

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

OCT 17 2005

JOHN F. CONCORAN, CLERK
BY:  DEPUTY CLERK

WILLIAM R. COUCH, #186347,
Plaintiff,

vs.

CIVIL ACTION NO.: 7:05-cv-00642

JOHN JABE,
Deputy Director Virginia
Department Of Corrections, et. al.

COMPLAINT UNDER CIVIL RIGHTS ACT, 42 USC § 1983

William R. Couch,
No. 186347
Keen Mountain Correctional Center
Post Office Box 710
Keen Mountain, Virginia 24624-0710

JURISDICTION

The United States District Court for the Western District of Virginia, Roanoke Division, has jurisdiction over this action pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1343.

RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT — APPLICABILITY

Title 42 U.S.C. § 2000cc-1 (b) 1, Religious Land Use And Institutionalized Persons Act applies in any case in which a substantial burden is imposed in a program or activity that receives Federal financial assistance.

In the year 2002, the Commonwealth of Virginia, Department of Corrections (VDOC), received \$4.72 million dollars — approximately 0.5 percent of its budget — from the federal government. And in 2003 and 2004 VDOC received similar amounts from the federal government, thus triggering the statute's applicability.

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- A. Petitioner has not begun any other action in state or federal court dealing with the same facts involved in this action or otherwise relating to petitioner's imprisonment.
- B. Petitioner has filed grievances regarding the facts of this complaint, has attached evidence of his exhaustion of all available grievance procedures, and has enclosed a verified statement indicating the result.

C. PARTIES

1. Defendant John Jabe was Deputy Director of the Virginia Department of Corrections, 6900 Atmore Drive, Richmond, Virginia 23261, and was responsible for establishing and authorizing appropriate policy governing the amount and content of daily meals provided for those participating in the 2004 Ramadan Fast at all times during the events described in this complaint. He is sued both in his individual and official capacity.

2. Defendant Larry Huffman was Regional Director, Western Regional Office, Virginia Department of Corrections, 5427 Peters Creek Road, Suite 250, Roanoke, Virginia 24019, was responsible for reviewing Level-II Grievance complaints to insure that prison officials at Keen Mountain Correctional Center ("the prison") adhere to Department Of Corrections ("D.O.C.") departmental policies and procedures, at all times during the events described in this complaint. He is sued both in his individual and official capacity.

3. Defendant Linda B. Shear was Chief Dietitian for the Virginia Department of Corrections ("VADOC"), 6900 Atmore Drive, Richmond, Virginia 23261, at all times during the events described in this complaint and was responsible for preparing, reviewing, and approving the VADOC Month Of Fasting Menu for all Ramadan Fast participants. She is sued both in her individual and official capacity.

4. Defendant Kathleen Bassett was the Warden at Keen Mountain Correctional Center, Post Office Box 860, Oakwood, Virginia 24631, at all times during the events described in this complaint and was responsible for reviewing and responding to all Level-I inmate grievance complaints filed by the prison's inmates, and maintained primary institutional-level responsibility for the proper operation of the prison's Food Service Operation. She is sued both in her individual and official capacity.

5. Defendant R. B. Phillips was Assistant Warden Of Operations at the Keen Mountain Correctional Center, Post Office Box 860, Oakwood, Virginia 24631, at all times during the events described in this Complaint. And Defendant R. B. Phillips

was responsible for reviewing and responding to Level-I inmate grievance complaints filed by the prison's inmates, and was responsible for the daily operations of the prison. He is sued both in his individual and official capacity.

6. Defendant K. Pickerel, Major, was the Chief of Security at Keen Mountain Correctional Center, Post Office Box 860, Oakwood, Virginia 24631, at all times during the events described in this complaint and was responsible for all security-related matters at the prison. He is sued both in his individual and official capacity.

7. Defendant Mike Oslin was Food Service Director at Keen Mountain Correctional Center, Post Office Box 860, Oakwood, Virginia 24631, at all times during the events described and was responsible for preparing, reviewing, approving, and implementing all food service policies and activities at the prison. He is sued both in his individual and official capacity.

D. PRELIMINARY STATEMENT

8. This is a Civil Rights Action filed by William R. Couch, #186347, ("Couch"), a state prisoner incarcerated within the Virginia Department of Corrections. Couch is a Sunni Muslim and has been a Sunni Muslim for approximately 15 years. Couch has been housed at the prison since June 12, 2002. At the prison, the Sunni Muslim Community is referred to as the World Community and is differentiated from the prison's other islamic group known as the Nation Of Islam Community ("N.O.I.").

9. This Action is for punitive damages and injunctive relief under 42 U.S.C. §1983, and alleges, 1) a violation of

Couch's right to freedom of religious expression in violation of the First Amendment to the United States Constitution and the Religious Land Use And Institutionalized Persons Act ("RLUIPA") 42 U.S.C. § 2000cc; and 2) a violation of Couch's right to Equal Protection and Due Process as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.

10. Couch alleges that these violations occurred when during his participation in the Ramadan Fast in the year 2004, specifically, October 15, 2004 through November 14, 2004, defendants, 1) limited Couch's daily caloric intake to approximately 1000 calories, 2) deprived Couch of adequate daily nutrition, 3) deprived Couch of all hot meals for 13 consecutive days, 4) prevented Couch from engaging in the post-Ramadan Eid-Ul-Fitr Prayer and, 5) deprived Couch of the post-Ramadan Eid-Ul-Fitr Feast. And Couch alleges that these deprivations are part of a longstanding and continuous pattern of deprivation by defendants of Couch's right to freely exercise his religious beliefs.

E. **STATEMENT OF FACTS: CLAIM (I)**

11. DEFENDANTS DEPRIVED COUCH OF ADEQUATE NUTRITION, AND CALORIES, AND HOT MEALS IN VIOLATION OF COUCH'S RIGHT TO FREEDOM OF RELIGIOUS EXPRESSION UNDER THE FIRST AMENDMENT AND THE RLUIPA, AND HIS RIGHT TO DUE PROCESS AND EQUAL PROTECTION UNDER THE FIFTH AND FOURTEENTH AMENDMENTS.

12. Islam requires that during the Holy Month of Ramadan¹

¹ Ramadan is the ninth month of the Arabian lunar calendar. Ramadan is a very sacred month for Muslims because it was in this month that the revelation of the Holy Qur'an began, and fasting as an obligatory institution was prescribed by God. (Holy Qur'an, Ch.2, v. 185; Sahih Muslim Hadith, Vol.2 (of 4), p.136, hadith #1079, n.1).

every Muslim fast between dawn and sunset for 30 consecutive days.

