

20-7602
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Bienvenido Rodriguez, Jr. — PETITIONER
(Your Name)

vs.

Rev. Ulli Klemm, et. al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Third Circuit Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

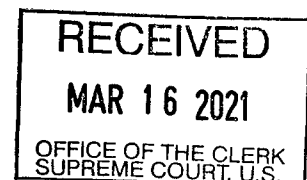
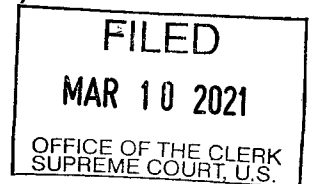
Bienvenido Rodriguez, Jr. I.D.#LQ-7479
(Your Name)

SCI Dallas, 1000 Follies Road
(Address)

Dallas, Pa. 18612
(City, State, Zip Code)

347-567-7810
(Phone Number)

ORIGINAL



QUESTION(S) PRESENTED

1. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION FOR SUMMARILY AFFIRMING THE DISTRICT COURT'S ORDER BECAUSE NO SUBSTANTIAL QUESTION WAS PRESENTED BY PLAINTIFF RODRIGUEZ'S APPEAL?

☒ YES ☐ NO

2. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION FOR DISMISSING PLAINTIFF RODRIGUEZ'S APPEAL PURSUANT TO 28 U.S.C. § 1915 (e) (2)(B), OF SUMMARY ACTION PURSUANT TO THIRD CIRCUIT LAR 27.4 AND I.O.P. 10.6?

☒ YES ☐ NO

3. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION IN AGREEING WITH THE DISTRICT THAT PLAINTIFF RODRIGUEZ'S MOTIONS DID NOT STATE A BASIS FOR REOPENING HIS CASE?

☒ YES ☐ NO

4. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION IN AGREEING WITH THE MAGISTRATE JUDGE AND THE DISTRICT JUDGE BY STATING THAT THE DEFENDANTS HAD FULLY COMPLIED WITH ALL TERMS OF THE SETTLEMENT AGREEMENT?

☒ YES ☐ NO

5. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION IN AGREEING WITH THE MAGISTRATE JUDGE THAT PLAINTIFF RODRIGUEZ WAS GIVEN AN OPPORTUNITY TO FULLY PRESENT HIS ARGUMENTS AT THE NOVEMBER 12, 2019 CONFERENCE?

☒ YES ☐ NO

6. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS PLAINTIFF RODRIGUEZ'S [R]EASONS OF FILING MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT, WHICH MAGISTRATE JUDGE IMPROPERLY DENIED AND DISTRICT JUDGE UPHELD?

☒ YES ☐ NO

7. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS PLAINTIFF RODRIGUEZ'S [R]EASONS AS TO WHY HE HAD FILED A MOTION TO RE-OPEN HIS CASE?

☒ YES ☐ NO

8. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS PLAINTIFF RODRIGUEZ'S ARGUMENTS FOR MOTION FOR CONFLICT COUNSEL, WHERE MAGISTRATE JUDGE ~~IMMOVED~~ MOOTED AND DISTRICT JUDGE UPHELD WITHOUT A PROPER HEARING TO DETERMINE IF PLAINTIFF'S COUNSEL WAS INEFFECTIVE IN REPRESENTATION?

☒ YES ☐ NO

9. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS WHY THE MAGISTRATE JUDGE DENIED PLAINTIFF RODRIGUEZ'S MOTION TO APPOINT CONFLICT COUNSEL WITHOUT A HEARING TO DETERMINE HIS NEED FOR APPOINTMENT OF COUNSEL IN ALLEGATIONS OF INEFFECTIVE REPRESENTATION?

☒ YES ☐ NO

10. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS THE [R]EASONS WHY MAGISTRATE JUDGE IMPROPERLY INFORMED PLAINTIFF RODRIGUEZ THAT ANY NEW CLAIMS MUST BE BROUGHT IN NEW LAWSUIT, AND HOW THE DISTRICT JUDGE FAILED TO ADDRESS THIS ISSUE?

☒ YES ☐ NO

11. DID THE THIRD CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY FAILING TO ADDRESS THE [R]EASONS WHY PLAINTIFF RODRIGUEZ WAS NOT PERMITTED TO PURCHASE HIS TWO YORUBA SANTERIA CONSECRATED ORISHA ELEQUE BEADED NECKLACES, DUE TO HIS \$6,500.00 IN COMPENSATORY DAMAGES BEING HELD FOR A WHOLE YEAR IN ESCROW, AND THEN COMPLETELY CLAWED BACK TO PAY TOWARDS ACT 84?



YES



NO

LIST OF PARTIES

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

✓ 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:

Bienvenido Rodríguez, Jr. (Plaintiff/Petitioner)
Rev. Ulli Klemm (Defendant/Respondent)
Lieutenant, Richard Boone (Defendant/Respondent)
Rev. Edward Niederhiser (Defendant/Respondent)
Rev. Kirt Anderson (Defendant/Respondent)

RELATED CASES

~~Burns Vs. Pa. Dep't of Corrections~~

Burns Vs. Pa. Dep't of Corrections, 545 F.3d 279 (3d Cir. 2008)

Foman Vs. Davis, 371 U.S. 178, 182 (1962)

Pugh Vs. Goord, 571 F. Supp. 2d 477 (S.D.N.Y. 2009)

Oliver Vs. Scott, 276 F.3d 736 (5th Cir. 2002)

Badillo Vs. Amato, 2014 U.S. Dist. LEXIS 10210

Church of the Lukumi Babalu-Aye Inc. Vs. City of Hialeah, 508 U.S. 520, 113 S.Ct. 2217, 124 L.Ed. 2d 472 (1993)

Davilla Vs. Watts, Civ. A. No. 2:15-cv-171, 2016 U.S. Dist. LEXIS 56721, *1-3, 16-1-8 (S.D. Ga. Apr. 28, 2016)

Native American Council of Tribes Vs. Weber, 750 F.3d 742, 749-50 (8th Cir. 2014)

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Hudson Vs. Dennehy, 538 F. Supp. 2d 400, 411 (D. Mass. 2000)

Washington Vs. Klemm, 497 F.3d 272, 280 (3d Cir. 2007)

Conyers Vs. Abitz, 446 F.3d 580, 585-586 (7th Cir. 2005)

Ford Vs. McGinnis, 352 F.3d 582, 594-596 (2d Cir. 2003)

Montañez Vs. Secretary of Pennsylvania Department of Corrections, 773 F.3d 472 (3d Cir. 2014), 2014 U.S. App. LEXIS 15602 (3d Cir. Aug. 14, 2014)

Dodd Vs. Robinson, Civ. A. No. 03-F-571-N, Order, *1 (M.D. Ala. Mar. 26, 2004)

Williams Vs. Murphy, 2018 U.S. Dist. LEXIS 72833

Altria Group Inc. Vs. Good, 555 U.S. 70, 76, 129 S.Ct. 538, 172 L. Ed. 2d 398 (2008)

Gibbons Vs. Ogden, 22 U.S. 1, 211, 6 L. Ed. 23 (1824)

Heard Vs. Sheahan, 253 F.3d 316, 320 (7th Cir. 2001)

Shomo Vs. City of New York, 579 F.3d 176, 181 (2d Cir. 2009)

Hensley Vs. City of Columbus, 557 F.3d 693, 697 (6th Cir. 2009)

Tiberi Vs. Cigna, Corp., 89 F.3d 1423, 1430 (10th Cir. 1996)

Little Vs. Lycoming County, 912 F. Supp. 809, 815 (M.D. Pa. 1996), aff'd, 101 F.3d 691 (3d Cir. 1996)

Fletcher-Harlee Corp. Vs. Pote Concrete Contractors Inc., 482 F.3d 247, 252 (3d Cir. 2007)

Baylor Vs. Pa. Dep't of Corrections, 2013 U.S. Dist. LEXIS 20828

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Murphy Vs. Smith, 138 S. Ct. 784 U.S. LEXIS 1379
(2018)

Washington Vs. Strickland, 466 S. Ct. 668 (1984)

Carmona Vs. U.S. Bureau of Prisons, 243 F.3d

Montgomery Vs. Pintchak, 294 F.3d 492, 502 (3d Cir. 2002)

Tebron Vs. Grace, 6 F.3d

Parham Vs. Johnson, 126 F.3d 454, 459 (3d Cir. 1999)

Steele Vs. Shah, 87 F.3d 1266, 1271 (11th Cir. 1996)

Reyes Vs. Johnson, 969 F.2d 700, 704 (8th Cir. 1992)

Whisenant Vs. Yuan, 739 F.2d 160, 163 (4th Cir. 1984)

Bright Vs. Hickman, 96 F. Supp. 2d 572, 577 (E.D. Tx. 2000)

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from federal courts:

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

☒ reported at Rodríguez Vs. Rev. Klemm, et. al., 20-2029

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

☒ reported at Bienvenido Rodríguez, Jr. Vs. Rev. Ulli Klemm, et. al., 2:16-cv-01786-MPK

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was October 23, 2020

☒ No petition for rehearing was timely filed in my case.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

	First Amendment to the United States Constitution (Exercise of Religious Freedoms)	27
	U.S. Constitution Article 6. Section II.	27
42	Religious Land Use and Institutionalized Persons Act U.S.C. § 2000 cc-1	27
42	U.S.C. § 1983	27
28	U.S.C. § 1915 (e)(2)(B)	10

STATEMENT OF THE CASE

1. This case involves the Pa.DOC Defendants long standing history of systematic violation of my First Amendment exercise of Yoruba Ifa Santería religious freedoms and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000 cc-1 by Defendants destruction of my [c]onsecrated Yoruba Ifa Santería sacred Orisha Elegue beaded necklaces of Orisha Elegua (3 red beads) and (3 black beads) alternating between (3) red beads and (3) black beads, and sacred Orisha Elegue beaded necklaces of Orisha Oshun (all yellow beads); denying my repeated requests to have these Elegue beaded necklaces replaced and [c]onsecrated; denying my repeated requests to make sacred offerings to my African Orishas at my African Orisha Bóveda/Shrine in my living quarters on Mondays consisting of fruits, cup of coffee, cup of water, mint candies, obligatory cigar smoke puffing and blowing ceremonies; denying my repeated requests to wear [c]onsecrated sacred Orisha Elegue beaded necklaces; denying my repeated requests to purchase a white sacred prayer cap similar to those worn by Muslims; denying my repeated requests to add picture images of my African Orishas and picture images of Catholic Saints identified with their African Orisha counterparts; denying my repeated requests to add Yoruba Ifa Santería religious Bibles to the Pa.DOC Religious Articles Catalog entitled "Santería: The Religion, By: Migene Gonzalez Wippler; denying my repeated requests to permit me to attend Yoruba Ifa Santería Pataki religious group studies, and Yoruba Santería Orisha religious group worship on Mondays; and denying my repeated requests to observe a yearly January 6 religious group feast associated with Yoruba Santería religion called: Fiesta Del Día De Los Tres Reyes Magos / The Three Wise Kings Feast Day; and denying my repeated requests that the DOC hire a permanent Yoruba Santería priest known as Santero or Babalawo just the DOC hires Imam priests in Islam, Christian priests in Christianity, and Medicine Man priests in Native American Indian religious faiths.

