No. 19-7342

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

**Author X (Ray Turner)-- PETITIONER**

**vs.**

**DERRICK SCHOFIELD, ET AL.,-- RESPONDENT(S)**

**ON PETITION FOR A WRIT OF CERTIORARI TO**

**(IN THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT)**

# PETITION FOR WRIT OF CERTIORARI

**Author X (Ray Turner)**
**P.O. Box 549**
**Whiteville TN.**
**38075**

N/A

(Phone Number)

## QUESTION(S) PRESENTED

1. DID THE U.S. DISTRICT COURT ERROR BY NOT APPLY THE FOUR AMENDMENT EQUAL PROTECTION TO THE PETITIONER CASE WHEN HE APPLY FOR A TEMPORARY RESTRAINING ORDER WITH HIS 1983 COMPLAINT.
2. DID THE U.S. DISTRICT COURT ERROR WHEN IT DISMISS THE PETITIONER CLAIMS AGAINST RESPONDENTS WARDEN PARRIS, T.D.O.C., SCHOFIELD, PARKER, CANADA AND YANDER
3. DID THE U.S. DISTRICT COURT ERROR WHEN IT DISMISS THE PETITIONER CLAIMS AS BEING MOOT.
4. DID THE U.S. SIXTH CRICUIT COURT OF APPEALS ERROR IN NOT APPLYING THE IN THE INTREST OF JUSTICE STANDARD TO THE PETITIONER APPEAL.

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[ X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Former Commissioner Derrick Schofield,

TDOC Commissioner Tony Parker,

TDOC Assistant Commissioner William Gupton,

Former TDOC Director of Food Services Jane Amonett,

TDOC Cook Chill,

Former NWCX Warden Mike Parris,

Former NWCX Fiscal Director Mark Watson,

NWCX Food Manager V. Cadney,

NWCX Assistant Food Manager Susan Redden,

NWCX Assistant Food Manager Rick Duncan,

NWCX Former Chaplain M. Lavender,

Former NWCX Assistant Chaplain Kurt Gross,

NWCX C.C.O. Bradley Canada,

Former NWCX Health Administrator Recie Yanders.

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STATUTES AND RULES

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Federal Rules of Civil Procedure Rule 56

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITON FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

## OPINIONS BELOW

[X ] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix B to the petition and is

[X] reported at; 18-5849 or,
[X] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

[X] reported at 1:15-1135-JDB/cgc; or,
[X] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ } is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

## JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was December 20, 2018.

[ ] No petition for rehearing was timely filed in my case.

[ X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date:December 27, 2018, and a copy of the order reinstated said appeal to the active docket at Appendix February 26, 2019.

The petitioner Author X (Ray Turner) would respectfully state to this Honorable Court that this action was place back on briefing scheduled.

The date on which the United States Court of Appeals decided my case was August 02, 2019.

[ ] No petition for rehearing was timely filed in my case.

[X ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date:August 11, 2019 , and a copy of the order denying rehearing appears at Appendix D.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Religious Land Use and Institutionalized Persons Act, 42 U.S.C. 2000cc, et seq. ("RLUIPA")

First Amendment's Free Exercise Clause

U.S. CONST. amend. XIV United States Constitution First Amendments Establishment of Religion and Free Exercise of Religion:

