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IN THE SUPERIOR COUR FOR THE STATE OF ALASKA  
IN THE THIRD JUDICIAL DISTRICT AT ANCHORAGE

BRIAN F. HALL,  
PLAINTIFF

V.

ALASKA DEPARTMENT OF  
CORRECTIONS,  
DEFENDANT

CASE NO.: 3AN-16-8247CI

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Comes now, Brian F. Hall, Plaintiff pro-se, and respectfully submits this complaint for declaratory and injunctive relief, alleging the State of Alaska, Department of Corrections has violated clearly established federal laws and Plaintiff's rights secured under the Constitution of the State of Alaska.

JURISDICTION:

1. This Court has personal jurisdiction pursuant to AS 09.05.015, and subject matter jurisdiction pursuant to AS 22.10.020, 42 USC § 1983, and 42 USC § 2000cc et. seq.

PARTIES:

2. Brian F. Hall, (hereafter "Hall") is the Plaintiff in the above captioned case, and at all times listed in the complaint is a prisoner of the State of Alaska housed in Goose Creek Correctional Center (hereafter "GCCC").

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Complaint

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3. Alaska Department of Corrections (hereafter "ADOC") is the Defendant in the above captioned case, and is the state agency responsible for the care and custody of prisoners in the State of Alaska.

Defendant ADOC is being sued in its official capacity.

RELEVANT FACTS:

4. On 12-17-15, Hall submitted a request to Chaplain Lewis, for approval to have a necklace with a bearclaw pendant purchased from CherokeeSpirits.com, and sent to him as a religious necklace. He stated that the jeweler is from his tribe, the Cherokee nation, and obtains his claws and teeth from animals that have died naturally, and not through hunting or harvesting, and the claws measure 2"-2,5".
5. On 12-23-15, Lewis responded by stating that Hall's request was denied because CherokeeSpirits.com was not an approved vendor, and ADOC Policy and Procedure (P&P) 811.05 E1 requires that pendants cannot exceed 1.5" in any direction.
6. On 12-27-15, Hall submitted a request to Sgt. Bowman, relaying his request to Chaplain Lewis and Lewis's subsequent answer. Hall stated that his family had contacted the vendor, and was told that the vendor had necklaces with bear claws that met the size requirements of ADOC P&P. Hall requested special approval to receive the necklace from CherokeeSpirits.com, because this type of necklace cannot be purchased from any of the approved vendors.

7. On 1-6-16, Bowman denied the request.
8. On 1-12-16, Hall submitted a request to Commissary seeking approval to have his wife purchase a religious necklace from a non-approved vendor. Hall stated that as a Native American inmate, he wishes to wear a necklace that is significant to his religion. He concluded the request by saying that the current religious vendors do not carry items that meet the native population's religious needs (besides herbs).
9. On 1-25-16, Hall filed a grievance (GCC16-103) against Bowman and Conant, citing their denial to allow him to purchase a necklace in conformity with his faith violates 42 USC 2000cc et. seq., and his Constitutional right to freedom of religion secured under Article I § 4 of the Alaska Constitution. In that grievance, Hall stated that no vendor currently on the approved list carries items that support Native American spiritual needs, and mass produced items fail to meet the spiritual significance of the observances and rituals performed in the creation of a spiritual totem, which he says is key to the proper observance of his faith. Hall further stated that having a necklace that gives him a physical, tangible connection to his spiritual totem, which is an important aspect of his Native American practices. He concluded by requesting that his family be allowed to purchase the necklace and have it mailed to him, and that CherokeeSpirits.com be approved as a vendor.

10. On or about 1-28-16, Lt. Gindling responded to Hall's 1/12/16 request, saying that his request had been forwarded to the Superintendent, and that CrazyCrow.com has been approved as a vendor.
11. On 2-12-16 D. Miller responded for ADOC's Director of Institutions, saying that ADOC P&P 811.05 lists the materials that religious necklaces may be made of, and that the bearclaw necklace falls outside of the allowable materials. In addition, ADOC P&P 816.01 allows the Superintendent discretion to restrict attire that may undermine security and safety.
12. On 3-3-16, Hall submitted a letter to the Standards Administrator, appealing the denial of GCC16-103. In that letter, Hall stated that his grievance was denied based on a "rule of general applicability", i.e. a facility or department policy. RLUIPA provides that a substantial burden shall not be imposed on a religious exercise, even if that burden is the result of a rule of general applicability, unless the burden is in the furtherance of a compelling governmental interest, and is the least restrictive means of furthering that interest. Hall mentions that Article I § 4 of the Alaska Constitution has the same standard of review: compelling governmental interest, least restrictive means. Hall goes on to say that in order for the compelling governmental interest test to be satisfied, the government must DEMONSTRATE that the challenged policy is the least restrictive means applicable to the PARTICULAR