13. During the fast of Ramadan, 2004, Couch was deprived of one-half to two-thirds of the nutrition and calories the VDOC would have provided Couch had he not fasted during Ramadan. Per VDOC policy, general population prisoners are to be provided approximately 2800 calories daily. (Exhibit (A): Inmate Request (9/7/05)). Defendants provided to Couch about 1000 calories.

14. During each of the 30 days of Ramadan, Couch (and all fast participants) was provided the same refrigerated, pre-prepared, predawn bag meal consisting of: 2 boiled eggs, 2 slices of bread, 1 eight-ounce cup Bran cereal, 1 orange or apple, an 8oz bag of low-fat milk, and 2 sweeteners.

15. This cold predawn meal was substantially smaller than the hot breakfast served to the nonfasting prison population, that is, for example: 4oz apple juice or orange juice, 1 serving of grits, 2 boiled eggs, 1 slice of turkey ham, 1 serving Home Fries (potatoes), 3 pancakes, 1 pat margarine, one 2oz ladle of syrup, fresh fruit, i.e., cantelope, banana, orange, or apple, and coffee and milk in unlimited quantity. (Exhibit (B): Menu (1/30/2005 to 2/5/2005)).

16. Prison officials did not provide a lunch meal to any fast participant. And for the evening meal defendants asserted that VADOC Departmental Operating Procedure ("D.O.P.") No. 601 and 611 required officials to provide Couch identical portions and content as the evening meal served to the nonfasting prison population, with the exception of pork items. (Exhibit (C): Inmate Complaint (11/4/04)).

17. Couch here contends that defendants provided him an evening meal, too, that was nutritionally and calorically inadequate. For example, on October 19, 2004, while the prison was on a scheduled quarterly lockdown, defendants served Couch a Ramadan evening meal consisting merely of: 3 slices of individually wrapped cheese, 1 serving of chopped beets, 1 serving of coleslaw, 1 bun, 1 orange, 2 mustard packs, and 12oz grape koolaid. (Exhibit (D): Record of Evening Meals, 10/18/04 through 10/27/04). The aforementioned pre-dawn meal and this evening meal totaled approximately 1000 calories — nearly one-third of the 2800 calories required by VDOC policy.

18. And the nutritional and caloric deprivation was not limited to the lockdown period. For example, on November 12, 2004, after the lockdown period, defendants served Couch a Ramadan evening meal consisting merely of: 1 serving pinto beans, 1 serving of diced carrots, 1 sweetpotato, 2 slices of wheat bread, 1 orange and orange koolaid. Again, the cold predawn bag meal and this evening meal, together, failed to provide Couch adequate nutrition or calories.

19. And defendants provided to Couch and the World Community of Muslim fast participants only cold predawn and evening meals throughout the lockdown period but served to the N.O.I. fast participants a different, larger, hot evening meal each of the 30 days of Ramadan. And defendants provided to the nonfasting inmates 2 hot meals during the lockdown and 3 hot meals after lockdown during each day during the month of Ramadan.

20. And, Couch was unable to supplement his diet with food items purchased through the prison commissary because the prison suspends all commissary food purchases throughout the lockdown period.

21. Additionally, outside the lockdown period, during Ramadan, Couch was required to work at his regular prison job as a law-library clerk where he worked Mondays through Fridays at least 6 hours daily. At his job, and because prison policy prohibits law-library patrons themselves from retrieving any library materials, Couch was required to, inter alia, retrieve and then replace for patrons several hundred volumes of legal cases each day.

22. Thus, during the month of Ramadan, 2004, and as a result of defendants' actions in depriving Couch of adequate amounts of food, Couch lost approximately 13 pounds.² (See, Cambell v. Cauthron, 623 F.2d 503 (1980), Two sweet rolls and coffee for breakfast, and frozen "t.v." dinners for the noon and evening meals are calorically and nutritionally inadequate. An average-sized sedentary person on this diet could be expected to lose 9 pounds per month. Id. 508).

23. Moreover, for Couch the qualitative spiritual experience of the fast was substantially diminished because Couch was constantly hungry. Couch, in effect, was forced to fast twice during each 24-hour period in that defendants provided Couch 400 to 500 calories at the 5:00am predawn meal, then Couch fasted all day, then defendants provided Couch another 400 to 600 calories at the 6:00pm evening meal, and then Couch, because he had no other food, was forced to "fast" until the following predawn meal.

24. And the Ramadan spiritual experience was further diminished because Couch was forced constantly to fight to vindicate

² Couch is 6 feet-2 inches tall and weighs 232 pounds

his right to exercise his religious beliefs.

F. Couch Fought To vindicate His Rights.

25. On about October 10, 2004, five days prior to the beginning of Ramadan, Defendant Warden Bassett ("Warden") conducted a walk-through of the B-1 housing unit where she sat at a table and spoke with Couch. There, Couch, the liaison to the prison staff for the World Community, advised the warden that if the prison locked down during Ramadan, as it did during Ramadan 2003 and 2002, those observing Ramadan would be deprived of all hot meals throughout the lockdown, as had occurred in the preceding years. Couch further complained that the prison's Food Service Department would not provide adequate nutrition or calories to the fast participants. The warden instructed Couch to document his concerns on an Inmate Complaint form and send it to her.

26. On October 15, 2004, the 30-day fast of Ramadan began. On October 18, 2004, the prison locked down and all inmates were confined to their cells.

27. On lockdown the prison delivers to the inmates in their cells a hot breakfast meal and a hot lunch meal, but provides a cold-bag dinner generally consisting of coldcuts. However, during Ramadan the defendants provided to Couch and all World Community fast participants the same cold bag predawn meal described earlier, no lunch, and the same cold bag evening meal that was served to the non-fasting prison population. The lockdown began on October 18, 2004, and ended on November 1, 2004. Thus, for 15 consecutive days neither Couch nor any other World Community fast participant received other than the sparse, cold, predawn and evening bag meals.

28. On October 18, 2004, the first day of the lockdown, Couch, pursuant to the warden's instruction, sent to the warden a 3-page Inmate Complaint detailing Couch's dissatisfaction with the nutritionally and calorically inadequate cold food. (Exhibit (E): Inmate Complaint (10/18/04)).

