22-7780

ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN THOMAS ENTLER,
Petitioner,
vs.

ERIC JACKSON ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION ONE

PETITION FOR WRIT OF CERTIORARI

Galhen Melchizedek, #964471
Monroe Correctional Complex-TRU
P.O. Box 888
Monroe, WA 98272

QUESTIONS PRESENTED.

A. WHETHER PRISON OFFICIALS CAN REQUIRE PRISONERS TO SHOW CENTRALITY IN W-DOC'S RRIS APPLICATION PROCESS FOR REQUESTING RELIGIOUS ACCOMMODATIONS, AND WHETHER PRISON OFFICIALS CAN REGULATE PRISONERS SINCERITY AND RELIGIOSITY UNDER THEIR SOLE DETERMINATION AND DISCRETION. pp. 7-12

B. WHETHER PRISON OFFICIALS HAVE THE BURDEN TO CHALLENGE SINCERITY AND RELIGIOSITY, AND WHETHER THERE WAS A THRESHOLD FACT QUESTION AS TO MR.ENTLER'S SINCERELY HELD RELIGIOUS BELIEFS FOR THE STATE COURTS TO RESOLVE. pp. 12-18;

C. WHETHER PROHIBITING RELIGIOUS EXERCISE UNLESS A PRISONER PROVIDES A RELIGIOUS AUTHORITY, OR PROHIBITING INDIVIDUAL RELIGIOUS EXERCISES, IMPOSE A SUBSTANTIAL BURDEN. pp. 18-21;

D. WHETHER PRISON OFFCIIALS CAN RELY ON ALTERNATIVE SECOND BEST OPTIONS OF RELIGIOUS EXERCISE AS A BASES OF CLAIMING THEY ARE NOT IMPOSING A SUBSTANTIAL BURDEN ON PRISONERS RELIGIOUS EXERCISE. pp. 21-26; and

E. WHETHER PRISON OFFICIALS CAN RELY ON POST HOC RATIONALIZATIONS THAT DO NOT MEET RLUIPA'S STRICT SCRUTINY STANDARD TO MEET THEIR BURDENS UNDER RLUIPA. pp. 26-37.

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LIST OF PARTIES.

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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 issues to review the State Court's judgment below.

STATE COURT OPINION BELOW

The opinion of the Washington State Court of Appeals ruling on the merits appears in Appendix A, and is not published.

The opinion of the Washington State Superior Court ruling on the merits of Mr.Entler's Partial Motion for Summary Judgment appears in Appendix B, and is not published.

The opinion of the Washington State Superior Court ruling on the merits of W-DOC's Motion for Summary Judgment appears in Appendix C, and is not published.

The decision of the Washington State Department of Correction (W-DOC) denying religious practices and accommodations appear in Appendix D, and is not published.

The opinion of the Washington State Supreme Court denying Mr.Entler's Petition for Review appears in Appendix E, and is not published.

JURISDICTION.

The date the Washington State Supreme Court decided the Petition for Review was APRIL 5, 2023, and appears in Appendix E. No motion for Reconsideration is allowed.

The date the Washington State Court of Appeals ruled on the merits was SEPTEMBER 26. 2022, and appears in Appendix A.

This Court's jurisdiction is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

The Religious Land Use And Institutionalized Persons Act (RLUIPA) 42 U.S.C. §2000cc-1 et seq. appears in Appendix F.

STATEMENT OF THE CASE.

Petitioner John T. Entler (Aka Galhen Melchizedek) is incacerated at the Monroe Correctional Complex (MCC) a Washington State Department of Corrections (W-DOC) facility. CP 603 (Defend. Response. to Partial Mot. for Sum. Judg, (Appendix G)). Mr.Entler filed a RLUIPA complaint in State Court alleging that several W-DOC staff violated RLUIPA when they denied Mr.Entler's "Religious Requirements Information Sheet" (RRIS) application. CP 612.

Mr.Entler made the following requests for accommodations based on [his] sincerely held religious beleifs[1]: (1) access to the Offender Betterment Fund (OBF); (2) access to a bank account to put donations (tithes) to his church in; (3) access to a single-man cell to keep Holy and practice religion in; (4) access to a laptop, internet, Facebook, and Emails to [proselytize]; (5) Access to a 30-40 WATT light bulb to melt oils producing smoke during prayers; (6) access to the chapel and conference rooms for [large groups] for religious services; and (7) a ALL Glatt Kosher diet (non-veigitarian) to eat in cell privately. See Appendix A, at 3.

Note No. 1: Except for access to internet, Facebook, and Emails, W-DOC already allows access to the accommodations Mr.Entler requests. See CP 703.

The Washington State Court of Appeals already made the finding of fact that: "DOC does not challenge the sincerity of Mr.Entler's religious beliefs or dispute that his requested accommodations qualify as 'religious' under RLUIPA as they are broadly grounds in those beliefs." Appendix A, at 7.

W-DOC allows inmates to practice their sincerely held religious beleifs, but certain procedural requirements must be met. CP 604 (citing Taylor Dec. at ¶¶5-8 (Appendix H)). If an inmates desires access to a religious practice or program that [is not] currently available, they may request access to the unavailable practice or program pursuant to W-DOC Policy 560.200. CP 604.

To ensure that an inmate is requesting accommodations for what W-DOC calls a "[legitimate religious belief]," W-DOC requires inmates to provide information in order to authenticate the veracity of the inmates request. CP 604. In order to facilitate W-DOC's application process, W-DOC provides inmates requesting accommodations with a "RRIS Application." Cp 604 (citing Taylor Dec. at ¶5).

The RRIS appliaction requires the inmate provide contact information for a person [out-side] of W-DOC who is a "[religious authority]" of the faith group. CP 604-05. The contact provided cannot be an inmate's family member and must be recognized as a [religious authority] within the faith group to which the request applies. CP 605 (citing Taylor Dec. at ¶6). The RRIS is provided to the Chaplain, who send the form to the identified religious authority to complete the remainder of the form, "thus verifying that the inmates request is

consistent with faith standards." CP 605 (citing Taylor Dec. at ¶6).

The faith group identified in the RRIS must also be verified and authentic. CP 605 (citing Taylor Dec. at ¶7). To verify the authenticity of a religion, W-DOC contacts a credentialed representative of the faith in the larger religious community outside of the prison. Id. W-DOC considers the religion's history and/or background and its tenets, practices, requirements, dietary restrictions, and so forth. Id. After this through investigation of the inmates request, W-DOC will make a determination if the practice or program is allowed.

On February 11, 2020, Mr.Entler submitted an RRIS application to the MCC Chaplain. CP 605 (citing Taylor Dec. at ¶9). The RRIS application submitted by Mr.Entler [did not] provide any contact information for an outside religious authority. CP 605. Instead, Mr.Entler assered that he was not required to provide contact information pursuant to Federal Law. CP 605. Mr.Entler's RRIS application was forwarded to Dawn Taylor at W-DOC Headquarters for review. Due to Mr.Entler's refusal to provide contact information for an outside religious authority, Ms.Taylor would not process the RRIS application, as without that information she was unable to [substantiate] Mr.Entler's requests and as a result could not approve his requests. CP 606.