2. In this case I was represented by Attorney Alexandra Morgan-Kurtz of the Pennsylvania Institutional Law Project (PILP) and Attorney Christy P. Foreman of the Law Offices of C.P. Foreman, both law offices are located in Pittsburgh, Pennsylvania. These attorneys have filed my civil complaint in this action on November 28, 2016. ECF. 1. The court conducted an initial Case Management Conference, ECF. 15, and my case was referred to the Alternative Dispute Resolution in the form of a Mediation Hearing, ECF. 17. The Honorable Kenneth Benson (ret.) conducted the Mediation Hearing on April 14, 2017, and with myself present as well as the above mentioned attorneys. This Mediation Hearing ended reaching a Private Settlement Agreement. ECF. 20 and 21. At the conclusion of the Mediation Hearing, the Private Settlement Agreement in this was resolved. ECF. 21.

3. There were some initial dispute over the language of the Settlement Agreement and Release, ECF. 24, 25, 28 and 29, that required the assistance of the Court. ECF. 30 and 32. A Settlement Agreement and Release provided eight (8) terms that Pa.DOC Defendants have never complied with and are still violating all terms impairing every single term of the contract of the Settlement Agreement. See Exhibit 1 Settlement Agreement and Release of All Claims.

4. Other accommodations were granted before the April 14, 2017 Private Settlement Mediation Hearing are as follow:

(a) Ordered Kufi which he will be allowed to wear,

(b) Allowed to bring piece of fruit and coffee grounds to cell for Yoruba Santeria Shrine. ECF. 63-5 Ex. 45 paragraph 1-2.

5. On July 26, 2018, the Court approved a Stipulation of Dismissal and closed the case. Judge Kelly indicated that the case was Dismissed with [P]rejudice. ECF. 34 and 35. On the other hand, Judge Kelly also stated that she [r]etained jurisdiction of this matter as to [a]ny issues related to the Settlement Agreement. ECF. 35.

3
6. Over two (2) years after the settlement was reached at the Private Settlement Agreement Mediation Hearing, I decided to file a Motion For Conflict Counsel expressing issues of ineffectiveness in my case against my former attorneys on July 1, 2019, due to attorneys refusal to fully resolve the Pa. Doc Defendants non-compliance and violations of all terms of the contract of the Settlement Agreement. ECF. 45. Ex. A and B. My motion for ineffectiveness was denied without a hearing on September 4, 2019. ECF. 61, as moot.

7. On July 1, 2019, I also filed a Motion To Re-open Civil Action raising issues, or claims of impairment of all terms of the contract of the Settlement Agreement and the continued violations of the First Amendment to my right to exercise and practice Yoruba Santeria religion, and violations of the Religious Land Use and Institutionalized Persons Act; that the same constitutional violations and the same problems have recurred at different institutions statewide, and that the relief and changes in policy within the DC-ADM 819, Religious Activities Procedures Manual are still blanket policies and vague, and have not corrected or fixed the constitutional violations and effects that it has continued to cause. See Burns Vs. Pa. Dep't of Corrections, 544 F.3d 279 (3d Cir. 2008). ECF. 44 page 1, paragraph 2; and page 2, paragraph 5. My motion to re-open civil action, was denied as without merit, ECF. 61 on September 4, 2019.

8. On July 1, 2019, I filed another motion, a Motion For Leave To File An Amended Complaint alleging that Pa. Doc Defendants have, during the course of the settlement Agreement, been continuing to deprive me of my Yoruba Santeria religious freedoms in a way that has violated [e]very [t]erm of the Settlement Agreement, impairing the contract of the Settlement Agreement, and that because of this I still remain with no way to exercise and practice my religion. I continually expressed that more Pa. Doc Defendants have been implicated by continuing to deprive me of my religious freedoms. Under Forman Vs. Davis, 371 U.S. 178, 182 (1962), my motion for leave to amend should have been granted. ECF. 46 page 1, paragraph 1-2. My motion for leave to amend was denied as unwarranted. ECF. 61

9. On July 16, 2019, I filed a Motion To Withdraw Settlement Agreement, alleging that since the Pa.DOC Defendants have failed to comply with the entire terms of the contract of the Settlement Agreement as the Pa.DOC Defendants have continue to deprive my religious freedoms, and due to the Pa.DOC Defendants having imposed an escrow on my monetary Settlement Agreement that has been held in escrow since July 13, 2018, and for conducting monetary transaction activities against my \$6,500.00 in Compensatory and Punitive Damages which was placed on my Inmate Account; keeping me indigent and insolvent and, not allowing me to purchase my Yoruba Santería Orisha Elegue beaded necklaces that [m]ust be [c]onsecrated. These Orisha Elegue beaded necklaces were destroyed by Pa.DOC Defendants and Defendants continue to refuse to repair the damages. ECF. 53 page 1, paragraph 9; and page 2, paragraph 10. ECF. 63-1 Ex. 4-11 (relating to escrow of monetary settlement grievance), ECF. 63-2 Ex. 12-21 (relating to illegal monetary transaction activities against my monetary settlement while held in escrow on Inmate Account), ECF. 63-3 Ex. 22-30 (relating to evidence of Monthly Account statements reflecting illegal monetary transaction activities against my monetary settlement while still held in escrow), and ECF. 63-4 Ex. 34 (relating to sworn affidavit of my Santería Madrina i.e. Godmother in Santería called a Santera, confirming her [c]onsecration ceremonial services of the Orisha Elegue beaded necklaces and the \$2,500.00 fees for her consecration ceremonial services upon the Orisha Elegue beaded necklaces), at page 1, paragraph 4. ECF. 53 My motion to withdraw settlement agreement was denied as moot, ECF. 61 on September 4, 2019.

10. On September 4, 2019, Magistrate Judge Kelly filed a Memorandum Order noting that I sought to have the Court address issues relative to the handling of my monetary settlement which has been held in escrow on my Inmate Account since July 13, 2018, and the illegal monetary transaction activities against the \$6,500.00 while still held in escrow, ECF. 61 page 4 and allowed me to file a motion requesting that the Court schedule a conference with my former attorney, defense counsel, and myself participating by telephone to address limited issues, ECF. 61 at page 4.

11. On September 9, 2019, I filed a Verified Motion To Schedule A Legal Virtual Video Conference attached material evidence as supporting exhibits. ECF. 63 Ex. 1 - 69.

12. On September 13, 2019, Magistrate Judge Kelly granted above motion to schedule a legal virtual video conference, ECF. 64 and ordered a Video Status Conference for October 17, 2019.

13. On October 18, 2019, Magistrate Judge Kelly rescheduled the video status conference for November 12, 2019, ECF. 66.

14. On November 12, 2019, I appeared before a Video Status Conference. The Video Conference developed technical defectness. Judge Kelly allowed the conference to proceed via Telephone Conference, which also developed technical defectness interfering with the hearing and audio. Due to this defectness most of my statements were not completely transcribed on the record, because most of my statements were [o]mitted, from the transcripts was discovered on the Magistrates' Memorandum Order, ECF. 80 page 4 11:7-9, Id. at 7:4-11. Judge Kelly admits on the Hearing, Memo Outcome dated November 12, 2019, in part by stating: ("Due to technical issues, conference conducted by audio conference call. Due to certain audio issues at the end of the conference impacting transcription by the court reporter...") ECF. 68 paragraph 3. Judge Kelly then unfairly denied me relief determining that Pa.DOC Defendants have fully complied with the terms of the Settlement Agreement and allowed the Pa.DOC Defendants to completely [c]law back the \$6,500.00 in monetary Compensatory and Punitive Damages to pay towards Act 84, and refusing to allow me to use a portion of this money to purchase my Orisha Elegue beaded necklaces and pay a Santero or Santera priest the \$2,500.00 in religious consecration ceremonial services.

15. On November 13, 2019, Pa.DOC Defendants completely "clawed" back the \$6,500.00 in Monetary Compensatory and Punitive Damages. ECF. 79-1 Ex. 1-A

16. On December 3, 2019, I filed a Rule 60(b), of the Fed. R. Civ. P. requesting for Relief From A Judgment, Order Or Proceeding and docketed on December 9, 2019. ECF. 73

17. On January 7, 2020, I filed a Brief In Support of Rule 60(b) Fed. R. Civ. P. Relief From A Judgment, Order Or Proceeding with attached supporting exhibits and docketed on January 10, 2020. ECF. 79.

18. On January 16, 2020, Magistrate Judge Kelly filed a Memorandum Order denying my Rule 60(b) Motion For Relief From A Judgment; Order Or Proceeding. ECF. 80

19. On January 23, 2020, I filed a Notice Of Appeal appealing Judge Kelly's Memorandum Order to the United States District Court and requesting that my appeal be assigned to a District Judge. ECF. 81

20. On March 4, 2020, I filed a Brief, or an Appellate Brief In Objection To Memorandum Order of Chief Magistrate Judge Maureen P. Kelly.

