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Supreme Court to review inmate freedom law

by Gina Holland

AP (12.10.2004)/HRWF (13.10.2004) - Email info@hrwf.net - Website: <http://www.hrwf.org>
- The Supreme Court agreed Tuesday to consider the constitutionality of a federal law that requires state prisons to accommodate inmate religions, from Christianity to Satanism.

The case does not question inmates' right to practice their religion, but asks whether states have to accommodate requests for a particular diet, special haircut or religious symbols.

Some states argue that a 2000 law intended to protect the rights of prisoners amounts to an unconstitutional government promotion of religion -- and that it makes prisons more dangerous.

States that receive federal funds must accommodate prisoners' religious beliefs unless wardens can show that the government has a strong reason not to, under a 2000 law.

The Supreme Court will consider an appeal from Ohio inmates, described as a Wiccan witch, a Satanist, a racial separatist who is an ordained minister of the Christian Identity Church, and others.

The state inmates had sued claiming they were denied access to religious literature and ceremonial items. The Cincinnati based-6th U.S. Circuit Court of Appeals used their case to strike down the law, called the Religious Land Use and Institutionalized Persons Act, on grounds that it violates the separation of church and state.

"All of (the law's) defenders and antagonists, whether public or private, whether winners or losers below, are all of one voice on the need for some review in some case, and Ohio joins that chorus," Ohio Solicitor Douglas Cole told the court.

He said that inmates can use religion as a cover to promote gangs.

The inmates' lawyer, Ohio State University law professor David Goldberger, said that prisoners are stripped of many of their rights, but access to religious should not be one of them.

The First Amendment both guarantees the freedom to exercise one's religion and says government may not "establish" religion. As interpreted by the Supreme Court, the Establishment Clause has come to mean that government is generally prohibited from promoting or endorsing religion.

Before Congress acted, "prisoners, detainees and individuals institutionalized in mental hospitals faced substantial and unwarranted burdens in freely practicing their faiths," the

Supreme Court was told by Bush administration lawyers. The administration has defended the law.

The case is Cutter v. Wilkinson, 03-9877.

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Two Sikhs win back jobs lost by wearing turbans

by James Barron

The New York Times (29.07.2004) / HRWF Int. (02.08.2004) - Email: info@hrwf.net - Website <http://www.hrwf.net> -- Two Sikhs who were told they could not wear turbans on the job as traffic enforcement agents will be reinstated and allowed to wear their turbans, their advisers said yesterday.

The two unrelated cases followed different routes through the legal system but essentially involved similar allegations: both men said they were denied exemptions from police uniform rules for their turbans, a central element of daily religious practice for Sikh men. One, Amric Singh Rathour, was dismissed. The other, Jasjit Singh Jaggi, left his job.

Mr. Jaggi, 36, was the valedictorian of his class at the Police Academy. He filed a complaint with the city's Commission on Human Rights. Mr. Rathour, 28, sued the city in federal court on grounds of religious discrimination.

"It's a tremendous moment for the Sikh community, one of our first big civil rights victories in this country," said Prabhjot Singh, a director of the Sikh Coalition, a civil and human rights organization.

An administrative law judge, Donna R. Merris, heard testimony in the Jaggi case and recommended in April that he be reinstated. She said that the Police Department had violated his civil rights when it threatened to fire him if he did not remove the turban. Three members of the Human Rights Commission - the Rev. Calvin O. Butts III, the pastor of the Abyssinian Baptist Church in Harlem; Edison O. Jackson, the president of Medgar Evers College in Brooklyn; and Rabbi Haskel Lookstein, the rabbi of Congregation Kehilath Jeshurun and the principal of the Ramaz School in Manhattan - issued a decision on June 29 ordering Mr. Jaggi's reinstatement.

The Police Department decided not to appeal the commission's decision, the city's Law Department said. Mr. Jaggi, who has worked as a motel manager in Killington, Vt., since he walked off his traffic job in 2002, said yesterday that police officials called him on Monday and offered to reinstate him and work out a way for him to wear the turban on the job.

"The main idea was, how on earth has a city agency blocked someone because of religion?" said Pritan Singh Bindra, an adviser to Mr. Jaggi. "The police couldn't explain their denial" of Mr. Jaggi's requests to wear the turban while he was on duty.

