

13-6827

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

(Abdul Maalik)
Gregory Holt — PETITIONER
(Your Name)

VS.

Ray Hobbs, et al. — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[☒] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

United States District Court for the Eastern
District of Arkansas (SI11CV00164-BSM)

[☐] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

(Abdul Maalik Muhammad)
Gregory Holt
(Signature)

ORIGINAL

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Abdul Maatili Muhammad
Gregory Holt, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Gifts	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child Support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
NIA			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
NIA			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 0
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
NIA		\$	\$
		\$	\$
		\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value NIA

☐ Other real estate
Value NIA

☐ Motor Vehicle #1
Year, make & model NIA
Value NIA

☐ Motor Vehicle #2
Year, make & model NIA
Value NIA

☐ Other assets
Description NIA
Value

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	\$ N/A	\$ N/A
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
N/A		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0	\$ 0
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>0 N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>0 N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>0</u>	\$ _____
Health	\$ <u>0</u>	\$ _____
Motor Vehicle	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ _____
Credit card(s)	\$ <u>0</u>	\$ _____
Department store(s)	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____
Total monthly expenses:	\$ <u>0</u>	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I have been incarcerated for over ~~four~~ ⁴ years and have no source of income to pay the filing fee.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 7, 2013

Gregory Holt
(Signature)

13-6827

Supreme Court, U.S.
FILED

SEP 27 2013

OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Calia AbdulMaalil Muhammad

Gregory Holt — PETITIONER
(Your Name)

vs.

Ray Hobbs, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gregory Holt (AbdulMaalil Muhammad)
(Your Name)

Varner Supermax, P.O. Box 600
(Address)

Grady, AR 71644-0600
(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- I. Whether the Arkansas Department of Corrections' no beard grooming policy violates the Religious Land Use and Institutionalized Persons Act (RLUIPA).
- II. Whether a $\frac{1}{2}$ inch beard would satisfy the security goals sought by the policy.
- III. Whether the no beard grooming policy violates Petitioner's First Amendment right to practice Islam as he believes it is supposed to be practiced by the wearing of the beard.
- IV. That the United States Court of Appeals for the Eighth Circuit has decided that the no beard grooming policy does not violate the RLUIPA, but this Court should decide the matter since it has not done so and should rule whether grooming policies of any Department of Correction that do not allow for a religious exception exemption are constitutional.
- V. That the United States Court of Appeals for the Eighth Circuit's decision in this case conflicts with other circuit's rulings on the matter.
- VI. That the ADC grooming policy of no beards is not the least restrictive means of achieving the desired objective of staunching the flow of contraband and identifying prisoners in the event of an escape.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- (1) Capt. Donald Tate
- (2) Chief Deputy Director Larry May
- (3) Sgt. Michael Richardson
- (4) Warden Gaylon Lay
- (5) Major Vernon Robertson

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 12, 2013.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 17, 2013, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment I to the United States Constitution which provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances,

The Amendment is enforced by the Religious Land Use and Institutionalized Persons Act (RLUIPA), Title 42 U.S.C.A. Section 2000cc:

(a) Substantial burdens

(1) General rule

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and
(B) is the least restrictive means of furthering that compelling governmental interest.

(2) Scope of application

This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability

STATEMENT OF THE CASE

Petitioner challenged the Arkansas Department of Corrections' no beard grooming policy due to his beliefs that all Muslim males are not to shave their beards. He asked for a Preliminary Injunction and Temporary Restraining Order that would allow him to maintain a $1\frac{1}{2}$ inch beard while the case was heard. This was granted on October 19, 2011. An evidentiary hearing was held on Jan 4, 2012. The magistrate recommended that the injunctive relief be denied and the case dismissed on January 27, 2012. The district court vacated the injunction and dismissed the case on March 23, 2012. Rehearing was granted and a stay was issued on April 19, 2012 that once again allowed Petitioner to maintain a $1\frac{1}{2}$ inch beard while the Eighth Circuit Court of Appeals heard the case. On June 12, 2013, the Eighth Circuit denied relief and rehearing was denied on July 17, 2013. From that denial, this petition originates.