## STATEMENT OF THE CASE

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that filed a *pro se* 1983 complaint on June 2, 2015, against the Tennessee Department of Correction ("TDOC"), Derrick Schofield, Tony Parker, William Gupton, Jane Amonett, TDOC cook "Chill," Mike Parris, Mark Watson, Veronica Cadney, Susan Redden, Rick Duncan, Mike Lavender, Kurt Gross, Bradley Canada, and Recie Yanders, pursuant to 42 U.S.C.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that on a order entered July 20, 2016, by United States District Judge James D. Todd found that the complaint alleged claims{2018 U.S. Dist. LEXIS 2} for violation of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. 2000cc, et seq. ("RLUIPA"), and the First Amendment's Free Exercise Clause. Judge Todd (1) denied as moot Plaintiff's claims for declaratory and injunctive relief; (2) denied claims against the individual Defendants in their official capacities 2; (3) dismissed all claims against TDOC, Cook Chill, Schofield, Watson, Parker, Gupton, Canada, and Yanders; (4) dismissed all claims alleged on behalf of similarly-situated inmates, claims for retaliation, and claims concerning segregated inmates; and (5) denied Turner's request for a temporary restraining order. The Court directed that service be issued as to Amonett, Cadney, Redden, Duncan, Parris, Gross, and Lavender.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that Mrs. Madeline Bertais Brough filed a notice of appearance counsel for the record to the United State District Court for the Western District Court at Jackson on September 08, 2016.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that United States District Judge James D. Todd filed a Order granting defendant gross's motion for extension of time to file responsive pleading on September 13, 2016.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the defendants filed a motion for extension of Time to respond to complaint September 27, 2016.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States District Judge James D. Todd,issue an order modify the docket and granting defendants' motion for extension of time to file responsive pleading on September 16, 2016.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States District Judge James D. Todd,issue an order granting defendant motion for extension of time to file responsive pleading on August 9, 2016.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that on October 13, 2016, these Defendants moved for dismissal of those claims that survived screening pursuant to Rule 12(b) of the Federal Rules of Civil Procedure 3. The United States District Judge James D. Todd, in an order entered September 25, 2017, dismissed the RLUIPA claims against all Defendants as well as Plaintiff's claims against Amonett.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that United States District Judge James D. Todd filed a Order granting defendants' motion to depose prisoner on December 28, 2017.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States District Court Western District of Tennessee Eastern Division pending on the docket is the February 12, 2018, motion of the remaining Defendants, Cadney, Duncan, Gross, Lavender, and Redden (sometimes collectively referred to herein as the "Movants"), for summary judgment pursuant{2018 U.S. Dist. LEXIS 3} to Rule 56 of the Federal Rules of Civil Procedure. (D.E. 62.) The motion seeks judgment as to the claims still before the Court, identified in the September 25, 2017, order as the Movants' alleged failure, in violation of the First Amendment, to accommodate Plaintiff's specific religious diet restrictions and to permit him to use only his religious name when signing up for religious programs. Turner filed a response to the motion on June 14, 2018.4 (D.E. 76.)

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that that United States District Judge James D. Todd, issues a order directing the clerk to issue third party subpoena and denying plaintiff's motion for extension of time as moot on April 12, 2017.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States District Court Western District of Tennessee Eastern Division entered a order enter and adjudged that in accordance with the Order Granting Motion for Summary Judgment entered in the above-styled matter on July 16, 2018.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the petitioner Author X (Ray Turner) received notice form the court clerk of the United State Court of Appeal court clerks' office.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that he filed a *pro se* motion to reconsider and a affidavit in support of motion to reconsider to the United States Sixth Circuit Court of Appeals on November 27, 2018.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the defendant's filed a response in opposition to plaintiff/appellant's motion to reconsider on December 10, 2018.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the Untied States Court of Appeals for the Sixth Circuit issue an order denying the plaintiff's motion for reinstatement of appeal on December 20, 2018.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that he filed a petition for panel rehearing along with his appellant's brief to the United States Sixth Circuit Court of Appeals on December 27, 2018.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States Court of Appeals for the Sixth Circuit reinstated said Appeal to the active docket on February 26, 2019.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States Sixth Circuit Court of Appeals for the Sixth Circuit issues an order denied the petitioner Author X (Ray Turner) petition for rehearing on October 11, 2019.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States Court of Appeals for the Sixth Circuit court clerks' office issues a mandate for this action on October 22, 2019.

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the Defendant filed motion in opposition to the plaintiff petition for panel rehearing November 12, 2019.

## REASONS FOR GRANTING THE PETITION

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of Appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power;

## ARGURMENT I

DID THE U.S. DISTRICT COURT ERROR BY NOT APPLY THE FOUR AMENDMENT EQUAL PROTECTION TO THE PETITIONER CASE WHEN HE APPLY FOR A TEMPORARY RESTRAINING ORDER WITH HIS 1983 COMPLAINT.

A standard for Reviewed

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court that the district court error in granting the defendant motion for summary judgment in this action Butts v. Martin, 2015 U.S. Dist. LEXIS 40908 (E.D. Tex., Mar. 30, 2015) "Butts argues that the district court erred by granting summary judgment on his due process claims. To establish a due process violation in the prison context, a plaintiff must show that he was deprived of a liberty interest protected by the Constitution or statute. See Richardson v. Joslin, 501 F.3d 415, 418-19 (5th Cir. 2007) (citing **Sandin v. Conner, 515 U.S. 472, 479 n.4, 483-84, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995)); see also Zebrowski, 558 F. App'x at 358-59.** But "[i]n the context of prison disciplinary proceedings, not every punishment gives rise to a constitutional claim." **Zebrowski, 558 F. {877 F.3d 590} App'x at 358-59.** "[A] prisoner's liberty interests are not violated unless a condition 'imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.'" **Driggers v. Cruz, 740 F.3d 333, 338 (5th Cir. 2014)**

