MOS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KARLUK M. MAYWEATHERS; DIETRICH J. PENNINGTON; JESUS JIHAD; TERRANCE MATHEWS; ASWAD JACKSON; ANSAR KEES, individually and on behalf of all others similarly situated,

Plaintiff,

v.

CALVIN TERHUNE; A.C. NEWLAND; BARRY SMITH; BONNIE GARIBAY; N. FRY; M.E. VALDEZ; N. BENNETT; and F.X. CHAVEZ,

Defendants.

NO. CIV. S-96-1582 LKK/GGH P

ORDER

Plaintiffs are a class of Muslim state prisoners housed at California State Prison-Solano seeking injunctive relief relative to certain California Department of Corrections' ("CDC") regulations, which they allege impinge on their religious practices. This matter is before the court on plaintiffs' motion for a preliminary injunction. I decide this

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motion based on the papers and pleadings filed herein and after oral argument.

I.

PROCEDURAL HISTORY

Plaintiffs originally sued defendants under 42 U.S.C. § 1983 alleging that the CDC's regulations violated their rights protected by the First and Fourteenth Amendments of the United States Constitution. On September 8, 1999, plaintiffs moved for a preliminary injunction enjoining the CDC from enforcing the regulations insofar as they, inter alia, prohibited beards of any length unless it was deemed medically necessary.[1] Plaintiffs sought a religious exemption to allow them to wear half-inch beards. Pursuant to Local Rule 72-302(c)(17), the matter was referred to Magistrate Judge Moulds who, after a hearing, issued Findings and Recommendations.

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[1] The amended regulations are embodied in 15 Cal. Code Regs. § 3062(h) which provides:

> An inmate's face shall be clean shaven at all times, except as follows:
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> (1) Mustaches are permitted for male inmates and shall not extend below the top of the upper lip, and shall extend to the corner of the mouth but not more than one-half inch beyond the corner of the mouth.
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> (2) An exemption from shaving shall only be authorized by the appropriate Institutions Division's, Regional Administrator and only when an exemption is deemed medically necessary by a physician. Such exemption must not exceed ninety days. If the condition persists, another exemption request shall be submitted. Facial hair permitted by such an exemption shall not exceed 1/4 inch in length.

On July 31, 2000, the court adopted the magistrate judge's Findings and Recommendations and denied plaintiffs' motion for a preliminary injunction relative to the regulation of beards. See Order, dated July 31, 2000, at 2:18-3:3:24.[2] The court, however, also denied defendants' motion for summary judgment with respect to this claim. See id., at 4:12-15.

On December 19, 2000, the court granted plaintiffs' motion for leave to file an amended complaint, allowing them to bring an additional cause of action under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), codified as 42 U.S.C. §§ 2000cc et seq. See Order, dated December 19, 2000, at 9:5-9. Plaintiffs now seek a preliminary injunction premised on the provisions of that Act.[3]

II.

THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT

RLUIPA provides that "[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution . . . even if the burden results from a rule of general applicability, unless the

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[2] The court considered plaintiffs' motion for a preliminary injunction under the standards announced in Turner v. Safley, 482 U.S. 78, 89-90 (1987). Under Turner, the Supreme Court held that, "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." Id. at 89.

[3] Because of the new standards provided by RLUIPA, the court granted the parties leave to tender additional evidence and set an evidentiary hearing. The parties waived the hearing and submitted their new evidence in writing. That evidence is part of the record considered in this order.

government demonstrates that imposition of the burden on that person . . . is in furtherance of a compelling governmental interest [] and . . . is the least restrictive means of furthering that compelling interest." 42 U.S.C. § 2000cc-1(a). The Act applies to any "program or activity that receives Federal financial assistance." 42 U.S.C. § 2000cc-1(b)(1) and (2).

To assert a claim under RLUIPA, plaintiff must produce "prima facie evidence to support a claim alleging a violation of the Free Exercise Clause . . . ." 42 U.S.C. § 2000cc-2(b). The government, however, "shall bear the burden of persuasion on any element of the claim, except that plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion." 42 U.S.C. § 2000cc-2(b).