The three commissioners said Mr. Jaggi's requests "were categorically denied without any dialogue or attempt to reach a middle ground." The commissioners also said the city had offered no evidence to show that letting Mr. Jaggi wear a turban would create "safety issues."

Ravinder Singh Bhalla, a lawyer for Mr. Rathour, said a settlement had been worked out that essentially paralleled the Jaggi case: the charges in the lawsuit will be dropped and he will be reinstated. Since he was dismissed from the Police Department in August 2001, Mr. Rathour has worked for Federal Express, processing packages at Kennedy International Airport, Mr. Bhalla said.

A spokesman for the Police Department, Inspector Michael Coan, would not discuss the Rathour case because the settlement had not been completed late yesterday. As for Mr. Jaggi, he said, "Accommodation will be made, and he'll be reinstated." Mr. Jaggi said he planned to see police personnel officials after a news conference about the case that the Sikh Coalition had scheduled for this morning outside police headquarters in Lower Manhattan.

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Muslim inmates win court ruling

by Robin Miller

"The Reporter" (02.07.2004) / HRWF Int. (05.07.2004) - Email: info@hrwf.net - Website <http://www.hrwf.net> -- A group of Muslim inmates at California State Prison, Solano has won another victory in its battle to practice its religion - a court ruling that bars state prison officials from disciplining inmates for attending weekly services and wearing beards.

U.S. District Court Judge Lawrence K. Karlton issued a summary judgment in favor of the inmates and their long-running class action suit against the state. He issued a permanent injunction against the Department of Corrections, saying state prison inmates who are Muslim can attend Friday services and wear half-inch beards in accordance with their faith, without facing discipline or loss of sentence reductions.

A group of roughly 300 Muslim inmates at CSP Solano filed the class action suit in 1996, charging that the prison unfairly punished members of the religion for missing prison work assignments while attending Muslim Friday services, or "Jumu'ah"

In 2001, a three-judge panel of the 9th U.S. District Court sided with the inmates, saying the prison's policies violated the Muslim inmates' right to religious freedom.

The state appealed, but its argument was rejected in 2002.

Karlton's ruling makes his previous preliminary injunctions permanent.

The ruling was necessary, the inmates' attorney argued, because Muslim inmates were facing continued disciplinary actions for refusing to shave their beards and for attending the Friday services.

In issuing his ruling, Karlton noted that state prison officials allow for other inmates to take up to 16 hours off a month for things such as receiving visitors or attending special events, and therefore also could allow for one hour Jumu'ah attendance.

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Muslim girl in Oklahoma can wear head scarf to school

by Curt Anderson

AP (19.05.2004) / HRWF Int. (05.03.2004) - Email: info@hrwf.net - Website <http://www.hrwf.net> -- A sixth-grade Muslim girl in Oklahoma can wear a head scarf to school under a settlement between the school district and the Justice Department, officials announced Wednesday.

The six-year agreement, filed in U.S. District Court in Oklahoma, also requires the Muskogee Public School District to change its dress code to allow exceptions for religious reasons.

"This settlement reaffirms the principle that public schools cannot require students to check their faith at the schoolhouse door," said R. Alexander Acosta, assistant attorney general for civil rights.

The government filed suit in March on behalf of 11-year-old Nashala Hearn. She had been suspended twice by the district for wearing a head scarf, or hijab, to class. School officials said her clothing violated a dress code banning hats and other head coverings.

Hearn and her family said she wore the scarf as part of her observance of Islam. The department's complaint charged with the district with religious discrimination.

Acosta told reporters that school officials raised their initial objections on Sept. 11, 2003 -- exactly two years after the terrorist attacks in New York and Washington -- even though Hearn had worn the scarf for several weeks. The officials, Acosta said, told her that other students were "frightened" by her scarf.

"It is un-American to fear and to hate," Acosta said.

The settlement requires the district to put in place a training program for all teachers and administrators about the new dress code and to publicize the change.

A recently passed law in France forbids conspicuous religious symbols and clothing in schools. The law was enacted mainly to defuse controversy about Muslim head scarves but also applies to such things as the Jewish yarmulke and large Christian crosses.