After filing suit in the State Court, Mr.Entler filed a Motion for Partial Summary Judgement against Ms.Taylor. CP 657-705. W-DOC in response (see Appendix G) argued that Mr.Entler had failed to demonstrate a "sincerely held religious belief" in his RRIS application

to substantiate his "sincerity and religiosity;" that W-DOC had a compelling governmental interest in requiring a religious authority information in the RRIS application, and that they were using the least restrictive means by requiring that infromation in the RRIS application. On March 14, 2022, the trial court concluded that unless Mr.Entler could demonstrate that the accommodations were sincere aspects of his religion in the RRIS application, his request for accommodations were counter to the demonstration of sincere religious beliefs. See Appendix B, at 1. The trial court also found that W-DOC's RRIS application process did not violate RLUIPA or impose a substantial burden on Mr.Entler's religious exercise. Appendix B, at 1.

W-DOC filed their own Motion for Summary Judgment in the trial court. CP 483-503. Like they argued in response to Mr.Entler's Partial Motion for Summary Judgement, W-DOC argued that Mr.Entler's failure to provide contact information for a "religious authority" in his application did not violate RLUIPA and did not impose a substantial burden, that their procedural requirements were supported by compelling governmental interests, and that they were using the least restrictive means by requiring an outside religious authority be provided in their RRIS application. W-DOC also challenged each of Mr.Entler's accommodations arguing that their denial of them did not substantially burden Mr.Entler's religious exercise, or alternatively the denial of them were supported by compelling governmental interests, and were the least restrictive means.

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On December 2, 2021 the trial court issued a written decision and held that W-DOC's RRIS application process did not violate RLUIPA, that it did not impose a substantial burden on Mr.Entler's religious exercise, and that Mr.Entler did not establish disputed issues of fact that the religious exercises and accommodations were required by his "[Essene]" religion[a]. The Trial Court also fould regarding the individual accommodations Mr.Entler failed to establish a substantial burden on his religious exercises and accommodations. Appendix C, at 1-10. The trial court granted summary judgment to W-DOC on all of Mr.Entler's RLUIPA claims.

Mr.Entler appealed the denial of his Partial Motion for Summary Judgment, the Grant of Summary Judgment to W-DOC, and the trial court's Denial of Preliminary Injunctive Relief to Mr.Entler, to the Washington State Court of Appeals Division One, at Seattle. See Appendix A. On Sepember 26, 2022 in a written unpublished opinion the Court of Appeals affirmed the trial courts rulings on the all the Motions for Summary Judgement. See Appendix A. Mr.Entler filed a Petition for Review in the Washington State Supreme Court. Appendix E, at 1. On April 5, 2023, the Washington State Supreme Court issued a one-page ruling denying Mr.Entler's Petition for Review. Appendix E, at 1. Mr.Entler Now seek a Petition for Writ of Certiorari asking this Court to accept review of the State Court's rulings under Supreme Court Rule 10(c).

Note No. 2: Although Mr.Entler presented a 22 paged affidavit showing his sincereily held religious beliefs the trial court rejected Mr.Entler showing on its own.

REASONS FOR GRANTING WRIT.

Ground No. 1:

A. WHETHER PRISON OFFICIALS CAN REQUIRE PRISONER'S TO SHOW CENTRALITY IN W-DOC'S RRIS APPLICATIONS PROCESS FOR REQUESTING RELIGIOUS ACCOMMODATIONS, AND WHETHER PRISON OFFICIALS CAN REGULATE PRISONERS SINCERITY AND RELIGIOSITY UNDER THEIR SOLE DETERMINATION AND DISCRETION.

RLUIPA covers state-run prisons in which the government exerts a degree of control unparalleled in a civilian society and severely disabling to private religious exercise. Cutter v. Wilkinson, 544 U.S. 709, 720-21, 125 S.ct. 2113 (2005) (citing 42 U.S.C. §2000cc-1(a); §1997; See Joint Statement 16699 ("Institutional residents' right to practice their faith is at the mercy of those running the institution.")). RLUIPA thus protects institutionalized persons who are unable freely to attend to their religious needs and are therefore dependent on the government's permission and accommodation of their religion. Cutter, 544 U.S. at 720-21 & n.9.

However, nothing in RLUIPA or the Free Exercise Clause allows Prison Officials to become the [final arbitrator] of "what a sincerely held religious belief is or is not," as the sole means of determining a prisoner's "sincerity" or "religiosity." Cantwell v. Connecticut, 310 U.S. 296, 303-305, 60 S.ct. 900 (1940); Frazee v. Ill. Dep't of Employment Sec., 489 U.S. 829, 833-835, 109 S.ct. 1514 (1989); Holt v. Hobbs, 574 U.S. 352, 362, 135 S.ct. 850 (2015) ("..., 'the protection of RLUIPA, no less than the guarantee of the Free-Exercise Clause, is not limited to beliefs which are shared by all members of a religious sect.'

Thomas v. Review Bd. of Indiana Employment Security Div., 450 U.S. 707, 716-716, 101 S.ct. 1425, 67 L.Ed.2d 624 (1981)").

W-DOC, like Cantwell and Frazee has established their own tests to determine what "sincerely held religious beliefs" are and are not under W-DOC Policy 560.200. See Appendix G, at 2 (lines 22-24) ("To ensure that an inmate is requesting accommodations for a legitimate religious belief, DOC requires an inmate to provide information in order to authenticate the veracity of the request."); Appendix G, at 2-3 ("The RRIS requests the inmate proved contact information for a person outside of the prison who is a religious authority of the faith group."); Appendix G, at 3 (lines 4-6) ("The RRIS is provided to the chaplain, who sends the form to the identified religious authority to complete the remainder of the form, thus verifying the inmates request is consistent with faith standards."); Appendix G, at 4 (lines 11-13) ("Without additional information, Ms.Taylor was unable to substantiate Entler's requested accommodations and as a result could not approve his request.").

W-DOC asserts, which is no less than requiring a prisoner to show [centrality], that unless Mr.Entler provides a religious authority in his RRIS application to show that his beliefs, practiuces, and accommodations are consistent with faith standards and that he is responding to the tenets of an established religious organization in his RRIS application, Mr.Entler has failed to establish "sincerely held religious beliefs." See Appendix G, at 3 (lines 4-6) (requiring a religious authority to verify that the inmates request is consistent

with faith standards).

W-DOC's application process mirrors the application process in Cantwell v. Connecticut, 310 U.S. at 303-305 that this Court invalidated. In Cantwell this Court defined the application process in relevant part:

> "It will be noted, however, that the Act requires an application to the Secretary of the public welfare council of the state; that he is empowered to determine whether the cause is a religious one, and that the issue of a certificate depends upon his affirmative action. ... He is not to issue a certificate as a matter of course. His decision to issue or refuse it involves appraisal of facts, the exercise of judgment, and the formulation of an opinion. He is authorized to withhold his approval if he determines that the cause is not a religious one." Cantwell, 310 U.S. at 305.

See also Lovell v. Griffen, 303 U.S. 444, 450-51, 58 S.ct. 666 (1938) (Finding ordinance invalid that requires application to seek a permit for distribution of religious tracts from City Mandager); Largent v. Texas, 318 U.S. 418, 422, 63 S.ct. 667 (1943) (Finding ordinance invalid which left the granting or withholding of permit for distribution of religious publications in the discretion of municipal officers); Saia v. New York, 334 U.S. 558, 560, 68 S.ct. 1148 (1948) (Finding ordinance invalid that left the religious speech to be heard in the discretion of the police chief).