RLUIPA further provides that it shall be "construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution." 42 U.S.C. § 2000cc-3(g). Given the provisions and the mandated mode of construction, I turn to plaintiffs' motion for preliminary injunctive relief.

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III.

PRELIMINARY INJUNCTION

A. STANDARD

The purpose of the preliminary injunction as provided by Fed. R. Civ. P. 65 is to preserve the relative positions of the parties -- the status quo -- until a full trial on the merits can be conducted. See University of Texas v. Camenisch, 451 U.S. 390, 395 (1981). The limited record usually available on such motions renders a final decision on the merits inappropriate. See Brown v. Chote, 411 U.S. 452, 456 (1973).

"The [Supreme] Court has repeatedly held that the basis for injunctive relief in the federal courts has always been irreparable injury and the inadequacy of legal remedies." Weinberger v. Romero-Barcelo, 456 U.S. 305, 312 (1982). In the Ninth Circuit, two interrelated tests exist for determining the propriety of the issuance of a preliminary injunction. The moving party carries the burden of proof on each element of either test. See Los Angeles Memorial Coliseum Comm'n v. National Football League, 634 F.2d 1197, 1203 (9th Cir. 1980). Under the first "traditional" test, the court may not issue a preliminary injunction unless each of the following requirements is satisfied: (1) the moving party has demonstrated a likelihood of success on the merits, (2) the moving party will suffer irreparable injury and has no adequate remedy at law if injunctive relief is not granted, (3) in balancing the equities, the non-moving party will not be harmed more than the moving

party is helped by the injunction, and (4) granting the injunction is in the public interest. See Martin v. International Olympic Committee, 740 F.2d 670, 674-75 (9th Cir. 1984).

Under the second "alternative" test, the court may not issue a preliminary injunction unless the moving party demonstrates either "probable success on the merits and irreparable injury . . . or . . . sufficiently serious questions going to the merits to make the case a fair ground for litigation and a balance of hardships tipping decidedly in favor of the party requesting relief." Topanga Press Inc. v. City of Los Angeles, 989 F.2d 1524, 1528 (9th Cir. 1993)(citations omitted). The Ninth Circuit has explained that the two parts of the alternative test are not separate and unrelated, but are "extremes of a single continuum." Benda v. Grand Lodge of International Association of Machinists, 584 F.2d 308, 315 (9th Cir. 1978), cert. dismissed, 441 U.S. 937 (1979). We are taught that the critical element within this alternative test is the relative hardship to the parties. See id. "[T]he required degree of irreparable harm increases as the probability of success decreases." United States v. Nutri-cology Inc., 983 F.2d 394, 397 (9th Cir. 1992)(citations and internal quotation marks omitted). Even if the balance tips sharply in favor of the moving party, however, "it must be shown as an irreducible minimum that there is a fair chance of success on the merits." International Olympic Committee, 740 F.2d at 674-75. (citation

omitted).

B. SUBSTANTIAL BURDEN ON AN INMATES' RELIGIOUS EXERCISE

Plaintiffs assert that their religion requires that they wear beards. It is uncontested that inmates who refuse to shave their beards in conformity with CDC regulations are subjected to progressive penalties, culminating in placement on "C-Status," which prevents inmates from earning good-time credits. See 15 Cal. Code Regs. §§ 3062(m) & 3315(f). Defendants nevertheless claim that the amended grooming regulations do not substantially burden plaintiffs' religious beliefs because they assert that Muslim men are not required to wear beards. Defendants submit that a beard is not regarded as obligatory within the Islamic faith because it is not commanded by the Qu'ran. See Suppl. Decl. Imam Abdul Hasan, at 2 ¶ 4. Below, I explain why defendants' argument is misplaced.

I begin by noting that defendants' argument is precluded by the statute. RLUIPA provides that a religious exercise includes "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). Moreover, as I have previously explained, First Amendment doctrine also constrains judicial evaluation of the centrality of religious practices to a particular creed, as contrasted with its centrality to a particular practitioner. See Rouser v. White, 944 F. Supp. 1447, 1454 (E.D. Cal. 1996).