The Justice Department has taken pains after the Sept. 11 attacks to address complaints of discrimination and hate crimes brought by Arab-Americans and other Muslims. Some Muslim groups have been critical of government anti-terrorism efforts as singling them out for harsh treatment and extra scrutiny.

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NYPD loses turban dispute

Townsville Bulletin (30.04.2004) / HRWF Int. (0503.2004) - Email: info@hrwf.net - Website <http://www.hrwf.net> -- A judge has ruled in favour of a Sikh who was forced from his job in the New York Police Department because he insisted on wearing a turban while writing tickets and directing traffic.

The ruling also declared that traffic officer, Jasjit Singh Jaggi, should be reinstated.

Jaggi filed a complaint last year with the city Commission on Human Rights, accusing NYPD officials of religious discrimination.

He claimed that he was forced to resign because he refused to shave his beard and stop wearing a turban, considered an article of faith in the Sikh religion.

Jaggi "proved by a preponderance of evidence that he was discriminated against based on his religious beliefs," Administrative Law Judge Donna Merris wrote in a preliminary ruling.

Jaggi, 36, who has been working at a motel in Vermont, said he was looking forward to returning to his NYPD job. He called the decision a "great victory for Sikhs."

"It is our identity to have a turban and a beard," he said.

Police said they still hoped to convince the human rights commission that every traffic officer should wear a white eight-point hat.

The "uniform requirement advances important public interests, including safety of traffic agents as well as the public," said attorney for the city, Eamonn Foley.

The commission did not say when it would issue a final ruling.

The judge criticized the NYPD for alleging but failing to show that Jaggi's request to wear a white turban with the department shield on the front would be a burdensome

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Sect member to plead guilty as accessory in baby's starving death

AP (09.02.2004) / Human Rights Without Frontiers Int. (10.02.2004) - Email: info@hrwf.net - Website: <http://www.hrwf.net> -- A member of a religious sect whose self-described vision from God led to the starvation death of an infant is expected to plead guilty to an accessory charge, the prosecutor in the case confirmed Monday.

Michelle Mingo is scheduled to appear in Taunton Superior Court Tuesday afternoon for a change of plea hearing on a charge of being an accessory before the fact to an assault and battery on a child.

Because Mingo has already been held in state custody for nearly four years, prosecutors will not recommend any additional prison time, Assistant District Attorney Walter Shea told The Associated Press.

The maximum penalty on the charge is five years, but because Mingo was a first-time offender, she likely would have received a sentence ranging from probation to two years, Shea said.

Mingo, a member of a tiny religious sect known as "The Body," was charged after her nephew, Samuel Robidoux, died of starvation three days before his first birthday in 1999.

Prosecutors said it was Mingo who started the chain of events that led to Samuel's death when she told her brother, Jacques Robidoux, and sister-in-law, Karen Robidoux, that she had a vision from God about their son, Samuel.

According to the prophecy described by Mingo, Karen Robidoux - a slender, attractive woman - was too vain. Karen, Mingo said, must overcome her vanity by drinking at least a gallon a day of almond milk - broth from boiled almonds - and must only breast-feed Samuel, who at 10 months had been eating solid food.

If Karen Robidoux did not follow this plan, God would kill one of the twins she believed she was pregnant with at the time, according to a description provided by former sect members who testified at the trials of Jacques and Karen Robidoux.

As his parents followed the instructions given by Mingo, Samuel became weaker and weaker, and eventually died of starvation, after 51 days of receiving only small amounts of his mother's breast milk. Karen Robidoux was pregnant at the time and was producing only trace amounts of milk, according to testimony at her trial.

Shea said Mingo was told a year ago that if she pleaded guilty to the accessory charge, prosecutors would recommend that she serve no additional jail time because she had already served more time than recommended by sentencing guidelines.

"This was a long process to bring her to this point," the prosecutor said. "To wind up four years later to have her plead guilty to the charge the grand jury saw fit to charge her with indicates, if anything, that what we did was warranted."

Mingo's attorney, Alan Zwirblis, did not return a telephone call seeking comment Monday.

In June 2002, Jacques Robidoux was convicted of first-degree murder in Samuel's death and is now serving a life sentence.