In Frazee v. Ill. Dep't of Emply. Sec., 489 U.S. at 834-835, this Court not only rejected a state created test to determine sincerely held religious beliefs, but explicitly rejected the notion that to claim the protection of the Free-Exercise Clause, one must be responding to the commands of a particular religious organization. Yet this is exactly what W-DOC Policy 560.200 requires Mr.Entler to do before W-DOC will

recognize their duty to accommodate prisoners' religious exercises, and as the sole means to determine a prisoners' "sincerity" or "religiosity." See Appendix G, at 7 (lines 20-24) (Asking the court to look past Mr.Entler's own statements of sincerity).

Thus, even though Mr.Entler not only submitted a [22 page] affidavit, See CP 72-93 (with attachments) establishing his "sincerely held religious beleifs," See Appendix G, at 7 (lines 20-24), and even though the Court of Appeals found that W-DOC did not challenge [Mr.Entler's] religious beliefs and that the requested accommodations he was requesting qualified as religious exercise under RLUIPA, that is not good enough. See Appendix B, at 1 (providing that unless Mr.Entler can show that the accommodations are [sincere aspects of his religion] they are counter to the demonstration of sincere religious beliefs). W-DOC Policy 560.200 directly conflicts with RLUIPA's definition of "religious exercise" requiring a showing of [centrality].

Here, there is no doubt that W-DOC developed Policy 560.200 to regulate what "sincerely held religious beliefs" are and are not as the sole means of determining a prisoners' "sincerity" or "religiosity," and the State Court's affirmed this by not only requiring Mr.Entler to provide a religious authority in his RRIS application to verify his requests are consistent with faith standards, but the State Court's [our-right] rejected Mr.Entler's 22 page affidavit where the Court of Appeals recognized Mr.Entler's requests qualified as religious exercises under RLUIPA.

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The determination of religious beliefs, practices, and accommodations are placed at the sole discretion of prison officials who determine "sincerity" and "religiosity." The Prison Official thus stand not only as an obstruction to "religious exercises" as defined by RLUIPA in the State of Washington which cannot be moved but by their decisions alone, but no prisoner can overcome W-DOC's discretion in Washington State Court's by submission of their own evidence to the contrary. A more effective [chilling] or [substantial burden] on "religious exercise" is difficult to imagine, but which Congress enacted RLUIPA to remedy. W-DOC's Policy 560.200 not only flouts RLUIPA's definition of "religious exercise," but Prison Officials still argue that no substantial burden has been placed on Mr.Entler's religious exercise by the rejection of his RRIS application on the grounds that he did not provide a religious authority to validate what "W-DOC and religious leaders" might determine are "legitimate religious beliefs."

Here, the Court should accept review of the State Court's decisions to determine the validity of W-DOC Policy 560.200 under RLUIPA, which requires all Washington State prisoners' to not only provide a religious authority to substantiate religious beliefs, practices, and accommodations are consistent with faith standards, but also that they are responding to tenets of an organized faith, but to apply this court's prior decisions which has addressed such tests outside of the prison context, but which as been arguably resolved in Holt v. Hobbs, 574 U.S. at 362 ("But even if it were, the protect of RLUIPA, no less than the guarantee of the Free Exercise Clause is not limited to

religious beliefs which are shared by all members of a religious sect.") (citation omitted). Thus, Mr.Entler respectfully submits, grounds for granting the Writ exists under Supreme Court Rule 10(c).

Ground No. 2:

B. WHETHER PRISON OFFICIALS HAVE THE BURDEN TO CHALLENGE SINCERITY AND RELIGIOSITY, AND WHETHER THERE WAS A THRESHOLD FACT QUESTION AS TO MR.ENTLER'S SINCERELY HELD RELIGIOUS BELIEFS FOR THE STATE COURT'S TO RESOLVE.

Whether there was a threshold fact question as to Mr.Entler's sincerity or religiosity to be resolved by the State Court's to show that the accommodations Mr.Entler requests are [central] to his Essene religion, stems from the State Court's complete lack of understanding of RLUIPA's "sincerely held religious belief" analysis. Instead of recognizing that it was [W-DOC's] burden to challenge Mr.Entler's sincerity or religiosity, the State Court's wrongly placed the burden on Mr.Entler to demonstrate that his requested accommodations were a sincere aspect of his Essene religion. See Appendix B, at 1.

Under RLUIPA, Congress intended to extend the Free-Exercise Clause protections of the First Amendment under RLUIPA's definition of "religious exercise," and in doing so Congress did not intend to cut back on faith-sensitive considerations already baked into the Constitutional cases applying the Free Exercise Clause. Holt v. Hobbs, 574 U.S. at 358. Only religious exercise that are rooted in religion are protected, purely secular view do not suffice. Frazee, 489 U.S. at 833. This Court has consistently recognized that Congress mandated that RLUIPA's definition of "religious exercise" shall be "construed in favor

of a broad protection of religious exercise, to the maximum extent permitted by the term of this chapter and the Constitution." Holt v. Hobbs, 574 U.S. at 358.

Under RLUIPA's first element, the "sincerely held religious belief" inquiry can be broke-down as follows. A prisoner must "initially show" that the religious exercise satisfies two criteria: (1) the proffered religious belief must be "sincerely held," and (2) the claim of "sincerity" must (a) be rooted in religious belief, and (b) not purely secular philosophical concerns. Frazee, 489 U.S. at 833; Holt v. Hobbs, 574 U.S. at 360-61 (citing Hobby Lobby, at 717 n.28). This Court's citation to Hobby Lobby at 717 n.28 is essential for understanding section 2(b) of this demonstration.

The first part, the belief must be "sincerely held," is a narrow inquiry as to "what [the [prisoner] believe[s] is required by his or her faith." Frazee, 489 U.S. at 833; Holt v. Hobbs, 574 U.S. at 360-61, not what a religious authority believes is required by faith standards. Frazee, 489 U.S. at 833; Holt v. Hobbs, 574 U.S. at 362 (citing §2000cc-5(7)(A) and Thomas). This section requires that an inmate submit an affidavit declaring what "[he or she believes]" is required of his or her faith. Holt v. Hobbs, 574 U.S. at 360-61. Mr.Entler submitted a [22 page] affidavit outlining what he believes is required by his Essene faith. CP 72-93 (with Attachments).

The second part 2(a) "rooted in religious belief," requires a prisoner in his or her affidavit to cite scriptures, Bible, or other religious records or texts to show that the religious belief is "rooted

in religion." Here, Mr.Entler submitted a 22 page affidavit with attachments were he not only explained his Essene religion and how to identify it in the Holy Bible, but he cited scriptures from the Holy Bible, and texts from the Dead Sea Scrolls, including a tract he wrote regarding Essene beliefs that are contained in the Holy Bible, to establish that his religious exercises and practices were sincerely held and rooted in religious beliefs and not purely secular philosophical concerns. CP 72-93 (with Attachments). At this stage of the analysis, Mr.Entler has met his initial burden under RLUIPA to demonstrate "sincereyly held religious beliefs," and the State Court of Appeals concluded as much. See Appendix A, at 7 ("DOC does not challenge the sincerity of Entler's religious beliefs or dispute that his requested accommodations qualify as 'religious exercise' under RLUIPA as they are broadly grounded in those beliefs.").