21. On May 11, 2020, District Judge Nicholas Ranjan filed a Memorandum Order OVERRULING my objections, ADOPTING Judge Kelly's recommendations, DENYING my motions, DISMISSING and CLOSING my case. ECF. 91

22. On May 2020, I filed a Notice Of Appeal to the United States Third Circuit Court of Appeals.

23. On October 23, 2020, Circuit Judges McKee, Shwartz, and Phipps filed a Court Opinion and Judgment. These Circuit Judges biasly and erroneously affirmed the District Court's order indicating that no substantial question was not presented by my appeal.

See: Appendix A Magistrate Judge Maureen P. Kelly's Memorandum Order, ECF. 80;

Appendix B District Judge Nicholas Ranjan's Memorandum Order, ECF. 91; and

Appendix C Third Circuit Judges McKee, Shwartz, Phipps' Opinion and Final Judgment.

FACTS MATERIAL TO THE CONSIDERATION OF THE
QUESTIONS PRESENTED

(i) The Third Circuit Court of Appeals abused its discretion by erroneously affirming the District Court's order by indicating that no substantial question was presented by my appeal. The Third Circuit Court of Appeals did not issue to me any order indicating that I was to submit any substantial questions presented by any specific date with my appeal, nor was I issued with any order by the Third Circuit Court of Appeals a Briefing Schedule. The 3rd Circuit Local Appellate Rules 3.4 (Notice of Appeal In Pro Se Cases), does not explain that Pro Se litigants must submit any substantial questions presented on Pro Se Notice of Appeals, or by order of the court. See L.A.R. 3.4

(ii) The Third Circuit Court of Appeals abused its discretion by erroneously dismissing my appeal pursuant to 28 U.S.C. § 1915(e)(2)(B), or Summary Action pursuant to 3rd Cir. L.A.R. 27.4 and Third Circuit Internal Operating Procedures 10.6 (I.O.P. 10.6). Pursuant to 3rd Cir. L.A.R. 27.4 (b) provides in relevant part: ("...The court or clerk may at any time refer a Motion For Summary Action to a merits panel and direct that briefs be filed.") In this case, the 3rd Cir. Court of Appeals or the clerk failed to order that a move for a Motion For Summary Action be filed, nor was an order issued directing that briefs be filed with a briefing schedule. The rule is vague. Also, the 3rd Cir. Court of Appeals stated that my case was considered on the record from the United States District Court Western District of Pennsylvania and was submitted for possible dismissal due to a [j]urisdictional defect pursuant to 28 U.S.C. § 1915(e)(2)(B). This defect was cured pursuant to 28 U.S.C. Section 1291 when I timely filed Notices of Appeals to the District Judge on January 23, 2020, and appealing a final order or judgment to the 3rd Cir. Court of Appeals on or about May 2020. The 3rd Cir. Court of Appeals had jurisdiction to entertain the appeal.

(iii) The Third Circuit Court of Appeals abused its discretion by erroneously agreeing with the District Court, indicating that my motions did not state a basis for reopening my case. To the contrary, I will demonstrate the following:

(a) On my Motion To Re-Open Civil Action at ECF. 44, I clearly stated that Honorable Judge Kelly [r]etained

[j]urisdiction over [a]ny matters as to ([a]ny issues related to the Settlement Agreement). Judge Kelly stated, in relevant part: ("On July 26, 2018, this Court approved the Stipulation of Dismissal with [p]rejudice and closed the case.") ECF. 80 page 2, paragraph 2 referencing ECF. 34 and 35, but Judge Kelly fails to state that she also [r]etained [j]urisdiction over [a]ny issues related to the Settlement Agreement. ECF. 35. This means that this case shall be re-opened as a result of any issues or clear conflicts that has violated any, or all terms impairing the contract of the Settlement Agreement if Pa. Doc Defendants continue to refuse to comply with the terms of any part of the agreement.

(b) In each state Correctional Institution, including my current place of incarceration (SCI Dallas), my First Amendment to Yoruba Santeria religious freedoms, to exercise and practice, and the Religious Land Use and Institutionalized Persons Act has continuously been violated including all terms of the Settlement Agreement still remaining with no way to exercise or practice religion. The same facts; the same constitutional violations; and the same problems have recurred at different State Correctional Institutions, including SCI Dallas. The relief, and changes in policies within the DC-ADM 819, Religious Activities Procedures Manual are still vague for Yoruba Santeria religious activities, and religious articles and items, and have not fixed the constitutional violations that Pa. Doc Defendants have continued to cause. See *Burns Vs. Pa. Dep't Of Corrections*, 544 F.3d 279 (3d Cir. 2008)

(c) The DC-ADM 819 is a statewide policy that has effected and continue to effect my constitutional rights in each and everyone of the the Pa. Doc institutions including SCI Dallas on the same subject matter and Pa. Doc Defendants have failed to fix, change and/or correct the continued religious violations and said policy, and courts have found that a statewide policy that violated a prisoners constitutional rights in one institution may still violate a prisoners rights in the new institution allowing the case to be re-opened and amended. See *Pugh Vs. Goord*, 571 F. Supp. 2d 477 (S.D.N.Y. 2009), see also *Oliver Vs. Scott*, 276 F.3d 736 (5th Cir. 2002).

(iv) The Third Circuit Court of Appeals abused its discretion by erroneously agreeing with the District Court, indicating that the Pa. Doc Defendants had fully complied with the terms of the Settlement Agreement. To the contrary, I will refute this as follows:

(a) In the Memorandum Order filed by Magistrate Judge Kelly at Appendix A Memorandum Order page 4 paragraph 1 where Judge Kelly states in relevant part: ("During the conference, the Court addressed [t]wo issues that [s]ettlement: that he had not received a consecrating Santeria beaded necklace and his complaint relative to the payment of \$6,500.00 in settlement proceeds.")

(b) Judge Kelly is limiting my allegations by narrowing it down to two (2) issues when I alleged that the [e]ntire Settlement Agreement and its terms are being violated ECF. 44 Motion To Re-open Civil Action at page 1 paragraph 3 and page 2 paragraph 5; ECF. 46 paragraphs 1-2 Motion for Leave to File Amended Complaint; ECF. 53 Motion To Withdraw Settlement Agreement page 1 paragraph 9 and page 2 paragraph 10

(c) Pa. Doc Defendants provided facts that are unsupported by the record and Judge Kelly's arguments are flawed because Judge Kelly ignores important material facts that I have provided as evidence as part of the record in support of ECF. 63 Motion To Schedule A Legal Virtual Video Conference; ECF. 79 Brief In Support of Motion for Relief From A Judgment, Order Or Proceeding. These supporting exhibits is evidence that demonstrated how Pa. Doc have never complied with the terms of the contract of the settlement agreement from the time that the settlement was reached, and impaired in each and every state Correctional Institution that I have been transferred to including my current place of confinement (SCI Dallas), which I will raise in several points:

POINT #1: Refusal To Repair Damages Of Sacred
Consecrated Orisha Eleque
Beaded Necklaces

(1) At Memorandum Order filed by Magistrate Judge Kelly at Appx. A page 4 Judge Kelly stated in part: ("First, as to the necklace, the Settlement agreement expressly provided that Plaintiff was permitted to purchase a [c]onsecrated black and red beaded

necklace and [c]onsecrated yellow beaded necklace.") and that ("The Court asked Plaintiff to identify the names and address of the person who could [c]onsecrate the beads."), and when I answered, the stenographer erroneously reported that I replied: ("I can't do that, right, but the person who initiated me under these mysteries of Orisha Oshun said the beads were destroyed. They would have to get another [c]hicken and they're not going to permit that on prison grounds. They're going to charge me another \$2,500.00 just - the beads don't cost nothing, the beads only cost like maybe \$5.00, depending what store you buy it from, but just the [c]onsecration thing, they're going to charge me \$2,500.00 all over again.")

(2) With respect to the November 12, 2019 proceedings, it shall be noted that the Video Status Conference developed technical defectness, then the proceedings were conducted by Telephone Status Conference which also developed technical defectness sound, impairing and interfering with the hearing and audio sound, and as a result of these technical defectness, my statements not completely and accurately transcribed on the record leaving my words omitted. See ~~Exhibit~~ Appx. D Hearing Memo Outcome paragraph 3., and Appx. A Memorandum Order of Judge Kelly page 4 7:4-11.

(3) When Judge Kelly asked me (to identify the names and address of the person who could [c]onsecrate the beads), I clearly stated: ("I can't do this [from prison], but the person who initiated me is Tabitha M. Rubio, and her address and phone number is found at ECF. 63-4 Ex. 34") By technical defectness, this part was omitted from the record.

(4) At Appx. A Memorandum Order Order of Judge Kelly page 4, Judge Kelly states in relevant part: ("Your issue is - the issue is not the [c]ost of the beads themselves, the issue is having them [c]onsecrated."), and it was reported that I replied: ("Having to [c]onsecrate the beads, right.")

(5) This is incorrect, because I clearly stated: ("Both your honor, having to [c]onsecrate the beads and the payment fees to a Santero or a Babalawo for [c]onsecration services, right, both issues because another [c]hicken is needed for sacrifice and the [b]lood of the chicken is used to [c]onsecrate the

beads, and they are not going to allow that on prison grounds.") This technical defectness has omitted this whole part from the record.

(6) In order to [c]onsecrate the Santería Orisha Elegue beaded necklaces, I [m]ust undergo the ceremonial rituals and [c]onsecration of my [b]ody, all over again by a specific Santero or Babalawo priests who [m]ust also be an "Omo Orisha" or a "Child" of the same African Orisha that I was initiated under; not just have the Orisha Elegue beaded necklaces [c]onsecrated without a ceremonial ritual and without my [b]ody being present. Had the Orisha Elegue beaded necklaces been broken inadvertently, then I would only be required to send the beads back to a Santero or Babalawo so they may be prepared and re-paired, and or re-[c]onsecrated for a much lesser fee without having to undergo the strict religious ceremonial ritual [c]onsecration. ECF. 63-4 Ex. 34 Affidavit of Tabitha M. Rubio page 1 paragraph 4.