29. In the Complaint Couch noted that the prison's Institutional Operating Procedure ("I.O.P") No. 4.22.4-7.3 (B) c, supported Couch's request for hot food where the I.O.P. states: Institutional Lockdown; Food Services "As often as can be accomplished within acceptable standards, hot meals — as prescribed by the master menu — would be served."

30. Couch also proposed two possible alternatives to the cold meals, namely, that prison officials could provide to Couch the hot lunch meal as his evening meal, or officials could serve Couch the same hot evening meal officials served the N.O.I. fast participants.

31. The N.O.I. fast participants received a hot evening meal throughout the 30 days of Ramadan, including during the lockdown period when the World Community fast participants and the non-fasting prison population were provided cold evening meals.

32. In the Complaint Couch further explained that the defendants could provide Couch, and all the World Community fast participants, a hot evening meal at de minimus cost to defendants in light of the overall savings to the prison during Ramadan because, "There are 63 and 67 participants observing Ramadan for World Community and N.O.I. respectively. That is, 130 lunches * 20 days of Ramadan (excluding weekends when lunch is not served)

is 2,600 lunch meals saved by Food Service during Ramadan."
(Exhibit (E), p.2) Id.

33. Couch further explained that he was only requesting for himself 15 hot evening meals (one for each day of lockdown during Ramadan) but that even if the prison officials provided each of the World Community fast participants a hot evening meal throughout the lockdown (63 people * 15 evening meals = 945 hot meals) Food Service would still realize substantial savings during Ramadan.

34. And Couch further asserted, and asserts in this Action, that defendants were unfair and punitive toward Couch when, during lockdown, defendants provided the non-fasting prisoners 2 hot meals and a cold bag dinner daily, and provided the N.O.I, participants a cold predawn meal and a hot evening meal daily, but then elected to feed Couch only cold food for 15 consecutive days.

35. More importantly, however, Couch complained then, and asserts now, that defendants violated Couch's constitutional rights and acted punitively toward him when defendants in effect forced Couch to choose either to fast during Ramadan or, instead, to receive adequate nutrition and calories.

36. Couch argued in his Complaint to the warden, and contends now, that defendants could easily have compensated for the missed nutrition and calories by increasing the portions in the predawn meal and/or the evening meal.

37. Indeed, defendants already tacitly acknowledge their responsibility to insure inmates are provided compensatory nutrition and calories in that defendants do increase the breakfast portions for the non-fasting prisoners on weekends because the prison does

not serve lunch on weekends. And when the prison is locked down defendants serve 3 meals even on the weekend because the lockdown meal trays will not accommodate the larger weekend breakfast meal. (Exhibit (F): Inmate Request to Food Service Director (10/23/04)).

38. And Couch attached to both his Complaint to the warden and his formal Grievance of these matters page no.1208 of Makin v. Colorado Dept. Of Corrections, 183 F.3d 1205, 1208 (10th Cir. 1999), wherein is reflected that the Colorado D.O.C., as part of a settlement agreement resolving a lawsuit alleging that the D.O.C. was inattentive to the needs of its Muslim inmates, agreed to provide to Muslim inmates meals, "between sunset and dawn that were nutritionally equivalent to the three meals provided each day at the regular times." And, "Inmates participating in the fast of Ramadan shall be given the opportunity to receive at least two hot meals during the time period between sunset and dawn for each...day of the fast." Id. at 1208.

39. Thus, defendants were fully aware and were wholly on notice that their actions in depriving Couch of adequate nutrition and calories simply because Couch chose to fast during Ramadan was in fact a violation of Couch's constitutional right to freely exercise his religious beliefs.

40. The Warden's response to Couch's Inmate Complaint regarding inadequate nutrition, calories, and hot food was:

The Ramadan menu has been set by the Department of Corrections and we will not deviate from the menu. Anyone on the Common Fare Diet can participate but, you will only receive the Two Ramadan Meals. Mr. Oslin is following the guidelines set forth by the Deputy Director, Mr. Jabe in Observance of Ramadan. If you have further questions regarding the menu please contact Mr. Oslin, Food Service Mgr. or Mr. Phillips, Assistant Warden.

(Exhibit (E), p.1) Id.

41. The Warden's answer was nonresponsive in that it failed to address Couch's complaint that defendants were depriving him of adequate nutrition, calories, and hot food in violation of his constitutional rights.

42. Moreover, regarding the warden's reference to the Common Fare Diet,³ Couch has never received the diet, has never requested to receive the diet, and nowhere in his Complaint to the warden does Couch make any reference to a Common Fare Diet. Indeed, the Common Fare Diet has no connection whatever to Ramadan, to Islamic tenets, or to Couch's complaint about inadequate nutrition.

43. Couch next filed a formal Inmate Grievance to Warden Bassett wherein he complained of the deprivations heretofore detailed in this Action. (Exhibit (G): Inmate Grievance (12/10/04)). The warden's Grievance Response stated, in relevant portion, that:

The Department of Corrections allows voluntary participation in the fast...and posts all pertinent information prior to the beginning so that all inmates wishing to participate may make an informed decision. The definition of fast is to eat very little or abstain from certain foods, especially as a religious discipline. All Ramadan participants are made well aware by their own Muslim doctrines, as well as the Department of Corrections that their nutritional intake will be limited during the Ramadan fast.

(Exhibit (H): Warden's Grievance Response, p.1 (1/3/05)). The Warden's response is misleading and inaccurate.

44. First, though the prison officials did post for the

³ The Common Fare Diet is a Kosher diet designed to accommodate the religious dietary needs of various faith groups. Any inmate may apply to receive the Common Fare diet and, if the inmate meets certain religious criteria established by VDOC, may be recommended for the diet by prison officials where final approval for the diet rests with VDOC headquarters in Richmond, Va. (I.O.P.#611-4.0)

inmate population general information regarding, for example, the times for the predawn and evening meals, and prohibitions about taking the lunch meals, officials did not inform any prisoner that if he chose to fast during Ramadan he would be deprived of more than half of his daily nutrition and calories. Nor were prisoners informed that if they fasted officials would provide only cold portions for most of the month of Ramadan.

45. Secondly, the warden's definition of "fast" — "To eat very little or abstain from certain foods, especially as a religious discipline" — is a verbatim quote from the second definition of "fast" presented in The American Heritage Dictionary, Second College Edition (copyright 1999). However, this narrow dictionary definition does not define the Islamic Fast of Ramadan.

