

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

FILED
U.S. DISTRICT COURT
TERRE HAUTE DIVISION
JUN 16 2009
LAURA A. BRIDGES
CLERK

ENAAM ARNAOUT, RANDALL T.
ROYER,

Plaintiffs,

v.

No.

WARDEN, FEDERAL CORRECTIONAL
INSTITUTION, TERRE HAUTE,
INDIANA,

Defendant.

2:09-cv-215 LJM-WGH

Complaint for Declaratory and Injunctive Relief

Introduction

1. Plaintiffs are Muslim prisoners confined to the Communications Management Unit ("CMU") at the Federal Correction Institution in Terre Haute, Indiana. Despite the fact that their religion commands them to pray five times daily, and group prayer is deemed to be theologically superior to individual prayer, congregative prayer is only allowed for one hour a week. This rule is imposed by defendant despite the fact that the prisoners are out of their cells for virtually the entire day and are allowed to engage in a whole variety of congregative activities. The defendant's prohibition on congregative worship imposes a substantial burden on plaintiffs' exercise of religion and neither furthers a compelling governmental interest nor represents the least restrictive means of furthering a compelling governmental interest. It therefore violates the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. § 2000bb-1. Appropriate declaratory and injunctive relief is requested.

Jurisdiction, venue, cause of action

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. Declaratory relief is authorized by 28 U.S.C. §§ 2201, 2202 and by Rule 57 of the Federal Rules of Civil Procedure.
5. This action is brought pursuant to RFRA, 42 U.S.C. § 2000bb-1(c).

Parties

6. Enaam Arnaout is an adult person currently confined in the CMU at the Federal Correctional Institution in Terre Haute, Indiana.
7. Randall T. Royer is an adult person currently confined in the CMU at the Federal Correctional Institution in Terre Haute, Indiana.
8. The Warden of the Federal Correctional Institution, Terre Haute, Indiana, is sued pursuant to Rule 17(d) of the Federal Rules of Civil Procedure and is the duly appointed Warden of the Institution.

Legal Background

9. RFRA provides, in pertinent part at 42 U.S.C. § 2000bb-1:

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person--

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

Factual Allegations

10. The CMU has been created to house certain prisoners who are deemed to require additional monitoring of their communications.

11. As compared to other units within the BOP, the CMU features fewer opportunities for telephone calls and visits.

12. The prisoners within the CMU are housed in individual cells.

13. The prisoners within the CMU are allowed out of their cells from approximately 6:00 a.m. until 3:45 p.m. and then from 4:30 p.m. until 9:15 p.m.

14. During this time they are allowed to engage in a wide variety of congregate activities, including recreation, watching television, playing cards, or sitting at tables or in chairs conversing.

15. The CMU contains a multi-purpose room in which classes are held via videotape. However, the multi-purpose room is generally vacant.

16. Plaintiffs are Muslim as are a large majority of the approximately 40 persons on the CMU.

17. Prayer is the second pillar of Islam and it is obligatory on Muslims to pray five times a day.

18. Every Friday, all Muslims engage in the Jum'ah prayer which the Qur'an

mandates be done in a group.

19. At the CMU plaintiffs and the other Muslim prisoners are allowed to go to the multi-purpose room for the Jum'ah prayer.

20. However, in the Hadith, the collections of sayings of the Prophet, numerous statements are made that group prayer for all the mandated prayers is preferred and that such prayer multiplies the blessings and utility of prayer.

21. Therefore, whenever possible, Muslims will pray together during the five daily prayers.

22. These daily prayers are very short, and take only a few minutes.

23. When the CMU was opened, Muslim prisoners were allowed to meet together in the multi-purpose room to engage in the five daily prayers for approximately six months.

24. However, the defendant has now prohibited all congregate prayer for plaintiffs and the other Muslim prisoners, even though the multi-purpose room is generally unoccupied and a schedule could easily be created so that group prayer could occur in the multi-purpose room without any disruption to other scheduled events.