(7) However, Pa. DOC Defendants have defiled and destroyed my Orisha Elegue beaded necklaces, ECF. 1 page 6, paragraphs 42-45, and as a result I am required to undergo the ceremonial rituals and [c]onsecrations all over again which will require the slaughter of a live male chicken on prison grounds to feed and bath the Orisha Elegue beaded necklaces, and my body with the fresh [b]lood of the sacrificial chicken, sacred herbs, coconut water, Holy water, cigar smoke, Yoruba prayers, and other complex practices that may seem bizarre to Pa. DOC prison officials.

(8) The [c]onsecration fees are required in the amount of \$2,500.00, in order to pay the Santero or Babalawo which is utilized to purchase the sacrificial male chicken, sacred herbs, oils, coconuts, cigars, candles, white caps, white headkerchiefs, white clothings, Orisha Elegue necklaces, and also to pay off other Ayubonas i.e. Santero Assistants. These [c]onsecration ceremonial rituals are not free, and Pa. DOC Defendants are refusing to re-pair the damages of my Orisha Elegue beaded necklaces that they destroyed. ECF. 63-7 Ex. 61 page 79 (explaining Omiero or fusion of ceremonial purification with herbs, water, blood of animal etc.); ECF. 63-7 Ex. 61 page 82-83 paragraph 11 (explaining Orisha Elegue [c]onsecration of Asiento ceremony which Orisha Elegue beads must be soaked in Omiero), and

ECF. 63-7 Ex. 61 page 91 (explaining the [c]ost of the Orisha Elegue [c]onsecration of beads and Asiento ceremony) See also Badillo Vs. Amato, 2014 U.S. Dist. LEXIS 10210 (explaining animal sacrifice for the initiation of Santeria priests, rituals, and other ceremonies), citing Church of the Lukumi Babalu-Aye Inc. Vs. City of Hialeah, 508 U.S. 520, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993) (explaining that animal [s]acrifice play a ~~key~~ key role in Santeria). I still have no beads.

POINT # 2: Sacred Cigar Smoke Puffing And Blowing
Santeria Religious Ceremony

(1) The terms of the contract of the Settlement Agreement at term No. 5 has been impaired by Pa. Doc Defendants. The terms of this agreement states in relevant part: ("... If Plaintiff wishes to utilize the [c]igar while at a [t]obacco-free institution, the Department of Corrections will [t]ransfer him to another prison where [t]obacco use is permitted... After such a transfer, Plaintiff and [a]ny inmates who wish to participate, provided there are a minimum of five inmates who desire to participate will be allowed to [l]ight the [c]igar in an outdoor ceremony.") See Exhibit 1 Settlement Agreement And Release of All Claims.

(2) On December 11, 2018, while at SCI Forest I forwarded an Inmate's Request Slip addressed to SCI Forest Facility Chaplaincy Program Director, Rev. Stacy A. Shaffer, requesting that I be permitted to begin to practice the sacred cigar smoke puffing and blowing ceremony on Mondays while housed in the RHM in the yard outdoor area inside the yard cage.

(3) Rev. Shaffer responds back stating in relevant part: ("Until a decision is made concerning your Religious Accommodation... [at ECF. 79 Ex. 4-A]... for these observances my hands are tied.") ECF. 79 Ex. 17-C

(4) If Rev. Shaffer's hands are tied then, I see not point in reaching a settlement agreement, so when the decision was made by the Bureau of Treatment Services/ Religious Accommodation Review Committee (RARC), it stated in relevant part: ("... Provided this institution is [n]ot [t]obacco-free, provided an [o]utdoor space can be secured, and provided the inmate can purchase a [c]igar from

commissary, this inmate will be permitted to [l]ight a [c]igar in a religiously appropriate manner...") SCI Forest has never permitted this [c]igar ceremony practice. ECF. 79 Ex. 4-B page 2 Section d.

(5) However, when I grieved certain issues relating to the above response despite settlement agreement, I received a Final Appeal Decision at Grievance No. 787754 stating in relevant part: ("... The Settlement says you could use an [u]nlit [c]igar in a religiously appropriate manner but [n]ot at any prison designated as [t]obacco-free which is now [a]ll facilities... and nowhere was permission granted to be [o]utside and [s]moke it or use the [s]moke for a weekly [c]onsecration of your beads...") ECF. 79 Ex. 4-C and Ex. 5-C through Ex. 12-C (relating to complete grievance exhaustion #787754)

(6) First the settlement clearly states in part: (" At the weekly religious gatherings and/or in his [c]ell, Plaintiff will be permitted to utilize an [u]nlit [c]igar... If Plaintiff wishes to utilize the [c]igar while at a [t]obacco-free institution, the Department of Corrections will transfer him to another prison where tobacco use is permitted... After such a transfer, Plaintiff and any inmates who wish to participate (provided there are a minimum of five inmates who desire to participate) will be [a]llowed to [l]ight the [c]igar in an [o]utdoor ceremony.") See Exhibit 1 Settlement Agreement And Release of All Claims page 2 term #5.

(7) On July 1, 2019, the Pa. Doc Secretary, John E. Wetzel issued a policy banning all [t]obacco products statewide, so on July 8, 2019, I filed an Official Inmate Grievance and I mailed it to the Pa. Doc Chief Grievance Office at Mechanicsburg, Pa. because the relevant [t]obacco-free institution policy issues are outside of the authority and jurisdiction of SCI Forest. ECF. 79 Ex. 19-C (Official Inmate Grievance addressed to Mrs. Dorina L. Varner Chief Grievance Officer for Central Office)

(8) I received a response to ECF. 79 Ex. 19-C stating in relevant part: (" h) Your grievance and/or correspondence is being filed without further action for the following reasons specified in the Comments/ Action Taken ~~Section~~ below. This office is in receipt of your

7/8/2019 grievance regarding the banning of [t]obacco products. This office does not process initial grievances. You must submit your grievance to the Facility Grievance Coordinator where you are currently housed.") ECF. 79 Ex. 20-C (Secretary's Office Of Inmate Grievances And Appeals)

(9) On July 8, 2019, I also filed another Official Inmate Grievance No. 810849 reiterating the same issues as ECF. 79 Ex. 19-C at ECF. 79 Ex. 21-C

(10) I received an Initial Review Response No. 810849 to ECF. 79 Ex. 21-C by Rev. Stacy A. Shaffer, SCI Forest Facility Chaplaincy Program Director stating in relevant part: ("... the Institutional Tobacco Free Policy is a directive from Central Office and is not just limited to this institution but is a [s]tatewide policy. This is not a local issue and one that this institution does not have [a]uthority over.") ECF. 79 Ex. 22-C (Initial Review Response No. 810849)

(11) I received a Final Appeal Decision No. 810849 to my Inmate Appeal To Final Review No. 810849, stating in relevant part: ("A review of the records by the Bureau of Treatment Services (BTS) and the Office of Chief Counsel reflects that if you [b]elieve a settlement agreement has been violated, this is an issue for the [c]ourts rather than the grievance process...") ECF. 79 Ex. 26-C

(12) This is the type of example that clearly shows how the Pa. DOC Defendants are blatantly stalling and dodging the terms of the contract of the Settlement Agreement at every turn. This blanket policy of tobacco ban further violates and impairs the terms of the settlement agreement and also continues to impose a substantial burden on my right to practice and exercise the religious sacred [c]igar smoke puffing and blowing ceremony. The DC-ADM 819, Religious Activities Procedures Manual Section 3-B.6.2. states in relevant part: ("Tobacco (sacred) the religious use of [s]acred [t]obacco shall not be [p]rohibited as a result of the Department's no-smoking requirement...") This policy only seems to protect the Native American's sacred Tobacco Smoke Pipe Ceremony. See Davilla Vs. Watts, Civ. A. No. 2:15-cv-171, 2016 U.S. Dist. LEXIS 56721, *1-3, 16-1-8 (S.D. Ga. April 28, 2016) (finding that plaintiff, a practitioner of Santeria incarcerated

in Federal prison, stated colorable RFRA and First Amendment claims relating to the denial of a cigar for religious ceremonies), and see also *Native American Council of Tribes Vs. Weber*, 750 F.3d 742, 749-50 (8th Cir. 2014) (holding that banning tobacco significantly burdened Native American prisoner's exercise of their religion because it "meaningfully curtailed the inmates' ability to express adherence to their faith") (quotations omitted). See also *Campos Vs. Coughlin*, 854 F. Supp. 194 at 196 (explaining that Santeria shrines are devotional items, that traditionally contain religious beads, [c]igars and food such as fruit for the Santeria Orisha/saints).

POINT # 3: Three Wise Kings Feast Day Impairment Term of Settlement Agreement

(1) Magistrate Judge Kelly's determination that Defendants have complied with the terms of the settlement agreement is incorrect and unsupported by the record. ECF. 80 page 7 paragraph 2.

(2) On January 6, 2019, Pa. DOC Defendants have continued to violate and impair the terms of the contract of the settlement agreement at term No. #3 by refusing to permit me to observe this sacred Holy Feast Day and depriving me of my right to fast and break fast with a religious feast meal, and on January 6, 2020 once again this term was violated and impaired ultimately violating my First Amendment and RLUIPA, while other prisoners of other religious faith groups were allowed to observe their religious feast days and break their fasts.

(3) On January 7, 2019, I filed a DC-ADM 804, Official Inmate Grievance against Pa. DOC Defendants and other SCI Forest prison officials. ECF. 63-4 Ex. 35 through 40.

(4) On the Final Appeal Decision, Central Office states in relevant part: ("the settlement agreement states that five or more inmates must intend to participate for the feast to be held. In January of 2019, there were [n]ot 5 inmates at SCI Forest who would have been considered members in good standing with that faith community as defined in each B's memo... You would have been unable to attend such a gathering as you were in a lock-in unit at the time.") ECF. 63-4 Ex. 40 paragraph 2.

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(5) According to 4 prisoners that I met while I was confined in the SCI Forest RTHU from August 2018 through February 2019, and upon information and belief from these 4 prisoners who are also members of Yoruba Santería, I was informed that there were approximately 13 to 15 Yoruba Santería adherents in general population and 4 in the RTHU.