46. Thirdly, it is true that during Ramadan Muslims limit their intake of nutrition and calories. However, **limit** is not synonymous with **reduce**. During Ramadan Muslims limit their intake of nutrition and calories **from dawn until sunset**; from sunset until dawn, however, Muslims may consume unlimited quantities of nutrition and calories.

47. Finally, while inmate participation in the Ramadan fast was voluntary (from a secular perspective), Couch did not volunteer to forfeit as much as two-thirds of his daily nutrition.

48. Couch next appealed the warden's Level-I Grievance Response to Defendant Regional Director Huffman. Huffman's Level-II Response mirrored and upheld the warden's Level-I Response. (Exhibit (I): Huffman's Level-II Response (1/27/05)). Huffman's response, however, added that, "Every institution continues to offer

the full meal schedule during the Ramadan month to non-participants."

49. Simply stated, defendants' Level-I and Level-II response is that because Couch chose to fast he cannot then be heard to complain that he is being starved, that Couch should expect to be starved, and that if Couch does not want to be starved then he must abandon his religious fast and eat the 3 normally scheduled meals.

G. Couch Sought Intervention By John Jabe And Linda Shear.

50. Concurrent with his utilization of the grievance procedure Couch discussed his complaints with Assistant Warden Phillips who explained to Couch that Phillips' "hands [were] tied" by D.O.C. policy. Phillips advised Couch to address his complaints directly to D.O.C. Dietitian Linda Shear.

51. On January 4, 2005, Couch mailed to Deputy Director John Jabe and D.O.C. Dietitian Linda Shear, individually, a Certified Mail/Return Receipt Requested, 2-page correspondence entitled, Legal Notice and Demand for Action. (Exhibit (J): Correspondence to Jabe and Shear). Therein Couch detailed his complaints of food deprivation and he alleged a "deprivation of my constitutional right to freely exercise my religious beliefs." Couch concluded his letter by asking Jabe and Shear to "take any action necessary to insure that henceforth this facility provides nutritionally and calorically adequate meals to those prisoners who fast during the holy month of Ramadan." Mr. Jabe and Ms. Shear received Couch's correspondence on January 3, 2005, and January 5, 2005, respectively. (Exhibit (K): Certified Mail Receipts for Jabe and Shear). Mr. Jabe failed to respond.

52. However, by letter dated February 4, 2005, Dietitian Shear

responded, in relevant part, that, "A 'fast' implies that you do not receive a full day's supply of food. There is an authorized VADOC Month of Fasting menu and it should be followed with no substitutions except when necessary. An Imam has reviewed and approved this menu." (Exhibit (L): Letter By Linda Shear).

53. First, as explained previously, the Islamic Fast of Ramadan does not imply that those who fast do not receive a full day's supply of food. Rather, the fast requires the faster to abstain from food from dawn until sunset.

54. Secondly, the fact that an Imam may have "reviewed and approved" the VDOC Ramadan menu is irrelevant; presumably, one could find an Imam willing to review and approve of a policy advocating practically anything — including suicide terrorism and the beheading of innocent people.

55. In sum, Ms. Shear approved of, and endorsed, the policy of deprivation. And neither Mr. Jabe or Ms. Shear took any action to eliminate said deprivations though they both were obligated to do so.

56. Finally, it must be noted that Couch was subjected to precisely the same deprivations detailed herein, including the consecutive days of cold food during lockdown, during Ramadan in the years 2003 and 2002. (Exhibit (M): Inmate Complaint, Inmate Grievance, Level-I and Level-II Grievance Responses (2003)).

H. STATEMENT OF FACTS: CLAIM (II)

57. DEFENDANTS DEPRIVED COUCH OF THE EID-UL-FITR OBSERVANCE⁴ IN VIOLATION OF COUCH'S RIGHT TO FREEDOM OF RELIGIOUS EXPRESSION UNDER THE FIRST AMENDMENT AND THE RLUIPA, AND HIS RIGHT TO DUE PROCESS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS.

H (1). Defendants Deprived Couch Of The Eid Prayer

58. On September 1, 2004, (45 days before Ramadan) Deputy Director John Jabe sent a memorandum to all VDOC Wardens/Superintendents wherein he authorized them to allow the Muslims to conduct the morning Eid Prayer and to have the evening "special meal."⁵

59. On September 20, 2004, (25 days before Ramadan) Couch, as liaison to prison officials for the World Community, submitted a 3-page Ramadan Proposal to Assistant Warden Of Operations Phillips ("AWO Phillips") wherein Couch requested, inter alia, "That we be permitted to perform the Eid Prayer in the visiting room from 8:15am to 9:50am on Monday, November 15, 2004." (The day after Ramadan ended).

60. On October 1, 2004, (14 days before Ramadan began) AWO Phillips responded with a memo to Couch and to inmate Ali Miles, #202187, (leader of, and liaison for, the N.O.I.) wherein AWO Phillips authorized that the "EID Prayer will be permitted from 8:15am to 9:50am in visiting room. (This will replace other Muslim Services scheduled for that day.)" (Exhibit (N): Memo By Phillips).

⁴ The Eid Ul-Fitr observance, consisting of the Eid Prayer and Eid Feast, is an important observance in Islam which commemorates and celebrates the 30-day fast of Ramadan. The Eid Prayer is a congregational prayer which must be performed during the morning on the first day following the completion of Ramadan. The Eid Feast must be held at a time between the 1st and 3rd day after the completion of Ramadan. The Feast typically begins on the evening of the first day following the completion of Ramadan and after the morning Eid Prayer service.

⁵ Couch has reviewed John Jabe's memo of September 1, 2004, but has been unable to obtain a copy of the memo for this Court because prison officials, including Security Chief Pickerel, AWO Phillips, and Operations Officer Barbetto, all contended, in 2004, that though they did receive and review Jabe's memo, they were unable to locate or otherwise obtain a copy of the memo.

61. However, at 8:15am on November 15, 2004, (the authorized time for the prayer) when Couch and other Muslims of the World Community arrived at the visiting room for the prayer service, the prison Security Staff refused to permit the Muslims to conduct the prayer. At Couch's insistence the Duty Watch Commander was summoned who then explained that Security Staff had not received any memo or other authorization to permit a prayer service. Couch then asked the watch Commander to contact AWO Phillips but Couch was told that Phillips was "unavailable." The Muslims were not permitted to conduct the Eid Prayer Service.

62. On November 21, 2004, Couch filed an Inmate Complaint to AWO Phillips regarding the refused Eid Prayer. Phillips forwarded the Complaint to Security for their response. Security did not respond. So, on December 12, 2004, Couch filed a formal Inmate Grievance regarding the deprivation of the Prayer service. (Exhibit (O): Inmate Grievance (12/12/04)).