(quoting **Sandin, 515 U.S. at 484**). Thus, in determining whether{2017 U.S. App. LEXIS 30} an individual's due process rights have been violated, this Court first considers whether he has been denied a liberty or property interest. See **Ky. Dep't of Corrs. v. Thompson, 490 U.S. 454, 460, 109 S. Ct. 1904, 104 L. Ed. 2d 506 (1989)**. Only if an individual makes such a showing will this Court consider "whether the procedures attendant upon that deprivation were constitutionally sufficient." Id. Here, Butts would be entitled to procedural due process with respect to his disciplinary proceeding if the hearing implicated a protected liberty interest. See id. However, neither the nine days of SHU confinement nor the 30-day loss of commissary privileges implicated a protected liberty interest. See **Malchi v. Thaler, 211 F.3d 953, 958-59 (5th Cir. 2000)** (loss of commissary privileges and cell restriction do not implicate due process concerns); **Luken v. Scott, 71 F.3d 192, 193 (5th Cir. 1995)** (placement in administrative segregation without more does not amount to the deprivation of a constitutionally protected liberty interest). Butts therefore fails to show that the district court erred by granting summary judgment on his due process claims.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court that the loss of his First Amendment[1] right to practice his way of life/Religion as it pertain to his permissible/Halal religious diet per the teaching **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan** to as state in his original complaint. "United States District Judge James D. Todd stated in his opinion [citing Turner v. Schofield No. 1:15-cv-1135-JDT-egb] in his ruling United States District Judge James D. Todd stated "According to the Kitchen Defendants' affidavits, kitchen staffers were required to serve meals as indicated on menus provided by the TDOC Central Office in Nashville. These meals complied with federal guidelines for nutritional and caloric content, serving sizes, etc.

1 Religious and political freedom. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Religious meals, including halal, were certified based on input{2018 U.S. Dist. LEXIS 16} from community religious leaders as well as dietary professionals. They also related that Turner frequently complained about and refused food he did not like or want and that he was never, to their knowledge, denied food or a religious diet tray." The petitioner Author X (Ray Turner) would Respectfully states to this Honorable United State Supreme Court that the Petitioner submitted sworn affidavits eight by Muslims inmates including the petitioner's affidavit, the petitioner Author X (Ray Turner) also submitted "Statement of Undisputed facts" to the United States District Court which the defendants never respond to nor did the court reference in it's ruling. (applying Living Water standard to prisoner's RLUIPA claim). A prison does not impose a substantial burden on a Muslim inmate's exercise of his religion where he has an alternative to eating non-halal meat. See, **Cloyd,, 2012 U.S. Dist. LEXIS 170100, 2012 WL 5995234,** ("[A]s long as a plaintiff is giving an alternative to eating non-halal meal, he does not suffer a 'substantial burden' to his religious beliefs under the RLUIPA."); **Hudson v. Caruso, 748 F. Supp. 2d 721, 730 (W.D. Mich. 2010)** ("Furthermore, there is no 'substantial burden' to plaintiff's religious beliefs under RLUIPA, because they are given alternatives to eating non-halal meat. "[A]s long as a plaintiff is giving an alternative to eating non-halal meal, he does not suffer a 'substantial burden' to his religious beliefs under the RLUIPA."); **Hudson v. Caruso, 748 F. Supp. 2d 721, 730 (W.D. Mich. 2010),**" in the petitioner Author X (Ray Turner) particulate case when he sign up for his permissible/Halal religious diet per the teaching **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam** the Tennessee Department of Correction has force the petitioner to either eat a Halal diet per the eastern practitioner of our Islam and this in itself is a violation of my First Amendment right to practice his way of life/Religion, I respectfully states to this Honorable United States Supreme Court that the permissible/Halal religious diet per T**he teaching Most Honorable Elijah Muhammad as being**