25. This imposes a substantial burden on plaintiffs' religious exercises.

26. Plaintiffs have timely and properly pursued all grievances, at each level, provided by the BOP to challenge the denial of the use of the multi-purpose room for group prayer.

27. Copies of the grievances, and responses, are attached hereto as Exhibit A for plaintiff Arnaout and Exhibit B for plaintiff Royer.

28. At the current time their grievances have been pending at the final level of review at the office of General Counsel for the BOP for more than 40 calendar days. Neither plaintiff has received in writing notice of an extension of time for the General Counsel to

complete its review. Accordingly, pursuant to 28 C.F.R. § 542.18, the grievances have been deemed to be denied at the General Counsel.

29. The defendant's actions in this matter are not substantially justified.

30. The actions of defendant are causing plaintiffs irreparable harm for which there is no adequate remedy at law.

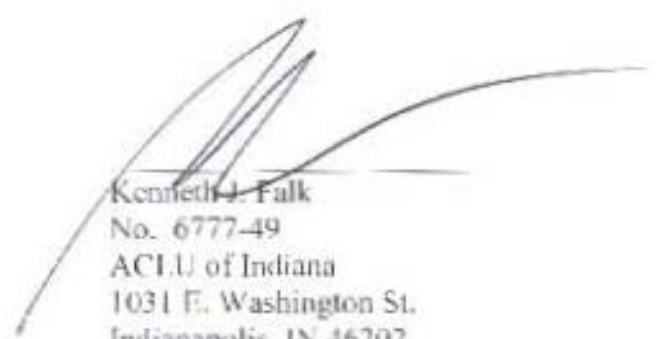
Claim for relief

31. The failure of the defendant to allow plaintiffs to participate in group prayer five times a day imposes a substantial burden on plaintiffs' religious exercise and neither furthers a compelling governmental interest, nor is it the least restrictive alternative to further that interest. It is therefore unlawful as violating the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1.

Request for relief

WHEREFORE, plaintiffs request that this Court:

- a. Accept jurisdiction of this case and set it for hearing
- b. Declare that defendant is violating federal law as noted above.
- c. Enter a preliminary injunction, later to be made permanent, enjoining defendant to allow plaintiffs and other Muslim prisoners within the CMU to engage in group prayer for the mandatory five daily prayers.
- d. Award plaintiffs their costs and reasonable attorney's fees pursuant to 28 U.S.C. § 2412.
- e. Award all other proper relief.



Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202

317/635-4059 ext. 104
fax: 317/635-4105

Attorney for Plaintiffs

Exhibit A

Exhibit A

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: [ARNAOUT, Ensam] [14504-424] D-CMU [FCL/CMU Terre Haute]
LAST NAME, FIRST, MIDDLE INITIAL REG NO UNIT INSTITUTION

Part A - REASON FOR APPEAL

I do herein re-claim word for word as I did in my BP-9 & BP-10 as the warden and the Regional Director failed to reach my complete request for REMEDY & RELIEF, as stipulated in the original claim for relief. Those claims are restated as if stated here by this reference.

I further suggest that an order forthcoming from your office is in light of the Regional Directors findings a sound aid in resolving this matter. My suggestion is that the Chaplain and his staff be ordered to accommodate our population during the day and evening in the Multi-purpose Area to view religious materials, and inclusive allow for us to conduct our 5 daily prayers. I as well as the brothers will of course respect each other and all here in CMU.

Done, NOTICED and CLAIMED this,

Aggrieved,

20th day of April 2009

DATE

c.c.

Ensam Arnaout

SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to _____
LAST NAME, FIRST, MIDDLE INITIAL REG NO UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

ENNAAM M ARNAOUT, 14504-424
TERRE HAUTE FCI UNT: CMU
4200 BUREAU ROAD NORTH
TERRE HAUTE, IN 47808

QTR: D01-D06L

cmu

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 527287-R1

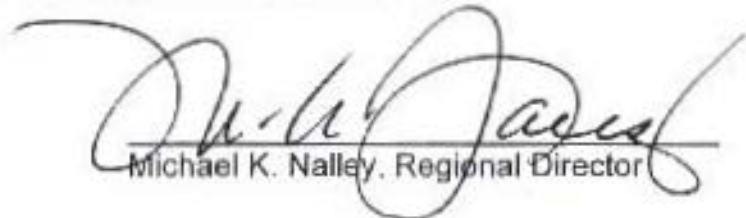
This is in response to your Regional Administrative Remedy Appeal received in this office on March 19, 2009, in which you allege you are not allowed to pray or practice any religious activities, even individual, except one hour per week. You are requesting free access to, and the practice of, your religion, as it had been in all of 2007.