(6) There has never been any Yoruba Santería religious group services or group activities, nor has there ever been any Santeros, Santeras or Babalawo priests to conduct Yoruba Santería religious group services and religious group services/activities. So this is the reason why Yoruba Santería adherents are not being fairly considered members in good standing as a faith community, because the Pa. Doc Defendants and SCI Forest prison officials have failed to provide employment opportunities to Santeros, Santeras or Babalawos to conduct these religious group services, religious group studies, religious group worship, and January 6 religious feasts that would otherwise give Yoruba Santería adherents the opportunity to be considered and recognized as members in good standing.

(7) I have met with numerous adherents of different religious faiths while housed in the RTHU who are not considered members in good standing due to their placement in the RTHU/SMU/ lock-in unit, and these same prisoners of other religious faiths were still allowed to observe their Holy Day Feasts and were provided with a feast meal to break their fast while still being held in a lock-in unit. ECF. 63-5 Ex. 42 through 43 (copy of Sworn Declaration of Stephen Blackstone and DC-138A Cash Slip 2019 Islamic Eid Al-Fitr Feast) ECF. 63-5 Ex. 44 (Stephen Blackstone's DC-138A Cash Slip 2019 Eid Al-Adha Feast)

(8) Pa. Doc Defendants and SCI Forest prison officials continue to provide arguments that is unsupported by the record, and it is misleading.

(9) On March 12, 2019 there was an electronic E-Mail posted ~~sent~~ from defense counsel Timothy Mazzocca to my former counsel Alexandra Morgan Kurtz that was sent on March 11, 2019 which states in relevant part:

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("In addition, when Mr. Rodríguez arrived at Forest in August (2018), there was only [o]ne other Santería inmate there. Since he has been in the RTHU, he has [g]otten 9 other inmates to [r]egister as Santería, so currently there are 11 inmates at Forest registered as Santería...")
ECF. 79 Ex. 43-C

(10) In cases like this, courts have held that not only does this type of behavior violate First Amendment rights, but it also violates RLUIPA, for lock-in unit prisoners religious freedoms. See *Hudson Vs. Dennehy*, 538 F. Supp. 2d 400, 411 (D. Mass. 2008) (holding that failure to provide Halal food to Muslim prisoner in a Special Management Unit (SMU) violated RLUIPA, citing *Washington Vs. Klemm*, 497 F.3d 272, 280 (3d Cir. 2007); *Conyers Vs. Abitz*, 416 F.3d 580, 585-586 (7th Cir. 2005) (holding that defendants were not entitled to summary judgment where they did not explain why they could not have accommodated a segregated prisoner who had missed the dead-line for receiving a Ramadhan feast meal.); and *Ford Vs. McGinnis*, 352 F.3d 582, 594-596 (2d Cir. 2003) (holding that denial of 'Eid Al-Fitr meal to keep-lock Muslim prisoner raised a material factual issue under the First Amendment)

(11) The evidence clearly shows how Pa. DOC Defendants as well as each institution across the state have been fraudulently concealing the numbers of Yoruba Santería adherents in each facility I've been to in order to continuously keep depriving me of my right to fast and observe the Three Wise Kings Feast Day every year on January 6.

(12) Pa. DOC Defendants continuously fail to include the Three Wise Kings Day sacred religious Holy Day within the Religious Holy Days Accommodated In The Pa. DOC. ECF. 63-5 Ex. 41. The Santería religious observantion of the Three Wise Kings Feast Day is not being treated with equal footing on the same terms as other religious faith groups of mainstream religions.

POINT # 4: Moyuba Gorro/Prayer Cap; And Fruit, Candy, Coffee And Water Offering For African Santeria Orisha Shrine

(1) Magistrate Judge Kelly's determination that Defendants have complied with the terms of the

settlement agreement is incorrect and unsupported by the record. ECF. 80 page 7 paragraph 2.

(2) On my initial Civil Complaint I raised religious accommodation request issues of a sacred white Moyuba Gorro/ Prayer Cap, fruit, Candy, Coffee and water offerings for my African Orisha shrine, under declaratory and injunctive relief. ECF. 1 page 10 subparagraph 2.3.b.c. (Civil Complaint)

(3) Pa. Doc Defendants agreed to allow me to purchase a white prayer cap similar to Kufis commonly worn by Muslims, and to offer water, candy, fruit, and coffee for my African Orisha shrine. ECF. 9 page 23 paragraph 2. (Defendants Brief In Opposition) ECF. 63-5 Ex. 45 (Confirmation From Former Attorney)

~~(4) I~~ (4) I once again filed repeated Religious Accommodation Request Form despite settlement agreement requesting to construct an African Orisha shrine, to make offerings of fruit, candies, coffee and water; and to be allowed to purchase a white sacred Moyuba Gorro/ Prayer Cap as my prayer cap had been destroyed as described on ECF. 63-5 Ex. 46 through 47. My African Orisha shrine was also destroyed as well at ECF. 63-5 Ex. 48, 49 and 50 through 54, and on ECF. 79 Ex. 4-A page 2-3 paragraph 3-4

(5) Pa. Doc Defendants filed a Religious Accommodation Request Response to ECF. 79 Ex. 4-A stating in relevant part: ("The inmate may keep small photo copied images of Catholic Saints and/or Orisha figures in his locker or may tape photocopied images of saints inside his footlocker or on the special area within each cell, which is designated for pictures and/or posters. Due to food ~~safety~~ safety and security reasons, the inmate may not leave fruits and/or food objects as offerings to this Orisha/saint(s). The inmate is free to draw a piece of fruit / some other food item on a piece of paper and place it on or in front of the image of the Orisha/god/saint(s) to represent his offering... The request to purchase a white prayer headherchief... are currently denied. For these items to be considered to be added to the Religious Catalog, the inmate must submit to BTS reasons why the headgear in the catalog cannot meet the inmate's religious need as well as the contact information of a vendor which

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sells such prayer headherchief so that they can be reviewed for security reasons") ECF. 79 Ex. 4-B page 2 Subsection b) and c)

(6) DC-ADM 610, Food Services Procedures Manual Section 2-C.1., prisoners are permitted to bring one (1) piece of fresh fruit back to their cells provided that it is disposed of or consumed within a 24 hour period.

(7) DC-ADM 819, Religious Activities Procedures Manual Section 3-Religious Articles and Accoutrements, provides that prisoners of the Jewish, Muslim, and Native American faith are allowed to possess and wear religious headgears at all times while in General Population, RHM, SMU, SNU, SSNU, STGMU, and MHU without the need to give any reasons for their practice. The burden only falls on Yoruba Santeria adherents.

(8) On February 18, 2019, I filed an Official Inmate Grievance No. #787754 objecting to the Religious Accommodation Review Response. In said grievance I also provided contact information of Santeria vendor and Santeria Churches. ECF. 79 Ex. 4-C.

(9) This grievance was rejected, and denied on all levels of appeal. ECF. 79 Ex. 5-C, 6-C, 7-C, 8-C, 9-C, 10-C, 11-C, and 12-C

(10) At the Final Appeal Decision it states in relevant part: ("You were instructed in the response to your accommodation request which you received in January 2019, how you could request to have a vendor or items added to the Religious Catalog but have not done so... There is no mention in the Settlement agreement regarding the wearing of religious headgear, either white... there is no mention of... candles, in the agreement.") ECF. ~~79~~ 79 Ex. 12-C (Final Appeal Decision No. #787754) ECF. 63-5 Ex. 45 (Confirmation From Former Attorney Regarding Headgear, Shrine, and Food Offering)

(11) As far as the fa. DOC Defendants claiming that I was instructed to request to have a vendor or items added to the Religious Catalog, but I have

not done so is incorrect, because I have diligently done so at ECF. 79 Ex. 4-C page 2 Subsection, (ii) b), and ECF. 79 Ex. 14-C (Personal Correspondence To Rev. Ulli Klemm page 5-6 Subparagraph 3. (i)(a)(ii)(a) (c)(d), and page 16. ECF. 79 Ex. 15-C (DC-138A Cash Slip as Proof of Mailing); and ECF. 79 Ex. 16-C (Santería Religious Articles Catalog showing that there are no religious Mayuba Gorros/ Prayer Caps for Yoruba Santería practitioners available, nor any Orisha African images and Catholic Saint images available)

POINT # 5: Pa. DOC Religious Articles And Items Catalog For African Orisha Images And Catholic Images Or Saint Images

(1) Magistrate Judge Kelly's determination, that Defendants have complied with the terms of the Settlement agreement is incorrect and unsupported by the record. ECF. 80 page 7 paragraph 2.

(2) Pa. DOC Defendants have failed to add images or pictures for sale of African Orishas and Catholic Saints to be included on the Pa. DOC Religious Articles and Items Catalog. ~~Defendants have failed to add images or pictures for sale of African Orishas and Catholic Saints to be included on the Pa. DOC Religious Articles and Items Catalog.~~ ECF. 79 Ex. 16-C (Pa. Doc. Santería Religious Articles Catalog)

(3) I received a donation of Santería African Orisha images from "History Miami" with their Catholic counterparts. ECF. 63-5 Ex. 48 (relating to donation of African Orisha images and Catholic Saint images); ECF. 63-5 Ex. 49 through 54 (relating to grievance exhaustion for the destruction of African Orisha images and Catholic Saint images within Orisha shrine), and ECF. 63-6 Ex. 57 (relating to Sworn Declaration of witness to Sworn Declaration of witness to destruction of ECF. 63-5 Ex. 48)

(4) I filed a Religious Accommodation Request Form requesting to purchase African Orisha and Catholic Saint images from a Santería Botanica Religious Store so I may re-build my African Orisha shrine for worship and devotional purposes. ECF. 79 Ex. 4-A page 2 paragraph 2 through 3.