63. On December 16, 2004, in response to Couch's grievance and as part of the prison officials' investigation into this matter, Chief of Security, Major K. Pickerel met with Couch. There, Pickerel accepted full responsibility for Couch's having been refused the Eid Prayer. Pickerel explained that, "It wasn't the Nations' [N.O.I.] error or your error, it was my error." Pickerel further stated that he had spoken with AWO Phillips about the matter but that AWO Phillips did not remember sending to Couch and Ali Miles written authorization for the morning Eid Prayer. Pickerel further stated that he had checked all the files but had not found any memo regarding the Eid Prayer Service. He repeatedly stated

that the error was his error and had resulted from a "comedy of errors." Pickerel asked Couch to withdraw the Grievance but Couch refused to do so. Couch then specifically asked Pickerel what he was going to report to the Grievance Coordinator about Pickerel's discussion with Couch. Pickerel assured Couch that his report would be that Couch had been deprived of the Eid Prayer as a result of a "comedy of errors" by Security Staff.

64. On December 21, 2004, (5 days after Pickerel met with Couch) AWO Phillips met with Couch about this matter. There, Mr. Phillips absolved all other staff of responsibility for the denied Eid Prayer, and he accepted full responsibility himself. Phillips stated that he did not remember sending to Couch written authorization to conduct the prayer service. However, Couch held the authorizing memo in his hand as the two spoke. When Couch offered the memo to Phillips, Phillips declined to accept it because, he said, he believed what Couch told him. Phillips, too, asked Couch to withdraw the Grievance but again Couch declined to do so.

65. Incredibly, on January 3, 2005, the Warden deemed Couch's Grievance "unfounded" because the Warden concluded, in effect, that the Eid Prayer had, in fact, been allowed but that Couch had voluntarily chosen to not attend. Specifically, the Warden determined that:

On November 10, 2004, [5 days before the November 15th date authorized by AWO Phillips for the Eid Prayer] Warden Bassett sent a Memorandum to all Ramadan Month of Fasting Participants⁶ regarding the EID UL Fitr Prayer and Fasting Break. [Warden]

⁶ Prison officials would later concede that the Warden did not send any memo to any of the Fast Participants. (Exhibit (Q): Inmate Request (1/4/05) and Warden's Memo (11/10/04)).

advised that an EID UL Fitr Prayer service...would be held on November 17, 2004, at 6:00pm in the dining halls.

(Exhibit (P): Warden's Grievance Response, p.1; Couch's Grievance Appeal p. 1-5).

66. Couch promptly questioned each fast participant from which he discovered that none had received or seen any memo from prison officials regarding the Eid Prayer.

67. Couch then requested from the prison's Operations Officer, L. Barbetto, a copy of the supposed memo. In response, the Operations Officer sent to Couch a memorandum dated November 10, 2004, and, for the first time, conceded that the memo, rather than having been sent to each fast participant, was instead "posted in all population pods on November 10." (Exhibit (Q). Id.

68. Couch again questioned the fast participants all of whom denied having seen any such posted memo. Couch then immediately spoke to AWO Phillips about the lack of any Warden's memo about the Eid Prayer. AWO Phillips then conceded that the memo may not have been posted, and he explained that the prison suffered a longstanding problem whereby memoranda and Notices forwarded to Security for posting were, in fact, not being posted. AWO Phillips further stated that prison officials were seeking a reliable method to insure that in the future memos were properly posted.

69. Couch appealed the Warden's Level-I Grievance Response to the Regional Director Larry Huffman. (Exhibit (P), p.1-5) Id. But on January 14, 2005, Mr. Huffman deemed Couch's Level-II Appeal "unfounded" because:

The investigation revealed that on 11/10/04 Warden Bassett sent a Memorandum to all Ramadan Month of Fasting Participants regarding the EID UL Fitr

prayer and Fast Breaking. In said Memo Warden Bassett explained that an EID UL Fitr prayer service and special meal had been scheduled for 11/17/04 at 6pm in the dining halls.

(Exhibit (R): Huffman's Level-II Grievance Response).

70. Because when Couch appealed the warden's Level-I Grievance Response he had not yet received the Operations Officer's response and the copy of the warden's Eid Prayer memo (Exhibit (Q), p.2) id, Couch could not argue in his appeal that staff had conceded that the memo had not been sent to any fast participant. However, Couch did in his Grievance Appeal, and does now, present the following argument and facts regarding the warden's Eid Prayer memo.

71. First, the warden's Eid Prayer memo, on its face, proves that Couch was deprived of the Eid Prayer because the memo (Exhibit (Q), p2), and the Grievance Response (Exhibits (P), (R)), indicate that the warden scheduled the Eid Prayer for 6:00pm. However, Islamic tenets require that the Eid Prayer be held on the **morning** of the first day following the completion of Ramadan. There is no such thing as a nighttime Eid Prayer.

72. Secondly, Islamic tenets require that the Eid Prayer be performed in congregation; row upon row of Muslims all prostrating simultaneously. The warden's Eid Prayer memo directed the Prayer be conducted in the dining hall. However, because of the configuration of the dining hall, that is, metal dining tables bolted to the floor with narrow walkways between them and only a 3-foot clearance between the outer row of tables and the walls, it was physically impossible for the 50+ Muslims (or even 10 Muslims) who attended the Eid Meal to perform a congregational prayer in the dining hall.

73. Additionally, Couch alleged in his Grievance Appeal, and does so now, that the warden's Eid Prayer memo, dated November 10, 2004, was actually created **after** Couch's December 16, 2004, meeting with Security Chief Pickerel about the denied Eid Prayer. Couch alleges the warden's prayer memo was then backdated to November 10th in an effort by prison officials to avoid responsibility for depriving Couch of the Eid Prayer. In support of this allegation Couch states as follows:

74. First, when Couch and other World Community Muslims arrived at the visiting room for the Eid Prayer at 8:15am on November 15, 2004, — the location, time and date requested by Couch and authorized by AWO Phillips — Couch and company were denied entry because Security Staff had no memo authorizing the prayer service. And the Watch Commander, faced with 50+ Muslim prisoners imploring admittance, made several telephone calls to various prison officials, and searched various files, seeking any memo authorizing the prayer service. Thus, had there existed an Eid Memo dated November 10th, indicating that the Eid Prayer was scheduled for November 17th, presumably Security Staff would have explained to Couch that the prayer had been rescheduled.