Petitioner maintains that Respondents did not use the least restrictive means under the RLUIPA when refusing to grant Petitioner a religious exception exemption to the policy and refusing to allow him to wear a $1\frac{1}{2}$ inch beard, and that Respondents' no beard policy is violative of the RLUIPA. Petitioner also believes the Eighth Circuit Court of Appeals erred in finding that a $1\frac{1}{2}$ inch beard is not the least restrictive means of achieving the security goals sought by the policy.

Petitioner believes that the issues raised are sufficient for at least 4 justices to vote to grant certiorari. This Court has never ruled on whether the failure to grant a religious exception exemption to a grooming policy violates the First Amendment and the RLUIPA.

REASONS FOR GRANTING THE PETITION

A. Conflicts with Decisions of Other Courts

The holding of the court below that the grooming policy is in keeping with the Religious Land Use and Institutionalized Persons Act (RLUIPA) and that a 1/2 inch beard is not a suitable compromise conflicts with 3 different Courts of appeal. In Mayweathers vs. Newland, (258 F.3d 930, 2001) the 9th Circuit Court of Appeals upheld a finding that California Department of Corrections' no-beard policy violated the Plaintiff's religious rights under the Religious Land Use and Institutionalized Persons Act and upheld a preliminary injunction that allowed the wearing of 1/2 inch beards. This Court refused to review that finding. (Alameida vs. Mayweathers, cert denied, 540 U.S. 816, 2003) Also, Warsoldier vs. Woodford, 418 F.3d 989, 9th Cir. 2005. In addition, Petitioner points to the following cases from other circuits that all show that the forcing of inmates to shave against their religious beliefs or to adhere to a grooming policy in contravention of those beliefs was a "substantial burden" within the meaning of the RLUIPA or the First Amendment. (Benjamin vs. Coughlin, 905 F.2d 571, 2nd Cir. 1990); (Smith vs. Ozmint, 578 F.3d 246, 4th Cir. 2009); (Mayweathers vs. Terhune, 328 F.Supp.2d 1086, E.D. California, 2004) The Eighth Circuit erred in so finding that the grooming policy does not violate the RLUIPA.

B. Importance Of The Questions Presented

(I) This Court should visit this issue due to the fact that it has the potential to affect thousands of inmates. There are many different religious beliefs besides Islam, that require their adherents to either maintain a beard or not to "round the corners" of the beard. The Arkansas Department of Corrections'

grooming policy ("no beard" rule) as well as all of those of other Departments of Correction that do not allow for religious exception exemptions to their grooming policies are intolerably oppressive and force inmates to either obey their religious beliefs and face disciplinary action on the one hand or violate those beliefs in order to acquiesce with the grooming policy. This Court has held that punishments to coerce a religious adherent to forgo her or his religious beliefs is an infringement on religious exercise (Sherbert vs. Verner, 374 U.S. 398, 1963). Therefore, given the magnitude of the issue involved, this Court should grant review. Additionally, the failure of the Department of Correction to allow a religious exception to its grooming policy is unconstitutional and violative of the RLUIPA.

(II) The RLUIPA requires that an individualized review be performed in the event that an inmate requests a religious exception exemption to the grooming policy, (Koger vs. Bryan, 523 F.3d 789, 7th Cir. 2008) [noting that RLUIPA, unlike the Free Exercise Clause of the Constitution, requires individualized review]; (Spratt vs. R.I. Dept. of Corrections, 482 F.3d 33, 1st Cir. 2007) [rejecting the prison's "all or nothing" argument and finding that the prison "must establish that prison security is furthered by barring the individual from engaging in" the disputed conduct] This was not done in this case or in the case that the Eighth Circuit relied on in denying Petitioner's request. (Fegans vs. Norris, 537 F.3d 897, 8th Cir. 2008). In Murphy vs. Mo. Dept. of Corr., 372 F.3d 979, 8th Cir. 2004, the Eighth

Circuit remanded a case back to the district court because the prison had failed to demonstrate that it had "seriously considered any other alternatives" to a regulation alleged to infringe on prisoner's free exercise of religion. 372 F.3d at 989. Prison officials cannot "justify restrictions on religious exercise by simply citing to the need to maintain order and security in a prison. They must demonstrate that they actually considered and rejected the efficacy of less restrictive measures before adopting the challenged practice" (Alvarez vs. Hill, 518 F.3d 1152, 9th Cir. 2008). The Respondents have the burden of proving that the grooming policy is the least restrictive means to achieve security as applied to Petitioner (42 U.S.C. Section 2000cc-1(a)) [providing that prisons cannot "impose a substantial burden on the religious exercise of a person residing in an institution even if the burden results from a rule of general applicability"] See also United States vs. Playboy Entertainment Group, Inc., 529 U.S. 803, 824, 2000

[finding in context of First Amendment challenge to speech restrictions that a court should not assume a plausible, less restrictive alternative would be ineffective] As demonstrated above, the Respondents have failed to establish that they have considered less restrictive means to the grooming policy and failed to prove that a 1/2 inch beard would not be the least restrictive means to achieve the security goals sought by the policy. Cert review should be granted on this point.

