

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY TARRER and RAYMOND
GARLAND, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

PIERCE COUNTY; PIERCE COUNTY
SHERIFF'S DEPARTMENT; MARTHA
KARR, Chief of Corrections, in her individual
and official capacities; CHAPLAIN RICH
ODEGARD, in his individual and official
capacities; CAPTAIN PAT KELLY, in his
individual and official capacities; CAPTAIN
MARVIN SPENCER, in his individual and
official capacities; LIEUTENANT CHARLA
JAMES, in her individual and official
capacities; SERGEANT TIMOTHY
BRASWELL, in his individual and official
capacities; VINCENT GOLDSMITH, Health
Services Manager, in his individual and
official capacities; and MARY SCOTT,
Nursing Supervisor, in her individual and
official capacities,

Defendants.

No.

COMPLAINT – CLASS ACTION

I. INTRODUCTION

1
2 1. Plaintiffs LARRY TARRER and RAYMOND GARLAND bring this action,
3 pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act
4 (RLUIPA), on behalf of themselves and all other similarly situated persons to challenge the
5 unlawful treatment of Muslim prisoners at the Pierce County Jail in Tacoma, Washington.
6 Defendants have established a preference for non-Muslim inmates at the jail by providing them
7 with opportunities for preferred housing and privileges in a special Christian-based unit known
8 as the “God Pod.” In addition, Defendants substantially burden Plaintiffs’ religious exercise by
9 forbidding them from participating in group prayer, by refusing to accommodate their religious
10 dietary restrictions, and by prohibiting certain religious clothing and other items that are integral
11 to Islamic faith and worship. Plaintiffs seek declaratory and injunctive relief on behalf of the
12 class they seek to represent, as well as damages individually for the violations of their federal
13 constitutional and statutory rights.

II. PARTIES

14
15 2. Plaintiff Larry Tarrer is a practicing Muslim, currently incarcerated at the Pierce
16 County Jail in Tacoma, Washington.

17 3. Plaintiff Raymond Garland is a practicing Muslim, recently incarcerated at the
18 Pierce County Jail in Tacoma, Washington. Although Mr. Garland has been transferred to the
19 custody of the Washington Department of Corrections, he will be returning to the Pierce County
20 Jail for ongoing proceedings pertaining to a pending criminal charge.

21 4. Defendant Pierce County is a municipal entity, chartered under the laws of
22 Washington. Pierce County provides funding and oversight for the Pierce County Jail and is
23

1 responsible for adopting, implementing, and/or enforcing the unlawful policies and customs
2 referenced in this complaint.

3 5. Defendant Pierce County Sheriff's Department (PCSD) is a department of Pierce
4 County. The Sheriff's Department has responsibility for operating the Pierce County Jail,
5 developing and implementing policies for jail operations, and ensuring that the conduct of jail
6 staff, contractors, and volunteers complies with state and federal law. Defendant PCSD is
7 responsible for adopting, implementing, and/or enforcing the unlawful policies and customs
8 referenced in this complaint.

9 6. Defendant Martha Karr is the chief of the Pierce County Sheriff's Corrections
10 Bureau. She is responsible for the supervision of jail employees, the proper execution of jail
11 policies, and the lawful treatment of prisoners confined at the jail. Plaintiffs allege upon
12 information and belief that Chief Karr is aware of the unlawful conditions described in this
13 complaint, and has either caused those conditions or acted with deliberate indifference to the
14 legal rights of Muslim inmates in allowing those conditions to continue. Plaintiff Tarrer sent
15 Chief Karr a written complaint in February, 2010, notifying her of the discrimination and other
16 religious burdens he and other Muslims were facing at the jail; however, the conditions did not
17 improve. Chief Karr is sued in her individual and official capacities.

18 7. Defendant Rich Odegard is the director of the chaplaincy program at the Pierce
19 County Jail. His responsibilities include overseeing operation of the jail's "God Pod," approving
20 and denying requests for religious diets, providing religious literature to inmates, and recruiting
21 religious volunteers and sponsors. Mr. Odegard is aware of the unlawful conditions described in
22 this complaint, and has either caused those conditions or acted with deliberate indifference to the
23

1 legal rights of Muslim inmates in allowing those conditions to continue. Mr. Odegard is sued in
2 his individual and official capacities.

