No. 26-_____

IN THE

Supreme Court of the United States

AMMON RA SUMRALL,

Petitioner,

v.

GEORGIA DEPT. OF CORRECTIONS, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to
the United States Court of Appeals for the Eleventh Circuit

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

ERICA J. HASHIMOTO
Counsel of Record
GEORGETOWN LAW CENTER
APPELLATE LITIGATION
PROGRAM
111 F STREET, NW
WASHINGTON, D.C. 20001
(202) 661-6758
eh502@georgetown.edu

Counsel for Petitioner

January 7, 2026

TABLE OF CONTENTS

Sumrall v. Georgia Dept. of Corrections, *et al*, No. 20-11123, reported at 154 F.4th 1304 (11th Cir. 2025) 1a

Sumrall v. Georgia Dept. of Corrections, *et al*, Case No. 5-21-CV-187 (unpublished decision of April 26, 2023) 22a

Sumrall v. Georgia Dept. of Corrections, *et al*, Case No. 5-21-CV-187 (unpublished decision of Sept. 22, 2021) 33a

Sumrall v. Georgia Dept. of Corrections, *et al*, Case No. 5-21-CV-187 (Complaint) 45a

FOR PUBLICATION

In the United States Court of Appeals
For the Eleventh Circuit

No. 23-11783

AMMON RA SUMRALL,

Plaintiff-Appellant,

versus

GEORGIA DEPARTMENT OF CORRECTIONS,
WARDEN WILCOX STATE PRISON,
DEPUTY WARDEN TONYA ASHLEY,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 5:21-cv-00187-MTT-MSH

Before WILLIAM PRYOR, Chief Judge, and GRANT and KIDD, Circuit Judges.

GRANT, Circuit Judge:

Ammon Ra Sumrall, an inmate at Wilcox State Prison in Abbeville, Georgia, says he practices veganism as part of his religious commitment to the Egyptian sun god—"Ammon Ra"—whose name he also adopted. When Sumrall became a vegan in 2007, he enrolled in the Alternative Entrée Program, an opt-in vegan meal plan. But prison officials removed him after they discovered that he had purchased large quantities of non-vegan food from the prison store—Cheetos, chili, chicken soup, and the like. Although he was soon reenrolled, he sued for alleged violations of the First, Eighth, and Fourteenth Amendments, as well as the Religious Land Use and Institutionalized Persons Act (RLUIPA). The district court granted summary judgment for the defendants on his constitutional claims and three of his RLUIPA claims, and dismissed the remaining RLUIPA claim as moot. Seeing no error, we affirm.

I.

Sumrall, a black male, has been incarcerated in Georgia's prison system since the early 1990s, serving a life sentence for felony murder, armed robbery, aggravated assault, burglary, impersonating a peace officer, and possession of a firearm during a crime. Sumrall worships the Egyptian sun god and believes it is "inherently wrong to kill animals for clothing and to satisfy human appetite." He observes a vegan diet because of "his overall belief that God made humans to protect the earth and all animals."

Sumrall first became a vegetarian in the late 1990s. Because the Georgia Department of Corrections did not offer vegan or

vegetarian meals at that time, Sumrall gave away the non-vegetarian food on his tray or traded it for "fruit, vegetables or bread." In 2007, Sumrall "heard the word vegan" for the first time and elevated his diet to veganism. Around the same time, the Department implemented an "Alternative Entrée Program" (AEP) to accommodate inmates' religious diets, and Sumrall enrolled after converting to veganism.

For the next twelve years, all went smoothly. But in August 2019, while housed at Wilcox State Prison, Sumrall filed a grievance "about Food Service workers not giving vegans food that they should have received." The grievance did not lead to Sumrall's desired result—in fact, quite the opposite. After Warden Artis Singleton investigated, he removed Sumrall from the AEP because he had "violated the vegan meal requirements" by purchasing non-vegan food from the prison store. But at that time, purchases of non-vegan items were not formal grounds for removal from the AEP, so Sumrall was placed back on the list a few days later.

Almost a year later, in July 2020, Sumrall and several other prisoners were again removed from the AEP for purchasing non-vegan food from the prison store. These removals followed complaints from "a few prisoners" that the vegan meals they were offered were "inadequate." Sumrall's purchase records between May 2020 and July 2020 confirm that a large portion of his weekly purchases were for non-vegan foods like chicken soup, chili, Cheetos, cheese crackers, cinnamon rolls, iced honey buns, and

chocolate covered candy bars. Sumrall claims that he bought these items to sell to other prisoners. And he testified that, had he known he would be removed from the AEP for buying (and selling) non-vegan food, he would have stopped. Still, the Department's official policy did not yet include non-vegan purchases as a basis for dismissal from the AEP. The Department did not revise the policy to include that until October 2020—more than two months after Sumrall was removed from the AEP for the second time.

Sumrall also alleged that only black inmates were removed from the AEP in July 2020. His white roommate, Michael Cwikla, testified that he remained enrolled despite having purchased non-vegan food from the prison store, and provided an August 19, 2020, receipt showing non-vegan purchases to back up his claim. Another inmate, James America, said that he and other black prisoners were removed from the list for buying non-vegan food, while white prisoners were not. But America provided no evidence beyond his own statements, which prison officials dispute. Deputy Warden Ashley, for instance, testified that the inmates removed from the AEP in July 2020 belonged "to a number of racial groups, including White, Black, and Hispanic."

Sumrall added that his removal from the AEP led to various medical difficulties. In the fall of 2020, he made two medical complaints: one for fatigue and another for "pain in his back, stomach, and other parts of his body." The first yielded a prescription for Vitamin D pills. And the second led to a diagnosis of arthritis and bone weakness; the prescribed treatment was

Ibuprofen. Sumrall does not dispute that he contracted Covid-19 in August 2020—"before the onset of any of those symptoms that he attributes to malnutrition." But he argues that even if his symptoms stemmed from Covid, his removal from the AEP "hampered his ability to fight" the virus.

Less than two months after Sumrall's second removal from the AEP, he submitted a "Special Religious Request," asking for (1) vegan meals, (2) permission to order vegan athletic shoes, (3) permission to receive an ankh (a pendant in the shape of a religious symbol), and (4) the sale of vegan food at the prison store. Although these requests were denied, he was placed back on the AEP on October 19, 2020, less than three months after he was removed. He has remained on the program since.

In 2021, Sumrall sued Singleton and Ashley under 42 U.S.C. § 1983, claiming that his removal from the AEP violated his First and Eighth Amendment rights by denying him the vegan meals that were consistent with his religious beliefs and depriving him of nutritionally adequate vegan meals. He also alleged that the removal violated the Fourteenth Amendment's guarantees of equal protection and due process. Finally, he sued the Georgia Department of Corrections under RLUIPA for denying his "Special Religious Request."[1]

---

[1] Sumrall also alleged intentional infliction of emotional distress under Georgia state law, but he does not challenge the district court's ruling on this claim.

The parties cross-moved for summary judgment. The district court granted summary judgment to Singleton and Ashley on the § 1983 claims for various reasons. Two were decided on qualified immunity grounds: the court determined that existing law did not clearly establish that Sumrall's removal from the AEP violated either his First Amendment or due process rights. As for the equal protection claim, the court found no violation because Sumrall did not show "that he was treated differently than any similarly situated prisoner, nor that Singleton and Ashley possessed discriminatory intent when they removed him from the AEP." And the Eighth Amendment claim failed because the non-vegan food Sumrall was given was "nutritionally adequate."

The district court also disposed of the RLUIPA claims. It granted summary judgment on the allegations stemming from the denial of Sumrall's request for vegan athletic shoes, an ankh, and the sale of vegan food products at the prison store because none of those denials substantially burdened his religious rights. In a later order, the court dismissed the remaining RLUIPA claim—the denial of vegan meals—as moot because Sumrall had been reenrolled in the AEP since October 2020. This is Sumrall's appeal.

II.

We review the district court's grants of qualified immunity and summary judgment de novo. *Stryker v. City of Homewood*, 978 F.3d 769, 773 (11th Cir. 2020); *Nehme v. Fla. Int'l Univ. Bd. of Trs.*, 121 F.4th 1379, 1383 (11th Cir. 2024). Mootness determinations are

also reviewed de novo. *Smith v. Owens*, 848 F.3d 975, 978 (11th Cir. 2017).

III.

Sumrall raises several issues on appeal. He challenges the district court's grant of summary judgment to Singleton and Ashley on his free exercise, due process, equal protection, and Eighth Amendment claims. He also argues that the district court erred in granting summary judgment to the Georgia Department of Corrections on two of his RLUIPA claims and dismissing the remaining claim as moot.

A.

We begin with the free exercise and due process claims. The district court granted Singleton and Ashley qualified immunity on both because Sumrall could not show that his constitutional rights were clearly established. That was not error.

Qualified immunity "shields public officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Stryker*, 978 F.3d at 773 (quotation omitted). To receive qualified immunity, an official must first prove that he was acting within the scope of his discretionary authority when the allegedly unlawful conduct took place. *Mobley v. Palm Beach Cnty. Sheriff Dep't*, 783 F.3d 1347, 1352 (11th Cir. 2015). The burden then shifts to the plaintiff to demonstrate that the official violated a clearly established constitutional right. *See id.* at 1352–53. We can consider the two prongs in any order, and the

plaintiff must win on both to succeed. *Piazza v. Jefferson County*, 923 F.3d 947, 951 (11th Cir. 2019).

1.

We first consider whether Singleton and Ashley acted within their discretionary authority when they removed Sumrall from the AEP. Sumrall argues that they did not because (at least at that time) the Department's policies did not authorize removal for non-vegan food purchases. But that's not the test. The correct inquiry is whether managing a prison's food program fell within Singleton and Ashley's "arsenal of powers" as prison officials. *See Carruth v. Bentley*, 942 F.3d 1047, 1055 (11th Cir. 2019) (quotation omitted). It did. That Singleton and Ashley removed Sumrall for a reason that was not then authorized by Department policies does not mean they were acting outside their discretionary authority; managing the AEP list was a "legitimate job-related function" that was within their "power to utilize." *See id.* at 1054 (quotation omitted).

2.

Because Singleton and Ashley were acting within their discretionary authority, the burden shifts to Sumrall to show that the officials violated a clearly established constitutional right. *See Mobley*, 783 F.3d at 1352–53. He did not.

Start with the free exercise claim. Sumrall tries to show that the right he asserts was clearly established based on the "general principle that prisons must accommodate incarcerated persons' religious dietary restrictions when their beliefs are truly held, subject only to legitimate penological limitations." But for a

general principle to clearly establish the law, it must be "so clear that, even without specific guidance from a decision involving materially similar facts, the unlawfulness of the officer's conduct is apparent." *Powell v. Snook*, 25 F.4th 912, 920 (11th Cir. 2022). The "salient question" is whether the law at the time of the incident gave the official "fair warning that his conduct was unlawful." *Id.* at 921 (quotation omitted).