In the second part 2(b) of the demonstration: "not purely secular philosophical concerns," gives Prison Officials the [opportunity] to "dispute" the "sincerity" or "religisoity" of the prisoners' request for a partcular [practice] or [accommodation]. This does not mean that Prison Officials can challenge the [centrality] of religious practices or accommodations, but rather [Prison Officials] must present [evidence] that a prisoners' request for accommodations are "really animated by some other secular motivation[s]." See Holt v. Hobbs, 574 U.S. at 360-61 ("..., but or course, a prisoner's request for an accommodation must be sincerely based on a religious belief and not some other motivation. See Hobby Lobby, 573 U.S. at 717 n.28, 134 S.ct. 2751, 189 L.Ed.2d 657,

702.").

Proof of this analysis exists in this Court's citation to Hobby Lobby, at 717 n.28. There this Court cited United States v. Quainance, 608 F.3d 717, 718-19 (10th cir. 2010) where the Tenth Circuit Court of Appeals held that the district court did not err in finding the defendants insincere in their beliefs because numerous pieces of [evidence] was introduced [by the prosecutor] that strongly suggested that defendant's marijuana dealing were motivated by commercial or secular motive rather than sincere religious convictions. Quainance, 608 F.3d at 718-719.[3]

Thus, RLUIPA and the Free-Exercise Clause allows ample room for Prison Officials to ensure themselves that there is a predicate for invoking RLUIPA in the second part 2(b) of the analysis in this demonstration. See Cutter, 544 U.S. at 725 n.13 ("Furthermore, prison officials may appropriately question whether a prisoner's religiosity, asserted as the basis for a requested accommodation, is authentic. Although RLUIPA bars inquiry into whether a particular [belief] or [practice] is 'central' to a prisoner's religion, the act does not preclude inquiry into the sincerity of a prisoner's professed religiosity."). (citations omitted, emphasis added in brackets); Frazee, 489 U.S. at 833; Holt v. Hobbs, 574 U.S. at 369 (demonstrating ways prison officials can challenge religiosity) (citing Cutter, at 725 n.13; and Hobby Lobby, at 717 n.28).

Note No. 3: W-DOC should have documented such evidence in their decision rather than requiring a showing of "centrality" in Policy 560.200.

This demonstration makes clear that RLUIPA's "sincerely held religious belief" analysis provides a rational means of differentiating between those beliefs that are "rooted in religious belief" and those that "are animated by 'purely secular philosophical concerns.'" This Court has held that the "sincerely held religious belief" inquiry presents "questions of fact," see United States v. Seeger, 380 U.S. 163, 185, 85 S.ct. 850 (1965), but where [Prison Official's] present evidence that suggests "purely secular concerns," a fact finder is required to delve into the inmates motivations. See Patrick v. LaFevre, 745 F.2d 153, 157 (2nd cir. 1984).

What this means is that the [burden of proof] is on [Prison Officials] to present evidence that raises "disputed issue of fact" as to the prisoner's "sincerity" or "religiosity," and if they [do not do that], then their is [no basis] for deciding this threshold [fact question]. See Haight v. Thompson, 763 F.3d 554, 565-66 (6th cir. 2014) ("With a properly developed record (including testimony from the inmates, reference to the religious texts, etc.), they may ask the courts to filter out insincere requests. But we have no record here -indeed no claim at all by prison officials that the inmates are playing games - and thus no basis for deciding the 'threshold [fact] question of sincerity.' United State v. Seeger, 380 U.S. 163, 185, 85 S.ct. 850, 13 L.Ed.2d 733 (1965)."); See also Frazee, 489 U.S. at 833 ("We do not face problems about sincerity or about the religious nature of Frazee's convictions, however. The courts below did not question his sincerity, and the state concedes it.").

Here, the trial court made the finding of sincerity turn on whether Mr.Entler's religious practices and accommodations were sincere aspects of his Essene religion, [centrality], See Appendix B, at 1, and the State Court of Appeals made the finding of fact that: "DOC does not challenge the sincerity of Entler's religious beliefs or dispute that his requested accommodations qualify as 'religious exercise' under RLUIPA as they are broadly grounded in those beliefs." Here it is clearly established that the trial court's denial of partial summary judgment to Mr.Entler turned on the grounds of [centrality], because he could not demonstrate that the practices and accommodations could be substantiated by a religious authority and faith standards. See Appendix B, at 1. And the State Court's affirmed the trial court's ruling. See Appendix A, at 8 (last sentence) (finding that Mr.Entler was required to show [centrality] even if the prison will not later question the fact of sincerity).

This is a case where Prison Official and the State Court's require an assessment into the [centrality] of religious practices and accommodations to a prisoner's religion, not where Prison Officials present [evidence] that demonstrates a secular motivation. The only [evidence] W-DOC offered was their fears that Mr.Entler might use his accommodations to operate his Nonprofit Church, See Appendix G, at 7-8, as if operating a Nonprofit Church cannot be a religious exercise, but only a purely secular matter. W-DOC presented [no evidence] to question Mr.Entler's sincerely held religious beliefs, except for questioning the centrality of his requests to his religion.

Thus, there was no [fact question] of sincerity for the State Court's to resolve, and Mr.Entler not only asks this Court to accept review to hold that [Prison Officials] have the [burden of proof] to challenge a prisoner's "sincerity" or "religiosity," but to hold specifically that a prisoner is not required to show [centrality] of religious practices and accommodations to his religion. Mr.Entler asks this Court to accept review of the State Court's decision as deciding an important federal question in a way that conflicts with relevant decisions of this Court, under Supreme Court Rule 10(c).

Ground No. 3:

C. WHETHER PROHIBITING RELIGIOUS EXERCISE UNLESS A PRISONER PROVIDES A RELIGIOUS AUTHORITY, OR PROHIBITING INDIVIDUAL RELIGIOUS EXERCISES, IMPOSES A SUBSTANTIAL BURDEN.

This Court in Ramirez v. Collier, ___ U.S. ___, 142 S.ct. 1264, 1273, 1278 (2022) recognized that a total prohibition on Ramirez's religious exercise amounted to a "substantial burden" under RLUIPA. In fact, Justice Gorsuch in his opinion in Yellowbear v. Lampert, 741 F.3d 48, 55 (10th cir. 2014), explained that a "burden" rises to the level of being "substantial" when at the very least the prison officials:

(1) "Requires the prisoner to participate in an activity prohibited by his sincerely held religious beliefs;
(2) "Prevents the prisoner from participating in activities motivated by a sincerely held religious belief;" or
(3) "Places substantial pressure on the prisoner to violate a sincerely held religious belief."

Yellowbear, 741 F.3d at 55 (citing Abdulhaseeb, 600 F.3d at 1315; see also Lyng v. NW. Indian Cemetery Protective Ass'n, 485 U.S. 439, 450, 108 S.ct. 1319, 99 L.Ed.2d 534 (1988); Thomas, 450 U.S. at 716-18). See

also Appendix A, at 9 (citing Yellowbear v. Lampert, 741 F.3d 48, 55 (10th cir. 2014)).

Mr.Entler presented overwhelming evidence in the State Court's to establish that W-DOC's "substantial burden" in this case was not only from: (1) W-DOC's [prohibiting Mr.Entler's] religious exercises unless he provided a religious authority to [substantiate] that the religious exercises were consistent with faith standards, See Petition for Review, at 6-7 §§ 4.7-4.10; CP 665 §5.7; Appellant's Opening Brief, at 25, but (2) W-DOC's [outright prohibition] [of] each individual religious exercise that was "identified by Mr.Entler."

