the state, for rehabilitation outside prison walls under such conditions and provisions for disciplinary supervision as the board may determine." Tex. Crim. Pro. Art. 42.18(2)(b) (1987). The purpose of mandatory supervision is "to aid all prisoners to readjust to society upon completion of their period of incarceration." Tex. Crim. Pro. Art. 42.18(1) (1987).

17. Parolees on mandatory supervision at TCCC are allowed to search for a job in the community and to leave the facility to work when they have secured employment. The parolees then return to the facility at night.

18. Defendants have not allowed Plaintiff the same opportunities as other parolees. They have placed him on "lock down" status since his arrival at TCCC in 2002, and have confined him to his room most of the time. Other parolees are not on perpetual "lock down" status and may leave their cells with considerably greater freedom.

19. Mr. Meza has made numerous good faith attempts to secure employment, but

Defendant parole officers have thwarted him. Since about June of 2004, Defendants have allowed Plaintiff only five hours per week of time at Project RIO (Reintegration of Offenders), the parolee employment search program. They allow other parolees virtually unlimited time at Project RIO. Prior to June 2004, Defendants did not allow Mr. Meza any access to these resources.

20. Before Mr. Meza can interview for a job, employment opportunities must be screened by Defendant parole officers to ensure that potential employment locations meet the conditions of his mandatory supervision. Defendant parole officers habitually delay in screening the potential employers that Plaintiff has located, causing the identified positions to be filled before Mr. Meza has the opportunity to interview for them. Other TCCC parolees do not experience these chronic delays in their job searches.

21. On the rare occasion when Mr. Meza is able to secure a job interview, several armed guards accompany him to the interview. On or about November 3, 2004, Mr. Meza had a job interview with Southern Education, and armed guards escorted him there. Unsurprisingly, Plaintiff was unable to secure employment under these conditions. Armed guards do not accompany other TCCC parolees to job interviews.

22. Defendants have also told Mr. Meza that, should he find a job, an armed parole officer will have to go to the job site with him every day. Potential employers have told Mr. Meza they cannot hire him for this reason. Other parolees do not face this additional obstacle.

23. Because Defendants' actions have prevented him from securing a job, Mr. Meza's liberty is considerably more restricted than other parolees on mandatory supervision at TCCC. Defendants allow other parolees to leave the facility and work in the community.

24. Mr. Meza has been denied educational opportunities that are offered to other parolees at TCCC. Mr. Meza has not been allowed to attend computer orientation classes, job search classes

and resume writing classes offered to other parolees at TCCC. Mr. Meza has only been allowed to attend three one-day seminars offered at Project RIO, and even then has been pulled out of the classes in the middle of the seminars because he is only allowed two and a half hours twice a week at Project RIO.

25. Denying Mr. Meza these educational opportunities also has negatively impacted his job search and thus unduly restrained his liberty. For example, in order to take full advantage of the limited amount of time he has access to Project RIO, Mr. Meza needs effective computer skills. Due to his long incarceration and Defendants' refusal to allow him the same educational opportunities they offer other parolees, Plaintiff has been unable to develop these necessary skills along with other parolees.

26. Mr. Meza has not been allowed to obtain a driver's license, a privilege allowed to other parolees at TCCC. Without a driver's license, certain employment opportunities are unavailable to Mr. Meza (such as auto repair positions). Mr. Meza has been denied employment by auto repair facilities because he does not have a driver's license.

27. Defendants have not afforded Mr. Meza any due process of law to justify his disparate treatment at TCCC. No conditions of Plaintiff's mandatory supervision justify this disparate treatment.

28. On February 23, 2005, Mr. Meza received a notice informing him that TDCJ was reimposing sex offender conditions on his parole, and that he had one month to respond. Mr. Meza promptly filed a response. This notice was never served on his attorneys, who TDCJ knew represented him, in violation of Rule 4.02(a) of the Texas Disciplinary Rules of Professional Conduct.

29. TDCJ ignored Mr. Meza's response, and imposed sex offender conditions on his parole

without affording him due process, in violation of the holding of *Coleman v. Dretke*, 395 F.3d 216 (5th Cir. 2004). Mr. Meza's attorneys contacted TDCJ regarding this abuse of due process, and were ignored. The sex offender conditions remain imposed on Mr. Meza's parole.