A free exercise claim requires a showing that the government has impermissibly burdened a "sincerely held religious belief[]." *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1294 (11th Cir. 2007) (quotation omitted). And authorities are not required to rubber stamp every religious claim: "prison officials may appropriately question whether a prisoner's religiosity, asserted as the basis for a requested accommodation, is authentic." *Cutter v. Wilkinson*, 544 U.S. 709, 725 n.13 (2005). Same goes for the courts. *See Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n*, 942 F.3d 1215, 1246–47 (11th Cir. 2019). Even so, neither inquiry is "probing." *See id.* at 1247.

Sumrall alleged that his removal from the AEP impermissibly burdened his religious beliefs by forcing him to choose between "malnourishment and religious adherence." And because there was no "legitimate penological reason" for his removal, he argues, Singleton and Ashley violated the First Amendment.

While existing law may have been clear that prison officials needed to accommodate "truly held" religious beliefs, it did not

give Singleton and Ashley "fair warning" that they could not question the sincerity of Sumrall's beliefs based on his non-vegan purchases. *See Powell*, 25 F.4th at 921 (quotation omitted). In fact, neither published case Sumrall cites involved an inmate's actions contradicting his professed religious beliefs. *See generally United States v. Sec'y, Fla. Dep't of Corr.*, 828 F.3d 1341 (11th Cir. 2016); *Martinelli v. Dugger*, 817 F.2d 1499 (11th Cir. 1987). The district court did not err in granting Singleton and Ashley qualified immunity on Sumrall's free exercise claim.

The same is true for the due process claim. To succeed there, Sumrall needs to show "(1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process." *Resnick v. KrunchCash, LLC*, 34 F.4th 1028, 1035 (11th Cir. 2022) (quotation omitted). A prisoner has a protected liberty interest "when the state has consistently bestowed a certain benefit to prisoners," and denying that benefit "imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Kirby v. Siegelman*, 195 F.3d 1285, 1291 (11th Cir. 1999) (quotation omitted).

Sumrall says that the "AEP created a liberty interest by providing religiously compliant meals" and that his removal from the program "imposed an atypical and significant hardship" by forcing him to either abandon his religion or starve. But once again, he has not shown that the right he claims was clearly established—he identifies no authority establishing a protected

liberty interest in remaining on a religious meal plan when an inmate's actions contradict a genuine commitment to the dietary restrictions he claims.

Once more, Sumrall tries to use "[b]road statements of law" to defeat qualified immunity. But neither case he cites gets him where he needs to go. *Bass v. Perrin* established that prisoners in solitary confinement have a constitutionally protected interest in outside yard time, but we do not see how this translates to temporary removal from the AEP. 170 F.3d 1312, 1318 (11th Cir. 1999). And the principle Sumrall pulls from *Sandin v. Conner*—that "hardship is evaluated by comparing it to the 'ordinary incidents of prison life'"—is just a restatement of the protected-liberty-interest standard articulated in that case. *See* 515 U.S. 472, 484 (1995). This was not enough to put the officials on notice that removing Sumrall from the AEP was a due process violation. Put differently, it was not obvious that removing an inmate who bought all kinds of non-vegan goods from a vegan meal plan violates due process. The district court did not err in determining that Singleton and Ashley were entitled to qualified immunity on Sumrall's due process claim.

B.

We next turn to Sumrall's equal protection claim, which is based on his allegation that only black, non-Jewish prisoners were removed from the AEP in July 2020. To prevail, Sumrall must show that "(1) he is similarly situated to other prisoners who received more favorable treatment; and (2) the state engaged in

invidious discrimination against him based on race, religion, national origin, or some other constitutionally protected basis." *Sweet v. Sec'y, Dep't of Corr.*, 467 F.3d 1311, 1318–19 (11th Cir. 2006). He cannot make either showing.

A similarly situated prisoner must be "prima facie identical in all relevant respects." *Grider v. City of Auburn*, 618 F.3d 1240, 1264 (11th Cir. 2010) (italics deleted and quotation omitted). Sumrall's principal comparator is a white and Jewish prisoner, Michael Cwikla, who testified that he was not removed from the AEP despite having purchased non-vegan food from the prison store. So far, so good. But the receipt attached to his affidavit shows purchases from August 19, 2020, which was nearly a year after Sumrall was removed from the AEP the first time, and three weeks after he was removed the second time. Without more information from the record, those dates may seem inconsequential. But here we know that both times prison officials removed Sumrall from the AEP it stemmed from reviews of store purchases. And those reviews were triggered by complaints from Sumrall and other prisoners that they had not received adequate vegan food.

That sequence means Cwikla did not engage in the same conduct as Sumrall: purchasing non-vegan food from the store *before* prison officials ran their July 2020 purchase check. After all, the officials could not have removed Cwikla from the AEP in July for non-vegan purchases that he did not make until August. The answer may well be different if the purchase checks had occurred more regularly.

Sumrall contends, however, that Cwikla made purchases before Sumrall's removal, and that the receipt in the record is "just one example." He points to Cwikla's statement that he was not removed even though he "also *bought*" and continued to "buy" non-vegan items from the store. (emphasis added). Because Cwikla spoke in the past and present tense, Sumrall contends, Cwikla made purchases "before and during the period" of Sumrall's removal

We see it differently. Cwikla's affidavit is dated September 14, 2020. To support his statement that he "also bought" non-vegan food, Cwikla referenced his August 19, 2020, receipt. But the affidavit does not state that Cwikla made purchases before Sumrall's July 29 removal—when prison authorities ran checks for non-vegan store purchases by prisoners receiving vegan meals. Absent this assertion, Cwikla and Sumrall are not "prima facie identical in all relevant respects." *Id.* (italics deleted and quotation omitted).

Sumrall insists that there were other similarly situated prisoners, too, but the evidence he cites does not move the needle. *First*, he points to Cwikla's statement that prison officials "did not remove [him] nor any other Jewish/Caucasian prisoner from the AEP even though [they] also bought (and buy) non-vegan store items." *Second*, he notes that another inmate, James America, testified that "White and Jewish prisoners in [Sumrall's dorm] had also previously bought non-vegan store goods," but were not culled from the AEP.

The problem is that none of the referenced comparators testified, and neither Cwikla nor America provided any details—like the prisoners' names or the date ranges of their non-vegan purchases—that would allow us to assess whether they were similarly situated. And without "specific supporting facts," Cwikla's and America's "conclusory allegations" are not enough to create a genuine dispute of material fact. *See Evers v. Gen. Motors Corp.*, 770 F.2d 984, 986 (11th Cir. 1985).

Plus, even if Sumrall *did* identify a similarly situated inmate, he has not presented evidence that Singleton and Ashley acted with a discriminatory purpose. After all, to "make out an equal protection claim, a plaintiff must prove purposeful, intentional discrimination." *Morrissey v. United States*, 871 F.3d 1260, 1271 (11th Cir. 2017). And that requires proving that "the governmental decisionmaker acted as it did because of, and not merely in spite of, its effects upon an identifiable group." *Id.* (quotation omitted). In *Harris v. Ostrout*, for example, "evidence of an illegal motive"—that the prison official "used racist language" when referring to the inmate—created a genuine issue of fact and precluded summary judgment on the inmate's equal protection claim. *See* 65 F.3d 912, 917 (11th Cir. 1995).

No such evidence exists here. It is undisputed that Sumrall regularly bought non-vegan food from the prison store, and that he was removed from the AEP only after prison officials discovered these purchases. What's more, Sumrall does not refute Ashley's testimony that white prisoners were removed from the AEP in July

2020. He argues instead that Ashley did not state *why* they were removed. But that is not true. Ashley said that she "reviewed the list of Wilcox State Prison inmates removed from the Alternative Entrée Meal Program ('AEP') in July 2020 *because they had purchased non-vegan items from the prison store*." (emphasis added). Next sentence: "The Wilcox State Prison inmates removed from the AEP in July 2020 belong to a number of racial groups, including White, Black, and Hispanic."[2] Because there is no evidence of "purposeful, intentional discrimination," the defendants were entitled to summary judgment on Sumrall's equal protection claim. *See Morrissey*, 871 F.3d at 1271.

C.

We now move to Sumrall's Eighth Amendment claim. The Eighth Amendment requires prisons to provide inmates with basic life necessities such as "adequate food, clothing, shelter, and medical care." *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). Only "extreme deprivations"—those posing an "unreasonable risk of serious damage to [the inmate's] future health or safety"—qualify as a violation. *Hudson v. McMillian*, 503 U.S. 1, 8–9 (1992); *Swain v. Junior*, 958 F.3d 1081, 1088 (11th Cir. 2020) (quotation omitted). Inmates are entitled to "reasonably adequate food," but what that means is a "well-balanced meal, containing sufficient nutritional value to preserve health." *See Hamm v. DeKalb County*, 774 F.2d

[2] And although Ashley did not state that any Jewish prisoners were removed, she testified that the removed prisoners belonged to several religions, including "Baptist," "Christian," and "Islam."

1567, 1575 (11th Cir. 1985) (quotations omitted). The Eighth Amendment does not mandate meals that match inmates' dietary preferences—even when those preferences are dictated by religious beliefs. *See McEachin v. McGuinnis*, 357 F.3d 197, 199–201 (2d Cir. 2004); *LaFevers v. Saffle*, 936 F.2d 1117, 1120 (10th Cir. 1991).

Sumrall argues that his three-month removal from the AEP violated the Eighth Amendment because it "caused him to starve." We are not persuaded. To begin, Sumrall did not dispute that the non-vegan meal offerings were nutritionally adequate. He argues only that "*his* diet was inadequate because he was unable to eat the non-vegan food trays." But the test is whether the *meals* were nutritionally adequate—and they were. Indeed, under Sumrall's test, any prisoner could manufacture an Eighth Amendment violation by refusing to eat his food. In any event, the record contradicts Sumrall's assertion that his diet on the regular non-vegan meal plan was inadequate. Sumrall was on that plan before the creation of the AEP, and he testified that he ate the vegan portions of the meals while giving away or trading the meat.

We also note that the "medical complications and pain" that Sumrall allegedly suffered after being removed from the AEP find no support in the record. Though he asserts that two "test result[s]" support his allegations, neither establishes that he suffered "serious damage to his future health or safety." *Swain*, 958 F.3d at 1088 (quotation omitted). Rather, the lab results and x-rays reveal that Sumrall sought treatment for "pain," and that there was "[n]o evidence" of "significant degenerative disease." Coupled

with his "prolonged" contraction of Covid-19—which, as he concedes, could have contributed to his symptoms—Sumrall has not raised a genuine issue of material fact.

The district court's grant of summary judgment on the Eighth Amendment claim was proper.

D.

Finally, we address the RLUIPA claims. Sumrall says the Department violated RLUIPA when it denied his 2020 "Special Religious Request," in which he sought three things: permission to order vegan athletic shoes, a requirement that the Department sell him vegan food, and a requirement that the Department offer him vegan meals in the cafeteria.[3] Again, we disagree.