In Mr.Entler's Petition for Review to the Washington State Supreme Court, Mr.Entler outlined the record evidence presented in the Court's below on each of W-DOC's [prohibitions] on religious exercises as follows:

1. Access To OBF: See Opinion, at 10 (barred from having access to the Offender Betterment Fund (OBF)); Response Brief, at 27 (same); CP 584 ¶4 (Dec. of Wood) (same);
2. Access to Single Man Cell: Opinion, at 10 (Barred from having access to single man cell); Response Brief, at 32 (same); CP 584 ¶4 (Dec. of Wood) (Same); CP 572 ¶9 (Dec. of Kantak) (same).
3. Access to Bank Account: Opinion, at 12 (barred from having access to outside bank account); Response Brief, at 36 (same); CP 584 ¶6 (Dec. of Wood) (same);
4. Access to Laptop, Facebook, Internet, Email: Opinion, at 12 (barred from having access to laptop, Facebook, Internet, and Emails); Response Brief, at 29 (same); CP 585-586 ¶7 (Dec. of Wood) (same);
5. Access to Non-LED Light Bulb: Opinion, at 13 (barred from melting oils in cell); Response Brief, at 41 (same); CP 586 ¶8 (Dec. of Wood) (same);
6. Access to Conference Rooms And Chapel: Opinion, at 13 (barred from having access to conference room for [large groups] and barred from having access to chapel without volunteer); Response

Brief, at 44, 46 (same); CP 564 ¶¶7-8 (Dec. of Flick) (same); CP 525-26 ¶¶ 4, 6 (Dec. of Wood) (same); and

7. Access to All Glatt Diet to Eat In Cell: Opinion, at 14 (barred from an all Glatt diet and meals in cell); Response Brief, at 47-48 (same); CP 586 ¶11 (Dec. of Wood) (same); CP 590-91 ¶7 (Dec. of King) (same).

Additionally, W-DOC prohibits the same religious exercises identifed above unless Mr.Entler provides a religious authority to verify that they are consistent with faith standards. CP 604-605 (citing Dec. of Taylor, at ¶6). W-DOC concedes that it [outright prohibits] the individual religious exercises that Mr.Entler identifies, in head-note's in thier Motion for Summary Judgment (CP 490) in the State Courts, which provide:

> "The DOC's [prohibition] on Entler's personal preferences for practicing his self-made religion does not amount to a substantial burden to support a viable RLUIPA claim." CP 490
>
> "[Denying] Entler access to the Offender Betterment Fund to litigate his personal religious claims does not amount to a RLUIPA violation." CP 494
>
> "Entler's [denial] of housing in a single cell for solitary prayer does not create a substantial burden." CP 495
>
> "[Denial] of access to a personal bank account does not create a substantial burden." CP 497

This is despite the fact that the State Court of Appeals found, each religious exercise identified by Mr.Entler qualified as a religious exercise under RLUIPA, and were based on "sincerely held religious beliefs." See Appendix A, at 7.

Under W-DOC's rational, which the State Court's affirmed, no "[outright prohibition]" on religious exercise would constitute a substantial burden in any context. In fact the Court of Appeals mis-

framed the substantial burden issue as "whether requiring Mr.Entler to provide the contact information violated the precepts of Mr.Entler's religion," (Yellowbear's first context), not simply whether W-DOC was [outright prohibiting] Mr.Entler from engaging in religious exercises motivated by sincerely held religious beliefs, Yellowbear's Second context. See Appendix A, at 9 ("On this record, it is not apparent how requiring contact information for other adherents to his religion violates the precepts of his religion in any of those three ways.").

Here, although this Court has not directly addressed whether a "prohibition" on religious exercise amounts to a substantial burden in the prison context, see Ramirez, 142 S.ct. at 1273, 1278 (assuming the issue because prison officials [ ] not disputing the prohibition imposed a substantial burden), this Court should accept review of this important question of federal law that has not, but should be settled by this Court. Thus Mr.Entler submits that grounds for granting the Writ exist under Supreme Court Rule 10(c).

Ground No.4:

D. CAN PRISON OFFICIALS RELY ON ALTERNATIVE SECOND BEST OPINIONS OF RELIGIOUS EXERCISE AS A BASIS OF CLAIMING THEY ARE NOT IMPOSING A SUBSTANTIAL BURDEN ON PRISONERS RELIGIOUS EXERCISES."

The State Court[ ] and W-DOC also apply RLUIPA's "substantial burden" inquiry in the context of whether "a prisoner has other similar means of religious exercise," and ignores that a [outright ban] qualifies as a substantial burden. Ramirez, 142 S.ct. at 1273, 1278 (Prohibiting clergy from laying-on hands qualified as a substantial burden); Yellowbear, 741 F.3d at 56 ("The prison's policy here falls

easily within Abdulhaseeb's second category - flatly prohibiting Mr.Yellowbear from participating in an activity motivated by a sincerely held religious belief."); Haight v. Thopson, 763 F.3d at 565 (citing DiLaura v. Township of Ann Arbor, 112 F. Appx. 445, 446 (6th cir. 2004) ("The city's decision meant that the church could not serve alcohol, 'thereby restricting [the church] ability to provide communion wine' to its guests. Id. Because this decision 'effectively barred [the church] from using the property in the exercise of [its] religion,' we held that the decision imposed "a substantial burden on that exercise' under RLUIPA. Id."); Greene v. Solano County Jail, 513 F.3d 982, 988 (9th cir. 2007) ("We have little difficulty in concluding that an outright ban on a particular religious exercise is a substantial burden on that religious exercise.").

For example, with regards to other alternatives, if Mr.Entler requested [wine] for a communion, under W-DOC's and the State Court's rational, Mr.Entler's religious exercise is not being substantially burdened because [grape juice] is a reasonable substitute; or, the Ramirez decision should have been different because Ramirez's clergy could have touched Ramirez with a yard-stick from 3 feet away rather than with his hand. See Haight v. Thompson, 763 F.3d at 566 ("RLUIPA thus does not permit a prison warden to deny a Catholic inmate access to wine for a communion service on the grounds that grape juice is a reasonable substitute or to deny grape juice to a Presbyterian inmate on the ground that water is a reasonable substitute.").

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Mr.Entler identified the following religious exercise that are based on sincerely held religious beliefs for W-DOC and the State Court's:

> "(1) Use of the OBF to preach and defend the Gospel; (2) access to [a single man] cell to keep Holy, for prayers, and religious services, to practice religion; (3) access to a bank account outside of DOC to collect tithes to his Church; (4) access to laptop and internet access [to proselytize]; (5) access to internet, facebook, and Emails to carry out functions of his non-profit Church [and to proselytize]; (6) access to a 30-40 Watt (non-LED) light bulb to produce smoke with oils during ceremonies and prayers in cell; (7) access to conference room and chapel for services and Bible Studies; and (8) a all Kosher Glatt diet to eat sacred meals in cell." See Appendix A, at 3; CP 80-93 ¶¶ 18-44 (Affidavit of Entler).

