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FILED

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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

8 Attorneys for Defendants Gomez, Reagan,
White and Meads
9 81-280-2A93CX0283

LODGED

10 NOV 20 1997

UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

12 JAMES ROUSER,

Plaintiff,

v.

15 THEO WHITE, et al.,

16 Defendants.

No. CIV S-93-0767 LKK GGH P

NOTICE OF PRIVATE SETTLEMENT
AND STIPULATION AND ORDER FOR
DISMISSAL WITHOUT PREJUDICE

ORIGINAL

18
19 The parties to this action, through their undersigned
20 attorneys of record, notify the district court and stipulate as
21 follows:

22 1. The parties have entered into a private settlement
23 of this action. A copy of the settlement is attached as a
24 courtesy to the court.

25 2. Pursuant to paragraphs 4 and 5 of the private
26 settlement agreement, the parties stipulate that upon signing the
27 agreement, the court may enter an order dismissing this action,

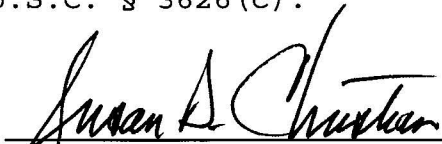
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ORIGINAL

1 but shall retain jurisdiction to enforce it through reinstatement
2 of the original action as provided for in 18 U.S.C. § 3626(c).

3 WHEREFORE, the parties request that the district court
4 enter an order dismissing this action without prejudice to
5 reinstatement pursuant to 18 U.S.C. § 3626(c).

6
7 DATED: 11-18-97


SUSAN D. CHRISTIAN
Attorney for Plaintiff

9
10 DATED: November 14, 1997


JAMES E. FLYNN
Deputy Attorney General
Attorney for Defendants

11
12
13 IT IS SO ORDERED.

14 DATED: 12/4/97


UNITED STATES DISTRICT COURT

ATTACHMENT

DANIEL E. LUNGREN, Attorney General
of the State of California
GEORGE WILLIAMSON, Chief
Assistant Attorney General
PETER J. SIGGINS, Senior
Assistant Attorney General
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Attorneys for Defendants Gomez, Reagan,
White and Meads
48149280-CA93CX0283

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,	)	No. CIV S-93-0767 LKK GGH P
	)	
Plaintiff,	)	PRIVATE SETTLEMENT AGREEMENT
	)	
v.	)	
	)	
THEO WHITE, et al.,	)	
	)	
Defendants.	)	
	)	

The parties to this action, through their undersigned
attorneys of record, agree as follows:

1. This is a compromise of disputed claims.
2. By entering into this agreement, defendants do not
admit liability or waive any defenses to future claims.
3. By entering into this agreement, the parties do
not intend that their agreement be converted into a court order.
4. Upon signing this agreement, the parties shall
stipulate to a dismissal of this action.

///

1 5. The district court shall retain jurisdiction to
2 enforce the settlement under 18 U.S.C. § 3626(c).

3 6. Plaintiff shall be permitted access to J. and S.
4 Farrar, A Witches Bible Compleat (Magickal Childe Pub., Inc.,
5 1991) (hereafter "Witches Bible") subject to policies and
6 procedures applicable to inmate access to religious literature.

7 7. Plaintiff shall be permitted access to a room for
8 bi-weekly Esbats and for the eight Sabbats for Wiccan services
9 subject to the same policies and procedures regulating other
10 inmate individual or group religious worship. The size of the
11 room and the schedule for its use will be determined by prison
12 officials taking into account the number of worshippers, the
13 room's availability, safety and security considerations, and
14 administrative considerations, so long as these considerations
15 are taken into account in accommodating other religions. No
16 participant in the services shall be nude, and there shall be no
17 actual or simulated sexual acts during the services. The
18 services shall be conducted under the supervision of prison
19 officials consistent with supervision of other religious services
20 to ensure the safety and security of inmates and staff.

21 8. Prior to any service and consistent with policies
22 and procedures applicable to the review of prayers of other
23 religious services, plaintiff shall provide, at the request of
24 prison officials a written copy of any prayers to be recited or
25 read at the services for review. The review shall be only for
26 the purpose of ensuring the safety and security of inmates and
27 staff.

28 ///

1 9. The time and location of group Wiccan services
2 will be included in the Chapel schedule which is posted and
3 available to inmates.

4 10. Plaintiff shall be permitted access to small
5 candles, incense, oil, small wands, ritual cups, small bells,
6 cords, water, and salt (hereafter "religious artifacts") for use
7 at the Esbats and the Sabbats subject to the policies and
8 procedures consistent with inmate access to religious artifacts.
9 The religious artifacts are subject to approval by prison
10 officials and search to ensure safety and security.