Last week, a jury cleared Karen Robidoux of second-degree murder charges, but convicted her of assault and battery. Her lawyer had argued that she was brainwashed by her husband and other members of the religious sect. Because she had been in state custody for nearly three years, she was not required to serve any additional time.

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Cult leader's molestation trial could create circus

News4Jax.com (04.01.2004) / HRWF Int. (19.01.2004) - Website <http://www.hrwf.net> - Email info@hrwf.net -- After months of common-law tactics and protests by followers dressed as Egyptian pharaohs, mummies and birds, the trial of Nuwaubian cult leader Malachi York on child molestation charges is finally under way.

Jury selection began Monday morning in the case of Malachi York, who faces 13 federal counts of molestation and racketeering. About ten of York's supporters entered the federal courthouse. Although the trial is closed to the general public, it is being shown via closed circuit television elsewhere in the courthouse.

Channel 4's Lisa Salvati said there is a heavy police presence at the courthouse as officials are doing all they can to keep the trial from turning into a circus.

"It's like living in a bizarre world," said Frank Ford, an attorney who has argued with the Nuwaubians in court. "They cannot stand being told no, and they cannot stand being ignored."

York, who moved the quasi-religious United Nuwaubian Nation of Moors from New York to a central Georgia farm in 1993, faces 13 federal counts of molestation and racketeering. A plea bargain nearly a year ago was rejected by a judge who felt the proposed 15-year prison sentence was too lenient.

The trial, which was moved 225 miles from Macon to Brunswick because of pretrial publicity, could be dogged by Nuwaubian supporters dressed in Indian garb. Hundreds of protesters have turned out to many of York's court hearings, sometimes beating drums or handing out anti-government literature.

York, aka "Chief Black Thunderbird Eagle," has unsuccessfully argued he has American Indian heritage and shouldn't be judged by the U.S. court system.

In previous hearings, he's responded to a judge's questions with answers based in common law, such as "I accept this for value."

One time, York refused to stand when U.S. District Judge Ashley Royal entered the courtroom. Two U.S. marshals pulled him to his feet and held him until Royal told the courtroom to be seated.

You have this mocking of the court system," said Putnam County Sheriff Howard Sills. "These victims have been jerked around and ... it doesn't give the public a lot of confidence."

Hoping to head off potential disruptions, Royal this past week ruled that York's supporters won't be allowed to demonstrate outside the courthouse during the trial, which could last up to three weeks.

York's attorney, Adrian Patrick, said he didn't expect protesters to cause any problems, but he couldn't promise York wouldn't resort to unorthodox legal tactics.

"I can't say definitively what will and what won't come up," Patrick said. "It will ultimately be up to the defendant."

Prosecutors have said they plan to make a case that York used his status as a religious leader for sex and money, enriching himself, marrying several women and abusing young girls who were part of his sect.

District Attorney Fred Bright, who is heading a planned state prosecution to follow, has accused York of having sexual contact with as many as 13 girls and boys, including instances of sexual intercourse.

York, 58, has maintained he's being unfairly prosecuted because of a vendetta by small-town authorities who dislike the mostly black members of his cult for their unusual practices and a neo-Egyptian compound that includes pyramid-like structures complete with hieroglyphics.

The Nuwaubians, who once claimed 5,000 members but now are down to a few hundred, have actually gone through several transformations since moving to their 476-acre compound. They've dressed as cowboys and American Indians, claimed to be Muslim and Jewish, and York has said he's an extraterrestrial from the planet "Rizq."

At a Christmas parade in Brunswick, the Nuwaubians said they were a Mason's group as they handed out literature and asked spectators about the guilt or innocence of York. Their delegation in the parade included depictions of the Egyptian pharaoh Rameses, participants wearing bird and cow masks, and a group of mummies carrying parasols.

York spent three years in a New York prison in the 1960s for assault, resisting arrest and possession of a dangerous weapon. He joined the Black Panther Party and in 1967 formed a black nationalist group in New York.

He founded the Nuwaubian community after moving from New York under pressure from an FBI probe and hostility between his group and other black Muslim organizations.

"I hope they put him away forever, and you know what? I wish somewhere his followers' minds could be cleansed to the point to see what he really is," said Georgia Smith, an Eatonton resident who has opposed the Nuwaubians. "I just hope after the trial, it's over with."

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