W-DOC's pleadings in the State Courts and the Court of Appeals opinion, on all of Mr.Entler's [individual requests], provide the following alternative means of religious exercise:[4]

> "(1) paying his own litigation expenses, Response Brief, at 30-31; Opinion, at 9-10; (2) placement in a [two man cell] with another believer, Response Brief, at 32-34, Opinion, at 10-12, (3) using prison personal account, Response Brief, at 36-37, Opinion, at 12; (4) using mail, phones, visits in person, and Jpay, Response Brief, at 39, Opinion at 12-13; (5) burning oils in chapel, Response Brief, at 41-42, Opinion, at 13; (6) Using the chapel, Response Brief, at 44-45, Opinion, at 13-14; (7) eating a [half] Glatt Kosher diet in the dinning hall, Response Brief, at 48, Opinion, at 14-15. See Appellant's Reply Brief, at 4 §3.7"

Under W-DOC's and the State Court's interpretation of RLUIPA's definition of "'[any]' religious exercise," RLUIPA would not protect religious exercises [identified] by [prisoners] as sincerely based, but [only] "alternative religious exercises Prison Officials can dream up,

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Note No. 4: This argument might be appealing in the "least restrictive means" inquiry, but this would render inoperable the statement in Holt v. Hobbs, at 365, that "if least restrictive means is available, the government must use it," as they can reframe the alternative at their chosing even though they already provide the accommodation requested.

and religious leaders could verify" as substitutes in their place, that would be subject to RLUIPA's strict scrutiny. The Sixth Circuit Court of Appeals has rejected these types of arguments by Prison Officials. See Haight v. Thompson, 763 F.3d at 565 (allowing some food but baring others inposes substantial burden); Calvin v. Mich. Dept. of Corr., 927 F.3d 455, 456 (6th cir. 2019) (barring certain foods but allowing others imposes a substantial burden). In Fox v. Washington, 949 F.3d 270, 280-81 (6th cir. 2020) the Sixth Circuit said:

> "Additionally, the Department proposes alternative is similar to the 'second-best option' of 'celebrating in [one's] cell' it raised in Calvin, 927 F.3d at 459. We rejected that approach because it 'reframes the nature of what Calin seeks to do: worship with others according to his beliefs. When determining the substantiality of a burden, we cannot not look to 'whether the RLUIPA claimant is able to engage in other forms of religious exercise.' Id. (quoting Holt, 574 U.S. at 362). Take Haight, where we held prison officials' allowance of fry bread as a 'faith-based once-a-year powwow' did not excuse their decision to bar the Native American inmates from having corn pemmican and buffalo meat. Id. at 559, 565. Or Holt, where the Supreme Court similarly concluded that prison officials allowance of a Muslim inmate to have a prayer rug and access to a religious advisor did not alleviate the [illegible] substantial burden on his religious exercise they imposed by barring him from growing a beard. Holt, 574 U.S. at 361-62." Fox, 949 F.3d at 280-81.

As just mentioned, this Court in a substantially similar context, if not in the same context, rejected such application of RLUIPA in this fashion. This Court said in Holt v. Hobbs, 574 U.S. at 361-62:

> "Under those cases, the availability of alternative means of practicing religion is a relevant consideration, but RLUIPA provides greater protection. RLUIPA's 'substantial burden' inquiry asks whether the government has substantially burdened religious exercise (here, the growing of a 1/2-inch beard), not whether the RLUIPA claimant is able to engage in other forms of religious exercise."

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W-DOC's arguments are also similar to the prison officials arguments in Holt v. Hobbs that Holt's religion would "credit" him for attempting to follow his religious beliefs, even if that attempt proved to be unsuccessful. Holt, 574 U.S. at 362. In other words, W-DOC proposed alternatives would be a reasonable substitute because Prison Official's believed that Mr.Entler's religion would credit him for attempting to follow what he believed were sincerely held religious beliefs. Here again, "sincerely held religious beliefs" would be determined by Prison Officials [&] religious leaders, rather then what individual prisoners' believed was required by [their] sincerely held religious beliefs.

Additionally, W-DOC's argument is similar to the Prison Official's argument in Holt v. Hobbs that not all Muslims believe that men must grow beards. In other words, not all religious leaders would believe that the religious exercises identified by Mr.Entler is required, some [may__] practice them and some may not. Holt, 574 U.S. at 362. Again, the religious exercise is determined by Prison Officials and religious leaders and what they believe would be required by faith standards, not what a prisoner believes is "sincerely required by his sincerely held religious beliefs."

Thus, substantial questions exists under RLUIPA as to whether Prison Officials' can "reframe" the religious exercises identified by prisoners as to what is required by [their] sincerely held religious belief," as a means for arguing that Prison Officials are not substantially burdening prisoners' religious exercises; if not directly

addressed and decided by this Court in a way that conflicts with Holt v. Hobbs, 574 U.S. at 362, this Court should accept review of the State Court's decision because it has decided an important question of federal law that has not been, but should be, settled by this Court. Supreme Court Rule 10(c).

Ground No.5:

E. WHETHER PRISON OFFICIALS CAN RELY ON POST HOC RATIONALIZATIONS TO MEET THEIR BURDENS UNDER RLUIPA.

In the "strict scrutiny context," to be a "compelling interest" the State must show that the alleged interests were the actual reasons for the government's decision being challenged. See Abudulhaseeb v. Calbone, 600 F.3d. 1301, 1318 (10th cir. 2010) (citing 146 Cong. Rec. 16698, 16699 (July 27, 2000) (joint statement of Sen. Hatch and Sen. Kennedy); Haight v. Thompson, 763 F.3d at 562 (citing Shaw v. Hunt, 517 U.S. 899, 908 n.4, 116 S.ct. 1894, 135 L.Ed.2d 207 (1996); Cf. United States v,. Virginia, 518 U.S. 515, 533, 116 S.ct. 2264 (1996) (noting that in the context of gender discrimination dispute where "heightened" review applies, the government's asserted interest "must be genuine, not hypothesized or invented 'post hoc' in response to litigation"); and to see Spratt v. R.I. Dep't of Corr., 482 F.3d 33, 39 (1st cir. 2007)). See also Yellowbear v. Lampert, 741 F.3d at 58; Fox v. Washington 949 F.3d 283 (limiting prison officials to the justifications it cited at the time they made their administrative decisions).

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Here, Respondent Taylor only relied on two governmental interests in rejecting Mr.Entler's RRIS application, she said:

> "Verification of a religion before providing religious accommodations is an important step in the prison context. Safety and security concerns demand that all inmate gatherings be strictly controlled. Moreover, prison resources are scarce, so it is important for the DOC to carefully regulate the use of resources allocated to religious accommodations." Appendix H, at 3 ¶8 (CP 620 at 3 ¶8).

Nothing in what Ms.Taylor said mentions anything about establishing "practices and procedures to ensure the orderly administration of processing requests for religious accommodations." Compare Appendix H at 3 ¶8 with Appendix G, at 10-11. Ms.Taylor's counsel then pushed this "post hoc" rationalization throughout the State Court's over Mr.Entler's objections. CP 598-600 (Plain. Resp. to Def. Mot. Sum. Judg.); Appellant's Opening Brief, at 31-33; Appellant's Reply Brief, at 6-9; Petition for Review, at 20-22.

No where, in the evidence submitted by W-DOC in the State Court's established, or showed that "any" of the prison officials relied upon the "orderly administration of processing requests for religious accommodations" as a compelling interest for rejecting the RRIS application. See Yellowbear, 741 F.3d at 58 ("Put simply, the argument advanced by the prison's lawyers on appeal about the 'inherent dangers' of sweat lodges finds precisely no support in the evidence given by the prison's officials in the district court.").

Only "safety and security concerns" regarding "verification for purposes of inmate gatherings," and "verification for purposes of

impacts on resources" was claimed by W-DOC, Appendix H, at 3 ¶8, and even if this Court excepted any of Ms.Taylor's counsel's post hoc rationalizations regarding these interest, they are "so broadly formulated" as to fail RLUIPA's strict scrutiny test. See Ramirez v. Collier, 142 S.ct. 1278; Holt v. Hobbs, 574 U.S. at 363. RLUIPA does not permit such "unquestioning deference." Holt v. Hobbs, 574 U.S. at 364.

