

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Lumumba Kenyatta Incumaa

[Enter the full name of the plaintiff in this action]

Civil Action No. 9:12-CV-3493-CMC-BM
(to be assigned by Clerk)

COMPLAINT
State Prisoner

v.

Honorable William R. Byars, Jr. as
Director of the SCDC.

Enter above the full name of defendant(s) in this action

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I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes ☒ No ☐

B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: Lumumba K. Incumaa

Defendant(s): Jonathan E. Ozmint, Director, SCDC

2. Court: U.S. District Court For the District of South Carolina
(If federal court, name the district; if state court, name the county)

3. Docket Number: CA-03-2776-0

4. Name(s) of Judge(s) to whom case was assigned: Hon. Cameron McGowan Currie

5. Disposition: Summary Judgment granted to Defendant. Appealed.
(For example, was the case dismissed? Appealed? Pending?)

6. Approximate date of filing lawsuit: August 29, 2003.

7. Approximate date of disposition: October 24, 2004.

II. PLACE OF PRESENT CONFINEMENT

- A. Name of Prison/Jail/Institution: Lieber Correctional Institution
- B. What are the issues that you are attempting to litigate in the above-captioned case? Violation of the RLUIPA, and Fourteenth Amendment to U.S. Constitution.
- C. (1) Is there a prisoner grievance procedure in this institution? Yes ☒ No ☐
- (2) Did you file a grievance concerning the claims you are raising in this matter? Yes ☒ No ☐
- When April 19, 2009 Grievance Number (if available) LCI-0462-9
- D. Have you received a final agency/departmental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes ☒ No ☐
- E. When was the final agency/departmental/institutional answer or determination received by you? 5-26-10
- If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received.* SEE ATTACHED.
- F. If there is no prison grievance procedures in this institution, did you complain to prison, jail, or institutional authorities? Yes ☐ No ☐
- G. If your answer is YES:
1. What steps did you take? _____
 2. What was the result? _____

III. PARTIES

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff: Lumumba K. Incumaa Inmate No.: 155651
- Address: Lieber C.I., P.O. Box 205, Ridgeville, S.C. 29472

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

- B. Name of Defendant: Honorable William R. Byars, Jr. Position: Director
- Place of Employment: South Carolina Department of Corrections
- C. Additional Defendants (provide the same information for each defendant as listed in Item B above):
- _____
- _____
- _____

IV. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

1. On April 19, 2009 I Filed a Step One Grievance stating the South Carolina Department of Corrections (SCDC) designation of my Religion of the Nation of Gods and Earths (NOGE) as a Security Threat Group (STG) is imposing a substantial burden on the exercise of my Religion as a member of the NOGE because it Forces me to choose between the exercise of my Religion or the abandonment (Renouncing) of my Religion; and that this substantial burden is not the least Restrictive means to Further the compelling governmental interest which is put Forward to justify it, in violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA) 42 U.S.C. § 2000 cc, et. seq..

2. That the SCDC's STG Policy is imposing a substantial burden on the exercise of my Religion as a member of the Nation of Gods and Earths (NOGE), in that it Requires that I must Renounce (abandon) my Religion in exchange for Release from administrative segregation confinement to the general prison population of the SCDC; and that this substantial burden is not the least Restrictive means to Further the compelling governmental interest which is put Forward to justify it, in violation of the RLUIPA.

3. That my continued confinement in administrative segregation is an atypical and significant hardship in both

IV. STATEMENT OF CLAIM - continued.

duration and degree of restriction, in relation to the ordinary incidents of prison life, violating my liberty interest protected by the Fourteenth Amendment to the U.S. Constitution.

4. That I have been denied a meaningful review of my continued confinement in administrative segregation to determine if I as an individual prisoner is a security threat to the general prison population of the SCDC, based on my individual conduct and disciplinary record within the SCDC for the last seventeen (17) years, violating my liberty interest protected by the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

5. My Step One Grievance was denied on February 5, 2010, and I received this denial on March 23, 2010. I then appealed this denial by filing a Step Two Grievance on March 25, 2010. On April 30, 2010 my Step Two Grievance was also denied, and I received this final denial on May 26, 2010. I then filed a Notice of Appeal to the South Carolina Administrative Law Court (ALC) on June 1, 2010, appealing the final denial of my Grievance. The ALC Judge affirmed the final denial of my Grievance and dismissed my appeal on May 24, 2011.

V. RELIEF

State briefly and exactly what you want the court to do for you.

1. A Declaratory Judgment declaring SCDC's designation of my Religion of the Nation of Gods and Earths (NOGE) as a STG, forcing me to choose between the exercise of my Religion or the abandonment (renouncing) of my Religion of the NOGE, violates the RLUIPA.

2. An Injunction ordering the Defendant to remove the STG designation from my Religion of the NOGE.

3. A Declaratory Judgment declaring SCDC's STG Policy violates the RLUIPA in that it requires me to renounce (abandon) my Religion as a member of the NOGE in exchange for release from administrative segregation confinement, and that such requirement places a substantial burden on the exercise of my Religion that is not the least restrictive means to further the compelling governmental interest which is put forward to justify it.

4. An Injunction ordering the Defendant to discontinue the
Continued on attach page

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

Signed this 5th day of December, 20 12.

Lumumba K. L. L. L.

Signature of Plaintiff

attach page.

RELIEF continued.

Requirement that I must Renounce (abandon) my Religion as a member of the NOGE in order to be released from administrative segregation confinement.

5. A Declaratory Judgment declaring that my continued confinement in administrative segregation is an atypical and significant hardship in both duration and degree of restriction, in relation to the ordinary incidents of prison life.

6. An Injunction ordering the Defendant to release me from the atypical and significant hardship of my continued confinement in administrative segregation.

7. A Declaratory Judgment declaring the Failure to provide me with a meaningful review of my continued confinement in administrative segregation based on my individual conduct and disciplinary record within the SCDC for the last seventeen (17) years, to determine whether I as an individual prisoner is a security threat to the general prison population of the SCDC, violated my liberty interest protected by the Fourteenth Amendment to the U.S. Constitution.

* continued on attach page *

attach page.

RELIEF continued.

8. An Injunction ordering the Defendant to provide me with meaningful reviews of my continued confinement in administrative segregation based on my individual conduct and disciplinary record within the CDC for the last seventeen (17) years, to determine whether I as an individual prisoner, is a security threat to the general prison population of the CDC.