We have reviewed your appeal and the response the Warden provided to your BP-229. In accordance with Program Statement 5360.09, Religious Beliefs and Practices, the level of scheduled religious activities may be commensurate with the mission or need of the institution. Therefore, you have been allowed to hold a Friday afternoon congregational prayer service in keeping with the traditions of your Islamic religion. You are encouraged to practice your religion as an individual practitioner in your assigned cell. Furthermore, the institution is in the process of connecting a TV/DVD player in the multipurpose room for use in self-directed religious study. You are encouraged to continue constructive dialogue with the Religious Services Department seeking effective ways to enhance the study and practice of your religion while assigned to the Communications Management Unit.

Based on the above information, this response to your Regional Administrative Remedy Appeal is for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

4/13/09
Date


Michael K. Nalley, Regional Director

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: [Enaam Arnaout] [14604-424] [CMU-D] [FCI Terre Haute]
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL -- I'm appealing the answers to the Informal Resolution and the BP-9 request which are non-assumptit for the following reasons: (1) Neither answer answered nor addressed the issues of my claims; (2) To install lately TV in the multipurpose room, after 27 months I've lived here at CMU (even though it's still not functioning) does not meet my religious services requirements of my faith; (3) With the new 2005 FBOP policy 5360.09 Limiting Sunni Muslim service to two hours per week nationwide, not including VCR/TV or DVD; (4) Nationwide FBOP facilities have a specific chapel area in every institution which is open anytime during free moves for meditation and prayers including access to all religious materials (print, TV, Audio, VCR, DVD, etc.) while CMU has NOTHING like that, even regarding what they call the multipurpose room is EMPTY all day long, yet even though we are a population of 90% Muslim faith, who have obligatory prayers, we are NOT allowed to simply pray or practice any religious activities, even individuals, except 1 hour at the Friday service.

REMEDY & RELIEF requested:

Simple: Let me protect my free access to and practice of my religion as had been for all of 2007, the policy our whole first year here. Please issue the Order for this relief as requested in this appeal.

Aggrieved,
Thank you,

16th day of March 2008

DATE

SIGNATURE OF REQUESTER

Enaam Arnaout

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER:

Part C - RECEIPT

CASE NUMBER:

Return to: _____
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL



U.S. Department of Justice
Federal Bureau of Prisons

Federal Correctional Complex
Terre Haute, Indiana

Office of the Warden

Administrative Remedy Delivery Document

Inmate Name: ARNADUT

Inmate Register # 14504-424

Remedy #: 527287-F1

Date Signed by the Warden: 3-9-09

Regional Director: _____

National Inmate Appeals
Administrator: _____

Date Delivered to inmate: 3-11-09

Printed name of staff member and title:

Fortune Case Manager

Signature of staff member: Fortune Date: 3-11-09

Remedy No.: 527287-F1

FCC Terre Haute, IN

PART B - RESPONSE

This is in response to your Administrative Remedy receipted on February 23, 2009, in which you request additional time for the Islamic Community in the multi-purpose room of the Communication Management Unit (CMU).


A review of your request indicates the Islamic Community, in the CMU, is provided a one hour Jumah Prayer service each Friday just as the general population. The process is underway for a TV to be mounted in the multi-purpose room for religious video/DVD viewing. When this project is complete, an additional time will be scheduled for each recognized religious community represented in the CMU. No additional time will be provided until the project is completed.