(5) Pa. DOC Defendants filed a Religious Accommodation Review Response. ECF. 79 Ex. 4-B page 2 Section b). It was approved that I can keep small

photocopied images of African Orishas and Catholic Saints, but they fail to address my request to purchase these religious images from a Santería Botánica Religious Store, nor do they address whether these religious images would be added to the Pa. DOC Santería Religious Articles Catalog as it was agreed to at Exhibit 1 Settlement Agreement And Release Of All Claims Term No. #4, wherein Pa. DOC Defendants agreed to provide a catalog containing said religious images, which they have not done so yet. ECF. 79 Ex. 16-C (Santería Religious Catalog)

(6) I filed an Official Inmate Grievance in regards to the above issues, and at the Final Appeal Decision level it stated in relevant part: ("A review of the records by the Bureau of Treatment Services (BTS) reflects that your settlement did not say you could choose the store... You were instructed in the response to your accommodation request which you received January 2019, how you could request to have a vendor or items added to the Religious Catalog but have not done so.") ECF. 79 Ex. 12-C

(7) The Pa. DOC Defendants fail to reference my correspondence to Rev. Ulli Klemm where I in fact did provide the above requested information. ECF. 79 Ex. 14-C page 3 through 4 subparagraph 2. (i)(2), and page 16. (Correspondence to Rev. Ulli Klemm and Certificate of Service), and ECF. 79 Ex. 15-C (DC-138A Cash Slip as Proof of mailing service)

POINT # 6: Santería Scholars And Santería Practitioners

(1) Magistrate Judge Kelly's determination that Defendants have complied with the terms of the Settlement agreement is incorrect and unsupported by the record. ECF. 80 page 7 paragraph 2.

(2) Pa. DOC Defendants have agreed to provide me with information currently in their possession on Santería scholars and Santería practitioners to assist me in obtaining a volunteer for Yoruba Santería religious services. See Exhibit 1 Settlement Agreement And Release Of All Claims term No. #6.

(3) Apparently, Defendants did have said information in their possession on outside Santería scholars

and Santería practitioners but have refused to release this information. ECF. 79 Ex. 13-C page 2/14 (E-mail from defense counsel Timothy Mazzocca to my former attorney Alexandra Morgan-Kurtz), and ECF. 63-16 Ex. 59 (Correspondence from Imam Faatih Akdemir, Pa.Doc Assistant Religion for Defendant Rev. Klemm)

POINT # 7: \$10,000.00 Settlement Agreement

(1) Magistrate Judge Kelly's determination that Defendants have complied with the terms of the Settlement agreement is incorrect and unsupported by the record. ECF. 86 page 7 paragraph 2.

(2) Upon reaching the settlement agreement, my former attorney Alexandra Morgan-Kurtz took her part of 35% in attorney fees from the \$10,000.00 leaving me with \$6,500.00. See Exhibit 1 Settlement Agreement Term No. #1

(3) Upon review of Magistrate Judge Kelly's Memorandum Order, Judge Kelly states: ("Second in terms of the payment of the \$6,500.00 issued to Plaintiff as part of the settlement, Plaintiff complained that the funds went into an escrow account and were not available in their entirety for his personal use.")

(4) I never made any statements stating that this money was not available in its entirety for my personal use. I've always maintained that I was charged \$2,500.00 by a Santera/Priestess or my Madrina/Godmother in Santería. ECF. 63-4 Ex. 34 page 1 paragraph 4 for my Madrinas' services in religious [c]onsecration fees for consecrating and blessing the Orisha Elegue beaded necklaces, something that can never be repaired because Pa.Doc Defendants have destroyed my Orisha Elegue beaded necklaces and are further refusing to repair the [c]onsecrated beads which they have destroyed, and have prevented me from utilizing \$2,500.00 from the \$6,500.00 to pay a Santero, Santera or a Babalawo for the [c]onsecration services and fees and for shipping services.

(5) Judge Kelly makes reference to a statement provided by defense counsel explaining the reasons why my monetary damages settlement was clawed back by stating in relevant part: ("deducting the full

amount owed from the proceeds to pay towards Act 84", and then cites Montañez Vs. Secretary of Pennsylvania Department of Corrections, 773 F.3d 472 at 477 (3d Cir. 2014) which defense counsel claims that the Pa. DOC is authorized to make policy about the disposition of compensatory monetary damages to pay the debts. ECF. 80 page 5

(6) The Montañez case has nothing to do with a prisoners monetary compensatory damages being completely deducted to pay court cost and fines obligations for Act 84. Montañez case deals plainly with a prisoners challenge to to stop the 20% deduction from a prisoners Inmate Account to pay towards Act 84. In fact, this same circuit court declared Act 84 unconstitutional under Montañez Vs. Sec'y Pa. Dept of Corr., 2014 U.S. App. LEXIS 15602 (3d Cir. Aug. 14, 2014).

(7) Defense counsel further states in relevant part: ("Now, I think where the second issue comes, there's another section of the policy that says that 20% of any money an inmate gets to his inmate account, goes to pay down the debts. That is just money that he happens to get, maybe family gives it to him or he earns it in some way.") ECF. 80 page 5 through 6.

(8) What difference does it make as to where the source of any money comes from whether its a friend, family member, or as a result of monetary compensatory damages from prison litigation in conditions of confinement?

(9) In Dodd Vs. Robinson, Civil Action No. 03-F-571-N, Order #1 (M.D. Ala. Mar. 20, 2004) (holding that a damages settlement was [n]ot subject to the requirement of direct payment of restitution orders because the parties had reached a [p]rivate settlement agreement) Compare Dodd to my case. On April 14, 2017, we had a Mediation Hearing, where a private settlement agreement was reached that allows a form of a process of Alternative Dispute Resolution that attempts to settle disputes to ~~see the~~ finding common grounds that both parties can agree to, that allows for the settlement agreement to be [c]onfidential and will not be filed or shared or, disclosed to the Courts or the Defendants. ECF. 79 Ex. 41-C.

(10) To completely seize the \$6,500.00 in monetary compensatory damages from my Inmate Account without allowing me to use \$2,500.00 from the \$6,500.00 to pay a Santero, the fees in [c]onsecration services for consecrating the Orisha Elegues was inappropriate. The complete claw back of my \$6,500.00 in monetary compensatory damages to pay towards Act 84 was never stipulated as part of the terms of the contract of our agreement.

(11) To completely seize the \$6,500.00 in monetary compensatory damages award would completely demolish the whole purpose and effects of section 1983, and settlements agreement, as the second holding of relevant decision, the court have held that the seizure of a prisoners civil rights awards to pay towards court costs are null. See Williams Vs. Murphy, 2018 U.S. Dist. LEXIS 72833 (holding that to completely seize civil rights damages awards, it completely undermines the whole purpose of section 1983 as to be preempted)

(12) Pa. DOC Defendants actions continue to conflict with the First Amendment, RLUIPA, section 1983 as well as Article 6. Section II of the United States Constitution's supremacy clause. Williams, 2018 U.S. Dist. LEXIS 172429 *6. (holding that under the supremacy clause, "state laws that conflict with federal law are without effect.")

See Altria Group Inc. Vs. Good, 555 U.S. 70, 76, 129 S. Ct. 538, 172 L. Ed. 2d 398 (2008); see also Williams, 2018 U.S. Dist. LEXIS 72833 *20, citing Gibbons Vs. Ogden, 22 U.S. 1, 211, 6 L. Ed. 23 (1824) ("explaining that the appropriate application of the supremacy clause is to such acts of the state Legislatures... enacted in the execution of acknowledged state powers, that interfere with, or are contrary to the laws of Congress, made in pursuance of the constitution... In every such case, the act of Congress, or the treaty, is supreme, and the law of the state... must yield to it.") See Williams, 2018 U.S. Dist. LEXIS 72833 * 62-63 (holding that seizure of a prisoners monetary damages awards as a result of conditions of confinement to pay towards court fines is null) Meaning the state has no legal power to impair that contract just to make a prisoner satisfy payments towards court fines.

(13) On each seven points I have demonstrated how Pa. DOC have violated and impaired every single term of the contract of the settlement agreement.

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(v) The Third Circuit Court of Appeals abused its discretion by erroneously agreeing with the District Court and/or magistrate indicating that I the Plaintiff was given the opportunity to fully present my argument at the November 12, 2019 status conference. To the contrary, I will refute this as follows:

(a) Magistrate Judge Kelly determined that the case had been resolved and that Defendants have complied with the terms of the settlement agreement during the conference. Video Conference developed technical defectness as well as Telephone Conference impairing and interfering with the hearing and audio sound. See Appx. D Hearing Memo Outcome paragraph 2-3.

(vi) The Third Circuit Court of Appeals abused its discretion by failing to address my reasons of filing Motion For Leave To File An Amended Complaint, which Magistrate Judge improperly denied and District Judge upheld.

(a) At ECF 46 I clearly explained the reasons why my Motion for Leave To File An Amended Complaint should have been granted.

(b) The new claims are related to the same subject matters of the original pleadings to my complaint and the unconstitutional blanket policies that continues to not only violate the First Amendment, and RLUIPA; but also violates the settlement agreement. The religious policies for Santeria religion are blanket and vague. The same violations have recurred at different institutions statewide including my place of incarceration (SCI Dallas). See *Burns Vs. Pa. Dep't of Corrections*, 544 F.3d 279 (3d Cir. 2008) (holding that prison officials must show that there is no reasonable expectation that the violations will recur. They must also show that the relief or changes in policy that they put in place have completely fixed the constitutional violation, and the effects it may have had.) The courts may not moot a case if it is "capable of repetition. See *Oliver Vs. Scott*, 276 F.3d 736, 741 (5th Cir. 2002) (holding that to meet this test, the condition must be reasonably likely to recur). See also *Pugh Vs. Goord*, 571 F. Supp. 2d 474 (S.D.N.Y. 2009), *Oliver Vs. Scott*, 276 F.3d 736 (5th Cir. 2002) (holding that a statewide policy that violated a prisoners constitutional rights in one facility, may still violate a prisoners rights in the new facility)

P. 9 (c) Pursuant to Rule 15(c)(1)(B) of the Fed. R. Civ. P., it states in relevant part: ("An amended complaint may be filed at anytime even after the limitations period has expired if the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out - or attempted to be set out - in the original pleading") (My comprehension of these rules, tells me that "if the amendment deals with the same subject matter,")) then it must be granted

(d) Pursuant to Rule 15(c)(1)(B) of the Fed. R. Civ. P., I may also name new Defendants after the limitations period has expired [If I can satisfy the same subject matter rule under the above said rule, which my numerous religious accommodations and grievances dealing with the same continuous issues relating to deprivations of Yoruba Santeria religious freedoms and the continuous impairment of the contract of the settlement agreement which demonstrates the same subject matter rule in this case.