Then, to take this case futher off subject from the RRIS application issue, W-DOC submitted the "post hoc" declarations of Fischer (CP-524-528); Flick (CP 563-565); Kantak (CP 570-573); Wood (CP 583-587), and King (CP 589-591), who added more "post hoc" rationalizations as to why the RRIS application and the individual requests in that application were denied, when these Prison Officials "had no part in rejecting the RRIS application." In fact, none of these declarations were even submitted with Ms.Taylor's response to Mr.Entler's motion for summary judgment against her on the RRIS application. See Appendix G and Appendix H.

The State Court's should of not only kept this case about the rejection of the RRIS appliaction; it should not have addressed the accommodations individually and separately, See Appendix A, at 9-15; but it should not have allowed W-DOC to broaden this case with it's "post hoc" rationalizations, especially when the requested accommodations Mr.Entler was requesting are already provided by W-DOC for religious and non-religious individuals and groups and the post hoc rationalizations do not amount to compelling governmental interests under RLUIPA.

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First, Mr.Entler presented the following evidence in State Court that was gained through the discovery process:

1) W-DOC allows inmates to make individual requests for, and provides for non-profit group assess to, expenditures from the Offender Better Fund. CP 703 (citing Exhibit 7);
2) W-DOC already allows non-religious access to single man cells. CP 703 (citing Exhibit 8, at 1-3;
3) W-DOC already allows non-religious and religious entities to have bank accounts W-DOC monitors. CP 703 (citing Exhibit 9, at 2 (lines 16-23);
4) W-DOC already allows non-religious access to laptops. CP 703 (citing Exhibit 9, at 2-3);
5) W-DOC already allows non-religious and religious access to non-LED light bulbs. CP 703 (citing Exhibit 9, at 4 (lines 1-9);
6) W-DOC already allows non-religious and religious access to the conference rooms and chapel. CP 703 (citing Exhibit's 10 & 11);
7) W-DOC already allows non-religious and religious meals to be taken back to the cells to eat. CP 703 (citing Exhibit 9, at 4-5); and
8) The state of Washington allows the Civilally Committed Persons who pose exactly the same safety and security threats to a facility like prisoners do have access to the internet and home computers. CP 703-04.

Thus, even if this court assumed that the W-DOC's "post hoc" rationalizations constituted compelling interests on the individual requests for accommodations, that does not end the RLUIPA inquiry, Holt v. Hobbs, 574 U.S. at 564-65. These stated interests are so underinclusive as to fail under RLUIPA's least restrictive means analysis. Second In addition when the Court considers the reasons and interest W-DOC asserts for the individual requests they do not pass RLUIPA's strict scrutiny test.

(i). Offender Betterment Fund:

With regards to the Offender Betterment Fund (OBF), the compelling interests put forth by W-DOC was:

"If DOC were required to use the IIBF to cover the legal fees requested by Mr.Entler, then similar requests by other inmates would have to be approved, With more than 16,000 inmates in DOC custody, this would quickly deplete the funds and the IIBF would not be able to sustain the programs for which it was developed." CP 584 (Dec. of Wood).

These are broadly formulated interests that do not pass muster under RLUIPA's strict scrutiny test. Ramirez, 142 S.ct. at 1278. Additionally, these arguments are the same as bureaucrats throughout history that this Court rejected in Holt v. Hobbs, 574 F.3d at 368. And W-DOC has not shown that the 16,000 inmates who are allowed to make individual requests from the OBF have depleted the funds to the extent that W-DOC is not able to sustain the programs it memtions. See Appendix I, at 17-21. W-DOC has not shown any burdens on the interests in this case.

(ii). Single Man Cell:

With regards to the single man cell, the compelling interests put forth by W-DOC were:

"If the department were to provide such an accommodations for one religion, it would have to do so for the adherents of all religions, some religious groups are very large. If the Department were to provide a religious accommodation for single man cell placement to Entler, it is extremely likely that many other incarcerated individuals would request single man cells. Such an influx would be impossible to accommodate. It would also be favoring religious inmates over those who are not religious and have been patiently waiting on the list for a single man cell." CP 572-73 (Dec. of Kantak)."

Again, these arguments are the same as the bureaucrats throughout history that this Court rejected. Holt, 574 U.S. at 368. Additionally, W-DOC concedes that it favors prisoner needs under the Federal Americans With Disabilities Act (ADA) for single man cells, and their needs for

single man cells for safety and security, above those who have been waiting in the list, yet they are still able to provide single man cells for purely secular purposes, when those who just want a single cell for secular purposes do not have a right, constitutionally or statutorially, to be housed at a given facility or cell. Meachum v. Fano, 427 U.S. 215, 224-225, 96 F.3d 2532 (1976). Thus, the [effects] should be as they are, W-DOC should be favoring inmates with religious beliefs because it can be compelled to do so under RLUIPA, just as they are compelled to do so under the ADA or Eighth Amendement for safety and security purposes.

(iii). Bank Account:

With regards to the Bank Account, W-DOC presents the same broadly formulated interest, and requires Mr.Entler to engage in illicit activities that W-DOC says it's trying to guard against. Appendix I, at 26-28 §§ 3.50-3.54. W-DOC argues broadly that: "Entler's request raises security concerns that the account could be used to perpetrate fraud or theft by conning people into donating money under false pretenses." CP 585 (Dec. of Wood). Yet by using the account W-DOC suggest, individuals who make donations would be unwittingly paying Mr.Entler's cost of incacrceration, instead of the funds being used on the Church. RCW 72.09.450 and RCW 72.09.480 would require 35% to 75% out a $100.00 donated to be used to pay Mr.Entler's cost of incarcertion. This is tantamount to W-DOC imposing a fine on Mr.Entler and donaters to use the account W-DOC suggests. See Appendix I, at 27-28 §§ 3.51-3.52.

Yet, W-DOC concedes that it provides accounts that are not subject to deductions to pay Mr.Entler's personal expenses, See CP 703 (citing

Exhibit 9, at 2 (lines 16-23)), that W-DOC already monitors. Thus, even if this court agreed with W-DOC's concern regarding Mr.Entler criminal history which is 30 years old, W-DOC still has the least restrictive means of allowing Mr.Entler to use an account that is not subject to deductions. Finally, W-DOC says that it's interests in collecting legal financial obligations for Mr.Entler's theft convictions under State Law are implicated. However, in 2003-2004 Mr.Entler [fully payed] his LFO's off and does not owe them anymore. See State v. Entler, 2010 Wash. App. LEXIS 2657 at ¶¶ 2-3 (Wash. App. Nov. 24, 2010). W-DOC's arguments are clearly baseless.

(iv). Access to Laptop, Internet, Facebook, E-mails:

With regards to Access to Laptop, Internet, Facebbok, and Emails, W-DOC provides the following broadly formulated interests:

> "There are many security concerns with allowing an inmate to have a laptop and access to the internet. A laptop with internet access can be used to arrange for crimes to be committed, to harass victims, and set up fake profiles in order to scam money from the public, to just name a few." CP 585 ¶7 (Dec. of Wood).