An RLUIPA plaintiff must demonstrate that "his engagement in religious exercise was substantially burdened by the law, regulation, or practice he challenges." *Owens*, 848 F.3d at 979. And a substantial burden places "more than an inconvenience on religious exercise." *Thai Meditation Ass'n of Ala. v. City of Mobile*, 980 F.3d 821, 830 (11th Cir. 2020) (quotation omitted). Pressure that "tends to force adherents to forego religious precepts" or "mandates religious conduct" can meet the mark. *Id.* (quotation omitted).

Citing the "centrality of veganism" to his "religious worldview," Sumrall argues that the Department "substantially

[3] He also alleged an RLUIPA violation for the denial of his request for an ankh, but he does not appeal the district court's ruling on this claim.

burdens his religious exercise under RLUIPA by refusing him access to athletic shoes that are not made from animal products." He says that because "the only religiously compliant alternative to leather sneakers is rubber slides—which are not gym shoes—[he] cannot exercise without violating his religious beliefs." And this, Sumrall asserts, amounts to "a substantial burden" on his religion.

Not so. That rubber shoes do not fulfill Sumrall's physical-exercise preferences does not mean his religious exercise is substantially burdened. He cannot show that the denial of vegan athletic shoes does anything more than "inconvenience" his religious exercise. *Cf. id.* at 829–30 (quotation omitted).

Sumrall next contends that the Department's refusal to "make vegan food available for purchase" substantially burdens his religious exercise. Because the prison store "does not designate items as vegan or non-vegan," he argues, he "cannot know" which type they are. And because the Department has since "added the non-vegan-purchase prohibition" to its standard operating procedures, Sumrall says he "risk[s] removal from the AEP" each time he shops at the commissary.

The district court correctly rejected this claim, too. The Department offers vegan meals through the AEP, and Sumrall remains an enrolled participant. Because he can obtain vegan meals that way, he cannot show that the Department's refusal to separately sell other vegan food is more than an inconvenience. Sumrall cannot use RLUIPA to compel the prison to sell vegan

meals when he already has access to those meals through a program created to "accommodate as many religions as possible."

Last, Sumrall's request for access to vegan meals is moot. A case becomes moot "[w]hen events subsequent to the commencement of a lawsuit create a situation in which the court can no longer give the plaintiff meaningful relief." *Fla. Ass'n of Rehab. Facilities v. Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000). Because mootness is jurisdictional, a moot case requires dismissal. *Sierra Club v. EPA*, 315 F.3d 1295, 1299 (11th Cir. 2002).

The district court correctly determined that this claim was moot because the only relief Sumrall sought in connection with his request for vegan meals was to be placed back on the AEP—which happened nearly five years ago. Even so, Sumrall says his claim is live because he was placed on the "restricted" vegan meal plan, which he says provides "largely inedible" meals. He argues that "he has not received the relief he requested—*edible* vegan meals." We cannot agree. Sumrall requested only that he "be put back on the vegan AEP meals." And the restricted vegan meal plan offers—you guessed it—vegan meals. The primary difference between the restricted vegan plan and the regular vegan plan is that the former serves "cold foods" after "sunset on Friday until one (1) hour past sunset on Saturday."

Sumrall's complaints about the quality of the restricted plan do not save his claim. Again, he sued "based on his removal from the AEP, *not* the nutritional adequacy of the vegan meals." At his

deposition, for example, Sumrall acknowledged that he was "not making a complaint about the vegan food itself," but only about "whether [he] got the vegan or not the vegan food."

Sumrall's final defense to mootness is the voluntary-cessation exception, which provides that a defendant's "voluntary cessation of allegedly illegal conduct does not moot a case."[4] *Keohane v. Fla. Dep't of Corr. Sec'y*, 952 F.3d 1257, 1267 (11th Cir. 2020) (quotation omitted). But this exception does not apply when "there is no reasonable expectation that the wrong will be repeated." *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953) (quotation omitted). And where, as here, the defendant is a government actor, we apply a rebuttable presumption that the objectionable behavior will not recur. *See Coral Springs St. Sys., Inc. v. City of Sunrise*, 371 F.3d 1320, 1328–29 (11th Cir. 2004).

Voluntary cessation does not save the day for Sumrall. He has remained on the AEP for over four years since his

---

[4] Sumrall also suggests that "[d]amages claims against" the prison officials in their individual capacities "provide an additional reason" why this claim is not moot. He concedes that our precedent forecloses money damages against government officials for RLUIPA violations, but asks this Court to stay the issuance of this opinion because the Supreme Court has granted certiorari on this issue. *See Landor v. La. Dep't of Corr. & Pub. Safety*, No. 23-1197, 2025 WL 1727386, at *1 (U.S. June 23, 2025) (mem.). Sumrall, however, did not raise this issue before the district court, which means it was forfeited. *See Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1331 (11th Cir. 2004). Because we see no "exceptional" reason to address the issue for the first time on appeal, his motion to stay is denied. *See id.* at 1332.

reenrollment, and he has presented no evidence that he is likely to be removed again. Still, he argues that because the government has provided no assurance that it will not "arbitrarily remove" him from the AEP again, it is not entitled to a presumption that its objectionable behavior will not recur. But the basis for his prior removals was not arbitrary: both times it was for the purchase of non-vegan food (which is now a formal justification for removal from the AEP). Whether Sumrall is removed again, then, is entirely in his control. And he appears to have stopped purchasing non-vegan items. Given that, the record offers no reason to think the government will remove him from the program—and certainly not that it will do so arbitrarily.

* * *

Because the district court correctly disposed of Sumrall's claims, we **AFFIRM.**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

AMMON RA SUMRALL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**CIVIL ACTION NO. 5:21-CV-187 (MTT)**
	)	
GEORGIA DEPARTMENT OF CORRECTIONS, *et al.*,	)	
	)	
Defendants.	)	

ORDER

The defendants move for summary judgment on Plaintiff Ammon Ra Sumrall's claims under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"). Doc. 41. After supplemental briefing, the defendants have demonstrated that Sumrall's RLUIPA claim is moot. Docs. 62; 67. Accordingly, Sumrall's RLUIPA claim is **DISMISSED** for lack of subject matter jurisdiction. Furthermore, Sumrall's motion for reconsideration (Doc. 61), motion to reopen discovery (Doc. 68), and motion to appoint counsel (Doc. 69) are **DENIED**.

I. BACKGROUND

Sumrall's claims arise from his removal from the Alternative Entrée Program ("AEP"), a vegan diet program, while incarcerated at Wilcox State Prison. Docs. 31-2 ¶ 13; 31-3 ¶¶ 9, 15; 35 ¶ 13. The defendants removed Sumrall from the AEP in August 2019 and July 2020 for purchasing dozens of non-vegan food items from the prison commissary. Docs. 31-2 ¶¶ 8-9, 14; 35 ¶¶ 8-9, 14; 35-1 at 10:12-24; 41-1. The

defendants argued that Sumrall's extensive non-vegan food purchases demonstrated that he was not reliant on the AEP to accommodate his religious diet, which justified his removal from the program. Docs. 41 at 3, 8; 41-4 ¶¶ 18, 34-35. At the time of his removal in August 2019 and July 2020, the Georgia Department of Corrections ("GDC") Standard Operating Procedures did not include purchasing non-vegan food as a justification for removing inmates from the AEP. Docs. 31-2 ¶ 23; 35 ¶ 23. Thus, Sumrall argued that his removal was improper because the GDC did not have a written policy of removing inmates from the AEP for purchasing non-vegan food. Docs. 31-1 at 3, 11-12; 45 at 13. On October 13, 2020, the GDC added purchasing non-vegan food as a justification for removing inmates from the AEP. Docs. 31-2 ¶ 23; 35 ¶ 23. Sumrall was reenrolled in the AEP on October 20, 2020. Docs. 31-2 ¶ 28; 35 ¶ 28; 35-1 at 16:22-23, 19:9-20:20.

Sumrall brought claims under RLUIPA and § 1983, alleging violations of his First, Eighth, and Fourteenth Amendment rights. Doc. 25. All claims arose from Sumrall's contention that he had been improperly removed from the AEP. *Id*. The defendants moved for summary judgment on all of Sumrall's claims. Doc. 41. The Magistrate Judge recommended granting the defendants' motion for summary judgment in its entirety. Doc. 51. Specifically, the Magistrate Judge recommended granting the defendants' motion for summary judgment on Sumrall's § 1983 claims because (1) Sumrall had not shown the defendants violated his constitutional rights and (2) the defendants were entitled to qualified immunity. *Id*. at 6-15, 18-19. Regarding Sumrall's RLUIPA claim, the Magistrate Judge recommended granting the defendants' motion for summary judgment because Sumrall's extensive prison commissary purchases

demonstrated he could accommodate his religious diet without the AEP; therefore, Sumrall's religious rights were not substantially burdened while he was removed from the AEP and his RLUIPA rights were not violated. *Id.* at 14.

The Court adopted the Recommendation in part and granted the defendants' motion for summary judgment with respect to Sumrall's § 1983 claims. Doc. 56 at 9-22. However, the Court concluded that issues of fact remained regarding whether Sumrall could accommodate his vegan diet without the AEP and, as a result, whether Sumrall's religious rights were substantially burdened while he was removed from the AEP. *Id*. at 6. Therefore, the Court denied, without prejudice, the defendants' motion for summary judgment on Sumrall's RLUIPA claim. *Id*. at 8-9.

Because only Sumrall's RLUIPA claim, based on his allegation that he has been improperly removed from the AEP, remained and because Sumrall was reenrolled in the AEP, the Court noted that Sumrall's RLUIPA claim was "likely moot." *Id*. at 8. Sumrall's RLUIPA claim sought only injunctive and declaratory relief, specifically, "to be put back on the vegan AEP meals."[1] Docs. 25 at 16; 31 at 1-2; 31-10 at 3; 35-1 at 13:10-11; 52 at 13, 19-20. Because Sumrall was "put back" on the AEP on October 20, 2020, it appeared his claim was moot. Accordingly, the Court ordered the parties to submit supplemental briefing on the issue of mootness.[2] Doc. 56 at 8-9.

In his supplemental brief, Sumrall argues that his RLUIPA claim is not moot because (1) the defendants "discontinued the AEP" by replacing the vegan meals with

[1] Of course, RLUIPA affords only injunctive and declaratory relief. *Sossamon v. Tex.*, 563 U.S. 277 (2011).