Therefore, your request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Federal Bureau of Prisons, Gateway Complex, Tower II, 8th Floor, 4th & State Ave., Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

3-9-09

Date



B. R. Jett, Warden

Exhibit B

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-226(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: Randall Todd Royer 46812-0183 CMU FCI Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

I am appealing the refusal of the chaplain, warden, and unit manager to accommodate my religious practices, including group prayer, religious studies, and voluntary fasts. This refusal amounts to an ongoing pattern of the aforementioned individuals and the BOP placing a substantial burden on my sincere religious practices. Even if there was some legitimate correctional goal involved (a goal these officials fail to even attempt to identify, and which the Regional Director in his response fails to even attempt to identify), the outright refusal of these staff members to make any attempt to accommodate my religious practices is not the least restrictive means of achieving that goal. Thus, these staff members and the BOP are violating my rights under the First Amendment and the Religious Freedom Restoration Act (RFRA). Although the Regional Director professed not to understand what relief I seek, it is obvious that by "appealing the refusal of [BOP staff] ...to accommodate my religious practices," the relief I seek is accommodation of those practices.

4/2/09
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE



SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 524266-R1

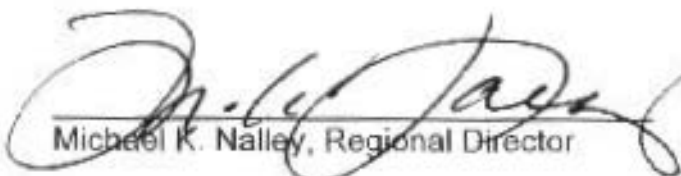
This is in response to your Regional Administrative Remedy Appeal received in this office on March 10, 2009, in which you allege staff are violating your rights under the First Amendment and the Religious Freedom Restoration Act (RFRA). Specifically, you allege staff are placing a substantial burden on your religious practices by denying you accommodations for group prayer, personal fasts, and religious studies. You are not requesting specific remedy.

We have reviewed your appeal and the response the Warden provided to your BP-229. You are being accommodated with group prayer for the Friday Jumah Prayer service. All other prayers may be accomplished as an individual practitioner by praying in your cell. Program Statement 5360.09, Religious Beliefs and Practices, distinguishes between the accommodations provided for a public fast and a personal fast. Furthermore, you are allowed to utilize the religious resources available through the institution chapel library. Moreover, a system is in place where the Chaplains rotate available religious resources inside the Communications Management Unit (CMU) on a weekly basis. You may utilize these resources for your personal religious study.

Based on the above information, this response to your Regional Administrative Remedy Appeal is informational purposes only.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

3/20/09
Date


Michael K. Nalley, Regional Director

ROYER

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: <u>Royer, Randall T.</u>	<u>46812-083</u>	<u>CMU</u>	<u>FCI Terre Haute</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

I object to the refusal of the chaplain, warden, and unit manager to accommodate my religious practices (see the attached BP-8 for an example). This refusal amounts to an ongoing pattern of the aforementioned individuals placing a substantial burden on my sincere religious practices. Even if there is some legitimate correctional goal involved (a goal the chaplain and warden fail to even attempt to identify), the outright refusal by these staff members to make any attempt to accommodate my religious practices is not the least restrictive means of achieving that goal. Thus, these staff members are violating my rights under the First Amendment to the U.S. Constitution and the Religious Freedom Restoration Act (RFRA).

1/22/09

DATE



SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____	_____	_____	_____
LAST NAME FIRST MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

ROYER, Randall
Reg. No.: 46812-083
CMU

Inmate Request to Staff Response

This is in response to your Inmate Request to Staff, received on January 14, 2009, wherein you request religious accommodations for group prayer, religious studies, and personal fasts.

In regards to allowing group prayer, the administration is willing to provide the required time for congregational prayer on Fridays for Jumah Prayer only. Inmates may pray individually in their personal areas, but no additional congregational prayer time(s) shall be provided other than Friday's Jumah Prayer.

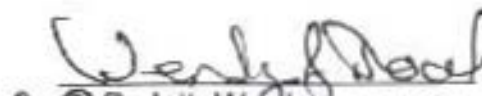
While religious studies are an intricate part of every religion, the Bureau of Prisons is not required to accommodate group studies beyond what is outlined in Program Statement 5360.09, Religious Beliefs and Practices. However, inmates are allowed to engage in individual study as they feel necessary.

