

# Order On Pre Appeal Motion for Reconsideration En Banc SC210339

Docket Number: NNHCV185043126S

Issue Date: 9/20/2022

Sent By: Supreme/Appellate

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## Order On Pre Appeal Motion for Reconsideration En Banc SC210339

NNHCV185043126S JAN M. GAWLIK v. DANNELL P. MALLOY, GOVERNOR, ET AL.

Notice Issued: 9/20/2022 2:35:29 PM

### Notice Content:

**Motion Filed: 6/27/2022**

**Motion Filed By: Jan M Gawlik**

**Order Date: 09/20/2022**

### Order: Denied

MCDONALD, J., did not participate in the consideration of or decision on this petition.

By the Court

Howard, Sarah

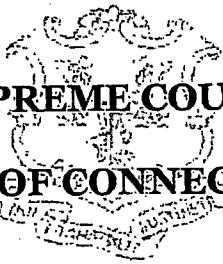
Notice sent to Counsel of Record

Hon. James W Abrams

Clerk, Superior Court, NNHCV185043126S

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"APPENDIX(A)"



**SUPREME COURT**  
**STATE OF CONNECTICUT**

PSC-210387

JAN M. GAWLIK

v.

DANNELL P. MALLOY, GOVERNOR, ET AL.

**ORDER ON PETITION FOR CERTIFICATION TO APPEAL**

The plaintiff's petition for certification to appeal from the Appellate Court, 203 Conn. App. 904 (43870), is denied.

MCDONALD, J., did not participate in the consideration of or decision on this petition.

*Jan M. Gawlik*, self-represented, in support of the petition.

Decided May 24, 2022

By the Court,

/s/  
L. Jeanne Dullea  
Assistant Clerk - Appellate

Notice Sent: May 27, 2022  
Petition Filed: January 28, 2020  
Clerk, Superior Court, NNHCV185043126S  
Hon. James W. Abrams  
Clerk, Appellate Court  
Reporter of Judicial Decisions  
Staff Attorneys' Office  
Counsel of Record

"APPENDIX(A)"

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APPELLATE COURT  
STATE OF CONNECTICUT

AC 43870

JAN M. GAWLIK

v.

DANNELL P. MALLOY, GOVERNOR, ET AL.

MAY 12, 2021

**ORDER**

THE MOTION OF THE PLAINTIFF-APPELLANT, FILED APRIL 30, 2021, FOR RECONSIDERATION, HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY  
**ORDERED DENIED.**

BY THE COURT,

/S/  
L. JEANNE DULLEA  
ASSISTANT CLERK-APPELLATE

NOTICE SENT: MAY 12, 2021  
HON. JAMES W ABRAMS  
COUNSEL OF RECORD  
CLERK, SUPERIOR COURT, NNH CV18 5043126S

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"APPENDIX(A)"

STATE OF CONNECTICUT  
APPELLATE COURT

Date: Hartford, April 20, 2021

To the Chief Clerk of the Appellate Court.  
The Appellate Court has decided the following case:

JAN M. GAWLIK

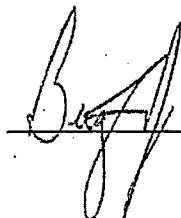
v.

*Opinion Per Curiam.*

DANNELL P. MALLOY ET AL.

Docket No. AC 43870  
Trial Court Docket No. NNHCV185043126S

The judgment is affirmed.



\_\_\_\_\_  
Chief Judge

Rescript

"APPENDIX(A)"



Judicial District of New Haven  
SUPERIOR COURT  
NOV 26 2019  
FILED  
CHIEF CLERK'S OFFICE

DOCKET NO.: CV 18-5043126

JAN GAWLIK : SUPERIOR COURT

V. : JUDICIAL DISTRICT OF NEW HAVEN

DANIEL MALLOY, ET AL. : NOVEMBER 26, 2019

MEMORANDUM OF DECISION RE:  
PLAINTIFF'S REQUEST FOR INJUNCTION (#106.00)

The plaintiff, Jan Gawlik, who is an inmate at the Cheshire Correctional Institution, brought this matter by complaint dated May 22, 2018. His original Complaint alleged that various state officials violated his rights by refusing to allow him to openly display various religious articles, including a scapular, crucifix, and rosary. He subsequently filed a Motion for Injunction dated August 7, 2018 seeking an order enjoining enforcement of DOC rules regarding the wearing of religious paraphernalia by inmates.