75. Secondly, during Couch's meeting with Security Chief Pickerel on December 16, 2004, Pickerel accepted all responsibility for the denied prayer, called it a "comedy of errors" on the part of Security Staff, and explained that he had searched for — but been unable to locate — any memo regarding the Eid Prayer Service. Thus, had there existed a November 10th Eid Memo — particularly one that had been disseminated to all fast participants (or even

disseminated only to the Security Staff for posting in the pods) — presumably the Chief of Security would have been able to locate the memo.

76. Thirdly, as discussed earlier, AWO Phillips sent to Couch and inmate Ali Miles the October 1, 2004, memo authorizing the Eid Prayer in the visiting room from 8:15am to 9:50am on November 15, 2004 (Exhibit (N) id. However, in response to Couch's grievance that he was denied the Eid Prayer, Security Chief Pickerel told Couch that he had not seen, nor could he find any October 1st memo by AWO Phillips. And AWO Phillips told Couch he didn't remember sending any such memo to Couch. And, presumably, the absence of any October 1st memo authorizing the Eid Prayer necessitated the warden's November 10th memo authorizing the evening Eid Prayer.

77. However, in preparation for **this** year's Ramadan which began October 5, 2005, the warden posted for the prison population a Ramadan participation notice (Exhibit (S): Ramadan Notice), which is an exact, verbatim duplicate of AWO Phillip's October 1, 2004, memo. Undeniably, the recent Notice from the warden was created using AWO Phillips' October 1, 2004, memo — the very memo defendants claimed to neither possess or remember. That defendants apparently, all along, possessed AWO Phillips' October 1st Eid Prayer memo suggests that there would have been no need for the warden's November 10th Eid Prayer memo, and bolsters Couch's contention that the warden's November 10th memo did not exist on November 10th.

78. Finally, the warden's November 10, 2004, Eid Prayer

memo is in direct conflict with Deputy Director John Jabe's Ramadan Memo of September 1, 2004, wherein Mr. Jabe authorized a **morning** Eid Prayer Service. Presumably, Warden Bassett would not create a memo authorizing a night prayer, in direct conflict with the Deputy Director — unless such belated, in-house memo was necessary to rebut Couch's claims of deprivation.

79. In sum, whether defendants fraudulently fabricated the warden's November 10th memo to cover their tracks, or simply failed to disseminate the memo to the fast participants, that is, whether defendants were malicious or simply grossly negligent in depriving Couch of the Eid Prayer Service can be dispositively established only at trial. What is certain, however, is that defendants deprived Couch and the World Community of Muslims of an opportunity to observe the Eid-Ul-Fitr Prayer.

H (2). Defendants Deprived Couch Of The Eid Feast.

80. The Islamic Faith dictates (and VDOC Deputy Director authorized) for the Muslims at the prison the Eid-Ul-Fitr Feast. (See, This Complaint, p. 17, n.4,5). The feast is a special meal served 1 to 3 days after the completion of Ramadan to celebrate the 30 days of rigorous fasting. Not only may Muslims partake in the Eid Meal only **after** Ramadan, but Muslims are prohibited from fasting on the day of the Eid Meal.⁷

81. Because the prison officials control the feeding of the

⁷ "The Messenger of God has forbidden the fast on these two days: Eid-Ul-Adha and Eid-Ul-Fitr." (Sahih Muslim Hadith, Vol. 2 (of 4) p. 173, hadith # 1138.)

prisoners it is obvious that Couch and the World Community of Muslims must begin and end the 30-day Ramadan Fast when prison officials provide the predawn and evening meals for the Muslims.

82. In the year 2003, the prison, and the North American Muslim community at large, observed Ramadan beginning on Monday, October 27, 2003, and ending on November 25, 2003. That is, fasting began at dawn on October 27th and ended 30 days later at sunset on November 25, 2003.

83. In violation of Islamic tenets prison officials served what officials described as the Eid-Ul-Fitr Meal on the evening of November 25, 2003, the final day of Ramadan, and after Couch and the other Muslims had fasted throughout the day.

84. Couch filed an Inmate Grievance wherein he complained that he had been deprived of an Eid Meal because prison officials had served the Meal during Ramadan when Islam requires the Eid Meal be served from 1 to 3 days after the completion of Ramadan, and because Muslims are not permitted to fast on the day of the Eid Meal.

85. Defendants deemed Couch's Grievance "unfounded" because, defendants asserted, their research revealed that Ramadan actually began on October 26, 2003, and ended November 24, 2003, and therefore defendants' serving of the Eid Meal on November 25th was permissible. Simply stated, defendants contend that even though the prison and the Muslim population at large observed Ramadan from October 27, 2003, until November 25, 2003, defendants' after-the-fact research in response to Couch's complaints revealed that Ramadan began and ended a day earlier than previously believed.

And, therefore, defendants' serving of the Eid Meal on November 25, 2003, was appropriate. (Exhibit (T): Inmate Grievance, Level-I Response, Level-I Appeal, and Level-II Response).

86. Defendants' rationale and explanation for having served the Eid Meal on November 25th is not credible and is belied by defendants' actions in the days before and after November 25, 2003.

87. First, on about November 21, 2003, four days prior to the Eid Meal, prison counselor and Ramadan Coordinator D.R. Vass ("Vass") approached Couch at his job in the law-library. Couch was then, too, liaison to prison staff for the World Community. Vass informed Couch that contrary to the November 26, 2003, date for the Eid Meal requested by Couch and tentatively approved by officials, prison officials had advanced the date of the Eid Meal to November 25, 2003, because of "institutional need."

88. Couch objected to the earlier date and explained to Vass, for the reasons detailed in this Action, why it was impermissible to observe the Eid Meal on the final day of Ramadan. Vass maintained that institutional need and security concerns trumped the Muslims' religious needs. Vass then explained that the "institutional need" was that Food Service workers and other staff wanted to go home early on November 26th to prepare their own Thanksgiving meals.

89. Couch filed a Grievance about the timing of the Eid Meal. (Exhibit (T)). Id. In response to Couch's Grievance, Mike Oslin, Food Service Director met with Couch and explained that the institutional need requiring the Eid Meal be served on November 25th was not because Food Service staff wanted to depart early for Thanksgiving. Rather, he explained, the "true" institutional

need was the lack of oven space in the prison kitchen to prepare two large meals, namely, the Eid Meal for the Muslims and the Thanksgiving Meal for the general prison population. However, when Couch pointed out that the Eid Meal could have been served on November 28, 2003, (3 days after Ramadan ended on November 25th) and after the Thanksgiving Meal (which was served to the prison population on November 26th), Mr. Oslin then conceded that was true.