11 11. When the items set forth in paragraph 10 of this
12 agreement are not in use, prison officials shall have custody of
13 them.

14 12. Plaintiff shall be permitted to have the Thoth
15 edition of Tarot cards in his general personal property and
16 available for use in his cell or at the Esbats or eight Sabbats
17 subject to the policies and procedures applicable to other
18 religious artifacts. The cards shall be used only for religious
19 purposes. Nothing in this paragraph precludes prison officials
20 from restricting plaintiff's access to and use of the Tarot cards
21 if it is determined that plaintiff has modified them or used them
22 for nonreligious purposes or if their use threatens the safety
23 and security of the institution.

24 13. By agreeing to permit plaintiff access to the
25 Witches Bible and religious artifacts identified in paragraphs 10
26 and 12, defendants do not agree that they are obligated to pay
27 for those items for plaintiff, but defendants do agree that they
28 are obligated to assist plaintiff in obtaining those items via

1 institutional mail in a manner that is consistent with policies
2 and procedures applicable to a general population inmate's
3 receipt of religious artifacts from approved religious vendors.

4 14. A volunteer Wiccan spiritual adviser may attend
5 Esbat or Sabbat services provided that the person has complied
6 with the policies and procedures for access by volunteer
7 spiritual advisers.

8 15. Nothing in this agreement shall be interpreted to
9 preclude prison officials from temporarily suspending its
10 provisions in the case of an emergency, for the safety and
11 security of inmates or staff, or if plaintiff is confined in a
12 Security Housing Unit (SHU) or Administrative Segregation. If
13 plaintiff is so confined, plaintiff shall continue to have access
14 to his Witches Bible under paragraph 6 of this agreement.

15 16. The terms of this agreement shall apply to any
16 institution under the jurisdiction of the California Department
17 of Corrections (CDC) to which plaintiff is assigned and shall be
18 implemented at any given receiving institution in a manner that
19 is based on safety and security concerns or administrative
20 concerns peculiar to the institution.

21 17. Plaintiff waives damages and attorneys' fees.

22 18. Defendants shall pay plaintiff's costs in the
23 amount of \$2,722.38.

24 ///

25 ///

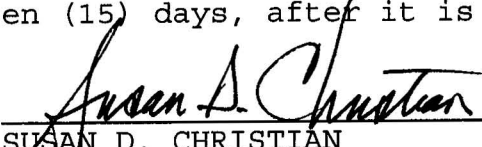
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1 19. It is the parties' expectation that implementation
2 of the terms of this agreement will commence within a reasonable
3 time, but no longer than fifteen (15) days, after it is signed.

4 DATED: 11-18-97


SUSAN D. CHRISTIAN
Attorney for Plaintiff

7 DATED: November 14, 1997


JAMES E. FLYNN
Deputy Attorney General
Attorney for Defendants

DECLARATION OF SERVICE

Case Name: **WILLIAM ROUSER v. THEO WHITE, et al.**

USDC-ED Case No.: CIV S-93-0767 LKK GGH P

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the Bar of this Court at which member's direction this service is made. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 20, 1997, I placed the attached

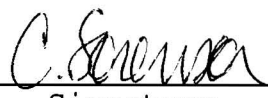
**NOTICE OF PRIVATE SETTLEMENT AND STIPULATION AND ORDER
FOR DISMISSAL WITHOUT PREJUDICE**

in the internal mail collection system at the Office of the Attorney General, 1300 I Street, P.O. Box 944255, Sacramento, California, 94244-2550, for deposit in the United States Postal Service that same day in the ordinary course of business, in a sealed envelope, postage fully postpaid, addressed as follows:

SUSAN D. CHRISTIAN, ESQ.
KING HALL CIVIL RIGHTS CLINIC
U.C. DAVIS SCHOOL OF LAW
KING HALL, ROOM 90
DAVIS, CALIFORNIA 95616-5201

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on November 20, 1997, at Sacramento, California.

C. Sorenson



Signature

United States District Court
for the
Eastern District of California
December 5, 1997

* * CERTIFICATE OF SERVICE * *

2:93-cv-00767

Rouser

v.

White

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 December 5, 1997, 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, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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School of Law
King Hall Civil Rights Clinic
Davis, CA 95616-5201

SJ/LKK

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 **Jack L. Wagner, Clerk**


by: Deputy Clerk