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Religious Diets in Correctional Facilities: The Legal and Church Perspective

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First Amendment Sincerity Test

- ◆ To merit protection under the First Amendment, an inmate must demonstrate that:
 - The belief in question is sincerely held; and
 - The practice in question is rooted in religious belief, not purely secular philosophical concerns.



Elements of A First Amendment Claim

- ◆ Whether a religious diet accommodation is required depends on whether:
 - The inmate’s practice of consuming a restricted religious diet is motivated by a sincere religious belief;
 - The lack of an accommodation **unjustifiably** deprives the inmate of a diet that satisfies the dietary restrictions of his faith; and
 - The lack of accommodation **substantially burdens** the inmate’s religious exercise by interfering with conduct that he sincerely believes is mandated by or consistent with his faith.



Elements of A First Amendment Claim

- ◆ “Substantially burdened” means that the interference complained of must be more than an inconvenience or isolated, sporadic or short-term occurrence;
- ◆ Restrictions on an inmate’s religious practice are justified if reasonably related to legitimate penological interests.



Elements of A First Amendment Claim

- ◆ “It would be a strange result indeed to conclude that . . . a [religious dietary] program - designed to facilitate the accommodation of the religious dietary needs of thousands of inmates - actually violates inmates’ First Amendment rights.”

- *Resnick v. Adams*, 348 F.3d 763, 770 (9th Cir. 2003).



42 U.S.C. §1983

- ◆ “Every person who, under color of any statute . . . of any State, . . . subjects . . . any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights . . . secured by the Constitution and laws. . . .” of the United States.



Official Capacity §1983 Lawsuit

- ◆ Inmate must demonstrate that the government entity's policy or custom is the moving force behind the alleged violation.



Individual Capacity §1983 Lawsuit

- ◆ Inmate need not establish a connection to a governmental policy or custom - only that the official acting under color of state law caused the violation of a federal right.



Causal Connection

- ◆ “A person ‘subjects’ another to the deprivation of a constitutional right, within the meaning of §1983, if he does an affirmative act, participates in another’s affirmative acts or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.”

- *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)



RLUIPA

- ◆ Government is defined under the statute as:
 - a county, municipality or other governmental entity created under the authority of a State;
 - a branch, department, agency, instrumentality or official of an entity listed above; and
 - any other person acting under color of state law.



RLUIPA

- ◆ A defendant sued under RLUIPA may avoid liability by demonstrating that the substantial burden complained about:
 - Furthers a compelling governmental interest; and
 - Is the least restrictive means of furthering that governmental interest.



Prison Litigation Reform Act: Exhaustion of Administrative Remedies

- ◆ “No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

- 42 U.S.C. § 1997e(a).



Prison Litigation Reform Act: Mental/Emotional/Physical Injury

- ◆ “No Federal civil action may be brought by a prisoner confined in jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.”

- 42 U.S.C § 1997e(e).



PLRA Inapplicable To First Amendment Claims?

- ◆ The deprivation of First Amendment rights entitles a plaintiff to judicial relief wholly aside from any physical injury he can show, or any mental or emotional injury he may have incurred. Therefore, §1997e(e) does not apply to First Amendment Claims regardless of the form of relief sought.

- *Canell v. Lightener*, 143 F.3d 1210, 1213 (9th Cir. 1998).



Q&A

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