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Put directly, the relevant question in determining the centrality of particular religious beliefs or practices is "not what others regard as an important religious practice, but what the plaintiff[s] believe[]." Id. (citing Hernandez v. Commissioner, 490 U.S. 680, 699 (1989)); Bryant v. Gomez, 46 F.3d 948, 949 (9th Cir. 1995). "Abjuring inquiry into whether the orthodox interpretation of a religion requires a particular practice, as contrasted with the subjective understanding of the plaintiff[s] as to [their] religious needs, is required by virtue of the fact that '[c]ourts are not arbiters of scriptural interpretation.'" Id. (citing Thomas v. Review Bd. of Indiana Employment Sec. Division, 450 U.S. 707, 716 (1981)). See also, Ward v. Walsh, 1 F.3d 873, 878 (9th Cir. 1993)("In religious matters we take judicial notice of the fact that often the keenest disputes and the most lively intolerance exist among persons of the same general religious belief who, however, are in disagreement as to what the faith requires in particular matters.").

Plaintiffs assert that they may not shave their beards based upon their religious convictions. In support of their beliefs, plaintiffs tender evidence from their expert, Imam Ibrahim Hamdani, who declares that growing a beard demonstrates a man's faith and loyalty to his religion, and thus is obligatory. See Depo. Imam Ibrahim Hamdani at 69-70, 124-125.

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Indeed, defendants' expert also acknowledges that "[t]he practice of growing a beard originated from the Prophet Muhammad's command to the Muslims to be different from the polytheists . . ." and while not mentioned in the Qu'ran, "is a practice mentioned in the sirah (biography) or hadiths (saying of Prophet Muhammad (PBUH))." See Suppl. Decl. Imam Abdul Hasan, at 2 ¶ 3, 3 ¶ 6. Imam Hamdani avers that the required length of a beard varies among scholars of Islam, but if an individual cannot grow their beard longer, for whatever reason, it is acceptable for them to wear a beard as short as one-half inch in length. See Depo. Imam Ibrahim Hamdani, at 69:4-6, 78:2-79:1, 124:19-125:6.

The court finds that the evidence supports plaintiffs' affirmation that wearing a beard is, for them, a legitimate religious practice. Because the defendants have not raised a question concerning plaintiffs' sincerity, the court concludes that the grooming regulations impose a substantial burden on plaintiffs' "religious exercise" within the meaning of 42 U.S.C. § 2000cc-1(a).[4]

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[4] One possible way of evaluating the issue is that Imam Hasan's averment that wearing a beard is not required of Muslims raises a question of plaintiffs' sincerity. Because there is significant evidence to the contrary, however, I conclude that the evidence does not bear on their sincerity of beliefs, but on questions of orthodoxy, which, as noted in the text, are beyond the power of this court to judge.

C. COMPELLING STATE INTEREST

Defendants assert that the grooming regulations are necessary to identify inmates for the purpose of preventing escapes and controlling movement within the prison. Of course, both of the articulated concerns are legitimate governmental interests; the question, however, is whether the regulations legitimately address those concerns, or are an exaggerated response to them. Turner, 452 U.S. 78, 90.

Defendants tender evidence that the grooming regulations were implemented in response to a number of escapes from different institutions after inmates altered their appearances. See Depo. Anthony Newland, at 39:15-40:13; 62:13-65:3; 64:6-65:3; Defendants' Opposition, at Exh. G ¶¶ 3, 6-7. Defendants also submit that a beard of any length changes the appearance of a prisoner and compromises the process of identifying inmates or escapees. See Defendants' Opposition, at Exh. E ¶ 5, G ¶¶ 2-3. Finally, defendants assert that correctional officers need to quickly identify inmates to prevent assaults, riots, or disturbances, and that without these amended regulations this process would become impossible if an inmate quickly changed his appearance by shaving his beard. See Defendants' Opposition, at Exh. E, ¶¶ 3, 4, 6, 8-9; Exh. G, ¶ 2, 3.