**taught by The Honorable Minister Louis Farrakhan** is one of the main tenets of my Way of life/religion and by refusing the petitioner Author X (Ray Turner) his permissible/Halal religious diet per the teaching Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam and to refusal of the petitioner repeated attempts to contact the defendant's name in his original 1983 complaint as it pertain to his permissible/Halal religious diet per the teaching **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam** and their refusals to contact The Nation of Islam Prison Reform Ministry so as to consult with The Nation of Islam to ensure that the inmate followers of **The Most Honorable Elijah Muhammad and The Honorable Minister Louis Farrakhan** would be able to received their permissible/Halal religious diet per the teaching of **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam.** See; **Shakur v. Schriro, 514 F. 3d 878; 2008 U.S. App. Lexis 1255** "Although the Supreme Court's decision in Hernandez affirmed Graham, the Court was careful to note that "[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds." **490 U.S. at 699. In Employment Division v. Smith,** the Supreme Court reiterated that "[i]t is no more appropriate for judges to determine the 'centrality' of religious beliefs before applying a 'compelling interest' test in the free exercise field, than it would be for them to determine the 'importance' of ideas before applying the 'compelling interest' test in the free speech field." **494 U.S. at 886-87. {514 F.3d 885}** Nevertheless, in Freeman and Bryant, which both followed Hernandez and Smith, we continued to adhere to the objective centrality test." "Inmates clearly retain protections afforded by the First Amendment . . . , including its directive that no law shall prohibit the free exercise of religion." O'Lone v. Estate of Shabazz, 482 U.S. 342, 348, 107 S. Ct. 2400, 96 L. Ed. 2d 282 (1987) (citation omitted). However, "lawful incarceration brings about the necessary withdrawal or

limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system. . . . The limitations on the exercise of constitutional rights arise both from the fact of incarceration and from valid penological objectives-including{2016 U.S. Dist. LEXIS 25} deterrence of crime, rehabilitation of prisoners, and institutional security." Id. (internal quotation marks, alteration and citation omitted); see also Overton v. Bazzetta, 539 U.S. 126, 131, 123 S. Ct. 2162, 156 L. Ed. 2d 162 (2003) ("The very object of imprisonment is confinement. Many of the liberties and privileges enjoyed by other citizens must be surrendered by the prisoner. An inmate does not retain rights inconsistent with proper incarceration."). Thus, "when a prison regulation imposes on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests," Turner v. Safley, 482 U.S. 78, 89, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987), and is not an "exaggerated response to such objectives,'" id. (internal quotation marks omitted); see also Overton, 539 U.S. at 132.

The Petitioner Author X (Ray Turner) would respectfully state to this Honorable Court that an inmates follower of The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam that our Religious Diet is just as valuable to the believer physical body as prayer is to the spiritual body/being of the believer. See; **Shakur v. Schriro, 514 F. 3d 878; 2008 U.S. App. Lexis 1255** "Given the **{2008 U.S. App. LEXIS 11}**Supreme Court's disapproval of the centrality test, we are satisfied that the sincerity test set forth in Malik and Callahan determines whether the Free Exercise Clause applies. Accord **Levitan v. Ashcroft, 350 U.S. App. D.C. 180, 281 F.3d 1313, 1319 (D.C. Cir. 2002)** ("A requirement that a religious practice be mandatory to warrant First Amendment protection finds no support in the cases of the Supreme Court or of this court."); **DeHart v. Horn, 227 F.3d 47, 51 (3d Cir. 2000)** (en banc) ("Only those beliefs which are both sincerely held and religious in nature are entitled to constitutional protection.").

The Petitioner Author X (Ray Turner) would respectfully state to this Honorable Court that the alternative or non-halal meal, So-called Halal religious diet tray that contains soy in said vegetarian chili and other so-called halal meals that were and still being serve in the Tennessee Department of Correction.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court that **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam** has forbidden their followers for eating soy and soy by-products.

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court the United States District Judge James D. Todd error by not property reviewing all of the petitioner exhibits[2] attached to his 1983 complaint as well as his actual 1983 Civil Complaint which stated on page 39, starting at claim no. 333 which stated the following; This menu has items that are prohibited by the tenets of the the teaching of the teaching Most Honorable Elijah Muhammad.

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court the United States District Judge James D. Todd error by not property reviewing all of the petitioner claims stated in his original 1983 Civil Complaint which stated on page 39, starting at claim no. 334, these items are "Vegetable Stew with beef and TVP, Chili Con Corn, Vegetable Burger, Veggie Fricassee, Pinto Beans, Tuna Salad[3], Vegetable Soup, Apple drink, grape drink, orange drink, Lemon drink, green peas, Southwest Vegetarian."

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court the United States District Judge James D. Todd error by not property

2 These exhibits list the ingredients for the so-called religious diets that Cook Chili and the Tennessee Department of Corrections were/are servicing their Muslims inmates in there care.