Per Program Statement 5360.09, Religious Beliefs and Practices, There are generally two different types of fasts, a public and a private or personal fast. When inmates observe a public fast, i.e. one which is regulated by law or custom for all the faith adherents, Food Service will provide a meal nutritionally equivalent to the meal(s) missed.

Public fasts usually begin and end at specific times. Accommodations may also be made for bagged meals at times when Food Service is normally closed. When an inmate fasts for personal, religious reasons, no special accommodations need to be made for the meal(s) missed.

Your fast is considered to be a personal fast, therefore, you will not be allowed to retain food from the Food Service area.

1-22-09
Date


B.R. Jett, Warden

ROYER, Randall
Reg. No. 46812-083
CMU

Informal Resolution Response

This is in response to your Request for Informal Resolution, received on January 21, 2009, wherein you request the administration take a more accommodating stance toward your requests to practice your religion.

In regards to allowing group prayer, the administration is willing to provide the required time for congregational prayer on Fridays for Jumah Prayer only. Inmates may pray individually in their personal areas, but no additional congregational prayer time(s) shall be provided other than Friday's Jumah Prayer.

While religious studies are an intricate part of every religion, the Bureau of Prisons is not required to accommodate group studies beyond what is outlined in Program Statement 5360.09, Religious Beliefs and Practices. However, inmates are allowed to engage in individual study as they feel necessary.

Per Program Statement 5360.09, Religious Beliefs and Practices, There are generally two different types of fasts, a public and a private or personal fast. When inmates observe a public fast, i.e. one which is regulated by law or custom for all the faith adherents, Food Service will provide a meal nutritionally equivalent to the meal(s) missed.

Public fasts usually begin and end at specific times. Accommodations may also be made for bagged meals at times when Food Service is normally closed. When an inmate fasts for personal, religious reasons, no special accommodations need to be made for the meal(s) missed.

Your fast is considered to be a personal fast, therefore, you will not be allowed to retain food from the Food Service area.

The administration is in compliance with Program Statement 5360.09, Religious Beliefs and Practices.

ROYER, Randall
Reg. No.: 46812-083
CMU

Inmate Request to Staff Response

This is in response to your Inmate Request to Staff, received on January 13, 2009, wherein you request religious accommodations for group prayer, religious studies, and personal fasts.

In regards to allowing group prayer, the administration is willing to provide the required time for congregational prayer on Fridays for Jumah Prayer only. Inmates may pray individually in their personal areas, but no additional congregational prayer time(s) shall be provided other than Friday's Jumah Prayer.

While religious studies are an intricate part of every religion, the Bureau of Prisons is not required to accommodate group studies beyond what is outlined in Program Statement 5360.09, Religious Beliefs and Practices. However, inmates are allowed to engage in individual study as they feel necessary.

Per Program Statement 5360.09, Religious Beliefs and Practices, There are generally two different types of fasts, a public and a private or personal fast. When inmates observe a public fast, i.e. one which is regulated by law or custom for all the faith adherents, Food Service will provide a meal nutritionally equivalent to the meal(s) missed.

Public fasts usually begin and end at specific times. Accommodations may also be made for bagged meals at times when Food Service is normally closed. When an inmate fasts for personal, religious reasons, no special accommodations need to be made for the meal(s) missed.

Your fast is considered to be a personal fast, therefore, you will not be allowed to retain food from the Food Service area.


1-14-09

INMATE REQUEST TO STAFF

DATE: 1/12/2009
FROM: Randall Royer #46812-083
TO: Chaplain Odean
CC: Warden Marberry, Warden Jett, Mr. Julian

I am writing to you regarding certain requests for religious accommodation that have until now been denied by Warden Jett, Mr. Julian, and yourself. The purpose of this request is to ask you to reconsider those denials and to ask you to recommend to the Warden and Mr. Julian that he approve these requests for accommodation of religious practices.