30. Mr. Meza is a Christian. His religious faith is sincere and heartfelt, and assisted his efforts to rehabilitate himself.

31. In order to attend worship services at the TCCC, Defendants require parolees to dress in prison uniforms. Plaintiff finds this requirement demeans his religious activities, and acts as a substantial burden on his religious exercise.

CAUSES OF ACTION

I. Religious Land Use and Institutionalized Persons Act ("RLUIPA") (as to Defendant Sheriff of Travis County)

32. Mr. Meza alleges a cause of action because agents of Travis County prohibit him from attending religious services unless he dons a prison uniform. Defendants' actions and policies impose substantial burdens on Mr. Meza's religious freedom.

33. Under RLUIPA, "no government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution" unless the burden furthers a "compelling governmental interest," and does so by "the least restrictive means." 42 U.S.C. §§ 2000cc-1(a)(1)-(2). A religious exercise is any exercise of religion, whether or not compelled by, or central to, a system of religious belief. 42 U.S.C. §§ 2000cc-5(7)(A).

34. The Act covers government-run institutions, including jails and transitional facilities. TCCC falls under RLUIPA's definition of government, and, therefore, is responsible for accommodating Mr. Meza's religious beliefs.

II. Section 1983 (as to TDCJ Defendants)

35. The TDCJ Defendants impose qualitatively different conditions of confinement upon Mr. Meza. The informal imposition of these additional conditions upon Mr. Meza alone violate his due process rights.

36. The TDCJ Defendants enforce informal restrictions on Mr. Meza's liberty that have not been justified by due process. They habitually treat Mr. Meza differently from other parolees on mandatory supervision so as to deny Mr. Meza the opportunities afforded to others.

37. The TDCJ Defendants have imposed sex offender conditions on Mr. Meza's parole without providing him due process, in violation of law and his Fourteenth Amendment rights.

DAMAGES

38. Mr. Meza is entitled to compensatory relief from all Defendants, jointly and severally, for lost wages and loss of liberty.

39. Plaintiff also seeks punitive damages from the TDCJ Defendants.

DECLARATORY JUDGMENT

40. Mr. Meza seeks declaratory judgment to vindicate his rights under Section 1983 and RLUIPA with respect to Defendants' violations.

41. Mr. Meza is entitled to declaratory judgment concerning Defendants' violations of his due process rights.

INJUNCTIVE RELIEF

42. Mr. Meza seeks injunctive relief, permanently enjoining Defendants from:

- a. Failing to reasonably accommodate his religious exercise, including requiring parolees to wear jail uniforms in order to attend worship services and imposing worship service policies not serving a compelling governmental interest; and,
- b. Continuing to subject Mr. Meza to qualitatively different conditions of confinement without due process of law; and,

c. Imposing sex offender conditions upon his parole without due process of law.

43. Inasmuch as Defendants have acted in the events described herein, they will continue to act accordingly. Without injunctive relief, Defendants will continue their outrageous conduct, thereby unduly limiting Mr. Meza's liberty without due process.

ATTORNEYS' FEES AND COSTS

44. Mr. Meza is entitled to reasonable attorneys' fees, litigation costs, and court costs, pursuant to 42 U.S.C. § 1988.

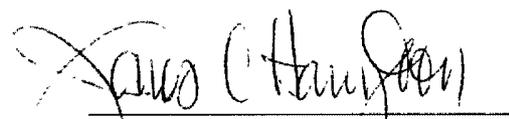
PRAYER FOR RELIEF

THEREFORE, Mr. Meza respectfully prays that this Court grant the following relief:

- A. Enter judgment on his behalf against the TDCJ Defendants in their individual capacities and the Travis County Sheriff, jointly and severally, for monetary damages sufficient to compensate Plaintiff for his lost wages;
- B. Issue declaratory relief that Defendants' conduct constituted illegal deprivation of Plaintiff's due process rights;
- C. Order injunctive relief against Defendant Travis County Sheriff to end further prevention of the exercise of religious freedom of Plaintiff and TCCC parolees to prohibit the violation of Mr. Meza's rights under RLUIPA;
- D. Grant reasonable attorneys' fees, litigation expenses, and court costs; and
- E. Grant all other and additional relief to which Mr. Meza may be entitled, at law or in equity.

DATED: December 2, 2005

Respectfully Submitted,


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