There were originally fifty defendants in this case, but all claims have been dismissed except those made against the Department of Corrections Commissioner in his official capacity (hereinafter "DOC") seeking injunctive relief pursuant to the Connecticut Religious Freedom Act, the anti-discriminatory state statutes, the Religious Land Use and Institutionalized Person Act, 42 U.S.C. § 2000cc-1(RLUIPA), and United States Code §§ 1983 and 1985.

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"APPENDIX(B)"

A hearing on the plaintiff's claim for injunctive relief was held before the court on September 16, 2019 at which testimony was taken and evidence submitted. "A party seeking injunctive relief has the burden of alleging and proving irreparable harm and a lack of an adequate remedy at law.... The extraordinary nature of injunctive relief requires that the harm complained of is occurring or will occur if the injunction is not granted. Although an absolute certainty is not required, it must appear that there is a substantial probability that but for the issuance of the injunction, the party seeking it will suffer irreparable harm." (Citations omitted; internal quotation marks omitted.) *Tighe v. Berlin*, 259 Conn. 83, 87-88, 788 A.2d 40 (2002). Additionally, "[a] decision to grant or deny an injunction *must be compatible with the equities in the case*, which should take into account the gravity and willfulness of the violation, as well as the potential harm to the defendant." (Emphasis added.) *Bauer v. Waste Management of Connecticut, Inc.*, 239 Conn. 515, 527, 686 A.2d 481 (1996); accord *Gelinas v. West Hartford*, 225 Conn. 575, 595-96, 626 A.2d 259 (1993); *Waterbury v. Phoenix Soil, LLC*, 128 Conn. App. 619, 627-28, 20 A.3d 1 (2011)." *Steroco, Inc. v. Szymanski*, 166 Conn. App. 75, 87-88, 140 A.3d 1014, 1022 (2016).

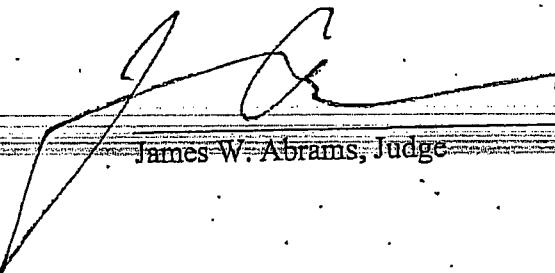
The plaintiff's allegations focus on two rules established by a Department of Correction (hereinafter "DOC") directive. The first rule, under a section titled "Religious Articles," states that "[r]eligious articles shall be worn or carried under the inmate's

"APPENDIX(B)"

clothing, and shall not be openly displayed." The second rule, which is found in a section called "Inmate Dress Code," states that "[r]eligious headwear may be worn at all times." In his complaint, the plaintiff alleges that the directive was promulgated by the General Assembly and the Commissioner. He also alleges that the DOC, through the authority of the Commissioner has, with this directive, established a policy that permits inmates of every faith to openly wear religious headwear as well as religious articles, provided that the inmates are not Christian or Catholic. The plaintiff further alleges that the policy put in place by the directive discriminates against Christians and Catholics because it prevents them from venerating their religious articles.

Based on the testimony provided and evidence submitted at the hearing, particularly the DOC regulations in dispute, the court is of the unequivocal opinion that the regulations at issue are fully supported by valid security concerns, represent the least restrictive alternatives regarding the display of religious paraphernalia by inmates and do not, in any manner whatsoever, favor one religion over another.

The plaintiff's Motion for Injunction is hereby denied. His request for injunctive relief against the DOC being the only issue remaining in the case, final judgment hereby enters in favor of the defendant.



James W. Abrams, Judge

"APPENDIX(B)"