3 8. Defendant Pat Kelly is a captain in the Pierce County Sheriff's Corrections
4 Bureau. He is responsible for supervising jail personnel, assisting in the development of
5 Sheriff's Department policies and procedures, and ensuring the proper execution of jail policies
6 and procedures. Captain Kelly is aware of the unlawful conditions described in this complaint,
7 and has either caused those conditions or acted with deliberate indifference to the legal rights of
8 Muslim inmates in allowing those conditions to continue. Plaintiffs allege upon information and
9 belief that Captain Kelly personally has made decisions that have resulted in substantial burdens
10 on the Plaintiffs' attempts to exercise their religion and discrimination against Plaintiffs on the
11 basis of their practice of Islam, including refusing to provide or make available non-vegetarian
12 halal diets or ritual food items. Captain Kelly is sued in his individual and official capacities.

13 9. Defendant Marvin Spencer is a captain in the Pierce County Sheriff's Corrections
14 Bureau. He is responsible for supervising jail personnel, assisting in the development of
15 Sheriff's Department policies and procedures, and ensuring the proper execution of jail policies
16 and procedures. Captain Spencer is aware of the unlawful conditions described in this
17 complaint, and has either caused those conditions or acted with deliberate indifference to the
18 legal rights of Muslim inmates in allowing those conditions to continue. Plaintiffs allege upon
19 information and belief that Captain Spencer personally has made decisions that have resulted in
20 substantial burdens on the Plaintiffs' attempts to exercise their religion and discrimination
21 against Plaintiffs on the basis of their practice of Islam, including refusing to permit Plaintiffs
22 wear religious headwear or comply with Islamic dress restrictions, denying access to religious
23

1 literature, and approving classification and living arrangement decisions pertaining to the God
2 Pod. Captain Spencer is sued in his individual and official capacities.

3 10. Defendant Charla James is a lieutenant in the Pierce County Sheriff's Corrections
4 Bureau. She has responsibility for ensuring the proper execution of jail policies and procedures.
5 Lieutenant James is aware of the unlawful conditions described in this complaint, and has either
6 caused those conditions or acted with deliberate indifference to the legal rights of Muslim
7 inmates in allowing those conditions to continue. Plaintiffs allege upon information and belief
8 that Lieutenant James personally has made decisions that have resulted in substantial burdens on
9 the Plaintiffs' attempts to exercise their religion and discrimination against Plaintiffs on the basis
10 of their practice of Islam, including denying Plaintiffs access to items for religious worship,
11 refusing to accommodate Plaintiffs' religious dietary needs, and refusing to allow Muslim
12 prisoners to engage in congregate worship. Lieutenant James is sued in her individual and
13 official capacities.

14 11. Defendant Timothy Braswell is a sergeant in the Pierce County Sheriff's
15 Corrections Bureau. He has responsibility for ensuring the proper execution of jail policies and
16 procedures. Plaintiffs allege upon information and belief that Sergeant Braswell is aware of the
17 unlawful conditions described in this complaint, and has either caused those conditions or acted
18 with deliberate indifference to the legal rights of Muslim inmates in allowing those conditions to
19 continue. Plaintiffs further allege upon information and belief that Sergeant Braswell personally
20 has made decisions that have resulted in substantial burdens on the Plaintiffs' attempts to
21 exercise their religion and discrimination against Plaintiffs on the basis of their practice of Islam,
22 including refusing to accommodate Plaintiffs' religious dietary needs. Sergeant Braswell is sued
23 in his individual and official capacities.

IV. FACTS

18. The Plaintiffs are Muslim men who are incarcerated, or recently were incarcerated, at the Pierce County Jail.

19. Throughout their incarcerations at the jail, Plaintiffs have experienced various forms of religious discrimination, harassment and interference with their ability to practice Islam, as set forth below.

20. Defendants' conduct, as alleged in this complaint, subjects Plaintiffs to ongoing irreparable harm, thus entitling them to injunctive relief.

The God Pod

21. Defendants Pierce County, PCSD, and Odegard operate a unit for male inmates at the Pierce County Jail known alternatively as the "God Pod" or the "Responsible Living Unit." Defendants operate this unit pursuant to official policy or custom.

22. The jail's Inmate Information Booklet describes the Responsible Living Unit as "a voluntary Biblically based Christian program designed to empower men to learn to make good choices in life."

23. A written programming schedule for the God Pod proclaims the pod's motto to be "Humbly serving others; Boldly exalting Christ."