(III) Other Department of Corrections are able to

meet valid penological goals of security without a grooming policy or a religious exemption to a grooming policy, Petitioner provided information about other state DOC grooming regulations to both the district court and the Eighth Circuit Court of Appeals. Prisons run by the federal government, Oregon, Colorado, Nevada, California, and New York all meet the same penological goals claimed by Arkansas, but without a grooming policy or, in the alternative a religious exemption to the policy, Nevada permits inmates "freedom in personal grooming" (Nevada Department of Corrections Admin. Reg. 705.01 [1.1]) Colorado's Department of Corrections expressly provides for a religious exemption to its grooming regulations (Colorado Admin. Reg. 850-11 (I); (IV) (A) (1) (d)). Oregon merely requires that an inmate's "head and facial hair be maintained in a clean and neat manner." (Oregon Admin. R. Section 291-123-0015 (2) (a)) California allows its Muslim inmates to grow $\frac{1}{2}$ inch beards. (California Code Regs. Title 15 Section 3287 (b)) New York allows for the growth of a 1 inch beard pursuant to Directive 4914. Nor does the Federal Bureau of Prisons impose any mandatory restrictions on its inmates facial hair. (Federal Bureau of Prisons, Program Statement 5230.05 Section 551.4) In fact, only 9 states have grooming policies and all, interestingly enough, are in the South. If 41 other states and the Bureau of Prisons can still meet valid penological goals

Without grooming policies, or if those policies exist, religious exemptions - then the Arkansas Department of Correction can do the same by the wearing of $\frac{1}{2}$ inch beards. They already allow inmates with certain dermatological conditions to maintain $\frac{1}{4}$ inch beards, so it is not too far of a stretch to allow $\frac{1}{2}$ inch beards for religious purposes, (Arkansas Dept. of Correction Administrative Directive 98-04). In the January 4, 2012 evidentiary hearing, Respondent Warden Gaylon Lay could not recall any escapes in recent memory that involved beards and he further testified that contraband flow at the Cummins Unit had increased from 2006-2012 all while the current grooming policy was in place. A $\frac{1}{4}$ to $\frac{1}{2}$ inch beard would not sufficiently hide the contours of the face in the event of an escape. In fact, the 9th Circuit and the Eastern District of California have ruled as much (Mayweathers vs. Terhune, 328 F.Supp.2d 1086, 2004) So have other circuits (Ross vs. Coughtin, 669 F.Supp. 1235, 2nd Cir.); (Fromer vs. Scully, 874 F.2d 69). If the security goals of the Arkansas Department of Correction are not compromised by allowing certain inmates to maintain $\frac{1}{4}$ inch beards for medical reasons, then neither is the wearing of $\frac{1}{2}$ inch beards for religious reasons. The Court should grant certiorari on this question.

IV) Other less restrictive means have been offered that would allay the concerns of the Respondents to various security concerns. They are as follows:

- [A] Daily visual inspection of beard growth
- [B] Direct orders for inmates to get into compliance with the $\frac{1}{2}$ inch rule or face disciplinary action.
- [C] Religious barber calls once a week
- [D] Directing inmates to run their hands through their facial hair upon command by staff to inspect for contraband
- [E] Running the handheld metal detector over the facial area in a "wave" as is done on the clothed body of inmates, to detect contraband of a metallic nature.
- [F] Taking photographs of clean shaven inmates upon admittance to the ADC and then rephotographing the inmate with a $\frac{1}{2}$ inch beard. This is done in both New York and California.
- [G] Providing a standard photograph to be placed in all barracks at all ADC institutions that shows the allowable $\frac{1}{2}$ inch length.