These are broadly formulated interest that merely allege "security concerns" which do not pass muster under RLUIPA's strict scrutiny test. See Ramirez v. Collier, 142 S.ct. at 1278 ("Under RLUIPA, the government cannot discharge this burden by pointing to 'broadly formulated interests.'") (citation omitted). Prison officials must do more then merely allege security concerns. Yellowbear, 741 F.3d at 59-60. Appendix I, at 29-33. Finally, W-DOC broadly argues that it does not have staff or the time to supervise Mr.Entler's use the the internet. CP 585. Mr.Entler defused these arguments in the State Court because W-DOC has a

"Security Cyber Unit" who already monitors prisoner use of computers and electronic devices. See Appendix I, at 30 § 3.57, and W-DOC does not address the "marginal interest" of just adding one more person for the Security Cyber Unit to monitor. Id. at 30 § 3.58. Additionally, W-DOC again at CP 585 (lines 25-26), makes the same arguments as bureaucrats throughout history that this Court has rejected in Holt v. Hobbs, 574 U.S. at 368.

(v). Light Bulb:

With regards to the Non-LED Light Bulb, W-DOC's sole argument is the following without more:

> "The burning of any substance by any means carries a risk of fire hazard. The Department is responsible for the safety of all individuals housed in it's facilities therefore allowing inmates to burn anything in their cells unsupervised is prohibited." CP 586 ¶8. (Dec. of Wood).

Here again, W-DOC only relies on broadly formulated interests that merely raise security concerns which do not pass muster under RLUIPA's strict scrutiny test. W-DOC does not explain why some inmates have access to Non-LED Light Bulbs that are used to create smoke by secular inmates using oils, and does not adequately explain why Mr.Entler cannot do the same for religious purposes. Appendix I, at 33-35 §§ 3.64-3.68.

(vi). Conference Room & Chapel:

With regards to access to the Conference Room and Chapel to hold religious services, W-DOC provides the following governmental interests:

> "Any congregation of inmates is a threat to institutional security, but supervised inmates are less likely to engage in proscribed behavior than they would if they met unsupervised. Religious groups are of special concerns to prison administrators and DOC

because inmates who set themselves up as religious leaders would potentially wield more power over the members of their congregations. This power could be used to motivate followers to engage in threatening behavior such as riots and violence towards other groups of inmates. Supervision not only discourages this behavior, but it also provides a third party to report questionable behaviors top prison officials." CP 586 ¶10 (Dec. of Wood).

But here, W-DOC's arguments fail RLUIPA's strict scrutiny standard. RLUIPA requires courts to "'look[] beyond broadly formulated interests' and scrutinize[] the asserted harm of granting specific exemptions to particular religious claimants," see Yellowbear v. Lampert, 741 F.3d at 57 (citing Gonzales v. O Central Espitita Beneficente Uniao Do Vegetal, 546 U.S. 418, 431, 126 S.ct. 1211, 163 L.Ed.2d 1017 (2006)); Holt v. Hobbs, 574 U.S. at 362-63, not merely to accept without question prison official's bear statements of how it's policies are "rationally related to legitimate penological interests," which is the lower standard for showing a "rational relationship" applied in First Amendment cases under Turner v. Safley, 482 U.S. 78, 89-90, 107 S.ct. 2254 (1987), and which does not apply under RLUIPA's strict scrutiny standard.

Furthermore, W-DOC has not disputed Mr.Entler's evidence that When he had his own religious service at the Washington State Penitentiary without a volunteer for almost a year, See CP 55 §3.83, he did not engage in any of the conduct W-DOC argues that it needs to protect against. Additionally, W-DOC concedes that it has volunteer's, although it cannot guarantee one will always be available, to monitor religious services, CP 586 ¶9 (Dec. of Wood); See Also CP 500 at lines 14-24 (Defend. Mot. Sum. Judg.), and W-DOC has not shown that an outright prohibition on access to the chapel is the least restrictive means of

furthering it's compelling interests.

(vii). All Glatt Kosher Diet:

With regards to access to a All Glatt Kosher Diet, W-DOC provides the following governmental interests:

> "In the prison setting the locations where food may be consumed needs to be controlled to prevent the food from being used in an impermissible manner. Specifically, food items are often used to make prison alcohol known as pruno. Allowing Entler to take his meal back to his cell to eat separately has the potential for Entler to use the food impermissibly or another inmate to strong arm the meal from Entler to use the food for this purpose. Food may also be used as a source of currency between inmates which is another reason the prison prohibits taking meals back to one's cell for consumption." CP 586-87 ¶11 (Dec. of Wood).

W-DOC concedes the following just after stating these interests: "During normal operations, inmates are not permitted to eat meals in their cells "unless they have a medical reason to do so." CP 587 ¶12; See also CP 57 § 3.87.

W-DOC does not explain why Mr.Entler poses more of a threat to prison security than inmates that are allowed to take their meals back to their cells for medical reasons. Certainly they can make pruno out of their food as well, they also can be strong armed for, and can use it as currency as well. So why are they allowed to take their food to their cells to eat, but Mr.Entler cannot. Additionally, not only can all the inmates in W-DOC's custody order $125.00 in food items from the Inmate Store every two weeks, but inmates can order 20 pounds of food in Food Packages every two months, that not only can be used to make pruno, that inmates can be strong-armed for, and inmates can use as currency, yet W-DOC allows these food items to be taken to the cells and eaten in

private. CP 57 §3.89.

Finally, Mr.King who is not even a defendant in this case filed a declaration (CP 589-591) that is even more troubling because it boarders on the line of perjury. Mr.King merely argues that providing a All Glatt Kosher Diet would be "burdensome on W-DOC," he states: "A request for a 'Glatt Kosher' diet plan would be burdensome on DOC, as it would require alternate planning, sourcing, purchasing, storing, and service of food separate from the costly & time intensive Kosher meal plan already offered to the incarcerated population." CP 590 ¶7. Yet, W-DOC already provides a "half Glatt Kosher Diet," that W-DOC "has already planed, sourced, purchased, stores, and serves." So in reality, how much more burdensome would it be to provide Mr.Entler a All Glatt Kosher diet. Mr.King then asserts the same argument as bureaucrats throughout history that this Court rejected in Holt v. Hobbs, 574 U.S. at 368. See CP 590-91 ("Attempting to customize Kosher meals beyond the current practices ... would open the department to further allowances of obscure variants to other religious or self-created beliefs.").

Defendant Wood who is the source of 99% of these "post hoc" rationalizations concedes that she has no part in processing RRIS application requests for religious accommodations under W-DOC's RRIS application process. CP 587 ¶¶ 13-14 ("In my position as Associate Superintendent, I am not involved in processing requests for religious accommodations ..."). Neither is Mr.Tantak or Mr.King involved in the applications process, yet the State Court's allowed them to submit declarations that do not even past scrutiny under RLUIPA as to why

Mr.Entler's RRIS Application and his requests for accommodations were denied. Mr.Entler requests that this Court issue a Writ of Certiorari to review the judgment of the State Court because it has decided an important question of federal law that has not been, but should be, settled by this Court. Supreme Court Rule 10(c).

CONCLUSION.

For the reasons set forth above, Mr.Entler requests that a Writ of Certiorari issue to review the judgment and opinion of the State Court of Appeals in this matter.

I declare under the penalty of perjury under the laws of the United States that the above is true and correct.

Signed this 9th day of June ,2023

Signed: Galhen Melchizedek

GALHEN MELCHIZEDEK, #964471

MONROE CORRECTIONAL COMPLEX-TRU

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