prisoner (emphasis in the original). Hall concluded by stating that no evidence has been presented that would show that his possession of a bearclaw necklace would be a threat to the security or safety of anyone, and mere conjecture about what "might" or "could" happen are not enough to meet the necessary standard of federal law or the Alaska Constitution.

13. On 3-23-16, Hall submitted a request to Chaplain Lewis, stating that he had attempted to order a bearclaw necklace through Crazy Crow, and the order was returned, stating that he'd already been denied for this. Hall told Lewis that he wasn't denied the bearclaw necklace, but the purchase of it from a non-approved vendor.
14. On 3-25-16, Lewis responded, stating that Hall's request had been denied because a bearclaw can be used as a weapon, and is therefore a security risk.
15. On 4-7-16, Hall received the Standards Administrator's denial of the level 3 review of GCC16-103.
16. On 5-11-16, Hall submitted a request to Chaplain Lewis asking to be allowed to purchase and wear a bandanna as religious headgear.
17. On 5-24-16, Chaplain Duncan, Alaska Chaplaincy Coordinator responded, saying that my request was approved, provided the bandanna was kept in the Chaplaincy box for Native American Services.
18. On 5-26-16, Hall submitted another request to Chaplain Lewis/ Chaplain Duncan, saying that the Native American Religion

is a way of life that is practiced constantly, and by allowing Hall access to his bandanna only once a week for four hours is limiting his spiritual walk. In addition, keeping Hall's bandanna in the Chaplaincy box after he has worn it in the sweatlodge is unclean: the bandanna needs to be washed. Hall concluded by saying that the bandanna should be considered a personal religious item, and that he should be allowed to keep it on his head throughout the day.

19. On 6-10-16, Duncan denied Hall's request and rescinded the previous approval for bandanna use due to security issues.
20. On 6-24-16, Hall submitted a request to Sgt. Bowman explaining the various requests to the chaplaincy regarding the bandanna as religious headgear, and the subsequent denial based on "security issues". Hall asked Bowman what security issues exist that compel GCCC to deny him the possession of a bandanna as religious headgear and an expression of his faith, much like a muslim's kufi or a jew's yarmulke.
21. On 7-1-16, Bowman responded by saying that "Bandannas have never been allowed here [at GCCC]", and "Chaplain Duncan had resended [sic] his approval."
22. On 7-7-16, Hall filed a grievance (GCC16-683) against Duncan and Bowman, stating that the denial of his request to purchase a bandanna as religious personal property and wear it daily is a substantial burden on his religious exercise, is not in the furtherance of a cognizable governmental interest,

nor is it the least restrictive means of achieving that obscure interest, in violation of 42 USC 2000cc et. seq., and Article I § 4 of the Alaska Constitution. Hall went on to state that when the initial approval for a bandanna was rescinded, Duncan cited "security issues". Duncan is not a security officer, and is not in a position to determine what is a security issue. When Bowman was questioned, he merely stated that bandannas have never been allowed at GCCC. That fact in itself is not showing a compelling governmental interest, and fell short of their burden of proof. Hall concluded by stating that the Native American religion has been his religious preference for at least the last 19 years, and in every sentenced facility he has been housed in, save GCCC, he has been allowed a bandanna as religious headgear and a profession of his faith. Lastly, Hall said that wearing a bandanna is a constant reminder of the path he has chosen to walk, and a reminder to be in harmony with nature. He requested as relief: approval to purchase a bandanna and wear it as religious headgear; that ADOC P&P 811.05.VII.E. be revised to include bandannas and other forms of headgear as personal property, and ADOC P&P 816.01.VII.A.5.b be revised to include bandannas as religious headgear to be possessed and worn.

23. On 7-7-16, GCC16-683 was screened for two reasons: 1)"the issues of bandannas was previously grieved and resolved under GCC15-1098", and 2) it was not filed within 30 days of the date of incident. Hall had mistakenly placed the wrong incident

date on the grievance.