The failure of the Respondents to consider and implement the above shows that they never attempted to use the "least restrictive means" in addressing the wearing of $\frac{1}{2}$ inch beards. The Respondents never established what, if any, modes of regulation it considered and rejected as it relates to a $\frac{1}{2}$ inch beard, or to the alternatives proffered. Assuming that the Respondents have met their evidentiary

burden and that they have established that the grooming policy of not allowing beards serves a compelling governmental interest, it still must establish that the grooming policy of not allowing 1/2 inch beards is the least restrictive alternative to achieve that interest, see 42 U.S.C. Section 2000cc-1(a) and 42 U.S.C. Section 2000cc-1(a)(2)(b)

In attempting to meet its burden, Respondents present conclusory statements that the grooming policy is the least restrictive means to ensuring prison security. Indeed, the failure of the Respondent to explain why another institution with the same compelling interests was able to accommodate the same religious practices may constitute a failure to establish that the Respondents were using the least restrictive means. (see Cheema vs. Thompson, 67 F.3d 883, 1995) (finding fault with defendant's failure to explain fact that another school district had managed to accommodate Sikh students' religious practices without sacrificing school safety). The Respondents failure to do so violates the RLUIPA and the Court should grant certiorari on this issue.

V. The no beard grooming policy violates Petitioner's First Amendment rights to practice Islam as he believes it is supposed to be practiced by the wearing of the beard, Petitioner is a devout, Salafi Muslim that follows the Sunnah of the Prophet Muhammad and the

Salat of the righteous predecessors, As part of this belief and practice, Petitioner believes that every Muslim male is to wear a lihyat (beard) by "clipping the mustaches short and leaving the beard as it is" (emphasis mine)

[Sahih Al-Bulhari, Volume 7, Hadith 5893]. The importance of wearing a beard and not shaving it is stressed in the listing of hadith on the matter found in Appendix E. The Prophet (saws) has stated that those who do not practice "what me and my companions (sahaba) are on are not of us." What did he (saws) mean by this? He (saws) meant the Salat of the rightly guided predecessors and the Sunnah of the Prophet (saws). He (saws) further stated that "the time would come and there would emerge from the East people who will recite the Qur'an but it will not exceed their throats and who will go out of (renounce) the religion (Islam) as an arrow passes through the game." The people asked, "What will their signs be?" He said, "Their sign will be the habit of shaving (of their beards)" (Sahih Al-Bulhari 91651, Narrated Abu Sa'id Al-Khudri and Fateh Al-Bari, Page 322, Vol. 17) This is so important and no man made law can order a Muslim to shave his beard in

contravention of the laws of Allah (swt). A Muslim is obligated to disobey such a law, forcibly if necessary, because then such a law becomes oppression and Allah (swt) has laid out clear cut guidelines for how a Muslim is to confront an oppressor. Therefore, any law propagated by the Respondents to force Petitioner to violate his beliefs is in violation of the First Amendment and is violative of the Religious Land Use and Institutionalized Persons Act (RLUIPA). Additionally, Petitioner's alternatives of religious expression are severely limited in the Supermax. For example, there are no group worship services, sajadahs (prayer rugs), are not allowed, there is extremely limited access to an Islamic spiritual advisor constituting no real meaningful access, Islamic publications are limited and Islamic catalogs are classified as books that, should they exceed the 10 book total limit, are subject to confiscation and there are no alternatives to religious instruction. The Supermax just started allowing Muslim inmates to participate once again in the Eid feasts individually after Petitioner grieved the matter and threatened litigation. Therefore, Petitioner needs an alternative form of

religious expression and maintaining a 1/2 inch beard would be a suitable alternative. The Court should grant certiorari on this matter based on the foregoing. This is a matter of grave importance, pitting the rights of Muslim inmates against a system that is hostile to these views. It can affect thousands of inmates and is creating unnecessary tension between Muslims and their keepers. The system should be forced to respect Islamic practices and Muslims should not be forced to make choices affecting their eternal future. The other DOCs and the Bureau of Prisons who have no grooming policies are working just fine controlling contraband flow and preventing escapes. A 1/2 inch beard would not be a security threat when inmates are allowed to grow large afros and thick head hair. In the end, it is not about security issues but rather about controlling inmates unnecessarily by interfering with their religious practices. This Court should grant certiorari and reverse and remand this case for a trial on the merits.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Abdul Maalik Muhammad
Gregory Holt

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