[2] "[B]ecause the question of mootness is jurisdictional in nature, it may be raised by the court *sua sponte*." *Nat'l Advert. Co. v. City of Mia.*, 402 F.3d 1329, 1331-32 (11th Cir. 2005). The Court provided the parties with notice and an opportunity to respond on the issue of mootness. Docs. 56 at 8-9; 62; 63; 66; 67.

kosher meals, (2) the AEP meals are nutritionally inadequate, and (3) the "defendants have a pattern of removing prisoners from the AEP if they complain about how their meals are prepared and served." Docs. 63 at 1-4; 66 at 2. Sumrall attached three grievances in support of his contention that the defendants "discontinued the AEP." Docs. 63 at 1; 63-3; 63-4; 63-5. In grievance No. 345828, Sumrall complains that he was "switched … from vegan to restricted vegan." Doc. 63-4 at 2. Because the restricted vegan meal plan was "created to accommodate Jews," Sumrall claims the defendants are "forc[ing] [him] to practice Judaism and abandon [his] own religious beliefs." *Id*. Additionally, Sumrall complains that the restricted vegan meals are usually "inedible" and lack "variety." *Id*. In grievance No. 343305, Sumrall complains that the food service staff gave him non-vegan bread. Doc. 63-3 at 2. In grievance No. 331549, Sumrall complains that the food service staff gave him spoiled food. Doc. 63-5 at 2. As the defendants highlight in their supplemental briefing, Sumrall does *not* claim that he has been removed from the AEP. *See* Doc. 67 at 2.

In addition to arguing that his RLUIPA claim is not moot, Sumrall moves to reopen discovery, have counsel appointed, and for reconsideration of the Court's prior Order (Doc. 56) granting in part and denying in part the defendants' motion for summary judgment. Docs. 61; 68; 69. Sumrall's motion for reconsideration focuses on his alleged First Amendment retaliation claim against defendants Singleton and Ashley. Doc. 61 at 2. Sumrall's motion to reopen discovery contends that because his "RLUIPA claim for vegan meals has evolved to include new matters, the Court should allow [him] a reasonable amount of time to uncover those facts that support [his] contention that his RLUIPA claim for vegan meals is not moot." Doc. 68 at 2. Finally, Sumrall's motion to

appoint counsel asks the Court to provide him with counsel "to help [him] collect evidence" to show that the "defendants' pre-packaged kosher meals are a systemic failure." Doc. 69 at 1-2.

II. DISCUSSION

A. Motion for Reconsideration

Sumrall argues that "[e]ven though [his] evidence shows that defendants" Singleton and Ashley "retaliated against him" when they removed him from the AEP, "the Court's February 17, 2023 order is silent" on this issue. Doc. 61 at 2. Specifically, Sumrall claims the defendants removed him from the AEP because he filed a grievance and the Court failed to address this "retaliation" claim. *Id*.

Pursuant to Local Rule 7.6, "Motions for Reconsideration shall not be filed as a matter of routine practice." M.D. Ga. L.R. 7.6. Indeed, "reconsideration of a previous order is an extraordinary remedy to be employed sparingly." *Bingham v. Nelson*, 2010 WL 339806, at *1 (M.D. Ga. Jan. 21, 2010) (citation omitted). It "is appropriate only if the movant demonstrates (1) that there has been an intervening change in the law, (2) that new evidence has been discovered which was not previously available to the parties in the exercise of due diligence, or (3) that the court made a clear error of law." *Id*. "In order to demonstrate clear error, the party moving for reconsideration must do more than simply restate his prior arguments, and any arguments which the party inadvertently failed to raise earlier are deemed waived." *McCoy v. Macon Water Auth.*, 966 F. Supp. 1209, 1222-23 (M.D. Ga. 1997).

Essentially, Sumrall's motion for reconsideration attempts to allege—for the first time—a First Amendment retaliation claim against defendants Singleton and Ashley.

Doc. 61. Sumrall did not assert a First Amendment retaliation claim in his original complaint. Doc. 1-2 at 5. The Magistrate Judge did not recommend that a First Amendment retaliation claim proceed for further factual development. Docs. 7; 13. Sumrall did not argue that the Recommendation improperly omitted a First Amendment retaliation claim. Doc. 12. And Sumrall's amended complaint did not allege a First Amendment retaliation claim. Doc. 25. The only First Amendment claim briefed by the parties in the subsequent motions for summary judgment is a free exercise claim. *See* Docs. 31-1 at 5-8; 41 at 13-15; 45 at 7-8. In fact, Sumrall acknowledges "that the court has not authorized a retaliation claim against defendants." Doc. 38 at 6.

Sumrall cannot use a motion for reconsideration to amend his complaint. *See Miccosukee Tribe of Indians of Fla. v. United States*, 716 F.3d 535, 559 (11th Cir. 2013) ("At the summary judgment stage, the proper procedure for plaintiffs to assert a new claim is to amend the complaint in accordance with Fed. R. Civ. P. 15(a)."") (quoting *Hurlbert v. St. Mary's Health Care Sys., Inc.*, 439 F.3d 1286, 1297 (11th Cir. 2006)). Because Sumrall has failed to show that the Court made a clear error of law in its prior Order (Doc. 56), his motion for reconsideration (Doc. 61) is **DENIED**.

B. RLUIPA Claim and Mootness

Sumrall's RLUIPA claim challenged his removal from the AEP and his only remaining requested relief is reenrollment in the AEP. Docs. 31 at 2; 31-10 at 3; 35-1 at 13:5-11, 59:5-12. Specifically, Sumrall stated that his RLUIPA claim "is based on [his] … special religious request." Doc. 35-1 at 13:5-9. Sumrall's "Special Religious Request" asked the GDC to (1) "offer [him] vegan meals"; (2) "allow [him] to order a pair of vegan athletic shoes"; (3) "allow [him] to have an Ankh"; and (4) "require the prison …

to sell vegan food." Doc. 31-10 at 3. The Court previously held that Sumrall's religious rights were not substantially burdened by the GDC's refusal to provide him with vegan athletic shoes, provide him with an Ankh, or sell vegan meals. Doc. 56 at 5. As a result, the Court granted the defendant's motion for summary judgment as to Sumrall's second, third, and fourth requests and only his first request remains. *Id*. at 8-9. Sumrall characterized his first request, that the GDC "offer [him] vegan meals," as "basically, to be put back on the vegan AEP meals." Docs. 31-10 at 3; 35-1 at 13:10-11. Thus, Sumrall's only requested RLUIPA relief is reenrollment in the AEP.

The Court's analysis is limited to Sumrall's proposed remedy—"to be put back on the vegan AEP meals"—for two reasons. Doc. 35-1 at 13:10-11. First, injunctive and declaratory relief are the only remedies available to inmates suing a state or its agencies, such as the GDC, under RLUIPA. *Sossamon*, 563 U.S. at 288. Second, the Eleventh Circuit has held that a district court commits reversible error when it fashions a remedy the plaintiff did not seek. *Smith v. Owens*, 13 F.4th 1319, 1327 (11th Cir. 2021). Because RLUIPA requires "an individualized, context-specific inquiry" and because "requiring the government to rebut alternatives" that the plaintiff did not propose "would run afoul of basic rules of fair notice," courts must confine their RLUIPA analysis to the remedies the plaintiff proposes. *Id*. at 1323, 1327 n.6. Thus, the Court's discussion of Sumrall's RLUIPA relief is limited to his request for reenrollment in the AEP.

Sumrall was reenrolled in the AEP, and provided with vegan meals, on October 20, 2020. Docs. 31-2 ¶ 28; 35 ¶ 28; 35-1 at 16:22-23, 19:9-20:20. Nevertheless, Sumrall contends that his RLUIPA claim is not moot because (1) the GDC "discontinued the AEP" when it placed him on the restricted vegan meal plan, (2) the AEP meals are

nutritionally inadequate, and (3) the defendants have a pattern of removing inmates from the AEP "if they complain about how their meals are prepared and served." Docs. 63 at 1-4; 66 at 2.

First, Sumrall's placement on the restricted vegan meal plan does not save his RLUIPA claim. As Sumrall testified during his deposition, the restricted vegan meal plan is a vegan diet. Doc. 35-1 at 59:13-17; *see also* Doc. 67 at 2-3. And the GDC Standard Operating Procedures confirm that the restricted vegan meal plan is a "meal plan consisting of Vegan food." GDC, *Standard Operating Procedures*, No. 409.04.28, Alternative Entrée Program, https://gdc.ga.gov/content/409-Policy-GCI-Food-Service (click on the link labeled "409.04.28 (IVL01-0027) Alternative Entree Program").[3] Sumrall's requested relief was to receive vegan meals. Docs. 31 at 2; 31-10 at 3. Sumrall received that relief when he was reenrolled in the AEP and his supplemental briefing clarifies that he remains enrolled in the AEP. *See* Docs. 63; 63-4.

Sumrall's argument that his RLUIPA rights are being violated because he was placed on the restricted vegan meal plan, which also happens to be kosher, is irrelevant. Doc. 63 at 4. Sumrall testified that his RLUIPA request was "basically, to be put back on the vegan AEP meals." Doc. 35-1 at 13:10-11. Thus, the Court's focus is whether Sumrall was reenrolled in the AEP—not whether receiving kosher meals violates Sumrall's RLUIPA rights. If Sumrall wants to raise complaints about the restricted meal plan, he can raise those complaints in another lawsuit. His attempt to

[3] "The Court may take judicial notice of government publications and website materials." *Coastal Wellness Centers, Inc. v. Progressive Am. Ins. Co.*, 309 F. Supp. 3d 1216, 1220 n.4 (S.D. Fla. 2018); *see also R.S.B. Ventures, Inc. v. F.D.I.C.*, 514 F. App'x 853, 856 n.2 (11th Cir. 2013) ("As requested by [the plaintiff], for purposes of this appeal we take judicial notice of the information found on the FDIC's website.").

raise those issues now, after the close of discovery and lengthy summary judgment briefing, is improper and contrary to "basic rules of fair notice" and the "individualized, context specific inquiry" RLUIPA demands.[4] *Smith*, 13 F.4th at 1323, 1327 n.6.

Second, Sumrall's complaints about the quality of the AEP meals do not save his RLUIPA claim. As his deposition testimony clarified, Sumrall's RLUIPA claim is based on his removal from the AEP, *not* the nutritional adequacy of the vegan meals:

> Q. Okay. And -- and as it relates to the vegan food -- just to be clear since we're defining the universe of this, you're not saying that the vegan -- *you're not making a complaint about the vegan food itself*, it's [sic] nutritional value or anything like that. You're just saying it was whether you got the vegan or not the vegan food?
> A. Right.

Doc. 35-1 at 59:5-12 (emphasis added). Now Sumrall seeks to expand the scope of his RLUIPA claim to investigate "new matters," including the nutritional adequacy of the AEP meals. Docs. 63-4 at 2; 68 at 2. This lawsuit—which focused on Sumrall's *removal* from the AEP—is not the proper vehicle to bring new complaints about the adequacy of the AEP. *See Smith*, 13 F.4th at 1327. If anything, Sumrall's new complaints demonstrate mootness—Sumrall could not challenge the adequacy of the AEP meals if he was not enrolled in the AEP.