3 Which contain Soy by-products.

reviewing all of the petitioner claims stated in his original 1983 Civil Complaint which stated on page 39, starting at claim no 335. "Veggie Creole Chowder, Veggie Sloppy Joe, White beans, Veggie Taco, and Veggie Style Chile Spaghetti Sauce and Meat balls, Plain Spicy Beans and Cream Gravy and beef flavored gravy." See Spaulding v. Welch, 2016 U.S. LEXIS 5068 (U.S., Oct. 3, 2016): "In Colvin, we held that it was clearly established in the First Amendment context that "prison administrators must provide an adequate diet without violating the inmate's religious dietary restrictions." 605 F.3d at 290 (quoting **Alexander v. Carrick, 31 F. App'x 176, 179 (6th Cir. 2002)**). A number of other circuits have similarly recognized that "inmates . . . have the right to be provided with food sufficient to sustain them in good health that satisfies the dietary laws of their religion." **McElyea v. Babbitt, 833 F.2d 196, 198 (9th {627 Fed. Appx. 483} Cir. 1987);{2015 U.S. App. LEXIS 7}** see also **Nelson v. Miller, 570 F.3d 868, 879-80 (7th Cir. 2009); Kind v. Frank, 329 F.3d 979, 981 (8th Cir. 2003)**. "In Colvin, a prison chaplain mistakenly refused the plaintiff's application for a kosher diet; as a result, the prisoner was limited to eating only fruit for 16 days. **Colvin, 605 F.3d at 291.** While noting that the case "presents a clos[e] call regarding whether Colvin received food sufficient to sustain him in good health," we ultimately granted the chaplain qualified immunity because Colvin failed to point to any evidence that the chaplain acted unreasonably or knowingly, and the chaplain "worked as quickly as possible to ensure that Colvin received kosher meals" once the mistake was discovered. Id. (alteration and internal quotation marks omitted)."

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court that the district court erred in granting summary judgment for defendants on his claim that his equal-protection rights were violated by prison officials' refusal to (1) provide a diet recommended by the Nation of Islam as set forth in How to Eat to Live and How To Eat To Live Bk 2 by Elijah Muhammad, and state that T.D.O.C. POLICY 116.08 (Religious Diet Program)

(IV) (B) "Inmates religious Diet Program: A program in which inmates can apply to obtain religious dietary items to comply with their religious tenets. See: **United States Constitution First Amendments Establishment of Religion and Free Exercise of Religion:** "Fundamental concept of liberty embodied in Fourteenth Amendment embraced liberties guaranteed by First Amendment relating to religion; First Amendment declared that Congress shall make no law respecting establishment of religion or prohibiting free exercise thereof, and Fourteenth Amendment rendered legislatures of states as incompetent as Congress to enact such laws." **Cantwell v Connecticut (1940) 310 US 296, 84 L Ed 1213, 60 S Ct 900, 128 ALR 1352; Douglas v Jeannette (1943) 319 US 157, 87 L Ed 1324, 63 S Ct 877, reh den (1943) 319 US 782, 87 L Ed 1726, 63 S Ct 1170; West Virginia State Bd. of Educ. v Barnette (1943) 319 US 624, 87 L Ed 1628, 63 S Ct 1178, 147 ALR 674; Illinois ex rel. McCollum v Bd. of Educ. (1948) 333 US 203, 92 L Ed 649, 68 S Ct 461, 2 ALR2d 1338; Cruz v Beto (1972) 405 US 319, 31 L Ed 2d 263, 92 S Ct 1079** (superseded by statute on other grounds as stated in **Ganther v Ingle (1996, CA5 Tex) 75 F.3d 207**); Committee for Public Education & Religious **Liberty v Nyquist (1973) 413 US 756, 37 L Ed 2d 948, 93 S Ct 2955** ., (Quoting "**Robinson v. Jackson 615 Fed. Appx. 310, 2015 U.S. Appx**.") "Robinson's equal protection claim also fails on these grounds. Robinson argues that, because the ODRC provides Kosher meals to Jewish inmates but does not provide Halal meals to Muslim inmates, the department is discriminating against him and those of his faith in violation of the Fourteenth Amendment. The Equal Protection Clause provides that "[n]o state shall . . . deny to any person within its jurisdiction the{**2015 U.S. App. LEXIS 10**} equal protection of the laws." **U.S. CONST. amend. XIV** 1. It is in essence "a direction that all persons similarly situated should be treated alike." **City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439, 105 S. Ct. 3249, 87 L. Ed. 2d 313 (1985).** "Thus, to prevail on an equal protection claim, Robinson must demonstrate that the ODRC's provision of Kosher, but not Halal, meals constitutes disparate

treatment of similarly-situated individuals. See **Abdullah, 1999 U.S. App. LEXIS 1466, 1999 WL 98529** at He must further prove that the disparate treatment in question is the result of intentional and purposeful discrimination."