90. Mr. Oslin, both conciliatory and apologetic, strenuously sought through nearly 2 hours of discussion to persuade Couch to withdraw the grievance. Finally, however, Oslin told Couch that his withdrawing the grievance was "in the best interest" of Couch and his Muslim group because if Couch withdrew the grievance, Oslin promised, the following year's Eid Meal would be sumptuous. But, Oslin continued, if Couch refused to withdraw the grievance, and because in Couch's Grievance he also complained that the Eid Meal was skimpy and inadequate, "policies could be put into effect" that would pare to the bone future Eid Meals.

91. Couch interpreted Oslin's comments as a threat designed to pressure Couch to withdraw the grievance. So, Couch sought to appease Oslin by explaining to him that Couch was unable to withdraw the grievance because he had already enlisted aid from Islamic organizations in addressing these matters and that to withdraw the grievance would undermine that aid which in turn might cause those organizations to be reluctant to assist Couch in the future. Couch refused to withdraw the grievance. Oslin then assured Couch that Couch was going to "lose out," and Oslin ended the meeting.

92. Only then did defendants abandon their rationale regarding "institutional need" to then assert in the Grievance Response that research of the Islamic calendar justified their timing of the Eid Meal. However, said research consisted merely of reviewing a one-page calendar, a copy of which Oslin gave to Couch at their meeting, which itself specifically cautions that its dates "are based on estimates" which may be wrong by 2 days. (Exhibit (U): Islamic Calendar).

93. And, at any rate, defendants conducted their research regarding the date for the Eid Meal weeks **after** they served the meal and in response to Couch's Grievance. Therefore, the date ascertained during the research could not have been the basis for defendants' having served the Eid Meal on November 25th. Indeed, if defendants, at the time they scheduled the Eid Meal, had believed their timing for the Eid Meal comported with Islamic tenets, defendants would not have needed to invoke "institutional need" to justify the date.

94. And, after-the-fact research notwithstanding, the month of Ramadan for the prison Muslim population began when the prison permitted the Muslims to receive a predawn meal on October 27, 2003, and ended 30 days later when the prison served its final post-sunset meal on November 25, 2003. Nevertheless, Couch's Grievance of this matter was deemed "unfounded" based upon the dates reflected on the belatedly researched Islamic calendar.

95. Whether defendants deprived Couch of the Eid Meal because prison staff wanted to depart the prison early for Thanksgiving, or because of limited oven space, or for some other malicious

reason, or whether defendants' actions were merely grossly negligent can be dispositively established only at trial. What is certain, however, is that defendants deprived Couch and the World Community of Muslims of an Eid-Ul-Fitr Meal.

I. DEFENDANTS HAVE INJURED COUCH.

96. For Muslims the Holy Month of Ramadan is one of heightened spiritual observances including fasting and increased prayer. Ramadan is to be a time of peace and tranquility wherein the Muslim aspires to a closer connection with his Creator. During Ramadan Muslims are specifically enjoined to avoid arguments and disputes.⁸

97. Defendants' actions have injured Couch. First, the starvation diet to which defendants subjected Couch caused Couch to be constantly hungry. Such unrelieved hunger alone substantially diminished the qualitative spiritual experience of Ramadan because the hunger prevented Couch from participating in, or distracted Couch from the spiritually uplifting aspects of the Ramadan observance such as his reading of the Qur'an and his performance of his prayers.

98. Additionally, the unrelieved hunger caused Couch frequent "hunger headaches," and adversely affected his ability to sleep. The food deprivation also caused Couch to lose approximately 13 pounds during Ramadan and to be always lathargic and listless.

99. Moreover, the endless disputes and efforts by Couch before, during, and after Ramadan to secure from defendants minimal

⁸ "When any of you gets up in the morning fasting, he should neither use obscene language nor do any act of ignorance. And if anyone slanders him or quarrels with him, he should say: 'I am fasting, I am fasting'" (Sahih Muslim Hadith, Vol.2 (of 4) p.179 hadith #1151).

opportunity to practice his faith robbed Couch of the very peace he sought to enjoy during Ramadan.

100. And Couch suffered similar deprivations during Ramadan in 2002, and 2003. During Ramadan 2002, defendants caused Couch to suffer constant hunger and provided Couch only cold food for half of Ramadan. During Ramadan 2003, defendants caused Couch to suffer constant hunger, and provided Couch only cold food for half of Ramadan, and deprived Couch of the Eid Meal. During Ramadan 2004, defendants caused Couch to suffer constant hunger, provided Couch only cold food for half of Ramadan, and deprived Couch of the Eid Prayer. And Couch suffered similar weight loss during each of these Ramadan observances.

J.

CONCLUSION

101. Defendants, individually and collectively, violated Couch's right to freely exercise his religious beliefs and stand in violation of the RLUIPA when they forced Couch to suffer egregious deprivations of nutrition and calories for no reason other than Couch chose to fulfill his religious duty to fast during Ramadan.

And defendants' actions violated Couch's right to equal protection because, inter alia, defendants subjected Couch and the World Community of Muslims to egregious loss of nutrition and calories and hot meals when, during the same period, defendants provided to the N.O.I. hot meals and greater nutrition and calories, and provided to the non-fasting prison population hot meals and more than sufficient nutrition and calories. And Couch suffered these deprivations absent any due process.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that this Honorable Court grant the following relief:

1. Issue a declaratory judgment stating that:
 - a) the actions of, and /or deliberate indifference by defendants John Jabe, Linda Shear, Larry Huffman, Kathleen Bassett, R.B. Phillips, and Mike Oslin, collectively and/or individually, deprived plaintiff of adequate nutrition and calories, and hot meals during the Islamic Month of Ramadan in violation of plaintiff's right to freely exercise his religious beliefs under the First Amendment to the United States Constitution and the Religious Land Use And Institutionalized Persons Act, and in violation of plaintiff's right to equal protection and due process as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.
 - b) the actions of, and/or deliberate indifference by defendants Larry Huffman, Kathleen Bassett, R. B. Phillips, Mike Oslin, and K. Pickerel, collectively and/or individually, deprived plaintiff of an opportunity to partake in the Islamic Eid-Ul-Fitr Observances in violation of plaintiff's right to freely exercise his religious beliefs under the First amendment to the United States Constitution and the Religious Land Use And Institutionalized Persons Act, and in violation of plaintiff's due process rights under the Fifth and Fourteenth Amendments to the United States Constitution.
2. Issue an injunction ordering defendants John Jabe, Linda Shear, Larry Huffman, Kathleen Bassett or their agents to:

a) revise the present Ramadan Menu in a manner that insures that all Muslim Inmate Ramadan Fast Participants receive meals between sunset and dawn that are nutritionally and calorically equivalent to the three meals provided to the non-fasting prisoners each day at the regular times.