Finally, Sumrall claims that the "defendants have a pattern of removing prisoners from the AEP if they complain about how their meals are prepared and served." Doc. 66 at 2. Thus, Sumrall argues that his claim is not moot because there is a "reasonable expectation that the [defendants'] challenged practice will resume after the lawsuit is dismissed." *Id*. This "challenged practice" (i.e., removing inmates from the AEP if they

[4] In any event, the defendants highlight that the AEP meals "can be (and actually are) prepared in a kosher manner." Doc. 67 at 3 n.2.

complain about how their meals are prepared and served) is different from the practice Sumrall originally contended was unlawful. Sumrall initially argued that his removal from the AEP was improper because the GDC did not have a written policy of removing inmates for purchasing non-vegan food. Docs. 31-1 at 3, 11-12; 45 at 13. As a result, Sumrall asserted that if he had been aware of the removal policy, he would not have purchased non-vegan food and he would not have been removed from the AEP. Docs. 31-3 ¶ 18; 45 at 7-8. Notably, Sumrall does not argue the circumstances that resulted in his removal in August 2019 and July 2020—the lack of a written policy—are capable of repetition. Nor could he; those circumstances no longer exist. The GDC added purchasing non-vegan food as a justification for removing inmates from the AEP on October 13, 2020. Docs. 31-2 ¶ 23; 35 ¶ 23; *see also* GDC, *Standard Operating Procedures*, No. 409.04.28, Alternative Entrée Program, https://gdc.ga.gov/content/409-Policy-GCI-Food-Service (click on the link labeled "409.04.28 (IVL01-0027) Alternative Entree Program"). As a result, the circumstances that prompted Sumrall's removal in August 2019 and July 2020 are not present and Sumrall presents no evidence that *this* challenged practice will resume.

In any event, Sumrall provides no evidence that the defendants alleged unlawful practice of removing inmates if those inmates complain about AEP meals "will resume after the lawsuit is dismissed." Doc. 66 at 2. Sumrall presents no evidence that he has been removed from the AEP following his reenrollment on October 20, 2020, and "[m]ere speculation that the [defendant] may return to its previous ways is no substitute for concrete evidence of secret intentions." *Nat'l Advert. Co.*, 402 F.3d at 1334. In fact, Sumrall's grievances undermine his argument—despite filing multiple complaints about

how his AEP meals are prepared and served, Sumrall remains in the AEP. Docs. 63-3 (grievance dated July 18, 2022); 63-4 (grievance dated November 8, 2022).

Accordingly, Sumrall's RLUIPA claim is moot and, therefore, **DISMISSED** for lack of subject matter jurisdiction.

III. CONCLUSION

For the reasons stated, Sumrall's RLUIPA claim is **DISMISSED** for lack of subject matter jurisdiction and Sumrall's motion for reconsideration (Doc. 61) is **DENIED**. As a result, Sumrall's motion to reopen discovery (Doc. 68) and motion to appoint counsel (Doc. 69) are **DENIED** as moot.

SO ORDERED, this 26th day of April, 2023.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

AMMON RA SUMRALL,	:	
	:	
Plaintiff,	:	
	:	**NO. 5:21-CV-00187-MTT-MSH**
VS.	:	
	:	
GEORGIA DEPARTMENT OF CORRECTIONS, *et al*.,	:	
	:	
Defendants.	:	
	:	

ORDER

Presently pending before the Court is a complaint filed by *Pro se* Plaintiff Ammon Ra Sumrall, a prisoner at Wilcox State Prison in Abbeville, Georgia, seeking relief pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq*.. ECF No. 1. Plaintiff also filed a motion to proceed *in forma pauperis*. ECF No. 2. Plaintiff's motion to proceed *in forma pauperis* was granted and he was ordered to pay an initial partial filing fee. ECF No. 4. Plaintiff has paid the required filing fee in this case and his claims are thus ripe for screening pursuant to 28 U.S.C. § 1915A. Having conducted such screening, the undersigned finds that Plaintiff's claims against the Defendants shall proceed for further factual development.

I. Preliminary Screening

A. Standard of Review

In accordance with the Prison Litigation Reform Act ("PLRA"), the district courts are obligated to conduct a preliminary screening of every complaint filed by a prisoner who

seeks redress from a government entity, official, or employee. *See* 28 U.S.C. § 1915A(a). When conducting preliminary screening, the Court must accept all factual allegations in the complaint as true. *Boxer X v. Harris*, 437 F.3d 1107, 1110 (11th Cir. 2006) *abrogated in part on other grounds by Wilkins v. Gaddy*, 559 U.S. 34 (2010); *Hughes v. Lott*, 350 F.3d 1157, 1159-60 (11th Cir. 2003). *Pro se* pleadings, like the one in this case, are "held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed." *Id.* (internal quotation marks omitted). Still, the Court must dismiss a prisoner complaint if it "(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. §1915A(b).

A claim is frivolous if it "lacks an arguable basis either in law or in fact." *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008) (internal quotation marks omitted). The Court may dismiss claims that are based on "indisputably meritless legal" theories and "claims whose factual contentions are clearly baseless." *Id.* (internal quotation marks omitted). A complaint fails to state a claim if it does not include "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570(2007)). The factual allegations in a complaint "must be enough to raise a right to relief above the speculative level" and cannot "merely create[] a suspicion [of] a legally cognizable right of action." *Twombly*, 550 U.S. at 555 (first alteration in original). In other words, the complaint must allege enough facts "to raise a reasonable expectation that discovery will reveal evidence" supporting a claim. *Id.* at 556. "Threadbare recitals of the elements of a

cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678.

To state a claim for relief under § 1983, a plaintiff must allege that (1) an act or omission deprived him of a right, privilege, or immunity secured by the Constitution or a statute of the United States; and (2) the act or omission was committed by a person acting under color of state law. *Hale v. Tallapoosa Cnty.*, 50 F.3d 1579, 1582 (11th Cir. 1995). If a litigant cannot satisfy these requirements or fails to provide factual allegations in support of his claim or claims, the complaint is subject to dismissal. *See Chappell v. Rich*, 340 F.3d 1279, 1282-84 (11th Cir. 2003).

B. Plaintiff's Allegations

Plaintiff's claims arise from his incarceration within the Georgia Department of Corrections ("GDC") system and at Wilcox State Prison. ECF No. 1 at 6. Plaintiff names as Defendants in this case the Georgia Department of Corrections, Warden Artis Singleton, and Deputy Warden Tonya Ashley. *Id.* at 5. Plaintiff states that around the year 2000, he began studying and practicing a faith based upon the beliefs of his African ancestor's worship of the Sun God Ammon Ra. ECF No. 1-1 at 2. Thereafter, Plaintiff changed his name to Ammon Ra. *Id*. Part of Plaintiff's belief system is that it is a violation of God's will to kill animals unnecessarily and he adheres to a vegan diet. *Id*. at 1-2. In 2007, Plaintiff learned of the Alternative Entrée Meal Program (hereinafter "AEP") offered by the Georgia Department of Corrections that would accommodate his religious dietary beliefs and he signed up for it. *Id* at 2.

Around July or August 2019, Plaintiff filed a grievance regarding Wilcox State

Prison food service violating the AEP. *Id*. at 13. Thereafter, Defendant Singleton removed Plaintiff from the AEP accusing Plaintiff of buying non-vegan store goods. Id. Plaintiff was ultimately able to reenroll in the AEP. *Id*. However, in July 2020, Defendants Singleton and Ashley once again removed Plaintiff from the AEP as part of a mass removal of prisoners from the AEP after the vegan prisoners had filed grievances about their meals. *Id*. at 7. The reason given by Singleton and Ashley for the removal from AEP was again the purchase of non-vegan store goods. *Id*. Plaintiff alleges that the removal from AEP only happened to the "black vegans" and not the "Caucasian/ Jewish prisoners" even though they had also bought non-vegan goods. *Id*. Plaintiff further states that buying non-vegan goods is not a valid reason under prison policy to remove a vegan prisoner from AEP. *Id*.

After being removed from AEP, Plaintiff did not eat from the regular trays made with meat products and attempted to find other ways to maintain his vegan diet from July 29, 2020 to October 19, 2020. *Id*. at 7-8. Plaintiff states that he became malnourished and medical tests revealed he was suffering from a Vitamin D deficiency and low white blood cell count. *Id*. Plaintiff alleges that his inadequate diet has further caused him to develop "back, stomach and arthritic pain, coupled with fatigue and depression." *Id*. at 10-11. He also states that his inadequate diet weakened his immune system making it more difficult for him to fight off Covid-19 which he contracted from another inmate. *Id*. at 9, 11.

Plaintiff lastly complains that the Defendants have a pattern of discriminating against vegan prisoners because they will serve non-vegan products on vegan trays and they have repeatedly served Kentucky Fried Chicken, Little Caesar's Pizza, and other non-

traditional prison meat based meals to non-vegan prisoners without providing an equivalent type meal to the vegans. *Id*. at 12.

Plaintiff contends that these actions have denied him the ability to practice his religion in violation of the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), § 2 et seq., 42 U.S.C.A. § 2000cc et seq. as well as constituted cruel and unusual punishment. ECF No. 1-2 at 1, 4. As a result of these alleged violations, Plaintiff seeks declaratory and injunctive relief as well as compensatory and punitive damages. ECF No. 1 at 7.

C. Plaintiff's Claims

First Amendment and RLUIPA claim

The First Amendment, as applied to the states through the Due Process Clause of the Fourteenth Amendment, provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I. "[P]rison inmates retain protections afforded by the First Amendment's Free Exercise Clause," and prison officials may thus limit a prisoner's exercise of sincerely held religious beliefs only if such "limitations are 'reasonably related to legitimate penological interests.'" *Johnson v. Brown*, 581 F. App'x 777, 780 (11th Cir. 2014) (per curiam) (quoting *O'Lone v. Estate of Shabazz*, 482 U.S. 342, 349 (1987)). RLUIPA requires the government to justify any substantial burden on a prisoner's religious exercise by demonstrating a compelling governmental interest. *See Smith v. Allen*, 502 F.3d 1255, 1266 (11th Cir. 2007) *abrogated on other grounds by Sossamon v. Texas*, 131 S. Ct. 1651, 1659 (2011). "To establish a *prima facie* case under section 3 of RLUIPA, a plaintiff must demonstrate 1) that

he engaged in a religious exercise; and 2) that the religious exercise was substantially burdened." *Smith v. Governor for Ala.,* 562 F. App'x 806, 813 (11th Cir. 2014) (per curiam) (internal quotation marks omitted).