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the defendant's as well as the Tennessee Department of Correction refusing to contact any Nation of Islam Mosque to inquire as to who to contact in the Nation of Islam Prison Reform Ministry to see if the so-called Halal menu was permissible as it pertain to their inmate followers of **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam** and their refusals to contact The Nation of Islam Prison Reform Ministry so as to consult with The Nation of Islam to ensure that the inmate followers of **The Most Honorable Elijah Muhammad and The Honorable Minister Louis Farrakhan** would be able to received their permissible/Halal religious diet per the teaching of **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam.** The plaintiff stated in his memorandum of law in support of plaintiff's motion to dismiss the respondent's motion to dismiss, "The Tennessee Department of Correction contacted the House of Yahweh (P.O. Box 24980 Abilene, Texas 79604) as to and in regards to their dietary guidelines, yet refused to contact the Nation of Islam.

The petitioner Author X (ray turner) would respectfully state that by T.D.O.C. and the defendant refusal to provide the Muslim inmates followers **The Most Honorable Elijah Muhammad and The Honorable Minister Louis Farrakhan** would be able to received their permissible/Halal religious diet per the teaching of **The Most Honorable Elijah Muhammad as being taught by The Honorable Minister Louis Farrakhan and the Nation of Islam**
in their care the proper religious diet in their care. "Prison administrators must provide an adequate diet without violating the inmate's religious dietary restrictions. For the inmate, this is essentially a

constitutional right not to eat the offending food item. If the prisoner's diet, as modified, is sufficient to sustain the prisoner in{2016 U.S. Dist. LEXIS 26} good health, no constitutional right has been violated." Alexander, 31 F. App'x at 179 (collecting cases)."

The equal-protection Clause is not a source of substantive rights, nor is it an independent means by which remedy violations of state law; its purpose, rather, "is to secure every person within the state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents." **Village of Willowbrook v. Olech, 528 U.S. 562, 564, 120 S. Ct. 1073, 145 L. Ed. 2d. 1060 (2000) (per curiam) (citation omitted); see; Harris v. Mc Rae, 448 U.S. 297, 322, 100 S. Ct. 2671, 65 L. Ed. 2d. 784, (1980); Snowden v. Hughes, 321 U.S. 1, 7-8, 64 S. Ct. 397, 88 L. Ed. 497 (1944).** "To succeed on an equal-protection claim under a class-of-one theory, a plaintiff must assert he "has been intentionally treated differently from other similarly similarly-situated and that there is no rational basis for the difference in treatment." **Olech 528 U.S. at 564 (citations omitted).**

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that the United States District Judge James D. Todd error by not action on the petitioner Author X (Ray Turner) TRO motion applying the the Fourteenth Amendment[4] equal protection cause to the petitioner TRO motion and in his refusal to granted TRO motion the petitioner filed said motion via T..D.O.C. Mail room staff on September 24, 2015, Motion for Temporary Restraining Order and Preliminary Injunction and United States District Judge James D. Todd did not rule on said motion until July 20, 2016, which he deny on this date. See; **State v. Trump,**

4Section 1. [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**233 F. Supp. 3d 850, 2017 U.S. Dist. LEXIS 19248 (D. Haw., Feb. 9, 2017)** "At this very preliminary stage of the litigation, the [Plaintiffs] may rely on the allegations in their Complaint and whatever other evidence they submitted in support of their TRO motion to meet their burden." **Washington, 847 F.3d at 1159 (citing Lujan, 504 U.S. at 561)**. "With these allegations and evidence, the [Plaintiffs] must make a 'clear showing of each element of standing.'" Id. (quoting **Townley v. Miller, 722 F.3d 1128, 1133 (9th Cir. 2013), cert. denied, 134 S. Ct. 907, 187 L. Ed. 2d 778 (2014)**. At this preliminary stage of the proceedings, on the record presented, Plaintiffs meet the threshold Article III standing requirements."