Plaintiffs respond with evidence that the safety and security concerns tendered by defendants are largely exaggerated, and do not justify the imposition of grooming regulations prohibiting beards. Plaintiffs' expert, George

Sullivan, who has more than forty years of experience in corrections, declares that he is unaware of any instance where an inmate escaped from prison solely by changing his appearance. See Decl. George Sullivan at ¶¶ 3, 12. Sullivan opines that the incidents of escape cited by CDC officials were taken out of context, without acknowledgment of the additional circumstances that permitted each escape. Id. Moreover, Sullivan avers that Section 3287(b) of the grooming regulation should alleviate defendants concerns about identification since it requires "visual daily inspections . . . to ensure compliance with departmental grooming standards." See Decl. George Sullivan, at 13 (citing 15 Cal. Code. Regs. § 3287(b)).

Defendants rationale that an inmate with a beard can more easily alter his appearance after he escapes does not persuade. Common sense and experience recognizes that a prisoner may not only shave, but alter his appearance in any number of ways to evade authorities after escape. Moreover, while it is plausible that altering a six inch beard, or cutting very long hair may assist an escapee to elude capture, I must agree with Judge Strand that shaving a half-inch beard likely cannot. See Luckette v. Lewis, 883 F. Supp. 471, 481 (D. Ariz. 1995)("prison officials do not meet their burden of demonstrating a compelling interest for not allowing a short, kempt beard"); Fromer v. Scully, 874 F.2d 69, 74 (2d Cir. 1989)("[i]t is certainly not irrational to believe that a full beard, which may well extend for significant lengths sideways from the cheeks as well as

downwards from the chin, may impede identification more than a one-inch beard"). As Magistrate Judge Moulds concluded "[w]hen it comes to changing one's appearance through the growth or removal of hair, this court finds that not all beards are equal." See Findings and Recommendations, dated March 29, 2000, at 30:10-12.

It may be, as defendants maintain, that the grooming regulations make it easier for prison officials to identify inmates as they move through the prison system, or for purposes of capture if an inmate escapes. Moreover, it may be at trial that defendants can prove that more than mere administrative convenience is at stake. For now, however, the court notes that the CDC acknowledges "appearances can change from day to day," and it is for that reason that § 3287(b) requires daily visual inspection so as to ensure that prison officials are aware of an inmate's appearance. See 15 Cal. Code. Regs. § 3287(b).

Finally, I note that the defendants are not faced with the specter of prisoners constantly changing their appearance. Surely an inmate who grows a beard for assertedly religious reasons and then shaves without compulsion, provides evidence suggesting that the inmate does not have a legitimate religious conviction. See Luckette, 883 F. Supp. at 481.

For all the above reasons, the court concludes that the plaintiffs have made a sufficient showing for preliminary injunction purposes, that the grooming regulations are an

exaggerated response to a legitimate concern.[5]

D. LEAST RESTRICTIVE MEANS

Because I concluded above that the plaintiffs have made a sufficient showing that the regulations are an exaggerated response to defendants' security concerns, it follows that defendants have not demonstrated that the regulations are the least restrictive means of achieving legitimate government purposes.

As explained above, the grooming regulations themselves provide one alternative. Section 3287(b) of 15 Cal. Code Regs. requires mandatory visual daily inspections of inmates' facial hair. These inspections should alleviate concerns about an inmate's ability to engender confusion by radical alterations in appearance. Nor does the concern that escapees may change their appearance require a different result. Prison officials can address the risk of an inmate avoiding detection by shaving his beard by requiring two photographs of that inmate: one with his face clean shaven, and one with a half-inch beard. Luckette, 883 F. Supp. at 481 (finding that photographing an inmate with a short beard may make it easier to differentiate that inmate from

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[5] The Supreme Court has reminded us that courts have no expertise in running prisons. On the other hand, as this case demonstrates, prison officials are focused on security issues. If RLUIPA teaches anything, however, it is that even in prison our society does not value security beyond all other interests. Congress has determined that other, equally important needs, must be addressed. Once that determination has been made, under our system of government it is the federal courts which are obligated to evaluate whether prison officials have honored the Congressional judgment.

others without beards); see also Ross v. Coughlin, 669 F.Supp. 1235, 1240-41 (S.D.N.Y. 1987) (upholding an "initial shave" requirement to obtain a photograph of inmates without a beard to later assist in their identification if they shave their beards).[6] Indeed, prior to the current grooming regulations, prison officials took additional photos of inmates who altered their appearance during incarceration through the growth of hair. See Findings and Recommendations, dated March 29, 2000, at 32:1-5. Defendants produce no evidence that resuming this practice would result in a significant cost to the institution.