Plaintiff's allegations are sufficient to warrant further factual development. *See Johnson*, 581 F. App'x at 780-81 (reversing district court's dismissal of RLUIPA and First Amendment free exercise claims where prisoner's *pro se* complaint alleged that prison officials infringed his practice in numerous ways); *Saleem v. Evans*, 866 F.2d 1313, 1316 (11th Cir. 1989) (per curiam) (noting in appendix to case that generally the court should "permit dismissal of a First Amendment claim only if it involves a religious claim so facially idiosyncratic that neither a hearing nor state justification of its regulation is required"). Plaintiff's First Amendment religious freedom claim pursuant to 42 U.S.C §1983 shall therefore proceed against Defendants Singleton and Ashley[1] with the RLUIPA action proceeding only against Defendant Georgia Department of Corrections.[2]

[1] The Eleventh Amendment bars suits directly against a state or its agencies. *Stevens v. Gay*, 864 F.2d 113, 115 (11th Cir. 1989) (citing *Alabama v. Pugh*, 438 U.S. 781, 782 (1978)). This bar applies "regardless of whether the plaintiff seeks money damages or prospective injunctive relief." *Id.* (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984)). The Georgia Department of Corrections is an agency of the State of Georgia and is thus are protected by sovereign immunity. *Id.*; *Will v. Mich. Dep't of State Police*, 491 U.S. 98, 71 (1989) (explaining that the state and its agencies are not "persons" for the purposes of § 1983 liability);

[2] Plaintiff's RLUIPA claims cannot proceed against any of the individual Defendants. *See, e.g., Hathcock v. Cohen*, 287 F. App'x 793, 798 (11th Cir. 2008) (per curiam) (noting that "RLUIPA does not create a private action for monetary damages against prison officials sued in their individual capacity"). Plaintiff's RLUIPA claims against Defendants in their individual capacities are therefore subject to dismissal. Conversely, "Official-capacity suits ... generally represent only another way of pleading an action against an entity of which an

Fourteenth Amendment Equal Protection Claim

Plaintiff also specifically mentions claims arising under the Equal Protection Clause. ECF No. 1-2 at 2. The Equal Protection Clause of the Fourteenth Amendment provides: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. "In order to properly plead an equal protection claim, a plaintiff need only allege that similarly situated persons have been treated disparately through state action." *Williams v. Sec'y for Dep't of Corr.*, 131 F. App'x 682, 685-86 (11th Cir. 2005) (per curiam). Plaintiff alleges that the Defendant Singleton only removed black prisoners from AEP and not Caucasian Jewish prisoners. *Id*. at 7. At this early stage, such allegations are also sufficient to allow Plaintiff's equal protection claims against Defendant Singleton to proceed for further factual development.

Eighth Amendment claim

Lastly, Plaintiff asserts that the denial of his vegan diet led to malnutrition and thus was cruel and unusual punishment in violation of the Eight Amendment to the U.S. Constitution. ECF 1-2 at 2. "The Eight Amendment governs 'the treatment a prisoner receives in prison and the conditions under which he is confined." *Farrow v. West*, 320 F.3d 1235, 1242 (11th Cir. 2003) (quoting *Helling v. McKinney*, 509 U.S. 25, 31 (1993). After

officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165 (1985) (internal quotation marks omitted). Proper defendants in RLUIPA actions include "States, counties, municipalities, their instrumentalities and officers, and persons acting under color of state law." *Sossamon v. Texas*, 563 U.S. 277, 282 (2011) (citing § 2000cc-5(4)(A)). The Georgia Department of Corrections is an entity capable of being sued for injunctive relief under RLUIPA. *See, e.g., Benning v. Georgia*, 864 F. Supp. 2d 1358, 1360 (M.D. Ga. 2012).

incarceration, the protection afforded by the Eighth Amendment is limited and only the "unnecessary and wanton infliction of pain'" which "constitutes cruel and unusual punishment" is forbidden. *Farrow*, 320 F.3d at 1242 (quoting *Ingraham v. Wright*, 430 U.S., 670 (1977). "To establish a violation of the Eighth Amendment, a prisoner must first show that a condition is an objectively 'cruel and unusual deprivation,' and second, that the officials responsible for the conditions had the subjective intent to punish." *Turner v. Warden*, GDCP, 650 F. App'x 695, 701 (11th Cir. 2016) (citing *Taylor v. Adams*, 221 F.3d 1254, 1257 (11th Cir. 2000)).

"[S]tates may not impose punishment that shock the conscience, involve unnecessary and wanton infliction of pain, offend evolving notions of decency, or are grossly disproportionate to the offense for which they are imposed." *Hamm v. Dekalb County*, 774 F.2d 1567, 1571 (11th Cir. 1985) (citing *Newman v. Alabama*, 503 F.2d 1320, 1330 n. 14 (5th Cir. 1974)). "Neither [the Eleventh Circuit] nor the Supreme Court have ever held that the Eighth Amendment requires prison officials to indulge inmates' dietary preferences—regardless of whether those preferences are dictated by religious, as opposed to non-religious, reasons." *Robbins v. Robertson*, 782 F. App'x 794, 805 (11th Cir. 2019). However, "courts hold that states violate the eight amendment if they . . . fail to provide prisoners with reasonably adequate food, clothing, shelter, and sanitation." *Id*. (citing *Newman v. Alabama*, 559 F.2d 83, 286 (5th Cir. 1977)). Thus, inadequate nutrition can rise to the level of cruel and unusual punishment if it betrays the minimal civilized measure of life's necessities. *Berry v. Brady*, 192 F.3d 504, 507 (5th Cir 1999)(citing *Talib v. Gilley*, 138 F.3d 211, 214 n.3 (5th Cir. 1998)). "Whether the deprivation of food falls below this threshold depends on the

amount and duration of the deprivation." *Id*. Here, Plaintiff alleges that his rights under the Eighth Amendment were denied when he was deprived of his vegan diet for approximately three months which caused him to develop a vitamin D deficiency, low white blood cell count, and other physical ailments. ECF No. 1-1 at 11. At this early stage, such allegations are sufficient to allow Plaintiff's Eighth Amendment claims against Defendants Singleton and Ashley to proceed for further factual development.

II. Conclusion

In accordance with the foregoing, Plaintiff's claims against the Defendants shall proceed for further factual development.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these recommendations with the Honorable Marc T. Treadwell, United States District Judge, **WITHIN FOURTEEN (14) DAYS** after being served with a copy of this Recommendation. The parties may seek an extension of time in which to file written objections, provided a request for an extension is filed prior to the deadline for filing written objections. Failure to object in accordance with the provisions of § 636(b)(1) waives the right to challenge on appeal the district judge's order based on factual and legal conclusions to which no objection was timely made. *See* 11th Cir. R. 3-1.

ORDER FOR SERVICE

Having found that Plaintiff has made colorable constitutional violation claims against the Georgia Department of Corrections, Warden Artis Singleton, and Deputy Warden Tonya Ashley, it is accordingly **ORDERED** that service be made on those

Defendants and that they file an Answer, or such other response as may be appropriate under Rule 12, 28 U.S.C. § 1915, and the Prison Litigation Reform Act. Defendants are reminded of the duty to avoid unnecessary service expenses, and of the possible imposition of expenses for failure to waive service pursuant to Rule 4(d).

DUTY TO ADVISE OF ADDRESS CHANGE

During the pendency of this action, all parties shall keep the Clerk of this Court and all opposing attorneys and/or parties advised of their current address. Failure to promptly advise the Clerk of a change of address may result in the dismissal of a party's pleadings.

DUTY TO PROSECUTE ACTION

Plaintiff is also advised that he must diligently prosecute his Complaint or face the possibility that it will be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. Defendants are similarly advised that they are expected to diligently defend all allegations made against them and to file timely dispositive motions as hereinafter directed. This matter will be set down for trial when the Court determines that discovery has been completed and that all motions have been disposed of or the time for filing dispositive motions has passed.

FILING AND SERVICE OF MOTIONS, PLEADINGS, AND CORRESPONDENCE

It is the responsibility of each party to file original motions, pleadings, and correspondence with the Clerk of Court. A party need not serve the opposing party by mail if the opposing party is represented by counsel. In such cases, any motions, pleadings, or correspondence shall be served electronically at the time of filing with the Court. If any

party is not represented by counsel, however, it is the responsibility of each opposing party to serve copies of all motions, pleadings, and correspondence upon the unrepresented party and to attach to said original motions, pleadings, and correspondence filed with the Clerk of Court a certificate of service indicating who has been served and where (i.e., at what address), when service was made, and how service was accomplished.

DISCOVERY

Plaintiff shall not commence discovery until an answer or dispositive motion has been filed on behalf of the Defendant from whom discovery is sought by the Plaintiff. The Defendants shall not commence discovery until such time as an answer or dispositive motion has been filed. Once an answer or dispositive motion has been filed, the parties are authorized to seek discovery from one another as provided in the Federal Rules of Civil Procedure. The deposition of the Plaintiff, a state/county prisoner, may be taken at any time during the time period hereinafter set out provided prior arrangements are made with his custodian. **Plaintiff is hereby advised that failure to submit to a deposition may result in the dismissal of his lawsuit under Rule 37 of the Federal Rules of Civil Procedure.**

IT IS HEREBY ORDERED that discovery (including depositions and the service of written discovery requests) shall be completed within 90 days of the date of filing of an answer or dispositive motion by the Defendants (whichever comes first) unless an extension is otherwise granted by the court upon a showing of good cause therefor or a protective order is sought by the defendant and granted by the court. This 90-day period shall run separately as to Plaintiff and Defendants beginning on the date of filing of Defendants' answer or dispositive motion (whichever comes first). The scheduling of a

trial may be advanced upon notification from the parties that no further discovery is contemplated or that discovery has been completed prior to the deadline.

Discovery materials shall not be filed with the Clerk of Court. No party shall be required to respond to any discovery not directed to him/her or served upon him/her by the opposing counsel/party. The undersigned incorporates herein those parts of the **Local Rules** imposing the following limitations on discovery: except with written permission of the court first obtained, **interrogatories** may not exceed TWENTY-FIVE (25) to each party, **requests for production of documents and things** under Rule 34 of the Federal Rules of Civil Procedure may not exceed TEN (10) requests to each party, and **requests for admissions** under Rule 36 of the Federal Rules of Civil Procedure may not exceed FIFTEEN (15) requests to each party. No party shall be required to respond to any such requests which exceed these limitations.

REQUESTS FOR DISMISSAL AND/OR JUDGMENT

The Court shall not consider requests for dismissal of or judgment in this action, absent the filing of a motion therefor accompanied by a brief/memorandum of law citing supporting authorities. Dispositive motions should be filed at the earliest time possible, but in any event no later than one hundred - twenty (120) days from when the discovery period begins unless otherwise directed by the Court.

SO ORDERED this 22nd day of September, 2021.

/s/ Stephen Hyles
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Macon DIVISION

QUESTIONNAIRE FOR THE PRISONERS PROCEEDING
PRO SE UNDER 42 U.S.C. § 1983

Ammon Ra Sumrall
719855

(GIVE FULL NAME AND PRISON NUMBER OF PLAINTIFF)

Plaintiff

VS.