- (a) Prayer. As you know, about 90% of the inmates in the CMU are Muslims. It is one of the religious practices of Islam, as you know, to pray in a group -- in fact, the Prophet (peace be upon him) said that prayer in a group is of 27 times greater reward in God's eyes than prayer alone. One school of thought holds prayer in a group to be obligatory when it is possible.

There may be some perceived reason to prohibit Muslims from praying in a group outside the chapel in the FCI Terre Haute general population, but since conditions are very different in the CMU, there is no sound penological reason to apply the same prohibition here. First, as mentioned, 90% of the CMU inmates are Muslims. Second, there is no chapel for us to pray in as a group, as the Muslims (and non-Muslims, for that matter) in the general population have. Finally, the solution is very simple: allow us to pray in the multi-purpose room when it is not being used for some other scheduled purpose. The room is ample, there would be no chance of interfering with other inmates, and since there is a camera and microphone trained on the room that is recording and is live monitored, our short prayer would be supervised by staff.

- (b) Religious study. Obviously, religious study is one of Islam's religious practices, just as in every religion. For over a year we conducted religious study circles with no claim that any harm resulted; of a sudden, we were prohibited. No non-Muslim inmate complained or was affected, as we were well out of the way. At the same time, as noted, virtually every inch of the CMU is covered by a camera or microphone, so those study groups were and would be monitored by staff. And as with prayer, there is no chapel area for us to study in here in the CMU, as there is in the general population, so this religious practice now goes utterly unfulfilled. If your response to this request is that no "unauthorized activities" are permitted, then I ask you to simply authorize our group study.
- (c) Personal fasts. As you know, BOP Program Statement 5360.09, in commentary on 28 C.F.R. § 548.20(c), recognizes the validity of personal fasts (distinct from public fasts, like Ramadan). The policy states: "Requests for meals after a personal fast should

Chaplain Odean

1/12/2009

Page 2 of 2

be determined on a case-by-case basis, applying sound correctional and pastoral judgement."

In the case of the CMU inmates, a number of us try to follow the recommendation of the Prophet (peace be upon him) in fasting on Mondays and Thursdays, as well as on the three days in the middle of the lunar month. Our past practice, as you know, was simply to save the food that was served at meals to break our fast with. This was easy because, as you also know, the area that serves as the CMU's dining area is also a common area with card tables, etc. that is used throughout the day, in contrast to the situation in the general population.

Now, however, with the recent decision of the Warden, Mr. Julian, et al., to apply policies in force in the general population on the prison compound to us in the CMU housing unit, we are not allowed to (a) take food out of, or (b) leave food in the so-called "chow hall" (that is, the common area that serves as a chow hall at meal times). As a result, those who wish to fast must throw their food away, and they have nothing to break your fast with. It is my understanding that your current position is that you will not make (or recommend) any religious exception to this general rule. I request that you exercise your authority under federal regulations and policy and allow those who are fasting for religious reasons to save their meals (as they did for two years) in order to break their fast. If spoilage is a concern, the refrigerator that was in the "dining area" until recently served, and could again serve, to store the meals.

Chaplain Odean, you are well aware of our situation here in the CMU. You know that because we are confined in a tightly restricted housing unit, we do not have access to the wider prison compound like the general population, and we do not have access to the religious resources that the general population does. We do not have a chapel, we do not have audio-visual resources, etc. That is why it is our hope that staff, including yourself, would be willing to work with the CMU inmates to arrive at an arrangement that would satisfy the administration's concerns while still allowing us to practice our religion. Certainly, a flat, reflexive prohibition on each of these religious practices cannot be the least restrictive means of achieving the administration's goals, and is an exaggerated response to its concerns. Indeed, it is unclear this flat prohibition is rationally related to any legitimate goal at all. Spiritual praxis is known to promote correctional goals.

With all due respect, the refusal to accommodate the above reasonable requests amounts to a substantial burden on the sincere religious practices of the CMU inmates. I humbly urge you, Warden Marberry, Warden Jett, and Mr. Julian to reconsider this refusal.