b) revise the present Ramadan Menu in a manner that insures that all Muslim Inmate Ramadan Fast Participants shall be given the opportunity to receive at least two hot meals during the time period between sunset and dawn for each day of the fast.

c) revise the present Ramadan and Eid-Ul-Fitr guidelines for participation in, and observance of the Ramadan Fast and Eid-Ul-Fitr Observance with safeguards to protect plaintiff's due process rights and right to freely exercise his religious beliefs as guaranteed by the Fifth, Fourteenth, and First Amendments to the United States Constitution and the Religious Land Use And Institutionalized Persons Act.

3. Award punitive damages in the following amounts:

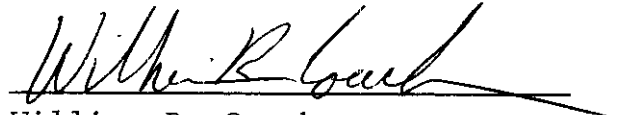
a) Forty-five Hundred Dollars [\$25.00 from each of 6 defendants for each of the 30 days of Ramadan] against defendants John Jabe, Linda Shear, Larry Huffman, Kathleen Bassett, R.B. Phillips, and Mike Oslin for depriving plaintiff of adequate nutrition and calories, and for the attendant suffering and diminution of the qualitative spiritual experience of Ramadan suffered by plaintiff because of defendants' actions.

b) Five Hundred Dollars [\$100 for each of 5 defendants] against Larry Huffman, Kathleen Bassett, R.B. Phillips, K. Pickerel, and Mike Oslin for preventing plaintiff the Eid-Ul-Fitr observance

including the Eid-Ul-Fitr Prayer and the Eid-Ul-Fitr Meal and the attendant suffering and diminution of the qualitative spiritual experience of Ramadan suffered by plaintiff because of defendants' actions.

4. Grant such other relief as it may appear that plaintiff is entitled.

SIGNED THIS 13TH DAY OF OCTOBER, 2005.


William R. Couch

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING COMPLAINT AND ALL ATTACHMENTS THERETO TO BY TRUE AND CORRECT.

Dated: 10-13-2005 Signed: 

VERIFIED STATEMENT

I have been advised of the requirements regarding exhaustion of administrative remedies as outlined in 42 U.S.C. 1997e and now submit this verified statement:

I have exhausted my administrative remedies by exhausting all available grievance procedures and have attached copies of grievances demonstrating said exhaustion. Copies of the record of the proceedings are attached to the foregoing complaint as Exhibits.

I affirm that I am the plaintiff in this action and I know the content of the above statement as well as the foregoing Complaint; that it is true of my own knowledge, except as to those matters that are stated in it to be based on my own information and beliefs; and to those matters, I also believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 10-13-2005 Signed: 

All prisoners will now be required to pay a full filing fee of \$150.00. Prisoners seeking to proceed in forma pauperis (without the prepayment of fees) are now required to submit with their complaints, a certified copy of their trust fund account statement for the prior six month period. 28 USC §1915 as amended.

William R. Couch, #186347

(Petitioner/Plaintiff)

vs.

STATEMENT OF ASSETS

John Jabe, et. al.

(Respondent/Defendant)

I, William R. Couch

, declare that I am the petitioner in the above-styled proceeding; that in support of my request to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding, or give security therefor; that I believe I am entitled to relief.

In support of my in forma pauperis application, I answer the following questions:

1. Are you presently employed? ☒ Yes ☐ No

If yes, what is your monthly income? \$54.00

If no, state the date of your last employment. _____

2. Have you received any money in the last twelve months from the following sources?

Business, Profession, Self-Employment:	☐ Yes	☒ No
Rent Payments, Interest or Dividends:	☐ Yes	☒ No
Pensions, Annuities or Life Insurance:	☐ Yes	☒ No
Gifts or Inheritances:	☐ Yes	☒ No
Any Other Sources:	☐ Yes	☒ No

If the answer to any of the above is Yes, please state the source and amount of each received during the past year.

3. Do you own any cash, or have any money on hand - Include any funds held in Prison Accounts.

☒ Yes ☐ No If Yes, State the Value \$47.65

4. Do you own any real estate, stocks, bond, notes, automobiles or other valuable property - (excluding clothing and ordinary household furnishings)?

☐ Yes ☒ No If Yes, State the Value _____

5. List the persons who are dependant upon you for support. State your relationship to same and indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct and have attached a certified copy of my inmate trust fund account statement for the last six months in support of this request to proceed without the payment of fees.

DATED: October 12, 2005

SIGNED: William R. Couch

WILLIAM R. COUCH, #186347
KEEN MOUNTAIN CORRECTIONAL CENTER
POST OFFICE BOX 710
KEEN MOUNTAIN, VIRGINIA 24624

October 13, 2005

The Honorable John F. Corcoran
Clerk, United States District Court
Western District - Roanoke Division
Post Office Box 1234
Roanoke, Virginia 24006

Dear Mr. Corcoran:

Enclosed please find 2 copies of my 42 U.S.C. § 1983 Complaint, including the verified statement of exhaustion of state remedies and the inmate income statements to enable me to proceed in forma pauperis.

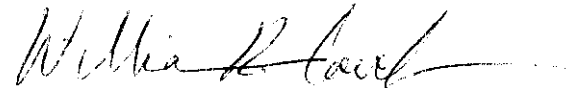
Please present this pleading to the court at your earliest convenience.

Also, enclosed is an S.A.S.E. containing a coversheet. Would you kindly stamp the coversheet indicating your receipt of this material and return it to me.

Also, please be advised that I have today mailed one copy of the Complaint, with attachments, first-class postage prepaid to counsel for the defendants herein, Michael T. Judge, Assistant Attorney General, 900 East Main Street, Richmond, Virginia 23219.

Your attention to this matter is appreciated.

Very truly,



William R. Couch

cc: Michael T. Judge