Georgia Department of Corrections, Artis Singleton, Tonya Ashley

(NAME OF EACH DEFENDANT)

Defendant(s)

CIVIL ACTION NO:

I. GENERAL INFORMATION

1. **Your full name and prison number** Ammon Ra Sumrall 719855
2. **Name and location of prison where you are now confined** Wilcox State Prison, Abbeville, GA.
3. **Sentence you are now serving (how long?)** Life
   (a) **What were you convicted of?** Felony murder, Armed robbery, Aggravated Assault, burglary, impersonating peace officer, etc..
   (b) **Name and location of court which imposed sentence** DeKalb County Superior Court
   (c) **When was sentence imposed?** October 5, 1992
   (d) **Did you appeal your sentence and/or conviction?** Yes ☑ No ☐
   (e) **What was the result of your appeal?** Denied

(f) Approximate date your sentence will be completed N/A

II. PREVIOUS LAWSUITS

NOTE: FAILURE TO DISCLOSE **ALL** PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE. IF YOU ARE UNSURE OF ANY PRIOR CASES YOU HAVE FILED, THAT FACT MUST BE DISCLOSED AS WELL.

4. Other than an appeal of your conviction or sentence, and other than any habeas action, have you filed a lawsuit dealing with the same or similar facts or issues that are involved in this action?

Yes ☐ No ☑

5. If your answer to question 4 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) Parties to the previous lawsuit INVOLVING SAME FACTS:

Plaintiff(s):_____

Defendant(s):_____

(b) Name of Court:_____

(c) Docket Number:_____ When did you file this lawsuit?_____

(d) Name of judge assigned to case:_____

(e) Is this case still pending? Yes ☐ No ☐

(f) If your answer to (e) is "No", when was it disposed of and what were the results?

(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

6. Other than an appeal of your conviction or sentence, and other than any habeas action, have you ever filed any lawsuit while incarcerated or detained? Yes ☑ No ☐

7. If your answer to question 6 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) Parties to the previous lawsuit:

Plaintiff(s): Ammon Ra Sumrall

Defendant(s): Sgt. Glecker

(b) Name of Court: U.S. District Court

(c) Docket Number: Can't recall When did you file this lawsuit? can't recall

(d) Name of judge assigned to case: James E Graham

(e) Is this case still pending? Yes ☐ No ☑

II. Previous Lawsuits continued (Note: There may be other cases that i don't recall)

2. Sumrall v. Hilton Hall et al., U.S. District Court, i can't recall docket number, when it was filed, or who the judge was. i lost at jury trial.

3. Sumrall v. Lawrence et al., U.S. District Court. case number CV307-064, i lost at jury trial.

4. Sumrall v. Hall U.S. District Court, Northern District. Case was dismissed but i can't recall docket number, when it was filed, or who the judge was.

5. Sumrall v. Ga. Parole Board Fulton County Superior Court, mandamus action. Dismissed as moot by judge i can't recall.

6. Sumrall v Harris et al., U.S. District Court ~~1:10~~ case number 1:10-CV-128(WLS). i won at jury trial but had post-judgment settlement.

7. Sumrall v. Georgia Dept. of Corrections case number 2019-CV-066, case dismissed.

8. Sumrall v. UTZ Quality Foods Inc., U.S. District Court, filed in 2018, case number 5:18-CV-00453-MTT-CHW; i dismissed case before any order was issued.

(f) If your answer to (e) is "No", when was it disposed of and what were the results?
(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

i lost at a jury trial, the date i can't recall. i may have appealed to the 11th circuit, but i'm not sure.

8. AS TO ANY LAWSUIT FILED IN ANY FEDERAL COURT in which you were permitted to proceed *in forma pauperis*, was any suit dismissed on the ground that it was frivolous, malicious, or failed to state a claim? Yes ☑ No ☐

If your answer is Yes, state the name of the court and docket number as to each case:

U.S. District Court, Atlanta Division i can't recall the docket number.

III. PLACE OF INCIDENT COMPLAINED ABOUT

9. Where did the matters you complain about in this lawsuit take place?

Wilcox State Prison

(a) Does this institution have a grievance procedure? Yes ☑ No ☐

(b) If your answer to question 9(a) is "Yes", answer the following:

(1) Did you present your complaint(s) herein to the institution as a grievance?

Yes ☑ No ☐

(2) If Yes, what was the result? Denied

(3) If No, explain why not:

(c) What, if anything else, did you do or attempt to do to bring your complaint(s) to the attention of prison officials? Give dates and places and the names of persons talked to.

On August 3, 2020, I wrote GDC Commissioner Timothy Ward to advise him of my predicament and my intent to file this lawsuit.

(d) Did you appeal any denial of your grievance to the highest level possible in the prison system? Yes ☑ No ☐

(1) If Yes, to whom did you appeal and what was the result?

Appealed to Commissioner's level, but they were denied.

(2) If No, explain why you did not appeal:

10. In what other institutions have been confined? Give dates of entry and exit.

Coastal Prison 10/92 to 1/93; GA. State Prison 1/93 to 10/06; Hays SP 10/06 to 1/07; Johnson SP 1/07 to 3/07; Telfair SP 3/07 to 6/07; Macon SP 6/07 to 10/09; Autry SP 10/09 to 6/19/2013; Dooly SP 6/19/2013; Wilcox SP 6/20/13 to present.

IV. PARTIES TO THIS LAWSUIT

11. List your CURRENT place of incarceration/mailing address.

Wilcox State Prison
P.O. Box 397
Abbeville, GA 31001

12. List the full name, the official position, and the place of employment of each defendant in this lawsuit. (ATTACH ADDITIONAL PAGES IF NECESSARY)

Georgia Department of Corrections
Artis Singleton, Warden, Georgia Department of Corrections
Tonya Ashley, Deputy Warden, Georgia Department of Corrections

V. STATEMENT OF CLAIM

13. In the space hereafter provided, and on separate sheets of paper if necessary, set forth your claims and contentions against the defendant(s) you have named herein. Tell the court WHAT you contend happened to you, WHEN the incident(s) you complain about occurred, WHERE the incident(s) took place, HOW your constitutional rights were violated, and WHO violated them? Describe how each defendant was involved, including the names of other persons who were also involved. If you have more than one claim, number and set forth each claim SEPARATELY.

DO NOT GIVE ANY LEGAL ARGUMENT OR CIT ANY CASES OR STATUTES AT THIS TIME; if such is needed at a later time, the court will advise you of this and will afford you sufficient time to make such arguments. KEEP IN MIND THAT RULES 8 OF THE FEDERAL RULES OF CIVIL PROCEDURE REQUIRES THAT PLEADINGS BE SIMPLE, CONCISE, and DIRECT! If the court needs additional information from you, you will be notified.

WHERE did the incident you are complaining about occur? That is, at what institution or institutions? Wilcox State Prison

WHEN do you allege this incident took place? "See Attached"

WHAT happened?

"See Attached"

14. List the name and address of every person you believe was a WITNESS to the incident(s) you complain about, BRIEFLY stating what you believe each person knows from having seen or heard what happened. (USE ADDITIONAL SHEETS, IF NECESSARY)

15. BRIEFLY state exactly what you want the court to do for you. That is, what kind of relief are you seeking in this lawsuit? Do not make any legal arguments and do not cite any cases or statutes!
(USE ADDITIONAL SHEETS, IF NECESSARY)

1. Grant Plaintiff compensatory, punitive and any other damages award that Plaintiff is entitled to.
2. Grant Plaintiff injunctive relief that prohibits Defendants from violating Plaintiff's constitutional rights.
3. Grant Plaintiff declaratory relief that says Plaintiff's First, Eighth, ~~and~~ Fourteenth Amendment and RLUIPA rights were violated by Defendants.

16. You may attach additional pages if you wish to make any legal argument. However, legal arguments are NOT required in order for you to obtain relief under §1983. If the court desires legal argument from you, it will request it. If any defendant presents a legal argument, you <u>will</u> be afforded an opportunity to respond thereto.

17. KEEP IN MIND THAT ONCE YOUR LAWSUIT IS FILED, THE COURT WILL REQUIRE YOU TO <u>DILIGENTLY</u> PROSECUTE IT. That means that you will be required to go forward with your case without delay. Thus, if you fail to adequately prepare your case <u>before</u> you file it, you may find your lawsuit dismissed for failure to prosecute if you take no action once it is filed. YOU WILL RECEIVE NO FURTHER INSTRUCTIONS FROM THE COURT TELLING YOU WHAT TO DO OR HOW TO DO IT! IT IS YOUR RESPONSIBILITY AND YOURS ALONE TO PROSECUTE YOUR OWN CASE! If you fail to prosecute your case, it will be dismissed under Rule 41 of the Federal Rules of Civil Procedure.

Signed this 1ST **day of** JUNE **, 20** 21 **.**

Ammon Ra Sumrall
PLAINTIFF

V. STATEMENT OF CLAIM

1. On April 7, 1991, Plaintiff was arrested in DeKalb County Georgia for committing numerous crimes.

2. Plaintiff was a Christian at the time of his arrest, However, he converted to Islam in October 1991 because he was told that Islam was the closest thing to the "Black man's" original religion."

3. However, after Plaintiff learned that Islam wasn't the closest thing to his ancestors' original religion, and that muslims had played a significant role in enslaving Black people, Plaintiff abandoned Islam in 1992 and has not joined any organized religion since then. [1]

4. In October 1992, Plaintiff was convicted by a jury in DeKalb County Georgia and was subsequently sent into the custody of the Georgia Department of Corrections (GDC), a defendant in this case.

5. The GDC did not offer vegetarian nor vegan meals to prisoners in the 1990s. However, Plaintiff became vegetarian in the late 1990s because he believed that its inherently wrong to kill and eat innocent animals to satisfy human appetite.

6. More specifically, Plaintiff believed then, as he does now, that the Higher Power gave humans the intellect to protect the planet and all animal species. As such, Plaintiff believes that

1. Even though Plaintiff abandoned organized religions in 1992, he has always believed in a Higher Power.

when humans kill animals and other humans unnecessarily, we have violated God's will.

7. In the year 2000, Plaintiff learned that his ancient African ancestors had worshipped Ammon Ra, the Sun God, who was supreme over all other deities.

8. Plaintiff saw pictures of Ra, ~~having~~ who had animal features and was accompanied with animals; Ra also held an ankh, which is the symbol of life. These pictures confirmed Plaintiff's belief that the Higher Power wants all forms of life to be treasured and protected, and that humans and animals are meant to co-exist.[2]

9. Plaintiff was so impressed with the concept of what Ammon Ra represented that he adopted Ammon Ra as his name and has used it since the early 2000s, including in previous lawsuits.

10. In 2007, Plaintiff was housed in Telfair SP when he learned that the GDC had recently established the Alternative Entree' Meal Program (AEP), which offered prisoners Vegan meals.

11. The AEP was established to accommodate prisoners' religious, dietary beliefs/restrictions.

12. However, the 2007 version of S.O.P. 409.04.28 allowed prison staff to remove prisoners from the AEP if the prisoners (a) missed a certain amount of meals within two specified number of days, or (b) got caught trying to pick up a regular tray.