The petitioner Author X (Ray Turner) a *pro se* state inmate would respectfully state to this Honorable United States Supreme Court that he stated in his Declaration in support of TRO[5] and preliminary Injunction, that he is allergy to beans and pleas and that the N.W.C.X. Food service staff has not been honoring my food allergies, that the N.W.C.X. Food service staff had been denying the petitioner food on multiple occasion. See; **State v. Trump, 233 F. Supp. 3d 850, 2017 U.S. Dist. LEXIS 19248 (D. Haw., Feb. 9, 2017)** "For purposes of the instant Motion for TRO, the State has preliminary demonstrated that: (1) its universities will suffer monetary damages and intangible{2017 U.S. Dist. LEXIS 24} harms; (2) the State's economy is likely to suffer a loss of revenue due to a decline in tourism; (3) such harms can be sufficiently linked to the Executive Order; and (4) the State would not suffer the harms to its proprietary interests in the absence of implementation of the Executive Order. Accordingly, at this early stage of the litigation, the State has satisfied the requirements of Article III standing.

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5 (b) Temporary Restraining Order. (1) Issuing Without Notice. The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant ⅄s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

In the petitioner Author X (Ray Turner) particular case his food allergy to beans and peas would be enough grounds to granted said TRO because of likely death form unknowingly eating food that has either beans and peas or there food by products cook into said meal. (please see plaintiff's exhibits), See; **State v. Trump, 233 F. Supp. 3d 850, 2017 U.S. Dist. LEXIS 19248 (D. Haw., Feb. 9, 2017)** "The underlying purpose of a TRO is to preserve the status quo and prevent irreparable harm before a preliminary injunction hearing is held. **Granny Goose Foods, 415 U.S. 423, 439, 94 S. Ct. 1113, 39 L. Ed. 2d 435 (1974); see also Reno Air Racing Ass'n v. McCord, 452 F.3d 1126, 1130-31 (9th Cir. 2006). {241 F. Supp. 3d 1134}** The standard for issuing a temporary restraining order is substantially identical to the standard for issuing a preliminary injunction. See; **Stuhlbarg Int'l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001)**. A "plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." **Winter v. NRDC, Inc., 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008)** (citation omitted). "[I]f a plaintiff can only show that there are 'serious questions going to the merits'-a lesser showing than likelihood of success on the merits-then a preliminary injunction may still issue if the 'balance of hardships tips sharply in the plaintiff's favor,' and the other two Winter factors are satisfied." **Shell Offshore, Inc. v. Greenpeace, Inc., 709 F.3d 1281, 1291 (9th Cir. 2013) (quoting Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1135 (9th Cir. 2011) (emphasis by Shell Offshore))**.

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court that the United States District Judge James D. Todd error by dismissing, by claim of by failing to issue passes allowing him to attend religious services because he used his Muslim name, Author X, rather than his committed name, Author Turner, to sign up for such passes, the Chaplain

Defendants violated his rights under the First Amendment by refusal to issue the petitioner his institution pass for The Nation Of Islam Jumm'ah services and Taleem service. **United States Constitution First Amendments Establishment of Religion and Free Exercise of Religion:** "Adoption of Muslim names by inmates practicing that religion is generally recognized to be exercise of both speech and religious freedoms, and it was clearly established in 1990 that prisoner had First Amendment interest in using his new, legal name, at least in conjunction with his committed name; consequently, prison officials are not entitled to summary judgment on issue of qualified immunity in action brought by inmate alleging that his First Amendment rights were violated when he was punished for using his religious name in conjunction with his committed name on outgoing mail. **Malik v Brown (1995, CA9 Wash) 71 F.3d 724, 95 CDOS 8958, 95 Daily Journal DAR 15643"**

The petitioner Author X (Ray Turner) would respectfully state to this Honorable United States Supreme Court that the United States District Judge James D. Todd error by dismissing, by claims against Defendants Schofield, Parris, and Watson as Supervisors, the petitioner would respectfully stated to this Honorable Court that the Defendants Schofield, Parris, and Watson was aware of their staff action, said petitioner wrote Defendants Schofield, Parris, and Watson and submitted copies of theses said letters as exhibits to his original complaint. "The subjective component requires a showing that the prison official was "deliberately indifferent"; that is, he had "a sufficiently culpable state of mind," **Brown v. Bargery, 207 F.3d 863, 867 (6th Cir. 2000) (quoting Farmer, 511 U.S. at 834).** Thus, "the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." **Lockett, 526 F.3d at 877 (quoting Farmer, 511 U.S. at 837).** The plaintiff must "demonstrate deliberateness tantamount to intent to punish." **Loggins v. Franklin Cnty., 218 F. App'x 466, 472 (6th Cir. 2007) (quoting Horn v. Madison Cnty. Fiscal Court, 22 F.3d 653, 660 (6th Cir. 1994)); see Whitley v. Albers, 475 U.S. 312, 319, 106 S. Ct. 1078, 89 L. Ed. 2d 251 (1986)** (" To be cruel and unusual punishment, conduct that