Because there appear to be ready alternatives to the prohibition of beards, defendants have not used the least restrictive means of accomplishing its goals of prison security and easy identification of prisoners. See Ashelman v. Wawrzaszek, 111 F.3d 674, 677 (9th Cir. 1997)("the existence of alternatives may be evidence that the [policy] is not reasonable but is an 'exaggerated response' to prison concerns.")

For the foregoing reasons, I conclude that plaintiffs have demonstrated a likelihood of success on the merits of their claim that the grooming regulations violate RLUIPA.

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[6] In Friedman v. State of Arizona, 912 F.2d 328 (9th Cir. 1990), the Ninth Circuit rejected a before and after photographic alternative under Turner v. Safely, 482 U.S. 78 (1987), concluding that the proposed alternative "impose[d] more than a de minimis cost to valid penological interests." Id. at 332. Under RLUIPA, Turner's "de minimis" standard does not apply, but rather the court must consider whether the state's regulation is the least restrictive means of achieving the goal sought. Thus, Friedman provides no guidance in the matter at bar.

E. IRREPARABLE INJURY

It is true that under current Supreme Court doctrine the right of a prisoner to wear a beard does not necessarily invoke First Amendment concerns. See O'Lone v. Estate of Shabazz, 482 U.S. 342, 349 (1987)("[P]rison regulations alleged to infringe constitutional rights are judged under a 'reasonableness' test less restrictive than that ordinarily applied to alleged infringements of fundamental constitutional rights") (citation omitted). Nevertheless, clearly Congress, to the degree it is able, has made the right to practice one's religion an important right of prisoners. See 42 U.S.C. §§ 2000cc et seq. Here, prisoners have already been subjected to progressive discipline and consequent hardship for refusing to shave their beards. See Depo. Mayweathers, at 14:3-8, 7-17; 35:6-36:7; 81:14-88:23; Depo. Jihad, at 68:18-69:4, 99:9-17. Without an order enjoining the grooming regulations and allowing plaintiffs to grow half-inch beards, plaintiffs may lose the opportunity to earn time off from their sentences, face restricted visiting hours, be restricted from canteen draw, lose time outside their cells, lose work credits, and be denied the opportunity to attend Jumu'ah. See Depo. Mayweathers, at 14:7-17, 15:3-13, 35:6-36:7; Depo. Jihad, at 99:16-100:15.

Accordingly, the court concludes that plaintiffs present substantial evidence to demonstrate that they will suffer irreparable injury if they fail to comply with the grooming regulations.

F. BALANCING THE EQUITIES

Given the court's conclusion that the plaintiffs have demonstrated a likelihood of success on the merits, and also a strong showing of irreparable injury, the next step is to balance the equities. That is because "a federal judge sitting as chancellor is not mechanically obligated to grant an injunction for every violation of the law." Amoco v. Village of Gambell, 480 U.S. 531, 542 (1987).[7]

Defendants submit that if the injunction is issued, the officials at CSP-Solano will have to set up a system to implement this religious exemption, including identifying Muslim inmates who claim such an exemption and checking to ensure their new beards comply with the proposed one-half inch limit. Prison officials would also have to change the status and privileges of those Muslims who are now on "C" Status for refusing to shave their beards, but are willing to trim them to a half-inch.