(e) If a violation of rights of the same subject matter takes place over a period of time, it may be considered to be a [c]ontinued [w]rong or (continued harm, injury, violation, etc.) This means that the statute of limitations may not start to run until the end of that period. See *Heard Vs. Sheahan*, 253 F.3d 316, 320 (7th Cir. 2001) (adopting continuing wrongs rule for §1983 suits) and cases cited, accord. *Shomo Vs. City of New York*, 579 F.3d 176, 181 (2d Cir. 2009) (following *Heard Vs. Sheahan*); *Hensley Vs. City of Columbus*, 557 F.3d 693, 697 (6th Cir. 2009) (finding continuous violations exists if (1) the Defendants engage in continuing wrongful conduct; (2) injury to the plaintiffs accrues continuously, and (3) had the Defendants at anytime ceased their wrongful conduct, further injury would have been avoided); See *Tiberi Vs. Cigna, Corp.*, 89 F.3d 1423, 1430-31 (10th Cir. 1996) (applying New Mexico law and holding claim accrues, and limitations period runs, from date of last injury or when the wrong is over and done with)

(f) In cases like this I may even recover for the whole course of conduct even if it started outside of the limitations period, *Heard*, 253 F.3d at 348

(A violation is called "continuing," signifying that a plaintiff can reach [b]ack to its beginning, even if that beginning lies outside the statutory limitations period, when it would be unreasonable to require, or even permit him, to sue [s]eparately, over every incident of the Defendant's unlawful conduct.), and see also *Little Vs. Lycoming County*, 912 F. Supp. 809, 815 (M.D. Pa. 1996) (finding that claims of exposure to second-hand smoke were [c]ontinuing violations), *aff'd*, 101 F.3d 691 (3d Cir. 1996)

(g) If a new [c]laim or defense arises from the [s]ame facts alleged in the [o]riginal pleadings, it may [r]elate back to the time the original pleading was filed. In this case the lower Court should have allowed new claims on amendment arising from the same facts. Rule 15(c)(1)(B) (a new claim or defense relates back if it arose out of the conduct, transaction, or occurrence set out - or attempted to be set out - in the original pleading)

(h) As a pro-se litigant I should have been allowed to amend or file a curative amended complaint raising the same subject matter even when I did not seek leave to amend. See *Fletcher - Harlee Corp. Vs. Pote Concrete Contractors Inc.*, 482 F.3d 247, 252 (3d Cir. 2007) However, dismissal without leave to amend is justified on grounds of bad faith, undue delay, prejudice, or futility. *Baylor Vs. Pa. Dep't. of Corrections*, 2013 U.S. Dist. LEXIS 20828 *4, and *Alston Vs. Parker*, 363 F.3d 229, 235-36 (3d Cir. 2004) Baylor was granted leave to amend his complaint twice because he proved that Defendants themselves was the cause of bad faith, undue delay, prejudice and dilatory motives at 2013 U.S. Dist. LEXIS 20828 *14.

(i) I may be allowed to amend my complaint at [a]ny time during and after judgment/trial when an issue not raised by the pleadings is treated or tried by the parties' express or implied consent, it [m]ust be treated in all respects as if raised in the pleadings. I may also move at any time, even after judgment - to amend the pleadings to conform them to the [e]vidence and to raise an unpleaded issue. Rule 15(b)(2)

(vii) The Third Circuit Court of Appeals abused its discretion by failing to address the reasons as to why I had filed a motion to re-open my case.

(a) At ECF. 35 Magistrate Judge Kelly stated that she retained jurisdiction ~~as to~~ over any matter as to any issues related to the settlement agreement.

(b) At ECF. 44 Motion To Re-open Civil Action, I stated the reasons why my case should have been allowed to re-open. My Settlement agreement involved numerous issues and conflicts, and Judge Kelly refused to adequately resolve them, where Judge Kelly showed biasness acting as an ~~advocate~~ advocate for Defendants. My case should have been allowed to be re-opened as a result of all the issues and conflicts that has impaired the settlement agreement, where I have clearly demonstrated that Defendants continue to remain uncompliant with the terms of the contract of the settlement agreement and continuing to deprive my religious freedoms.

(viii) The Third Circuit Court of Appeals abused its discretion by failing to address my arguments on my motion for conflict counsel issues, where Magistrate Judge Kelly blasly mooted, and District Judge Ranjan upheld without a proper hearing, to determine if in fact conflict counsel issues existed and whether my former counsels were ineffective in my case.

(a) At ECF. 40 Motion For Conflict Counsel, I stated the reasons why I believed I had conflict counsel issues in my case.

(b) On my Appellate Brief filed March 4, 2020, I argued numerous points how counsels were ineffective in my case upon settlement agreement in violation of Pa. Rules of Professional Conduct, at page 15-18.

(c) My former counsels have failed to advise me that Attorney fees are 25% not 35%. These attorneys have unfairly charged me 35% in Attorney Fees against the \$10,000.00 in Monetary Damages, leaving me with \$6,500.00. These former attorneys took their portion, and refused to re-open the case leaving me to fend for

myself in a legal battlefield. These former attorney's are aware of the Murphy decision when the United States Supreme Court ruled that Attorney Fees shall be 25%. See *Murphy Vs. Smith*, 138 S.Ct. 784 U.S. LEXIS 1379 (2018).

(d) My former attorney's have failed to re-open my case and amend my complaint, and re-address all of these issues as presented in this certiorari, and refusing to raise continued wrongs.

(e) My former attorney's have mis-represented my case where I believe I have established a claim of ineffectiveness against them. Under *Washington Vs. Strickland*, I should have been allowed to be heard on ineffectiveness claims and granted at hearing, at 466 U.S. 668 (1984)

(ix) The Third Circuit Court of Appeals abused its discretion by failing to address why the Magistrate Judge Kelly denied my motion to appoint conflict counsel without a hearing to determine my need for conflict counsel in allegations of ineffective representation.

(a) At ECF. 47 Motion To Appoint Conflict Counsel, I stated that since Magistrate Judge Kelly retained jurisdiction as to all matters to any issue related to settlement I should be appointed with conflict counsel. I stated that I was unable to afford counsel; that Defendants have blatantly continued to violate settlement agreement; that I was not satisfied with former attorneys handling of this case because these former attorneys have failed to protect my constitutional rights because Defendants continue to violate my Yoruba Santería religious freedoms and as a result of former attorneys failure to re-open my civil action to amend my complaint and address these issues.

(b) Former attorneys and myself have developed divergent interests and irreconcilable differences throughout the settlement agreement and all issues raised in this certiorari, in very much ways we had a conflict of interest. See *Carmona Vs. U.S. Bureau of Prisons*, 243 F.3d

(c) Documentary evidence of former attorneys in relation to their ineffectiveness, in regards to this case and their failure to address Defendants continued wrongs; documentary evidence in regards to Religious Mainframe / Religious Statistics of prisoners who are currently registered as Yoruba Santeria throughout each Pa. State Correctional Institution statewide which ~~confirms~~ appointment of conflict counsel could have been effective investigating ineffectiveness. See *Montgomery Vs. Pintcham*, 294 F.3d 492, 502 (3d Cir. 2002) (holding that appointment of counsel is directed because imprisoned plaintiff could not take necessary depositions and encountered multiple obstacles in discoveries, both in the resistance of the Defendants and in the intricacies of the discovery rules; *Tebron Vs. Grace*, 6 F.3d, at 156 (holding that need for discovery supports appointment of counsel), and *Parham Vs. Johnson*, 126 F.3d 454, 459 (3d Cir. 1999) (holding that prisoner's lack of legal experience and the complex discovery rules clearly put him at a disadvantage in countering the defendants discovery facts and that... these discovery rules prevented the Plaintiff from presenting an effective case)

(d) Assessment of my former attorney's credibility is to be questioned and I am ill-suited to conduct cross-examinations. See *Steele Vs. Shah*, 87 F.3d 1266, 1271 (11th Cir. 1996) (noting case will turn on assessments of credibility); *Reyes Vs. Johnson*, 969 F.2d 700, 704 (8th Cir. 1992) (holding that denial of appointment of counsel shall be reconsidered); *Whisenant Vs. Yuan*, 739 F.2d 160, 163 (4th Cir. 1984); *Bright Vs. Hickman*, 96 F. Supp. 2d 572, 577-78 (E.D. Tex. 2000) (need for cross-examination skills to deal with conflicting testimony supported appointment of counsel), and *Hetzel Vs. Swartz*, 1917 F. Supp. 344, 346 (M.D. Pa. 1996) (holding that credibility issues supported counsel)

(e) Expert testimony is needed to determine if the Pa. DOC DC-ADM 819 religious policy remains blanket, discriminatory and unconstitutional. First Amendment issues relating to violations of religious freedoms require expert testimony from Yoruba Santeria religious clergies as my case deals with a religion that is misunderstood, unfamiliar, feared, and looked upon as a bizarre religion in the eyes of the Pa. DOC. See *Beard Vs. Banks*, 548 U.S. 521, 534, 126 S. Ct. 2572 (2006)

(ix) The Third Circuit Court of Appeals abused its discretion by failing to address the reasons why Magistrate Judge Kelly improperly informed me that any new claims must be brought in a new lawsuit and District Judge Ranjan failed to address this issue.