24. On 7-9-16, Hall corrected the deficiencies in the grievance and refiled it in accordance with ADOC P&P 808.03.VII.A.1.e(1). It was assigned a new grievance number (GCC16-701).
25. On 7-12-16, GCC16-701 was screened, citing that it was a duplicate of GCC16-683, and that the issue of bandannas was previously grieved and resolved under GCC15-1098.
26. On 7-17-16, Hall appealed the screening of GCC16-701, stating that GCC16-701 is not a duplicate greivance, GCC16-683 was deficient, and therefore needed to be corrected. Hall admits he mistakenly placed the wrong incident date on GCC16-683. Hall further stated that Rogers (GCCC standards officer) stated in the screening that the issues of bandannas was resolved under GCC15-1098, but Hall did not file that grievance. Hall goes on to state that he has no idea who filed that grievance, what issues were raised, what relief was requested, or whether the relief was granted. Hall concluded by saying that in accordance with the Alaska Prison Litigation Reform Act, he must exhaust administrative remedies on all claims prior to bringing them in court for injunctive relief, and requested that the grievance be reviewed on its merits.
27. On 7-14-16, Conant denied the screening appeal of GCC16-701.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES:**

Pursuant to the Alaska Prison Litigation Reform Act, AS 09.19.200(a)(4), all administrative remedies for the claims brought before this Court have been exhausted. Grievance GCC16-103 has been exhausted



pursuant to ADOC P&P 808.03.VII.A.1.g(2), and grievance GCC16-701 has been exhausted pursuant to ADOC P&P 808.03.VII.A.2.e(3).

CAUSES OF ACTION:

28. Paragraphs 1 through 27 are incorporated by reference herein.

Plaintiff's First Cause of Action: Violation of 42USC 2000cc et.seq, which states in relevant part:

"No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution as defined in 42 USC 1997, even if the burden results from a rule of general applicability, unless the government demonstrates that the imposition of the burden on that person - (1) is in the furtherance of a compelling governmental interest, and (2) is the least restrictive means of furthering that compelling governmental interest." 42 USC 2000cc-1(a).

29. ADOC, through its actions and inactions described in paragraphs 5, 7, 10, 11, 14, 15, 17, 19, 21, 23, 25, and 27 above, have imposed a substantial burden on Hall's religious exercises of possessing a religious necklace in conformity with his faith and allowing him the opportunity to purchase and wear religious headgear as a profession of his faith, without the burden being in the furtherance of a cognizable compelling governmental interest, nor a least restrictive means of furthering that interest, contrary to and in violation of 42 USC 2000cc et seq.

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Plaintiff's Second Cause of Action: Violation of Article I § 4  
of the Alaska Constitution, which states in relevant part:

"No law shall be made respecting an establishment of religion,  
or prohibiting the free exercise thereof."

30. ADOC, through its actions and inactions described in paragraphs 5,7,10,11,14,15,17,19,21,23,25, and 27 above, has prohibited Hall's free exercise of religion of possessing a religious necklace in conformity with his faith, and allowing him the opportunity to purchase and wear religious headgear as a profession of his faith, without meeting its burden of showing a compelling governmental interest, nor showing that the prohibition is the least restrictive alternative of meeting that governmental interest, contrary to, and in violation of, Article I § 4 of the alaska Constitution.

PRAYER FOR RELIEF:

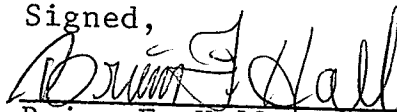
Hall prays that this Court will grant him the following relief:

31. Declare that Hall be allowed to purchase and wear a bearclaw necklace in conformity with his sincerely held religious beliefs;
32. Declare that Hall be allowed to purchase and wear a bandanna as religious headgear as a profession of his faith, in conformity with his sincerely held religious beliefs;
33. Declare that ADOC P&P 811.05 be revised to include religious headgear as personal property, and revised to be less restrictive of non-traditional religious necklaces.

34. Declare that ADOC P&P 816.01 be revised to include bandannas as religious headgear, and permit a broader range of non-traditional necklaces.
35. ADOC be enjoined from denying a request for religious accommodation absent specific factual findings that the denial is 1) in the furtherance of a compelling governmental interest specific to that prisoner, and 2) the least restrictive means of achieving that interest.
36. Whatever other relief the Court deems just.
37. All costs incurred with filing and pursuing this action.

Respectfully submitted this 10<sup>th</sup> day of August, 2016.

Signed,



Brian F. Hall, Plaintiff pro-se

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