does not purport to be punishment must involve more than ordinary lack of due care for the prisoner's interests or safety. . . . It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause."). The petitioner Author X (Ray Turner) would respectfully states to this Honorable Court that The United State Sixth Circuit shall have reverse and remain this action in the interest of Justice because of the unusual natural of this action, the petitioner Author X (Ray Turner)would respectfully state that if after reviewing his original complaint and said reply briefs in the United States Supreme Court Eastern Division and said filing made in the United State Sixth Circuit that the petitioner Author X (Ray Turner) Would overcome said procedural default. "Generally, before a court rules on the merits of a 2254 petition, a "petitioner **{746 Fed. Appx. 494}** must have exhausted his available state remedies," and his "claims must not be procedurally defaulted." **Atkins v. Holloway, 792 F.3d 654, 657 (6th Cir. 2015)** (citations omitted). A claim is procedurally defaulted when "a petitioner fails to present a claim in state court, but that remedy is no longer available to him." Id. The petitioner may avoid procedural default only if "there{2018 U.S. App. LEXIS 6} was cause for the default and prejudice resulting from the default," or if he can prove "that a miscarriage of justice will result from enforcing the procedural default in the petitioner's case." **Lundgren v. Mitchell, 440 F.3d 754, 763 (6th Cir. 2006).** Halvorsen first raised the issue of the trial court's complicity instruction in the district court. Because he never gave the state courts the opportunity to review or correct any error, the claim is procedurally defaulted. Conceding the default, Halvorsen maintains he can show cause to excuse it: the ineffective assistance of his appellate counsel who failed to allege this claim on direct appeal. ""To establish an Equal Protection Clause violation, [a plaintiff] must prove purposeful discrimination resulting in a discriminatory effect among persons similarly situated." **Butts v. Martin, 877 F.3d 571, 590 (5th Cir. 2017)**. An equal protection claim also requires a state actor to be the source of the challenged discrimination.**{2019 U.S. App. LEXIS 3} See U.S. CONST. amend. XIV, 1** ("No State shall . . . deny to any person within its jurisdiction the

equal protection of the laws."). There is no discriminatory state action where prison officials act as mere conduits for a transfer from a third-party outside of the prison to an inmate within its walls.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court that the district court error in granting the defendant motion for summary judgment in this action. (Quoting "Turner v. Schofield, 2019 U.S. App. LEXIS 23316 (6th Cir. Tenn., Aug. 2, 2019) any party opposing the motion for summary judgment must respond to each fact set forth by the movant [in the statement of undisputed material facts] by either: (1) agreeing that the fact is undisputed; (2) agreeing that the fact is undisputed for the purpose of ruling on the motion for summary judgment only; or (3) demonstrating that the fact is disputed."

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court that he did not received said statement of undisputed material facts via the South Central Correctional Facility mail room . (Quoting Myers v. United States 503 F.3d 676; 2007 U.S. App. LEXIS 23250) "In his motion for a new trial due to denial of due process, Myers alleges that the government suborned perjury by a CCA mail officer. To show a violation of due process based on the government's suborning perjury, Myers must demonstrate that (1) the prosecution used perjured testimony, (2) the prosecution should have known or actually did know of the perjury, and (3) there was a reasonable likelihood that the perjured testimony could have affected the jury's verdict. United States v. Bass, 478 F.3d 948, 951 (8th Cir. 2007).

## CONCLUSION

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court of the United States that this writ of certiorari should be granted to clear up the question of law dealing with whether or not a DOC that provide religious diets for the inmates in their care except for the Nation of Islam.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable Honorable United States Supreme Court of the United States that this writ of certiorari should be granted to clear up the question of law whether or not a case is moot if the issues is still on going even after the petitioner was been transfer to a different facility in the same state.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court of the United States that this writ of certiorari should be granted to clear up the question of law dealing with a suit whether a *pro se* state inmate file a 1983 civil action can receive damages involving RLUIPA claims.

The petitioner Author X (Ray Turner) would respectfully states to this Honorable United States Supreme Court of the United States that the United States District Court Judge Todd has been violation the petitioner right to Due process when he Summary Dismiss the petitioner action for not responding to the defendant Statement of Undisputed facts, after the petitioner filed a motion in opposition to said state the he had not received Statement of Undisputed facts.

Respectfully submitted,

Author X (Ray Turner)

Date:January 9, 2020,