24. Plaintiffs allege upon information and belief that inmates who live in the God Pod are required to participate in Christian Bible study and other Christian activities.

25. Plaintiffs allege upon information and belief that inmates who live in the God Pod receive privileges that are denied to inmates living in other units, including substantially more

1 outdoor recreation time, more out-of-cell time, more visits from outside volunteers, and more in-
2 unit entertainment opportunities.

3 26. Defendants do not offer comparable religiously-based units for inmates who
4 practice any religion other than Christianity.

5 27. When Mr. Tarrer asked to be considered for inclusion in the Responsible Living
6 Unit, a representative from the jail's chaplaincy program told him that the unit was populated
7 entirely by Christians and that the unit activities were Christian-oriented. He implied that Mr.
8 Tarrer would not fit in well in the unit.

9 28. Plaintiffs allege upon information and belief that Defendant Karr is aware of the
10 existence and sectarian religious nature of the Responsible Living Unit, and has either authorized
11 the unit or allowed it to continue to operate, acting with deliberate indifference to the
12 constitutional rights of non-Christian prisoners, including the Plaintiffs.

13 **Religious Diets and Fasting Requirements**

14 29. As practicing Muslims, Plaintiffs subscribe to religious dietary laws that prohibit
15 the consumption of any foods not considered *halal*, an Arabic word meaning lawful or permitted.

16 30. Defendants Pierce County and PCSD have a policy or custom that treats Muslim
17 inmates less favorably than similarly situated Jewish inmates with regard to diets. Jewish
18 inmates who request kosher diets (diets that comply with Jewish dietary restrictions) are
19 provided with kosher meals that include meat. However, Muslim inmates who request halal
20 diets are denied halal meat and are offered only vegan or vegetarian options. In addition,
21 Defendants make kosher food – but not halal food – available to inmates through the jail's
22 commissary.
23

1 31. In accordance with Islamic law, Plaintiffs fast during the holy month of Ramadan,
2 refraining from eating or drinking from dawn until dusk. Defendants' policies and/or customs
3 substantially burden Plaintiffs' fasting ritual by denying Plaintiffs sufficient meals during the
4 portions of the day when they are permitted to eat.

5 32. Pierce County and PCSD have a policy or custom of providing medications to
6 inmates at certain times of the day and refusing to modify the medication distribution times to
7 accommodate Ramadan fasting. In March, 2010, Plaintiff Tarrer asked jail medical staff to
8 provide him with his prescribed medication during a time when he is not fasting to avoid
9 violating his fast. Defendant Scott, a nursing supervisor in the jail's medical unit, denied the
10 request, asserting, in contrast to Mr. Tarrer's sincerely held religious belief, that "[p]ill taking
11 with a sip of water does not violate Ramadan." When Mr. Tarrer appealed this decision,
12 Defendant Goldsmith dismissed his concern about avoiding medication during the Ramadan fast
13 as merely a "preference," stating, "You have a legal right to both health care and religion and
14 you are provided with both here. However a preference is not a right. We will make your
15 medication available to you and it will be your decision to take it or not."

16 33. On August 30, 2010, Plaintiffs' counsel faxed a letter to Defendant Karr,
17 notifying her that jail medical staff were interfering with Mr. Tarrer's Ramadan fasting
18 requirement by refusing to provide him with his prescribed medication at a time of the day when
19 he could take it. Defendant Karr did not respond to this letter.

20 34. As a result of Defendants' policies or customs, Muslim inmates, including the
21 Plaintiffs, are denied access to ritual food items, such as dates, for holy day observances, even
22 when such items can be procured at little or no expense to the County.
23

1 **Religious Dress**

2 35. Like many Muslim men, Plaintiffs desire to wear a traditional Islamic cap, called
3 a *kufi*, to express their faith and to emulate their prophet, Muhammad.

4 36. Defendants Pierce County and PCSD have an official policy or custom
5 prohibiting inmates from wearing headwear, regardless of the religious significance of such
6 headwear. Under this policy, Plaintiffs are not permitted to wear a *kufi*.

7 37. Plaintiffs subscribe to Islamic dress restrictions that prohibit Muslim men from
8 wearing pants with hems that fall below the ankles. Defendants' policies and customs pertaining
9 to inmate clothing prevent Plaintiffs from complying with this restriction.

