

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

NOV 19 2008

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ATTORNEYS FOR PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

JOSEPH MILLER,)
and HURIE PURDIMAN, JR.)
)
Plaintiffs,)

vs.)

Civ. No. 08-CV-090B

MICHAEL MURPHY and,)
ROBERT LAMPERT, in their official)
and individual capacities,)
)
Defendants.)

CONSENT DECREE AND ORDER OF DISMISSAL

1. The two Plaintiffs, Joseph Miller and Hurie Purdiman, Jr., are Muslim prisoners presently incarcerated in the Wyoming State Penitentiary (WSP) in Rawlins,

Wyoming. Plaintiffs are under the care, custody, and control of the named defendants, Michael Murphy, Warden of WSP, and Robert Lampert, Director of the Wyoming Department of Corrections.

2. Plaintiffs filed this action seeking relief under the First Amendment to the U.S. Constitution and under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc *et seq.* (RLUIPA). Plaintiffs devote certain times each day to prayer, and certain days each year to fasting. Plaintiffs claim that a prison policy requiring prisoners to consume their meals within twenty (20) minutes substantially burdens their ability to practice their religion, as they must choose between eating their meals and praying. Defendants claim, however, that the policy complained of was revised prior to the filing of the lawsuit and deny that the previous policy or the current policy burden Plaintiffs' religious practices.

3. The parties have reached a compromise that this Court finds fair and reasonable. The terms of this compromise are as set forth below:

a. Defendants have implemented Warden's Memorandum # 7-2008, issued March 24, 2008, a copy of which is attached to and incorporated herein. This memorandum permits prisoners who receive their meals in their cells or pods to take up to thirty (30) minutes to eat, and moreover, prisoners receiving religious meals may keep those meals in their cells until the next meal is served.

b. Those prisoners who eat in the dining hall and receive special meals (including religious meals) will be permitted to go to the front of the serving line to get their meals. In addition, all prisoners will have at least twenty (20) minutes to eat their meals in the dining hall beginning from the time that the last person in the serving line receives his meal.

c. Defendants will amend their policies and procedures to include a requirement that prison staff deliver a verbal notice, either over the intercom or by some other audible announcement, to the pod at least 10 minutes prior to, and again approximately five (5) minutes prior to, the pod being escorted to the dining hall.

d. Defendants will amend their policies and procedures to state that prisoners wishing to engage in personal religious fasts lasting more than six (6) consecutive meals but no longer than thirty (30) days, must provide written notice of the starting time and date, the intended duration of the fast, and the ending time and date to WSP, as directed in the policy, at least seven (7) calendar days in advance of the fast. For fasts ending at sundown, prisoners who provide such notice will receive a meal that is nutritionally equivalent to the last meal missed after sunset on the day of the sixth consecutively missed meal, and after sunset on each day thereafter during the fast, and will not need to wait until the next regularly scheduled meal. Accommodation may be made for sack meals at times when the food service department or dining facility is

normally closed. (Prisoners who engage in a personal fast lasting less than six (6) consecutive meals will not be provided any special meal service.) This policy will apply only to personal religious fasts and not affect WSP's accommodation of regularly scheduled religious fasts such as Ramadan. In addition, WSP will accommodate the Muslim holidays of Hajj and Muharram, if prior notice is provided as set forth above, by providing prisoners two meals a day beginning on the first day of the fast for a maximum of three days each holiday, with the meals made available to prisoners prior to sunrise and after sunset.

e. Defendants will install a second microwave oven in the dining hall dedicated specifically to only non-pork food items, and will assure that officers enforce the restriction.

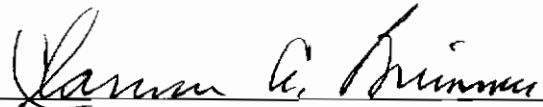
f. Defendants will make individually wrapped sanitary wipes available for prisoner purchase through the commissary, and will permit prisoners to bring several wipes with them to the dining hall in order to clean the microwave.

4. Defendants will issue and implement these policies and procedures, if they have not already done so, within thirty (30) days after the entry of this order by the Court, and they will maintain these policies and procedures for the life of this decree.

5. The Court has been advised that the parties have resolved Plaintiffs' claim for attorney's fees pursuant to 42 U.S.C. § 1988.

6. Accordingly, the Court finds that all matters raised in Plaintiffs' Complaint have been resolved through this settlement and by the adoption of this consent decree. Therefore, the matter may now be, and is hereby, dismissed. The Court commends the parties for reaching a reasonable result that accommodates Plaintiffs' religious exercises while not unduly threatening the needs of prison officials to maintain order and security.

Dated this 19th day of November, 2008.



Hon. Clarence A. Brimmer
United States District Court Judge

Approved as to form:

/s/ Christine Cox
Christine Cox, Attorney for the Defendants

/s/ Stephen L. Pevar
Stephen L. Pevar, Attorney for the Plaintiffs

/s/ Jennifer Horvath
Jennifer Horvath, Attorney for the Plaintiffs

08CV908

STATE OF WYOMING
DEPT. OF CORRECTIONS

APR 03 2008

RECEIVED



STATE OF WYOMING
MEMORANDUM

TO: Inmate Population

DATE: March 24, 2008

FROM: Michael J. Murphy
Warden

SUBJECT: In-Pod Meals

Re: Warden's Memorandum: #7-2008

Effective immediately, all inmates who are fed in-pod are allowed up to thirty minutes to consume their meal.

An exception is made for those with special diets (including both medical and religious); inmates who are served special diets may keep possession of their meal and consume at any time prior to the serving of the next meal. The previous meal should be disposed before the next meal is issued.

As always, it is against WDOC policy for any inmate to accept, give away, trade, barter or sell any food item provided by the Wyoming State Penitentiary.

Please feel free to contact my office if you have any questions.

FOR THE WYOMING DEPARTMENT OF CORRECTIONS
WYOMING STATE PENITENTIARY

Sincerely,

Michael J. Murphy
Warden

MJM/jit

- C: Director Lampert
- Deputy Director Lindly
- Prison Division Administrator Keppler
- Deputy Prison Administrator Abbott
- Investigation Unit
- Deputy Warden
- Housing Manager

- Unit Managers
- Security Major
- Security Captains
- Security Lieutenants
- Security Lieutenants
- Grievance Manager
- Department Supervisors