The court is not unsympathetic to the inconveniences that an injunction may cause to the prison staff at CSP-Solano. Nevertheless, the court must weigh those inconveniences against the fact that the grooming regulations likely violate RLUIPA and therefore infringe on privileges mandated by law. Moreover,

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[7] While, of course, nothing about granting an injunction should be viewed as automatic, it has always seemed to this court that it would take a strange set of circumstances requiring the court to continence a violation of law. Having said as much, for the reasons expressed in the text, the court is satisfied that the matter at bar does not present circumstances justifying unlawful conduct on the part of the CDC.

although the Supreme Court has held that in light of the plaintiffs' incarcerated status their ability to protect their First Amendment rights have been constricted, see O'Lone, 482 U.S. at 349, there can be no question that, vel non, plaintiffs' claims implicate practices falling within the scope of the First Amendment.[8] Accordingly, the court is convinced that the balancing test favors the inmates and commands injunctive relief.[9]

G. BOND

No preliminary injunction shall issue "except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c). It is, however, "well settled that Rule 65(c) gives the court wide

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[8] The Supreme Court has taught that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." Elrod v. Burns, 427 U.S. 347, 373 (1976); accord Jacobsen v. United States Postal Service, 812 F.2d 1151, 1154 (9th Cir. 1987)(violation of First Amendment Rights "is, each day, an irreparable injury").

[9] Several of defendants' arguments were previously rejected by the court when it granted plaintiffs' preliminary injunction with respect to Jumu'ah attendance. For a second, and in some cases third time, defendants argue that RLUIPA is unconstitutional, that this court lacks jurisdiction to proceed on plaintiffs' claims under RLUIPA, and that a grant of plaintiffs' motion for a preliminary injunction would establish an impermissible governmental preference for religion. The court affirms its prior rejection of these contentions because the defendants have failed to identify substantially different evidence, a change in controlling legal authority, or any error in the court's prior decisions. See White v. Murtha, 377 F.2d 428, 431-32 (5th Cir. 1967).

discretion in the matter of setting security." Natural Resources Defense Counsel v. Morton, 337 F. Supp. 167, 168 (D.D.C. 1971)(motion for summary reversal dismissed), 458 F.2d 827 (D.C. Cir. 1972). See also Urbain v. Knapp Bros. Mfg. Co., 217 F.2d 810, 815-16 (6th Cir. 1954); Doyne v. Saettele, 112 F.2d 155, 162 (8th Cir. 1940).

In considering the appropriate amount of the bond, I note that the named plaintiffs are represented by counsel, but are all institutionalized. Clearly, if such plaintiffs were "required to post substantial bonds . . . in order to secure preliminary injunctions . . .," the bonds might undermine mechanisms for private enforcement of the law. Friends of the Earth v. Brinegar, 518 F.2d 322, 323 (9th Cir. 1975)(reducing bond in NEPA case from $4,500,000 to $1,000); accord Morton, 337 F. Supp. at 169 (bond set at $100); Environmental Defense Fund v. Corps. of Engineers, 331 F. Supp. 925 (D.D.C. 1971)(bond set at $1). The court is "unwilling to close the courthouse door in public interest litigation by imposing a burdensome security requirement." State of Ala. ex rel. Baxley v. Corps of Engineers, 411 F. Supp. 1261, 1276 (N.D. Ala. 1976). Accordingly, bond is set in the amount of One Dollar.

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IV.

ORDERS

For the foregoing reasons, the court hereby makes the following ORDERS:

1. Plaintiffs' motion for a preliminary injunction is GRANTED, to wit: defendants may not impose any form of discipline on plaintiffs for wearing beards no longer than one-half inch in length during the pendency of this action;

2. Plaintiff shall POST bond in the amount of $1.00; and

3. The parties shall INFORM the court within ten (10) days of the disposition of defendants' appeal to the Ninth Circuit on the constitutionality of RLUIPA.

IT IS SO ORDERED.

DATED: February 8, 2002.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

Susan Dee Christian
Law Offices of Stewart Katz
1001 G Street
Suite 100
Sacramento, CA 95814

Re: 2:96-cv-01582

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United States District Court
for the
Eastern District of California
February 8, 2002

* * CERTIFICATE OF SERVICE * *

2:96-cv-01582

Mayweathers

v.

Sutton

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on February 8, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

SJ/LKK

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