10 **Access to Items for Religious Worship**

11 38. As a result of Pierce County and PCSD policy or custom, Muslim inmates,
12 including the Plaintiffs, are denied access to various items used for religious worship, including
13 Islamic prayer rugs, prayer beads, prayer oil, and *miswaks* (small, soft, teeth-cleaning
14 instruments, used before religious practice). Defendants' refusal to allow Muslim inmates to
15 possess these articles substantially burdens Plaintiffs' religious exercise.

16 **Congregate Prayer and Religious Study**

17 39. As a result of the policies or customs of Defendants Pierce County and PCSD,
18 Muslim inmates, including the Plaintiffs, have been and are denied meaningful opportunities for
19 congregat prayer and religious study, integral to Islamic practice, while non-Muslim inmates
20 enjoy such opportunities on a regular basis.
21
22
23

Defendants' Religious Bias

40. In addition to operating a Christian-centered God Pod, as described above, Defendant Odegard has demonstrated a preference for Christian inmates by making Christian literature readily available to jail inmates, while maintaining very little Islamic reading material for Muslim prisoners. In addition, Plaintiffs allege upon information and belief that Defendant Odegard has assisted Christian inmates by speaking on their behalf for purposes of their criminal sentencing, but has not offered the same assistance to Muslim inmates.

41. Defendants Odegard, Pierce County, and PCSD have established a preference for Christian inmates over Muslim inmates by recruiting numerous sponsors and volunteers to support Christian inmates, while recruiting extremely few volunteers and sponsors to support Muslim inmates. In addition, Defendants have granted Christian volunteers much greater access and authority to provide services to inmates than they have granted to Muslim volunteers.

42. Plaintiffs have endured harassment and disrespect by PCSD officers on the basis of their religion. Officers have interrupted their prayers unnecessarily, denied them timely access to a washroom to perform ritual, pre-prayer cleansing, and thrown their sacred items on the floor unnecessarily. In addition, Plaintiffs have been called "terrorists" and taunted by officers with other anti-Islam epithets.

43. Plaintiffs allege upon information and belief that Defendants Pierce County, PCSD, Karr, Kelly, and Spencer are aware of their subordinates' unprofessional, antagonistic, and uninformed behavior toward Muslim inmates, yet have refused to provide staff with training or take other action to correct this behavior.

V. CLASS ACTION ALLEGATIONS

44. Plaintiffs Tarrer and Garland bring this action on behalf of themselves and all other similarly situated persons pursuant to Fed. R. Civ. P. 23(b)(2).

45. Plaintiffs seek to represent a class defined as follows:

All Muslim men incarcerated, now or in the future, at the Pierce County Jail.

46. The proposed class is so numerous that the joinder of all members is impracticable. Although the precise number of Muslim men currently incarcerated at the Pierce County Jail is not known to Plaintiffs, the fluid nature of the jail population, and the fact that new inmates, some of whom are Muslim, will be incarcerated at the jail in the future, mean that the joinder of all class members is literally impossible.

47. There are questions of fact and law common to the class. Common questions of fact and law include:

- (a) Whether Defendants operate a God Pod that promotes Christianity and that offers special privileges and opportunities to Christian inmates, but not to inmates of other faiths;
- (b) Whether the God Pod constitutes a governmental establishment of religion, in violation of the First Amendment to the United States Constitution;
- (c) Whether Defendants accommodate Jewish inmates' dietary requirements by providing kosher meals that include meat, but deny comparable halal meals to Muslim inmates;

- 1 (d) Whether Defendants prohibit Muslim inmates from wearing religious
2 skullcaps, and whether such prohibition is the least restrictive means of
3 advancing a compelling governmental interest;
- 4 (e) Whether Defendants prohibit Muslim inmates from possessing certain sacred
5 items such as prayer rugs, prayer beads, and prayer oil, and whether such
6 prohibitions are the least restrictive means of advancing a compelling
7 governmental interest;
- 8 (f) Whether Defendants provide Muslim inmates with meaningful opportunities
9 for congregate prayer;
- 10 (g) Whether Defendants treat Muslim inmates less favorably than similarly
11 situated non-Muslim inmates, in violation of the Equal Protection Clause of
12 the Fourteenth Amendment to the United States Constitution; and
- 13 (h) Whether Defendants' policies and practices impose a substantial burden on
14 Muslim inmates' ability to practice their religion, in violation of the First
15 Amendment and/or the Religious Land Use and Institutionalized Persons Act.

16 48. The claims of the representative Plaintiffs are typical of the claims of the
17 proposed class.