(a) As discussed before, the new claims are related to the same subject matters of the original complaint and the unconstitutional blanket policies that continues to not only violate my First Amendment religious freedoms and the Religious Land Use and Institutionalized ~~Personnel~~ Persons Act 42 U.S.C. § 20001-c, but also violates the Settlement Agreement because the DC-ADM 819 Religious Activities Procedures Manual for Yoruba Santeria religious activities and practices, are discriminatory and vague towards Yoruba Santeria; the same violations have recurred at different institutions statewide. *Burns vs. Pa. Dept of Corrections*, 544 F.3d 279 (3d Cir. 2008) (holding that prison officials must show that there is no reasonable expectation that the violations will recur. They must also show that the relief or changes in policy that they put in place have completely fixed the constitutional violation, and the effects it may have had)

(b) The courts may not moot my case if it is capable of repetition. See *Oliver vs. Scott*, 276 F.3d 736, 741 (5th Cir. 2002) (holding that to meet this test, the condition must be reasonably likely to recur) See also *Pugh vs. Goord*, 571 F.Supp. 2d 477 (S.D.N.Y. 2009), and *Oliver*, 276 F.3d 736 (5th Cir. 2002) (finding that a statewide policy that violated a prisoners constitutional rights in one facility may still violate a prisoners rights in the new facility)

(c) The courts may not force me to sue the same Defendants in a new lawsuit separately, when they are continuing to violate my religious freedoms in the same exact way as they did since the beginning of this civil action, and everytime I am transferred there have been additional Defendants who have violated my religious freedoms in the same way as the original Defendants have. See *Heard vs. Sheahan*, 253 F.3d 316, 320 (7th Cir. 2001) at 318 (finding that a violation is called [c]ontinuing, signifying that a plaintiff can reach back to its beginning even if that beginning lies outside of the

statutory limitations period, (when it would be [u]nreasonable to require or even permit him to sue [s]eparately over every incident of the defendant's unlawful conduct))

(xi) The Third Circuit Court of Appeals abused its discretion by failing to address the reasons as to why I was not permitted to purchase my two (2) Yoruba Santería consecrated Orisha Elegue beaded necklaces, due to my \$6,500.00 in compensatory damages being held for a whole year in escrow, and then was completely clawed back to pay towards Act 84.

(a) As discussed earlier, my \$6,500.00 in compensatory damages were placed in escrow since July 13, 2018. ECF. 63-1 Ex. 4-11 (relating to escrow of monetary Settlement grievance); ECF. 63-2 Ex. 12-21 (relating to illegal monetary transaction activities against my monetary settlement while still held in escrow on Inmate Account [grievance]), and ECF. 63-3 Ex. 22-30 (relating to evidence of Monthly Account Statements reflecting illegal monetary transaction activities against my monetary settlement while still in escrow). Also, on November 13, 2019, Pa. Doc Defendants completely clawed back the \$6,500.00 in compensatory and Punitive Damages. ECF. 79-1 Ex. 1-A (relating to evidence of Monthly Account Statement reflecting a complete claw back of my \$6,500.00 in monetary damages). This was to pay Act 84, and Defendants refused to permit me to utilize \$2,500.00 from the \$6,500.00 to purchase my sacred Orisha Elegue beaded necklaces and pay a Santero, Santera or a Babalawo and the [c]onsecration ceremony services and fees. ECF. 63-4 Ex. 34 (relating Sworn Affidavit of Tabitha M. Rubio confirming her consecration ceremonial services of the Orisha Elegue beaded necklaces and the \$2,500.00 fees for consecration ceremonial services upon the beaded necklaces)

(b) I emphasize that the [c]onsecration fees are required in the amount of \$2,500.00 in order to pay a Santero or Babalawo which is utilized to purchase a male chicken for sacrificial purposes, sacred herbs, oils, coconuts, cigars, candles, white caps, white headkerchiefs, white clothings, Orisha Elegue beaded necklaces, and also to pay off other Ayubonas i.e. (Santero Assistants). ECF. 63-7 Ex. 61

page 79 (explaining the obligatory religious significance of Omiero or fusion of ceremonial purification of Orisha Elegue beaded necklaces with herbs, water, blood of sacrificial animal etc.); ECF. 63-7 Ex. 61 page 82-83 paragraph 11 (explaining the obligatory religious significance of Orisha Elegue [c]onsecration of Asiento ceremonial ritual which Orisha Elegue beaded necklaces must be [s]oaked in Omiero), and ECF. 63-7 Ex. 61 page 91 (explaining the [c]ost of the Orisha Elegue [c]onsecration and Asiento ceremony) See also *Badillo Vs. Amato*, 2014 U.S. Dist. LEXIS 10210 (explaining animal sacrifice for the initiation of Santeria priests, rituals, and other ceremonies), citing *Church of the Lukumi Babalu-Aye Inc. Vs. City of Hialeah*, 508 U.S. 520, 113 S.Ct. 2247, 124 L. Ed. 2d 472 (1993) (explaining that animal [s]acrifice play a key role in Santeria) However, Pa.DOC Defendants have defiled and destroyed my Orisha Elegue beaded necklaces, ECF. 1 page 6 paragraph 5 42-45 (Civil Complaint), and as a result of Pa.DOC Defendants claw back of the \$6,500.00 in monetary damages I am still left without the obligatory practices of wearing my sacred Orisha Elegue beaded necklaces for my protection and blessings, and Pa.DOC Defendants have continued to refuse to repair the damages of my Orisha Elegues that they have destroyed.

REASONS FOR GRANTING THE PETITION

The reasons for granting this petition is because Yoruba Santería religion is being discriminated against statewide throughout the Pa. State Correctional Institutions.

Despite a settlement agreement reached in my case, defendants continue to deprive me of my religious freedoms as well as other prisoners throughout the Pa. State Correctional Institutions from engaging in virtually every form of religious exercise.

Yoruba Ifá is a centuries old faith, tracing its historical roots back to the "African Slave Trade" from the province of Ile Ife, Nigeria (Western Africa) and predominantly attributed to the Yoruban people, among them were the Bantu, the Kongo, the Nago, the Ibo, and the Dahomean tribal members. The Yoruba people were severely affected by the humanitarian atrocity of the African Slave trade and transported by the Spaniard European Slave Masters to Cuba, Puerto Rico, and the Dominican Republic where the Yoruba people were forced to adopt Christianity and Catholicism, and forbidden to practice their native African Yoruba Ifá religion. The Yoruba people resisted, and the result was Yoruba [S]antería, replete with syncretic depictions of African deities called Orishas as Catholic Saints, and a strict code of secrecy necessary, at the time, for survival.

The Yoruba people underwent physical, mental, and spiritual oppression; suppression and repression, and this was the reason why they adopted drastic measures of secrecy during religious practice under the guise of the Catholic Saints.

In their efforts to conceal their African Yoruba Ifá religious practices from the probing eyes of the Spaniard European Slave Masters, the Yoruba people identified their African Yoruba deities with the Saints of the Catholic Church. This was the beginning of [S]antería, which is a term derived from the Spanish word "Santo" i.e. (Saint), and literally means "The Worship of Saints".

Although the Yoruba people were successful in hiding their Orishas under the guise of the Catholic Saints, it did not take long for the Slave Masters to realize what the Yoruba people were doing. This resulted in a widespread Spanish Inquisition, which forced the slaves to cloak the Yoruba Santería religion in secrecy. This secrecy, which never existed in Nigeria, is still observed by practitioners of [S]antería today, even in the Pennsylvania Department of Corrections because we feel fear of discriminatory repercussions.

I feel that the defendants are implementing psychological and spiritual oppression, suppression and repression on my Yoruba Santería religious freedoms which today is reminiscent and perpetuative to the slave master mentality and practice as a religious psychological Lynching, which is state, nationally and internationally denounced as prohibited. The practice [m]ust be abolished, by review of this Court for safeguarding the reputation of the history of Yoruba Santería and its religious practices, and by declaring Yoruba Santería religion and its practitioners' right to have equal religious footing with other mainstream religions in the Pa. State Department of Corrections institutions without fear of oppression, suppression, repression, or discrimination in our state of Pennsylvania, which can only be regarded as constitutional, and to begin to allow the immediate practices of Yoruba Ifá Santería statewide within the Pa. State Correctional Institutions.

The United States Supreme Court accorded First Amendment protections to Yoruba Santería practitioners in 1993 under Church of the Lukumi Babalu Aye, Inc. Vs. City of Hialeah, 508 U.S. 520, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993), and a year later New York State prisoners were granted First Amendment religious freedoms to practice Yoruba Santería similarly to my case in the United States District Court Southern District New York under Campos Vs. Coughlin, 854 F. Supp. 194, and Pennsylvania state is still lagging behind to recognize the obligatory and sacred religious practices of Yoruba Santería and applying religious ~~and~~ oppressive deprivations. This is due to variations among state and federal law, and local ordinances. In my opinion, I believe that both factual proper information and meaningful dialogue are necessary in order for Yoruba Ifá Santería to gain acceptance in modern-day American prison systems to avert religious and legal conflict.

[continued on page 39]

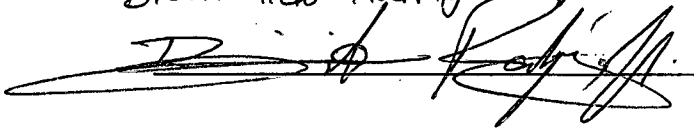
Today, my main goal is to protect our historical roots and the practices of my religion with all of my strength and by every means within my knowledge and power because spiritual development is the supreme end of human existence and the highest expression thereof.

For further research of the religious and historical roots of Yoruba Ifá Santería see Bienvenido Rodríguez, Jr. Santería: Afro-Boricua and Afro-Cuban Religion, By: Bienvenido Rodríguez, Jr. at www.redheartwarrior/rising-sun-press.org; Freedom of Yoruba Ifá Santería Religious Exercise In Prison, By: Bienvenido Rodríguez, Jr. at <https://apw.dhinitiative.org>; Santería: The Religion, By: Migene Gonzalez Wippler; Santería African Spirits In America, By: Joseph M. Murphy; The Afro-Cuban World of Santería, By: Raul Canizales; Olódumare: God In Yoruba Belief, By: E. Bolaji Idowu; The Diloggun: Orishas, Proverbs, Sacrifices, and Prohibitions of Cuban Santería, By: Ocha ni Lele.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
Bienvenido Rodríguez, Jr.



Date: March 10, 2021