18 49. Plaintiffs Tarrer and Garland will fairly and adequately protect the interests of the
19 proposed class. They both are committed to improving conditions for Muslim inmates at the
20 Pierce County Jail. They have no interests that are adverse to the class they seek to represent.
21 And they are represented by competent counsel with experience in civil rights litigation, jail
22 conditions litigation, and class actions.
23

1 **Third Cause of Action: Violation of the Equal Protection Clause of the Fourteenth**
2 **Amendment to the United States Constitution**

3 59. Plaintiffs incorporate here the allegations set forth in the preceding paragraphs.

4 60. Defendants Pierce County, PCSD, Karr, Odegard, Kelly, Spencer, James, and
5 Braswell have violated and continue to violate the Equal Protection Clause of the Fourteenth
6 Amendment to the United States Constitution, having discriminated against the Plaintiffs on the
7 basis of religion in areas such as religious diet accommodations, jail privileges, access to
8 religious literature and volunteers, and opportunities for congregate worship.

9 61. Plaintiffs challenge the violation of their Fourteenth Amendment rights under
10 42 U.S.C. § 1983.

11 62. Defendants' actions have caused Plaintiffs Tarrer and Garland to suffer damages.

12 **Fourth Cause of Action: Violation of the Religious Land Use and Institutionalized Persons**
13 **Act of 2000**

14 63. Plaintiffs incorporate here the allegations set forth in the preceding paragraphs.

15 64. All Defendants have violated and continue to violate the Religious Land Use and
16 Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc *et seq.* by imposing substantial
17 burdens on the Plaintiffs' religious exercise. These substantial burdens are not the least
18 restrictive means of advancing a compelling governmental interest.

19 65. Plaintiffs allege upon information and belief that the substantial burdens imposed
20 on their religious exercise have been imposed in a program or activity that receives federal
21 financial assistance.

22 66. Defendants' actions have caused Plaintiffs Tarrer and Garland to suffer damages.

VII. REQUEST FOR RELIEF

The Plaintiffs ask this Court to order the following relief:

67. Certification of a class composed of all Muslim men incarcerated, now or in the future, at the Pierce County Jail, pursuant to Fed. R. Civ. P. 23(a) and (b)(2);

68. A declaration that Defendants' authorization and operation of the Christian God Pod at the Pierce County Jail violates the First Amendment to the United States Constitution;

69. A declaration that the treatment of Muslim inmates at the Pierce County Jail violates the First and Fourteenth Amendments to the United States Constitution, as well as the Religious Land Use and Institutionalized Persons Act of 2000;

70. An injunction requiring Defendants to:

- (a) eliminate discriminatory policies and practices that single out one group of inmates for preferred housing assignments and programming opportunities based on religion;
- (b) provide Muslim inmates with halal dining options comparable to the kosher dining options provided to Jewish inmates;
- (c) accommodate Muslim inmates' fasting requirements by providing sufficient meals and distributing medications during the non-fasting hours of Ramadan;
- (d) provide or authorize ritual food items for the observance of Islamic holy days;
- (e) allow Muslim men to wear a kufi and to wear pants with hems that do not fall below the ankle;
- (f) allow Muslim men to possess articles for religious worship, including prayer rugs, prayer beads, prayer oil, and miswak;

- (g) provide Muslim inmates with regular opportunities to participate in
congregate worship and religious study;
- (h) offer Muslim inmates access to religious literature, volunteers, and other
support on an equivalent basis as is offered to inmates of other faiths;
- (i) train staff and take other corrective steps to eliminate official harassment
against Muslim inmates; and
- (j) take other remedial actions as necessary to remedy the violations of Plaintiffs'
federal rights.

71. Damages for Plaintiffs Tarrer and Garland in amounts to be determined at trial;
72. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988; and
73. Such other relief as the Court deems just and proper.

DATED this 20th day of September, 2010.

AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, WA 98104
(206) 624-2184

PUBLIC INTEREST LAW GROUP, PLLC
705 Second Avenue, Suite 1000
Seattle, WA 98104
(206) 838-1800

/s/ Rose Spidell
Sarah A. Dunne, WSBA No. 34869
Rose Spidell, WSBA No. 36038
Attorneys for Plaintiffs

/s/ Hank Balson
Hank Balson, WSBA No. 29250
Wendy W. Chen, WSBA No. 37593
Attorneys for Plaintiffs