2. Higher Power should be construed to mean God.

13. After Plaintiff read the AEP participation form, he signed it because he believed that vegan meals would accommodate his religious beliefs regarding not eating meat or animal by-products.

14. Shortly after Plaintiff signed the AEP participation form, the GDC sent him to Macon SP to participate in the AEP.

15. While at Macon SP, Plaintiff received nutritionally adequate vegan meals that conformed with his religious beliefs.

16. In 2008, Plaintiff requested to be transferred to a prison that had vocational training that Macon SP did not have.

17. However, the GDC denied Plaintiff's transfer request because, inter alia, Plaintiff was vegan and there were no medium security prisons that had the AEP at that time.

18. Consequently, Plaintiff filed a grievance in 2008 that complained about the GDC not having medium security prisons with the AEP. The GDC ultimately responded that it would establish the AEP in two medium security prisons in 2009.

19. In 2009, Plaintiff submitted another request to be transferred from Macon SP. However, this request was granted and Plaintiff was sent to Autry SP in October 2009.

20. While at Autry SP, Plaintiff received nutritionally adequate vegan meals that conformed with his religious beliefs.

21. In April 2010, the GDC sent Plaintiff to Johnson SP to be temporarily housed for Plaintiff's civil trial in Dublin, Georgia.

22. When Plaintiff arrived at Johnson SP and found out that it didn't have the AEP, he immediately told staff that he was vegan and Johnson SP couldn't accommodate his religious diet.

23. Shortly thereafter, the GDC sent Plaintiff to Hancock SP because it had the AEP and could feed Plaintiff.

24. On April 27, 2010, GDC officers took Plaintiff to court for the aforementioned trial, but the officers refused to bring Plaintiff a lunch despite his requests that they do so.

25. Consequently, when the trial recessed for lunch, Plaintiff didn't have anything to eat. However, when two U.S. Marshals found out that Plaintiff didn't have anything to eat, they voluntarily bought Plaintiff two Whopper sandwiches and French fries from Burger King.

26. Plaintiff thanked the Marshals for their kindness, but explained that he was vegan and could not eat the meal.

27. The Marshals suggested that Plaintiff could eat the French Fries, bread and vegetables on the sandwiches, which Plaintiff did because he was hungry.

27. On June 19, 2013, Plaintiff was transferred from Autry SP to Dooly SP. However, when Plaintiff arrived at Dooly SP and found out that it didn't have the AEP, Plaintiff let staff know that he was vegan and Dooly SP couldn't accommodate his religious diet.

28. Consequently, on June 20, 2013, the GDC sent Plaintiff to Wilcox SP (WSP) because it had the AEP.

29. Ms. Cambell was the director of WSP's Food Service Department at all times relevant to this complaint. As director, Ms. Cambell was responsible for ensuring that prisoners were offered nutritionally adequate meals, and that religious diets were properly served.

30. However, shortly after Plaintiff arrived in WSP, he discovered that Ms. Cambell often directed, condoned and allowed her subordinates to feed vegans non-vegan food, as well as vegan food that had been contaminated.

31. Consequently, Plaintiff filed grievances and wrote Food and Farm Services several times in 2014 to complain about how Ms. Cambell had violated the AEP.

32. Ms. Jessika Andersan, the Dietitian Advisor for Food and Farm Services, responded to Plaintiff's letter-grievances on January 8, 2014, June 5, 2014, and December 22, 2014, in which she said that issues regarding vegans being fed cheese, eggs, milk, etc., had been corrected, and previously contaminated utencils were removed or replaced.

33. Plaintiff cited the incidents mentioned in paragraphs 13 to 32, where he (1) signed up for the AEP in 2007, (2) refused to Abandon the AEP in 2008 to help him receive a vocational transfer, (3) filed a grievance in 2008 because the GDC did not have the AEP in medium security prisons, (4) had the GDC transfer him from two prisons in 2010 and 2013 that did not have the AEP, (5) didn't eat the Whopper burgers U.S. Marshals bought him, even though he was hungry and no one from

the prison would've seen him eat the burgers, and (6) repeatedly complained about how WSP food service workers often violated the AEP, to show that he has been a sincere vegan and the GDC knows it.

34. On July 1, 2018, Defendant Artis Singleton became warden of WSP. As warden, Mr. Singleton was responsible for ensuring that prisoners lived in a healthy and safe environment, and that prisoners receive nutritionally adequate meals regardless of their religious beliefs.

35. In July or August 2019, Plaintiff filed a grievance about how WSP's food service workers had repeatedly violated the AEP.

36. In August 2019, Mr. Singleton responded to the aforementioned grievance by, inter alia, accusing Plaintiff of not respecting the AEP because Plaintiff had previously bought non-vegan store goods.

37. Shortly thereafter, Mr. Singleton had Plaintiff removed from the AEP after Plaintiff had complained about how food service workers repeatedly violated the AEP.

38. Plaintiff discussed the aforementioned situation with certain staff members, who ultimately helped Plaintiff get put back on the AEP because they knew he was a sincere vegan.

39. As a result of Plaintiff being put back on the AEP, he didn't file a grievance on Mr. Singleton for retaliating against him, though he should have.

40. In June or July 2020, Mr. Singleton put L-building on "quarantine" for several weeks. As such, trays were taken to the building because the prisoners who lived in L-building were prohibited from going to the messhall.

41. However, several of the L-building prisoners were vegan but the trays that they received were inadequate. So they complained to Mr. Singleton and Deputy Warden Ashley about their trays.

42. Instead of correcting the problems the L-building prisoners had with their trays, Defendants Singleton and Ashley retaliated against them by removing them from the AEP under the pretext that they had bought non-vegan store goods.

43. On July 29, 2020, Plaintiff found out that Defendants Singleton and Ashley had removed Plaintiff from the AEP for having bought non-vegan store goods. They took this action against Plaintiff, even though he lived in F-building at the time.

44. Plaintiff later discovered that Defendants Singleton and Ashley had also removed all of the Black vegans in F-2 for having bought non-vegan store goods, but they did not remove any of the Caucasian/Jewish prisoners in F-2 from the AEP even though they had also bought non-vegan store goods.

45. On July 31, 2020, Plaintiff filed a grievance about him being removed from the AEP because S.O.P. 409.04.28, which governed the AEP, did not list buying non-vegan store goods as a reason for removing vegans from the AEP.

46. By Plaintiff being removed from the AEP, his only source of well balanced meals was regular trays.

47. However, Plaintiff chose not to eat regular trays because they were made with meat and animal by-products, and thus would have violated Plaintiff's religious beliefs.

48. On August 3, 2020, Plaintiff wrote Timothy Ward, the Commissioner of the GDC, to give him notice of Plaintiff's intent to sue the GDC for discriminating against Plaintiff while it also denied Plaintiff AEP meals.

49. On August 4, 2020, Plaintiff filed a second grievance that alleged WSP staff had racially and religiously discriminated against him.

50. On August 12, 2020, Plaintiff saw a prisoner standing in the dayroom area of the F-2 dorm, disoriented, and on the verge of collapsing.

51. Consequently, Plaintiff went to the prisoner and guided him to a bench to sit down before he fell on the ground. Plaintiff then talked with the prisoner to see what was wrong and if he needed medical help.

52. The prisoner responded that he was dizzy and would probably feel better after he ate breakfast, which is what he and other prisoners were waiting on, including Plaintiff.[3]

53. However, after Plaintiff and other prisoners walked the ill prisoner to the messhall, prison staff noticed the condition the ill prisoner was in and took him to Medical.

3. Even though Plaintiff was not on the AEP, he often went to the messhall to give someone the regular tray, or trade it with someone who was on the AEP. However, Plaintiff did not eat the majority of times he went to the Messhall.

54. Shortly thereafter, the ill prisoner was diagnosed, hospitalized, and treated for having Covid-19.

55. On August 16, 2020 Plaintiff began experiencing fever, disorientation and other Covid-19 symptoms.

56. However, when Plaintiff lost his sense of smell and felt chest pain, he became scared of dying from Covid-19.

57. Plaintiff endured Covid-19 for a few weeks without seeking medical help. However, his sense of smell has not fully returned As of the filing of this complaint.

58. On September 23, 2020, Plaintiff gave his counselor a Special Religious Request (SRR) form that explained Plaintiff's religious beliefs prohibited him from eating meat and animal by-products, as well as wearing clothes made from animals. As such, Plaintiff requested that the GDC (1) offer him vegan meals, (2) Allow him to receive vegan gym shoes from an outside source, (3) Allow him to receive an Ankh from an outside source, and (4) require WSP staff to sell Vegan food.

59. On September 30, 2020, Plaintiff submitted a medical request to be seen about fatigue and other health issues.

60. On October 1, 2020, Plaintiff went to medical and gave blood and urine samples in relation to paragraph 59.

61. On October 8, 2020, Plaintiff returned to Medical and was told that the results of his blood and urine tests revealed that Plaintiff had a Vitamin D deficiency and a low white blood cell count. Consequently, Plaintiff was prescribed Vitamin D pills to address his deficiencies.

62. On October 13, 2020, the GDC Amended S.O.P. 409.04.28 to allow staff to remove prisoners from the AEP if they bought non-vegan store goods.

63. On October 15, 2020, Plaintiff submitted a second medical request to be seen about back pain, stomach spasms, and Arthritis he felt in various parts of his body.

64. On October 19, 2020, Plaintiff went to medical regarding the health problems mentioned in paragraph 63.

65. Also on October 19, 2020, Plaintiff received the GDC's response to his SRR (see paragraph 58). In short, the request was denied because the GDC claimed Plaintiff "did not say what he wanted." As such, Plaintiff filed a grievance that same day regarding the denial of his SRR.

66. On October 21, and 28, 2020, Plaintiff took x-rays related to the health problems mentioned in paragraph 63; the results revealed that Plaintiff had bone weakness in his back and Arthritis in his neck.

67. Consequently, Plaintiff was prescribed 800 mg of Ibuprofen to combat the pain he felt.

68. A Vitamin D deficiency typically stems from an inadequate diet and is known to cause back and muscle pain, as well as fatigue, Arthritis and depression.

69. However, prior to being denied nutritionally adequate AEP Meals by Defendants Singleton and Ashley, Plaintiff had never simultaneously experienced back, stomach and Arthritic pain, coupled

with fatigue and depression.

70. A low white blood cell count is also caused by an inadequate diet. This can be harmful because white blood cells play an important role in helping the body fight bacteria, germs and viruses.

71. The GDC, through its Food and Farm Services division, created the AEP to meet the nutritional needs of vegan prisoners.

72. However, when Defendants Singleton and Ashley removed Plaintiff from the AEP from July 29, 2020 to October 19, 2020, they caused Plaintiff's nutritional needs to go unmet.

73. Consequently, the aforementioned actions of Defendants Singleton and Ashley were the proximate cause of Plaintiff's Vitamin D deficiency and low white blood cell count.

74. Thus, Defendants Singleton and Ashley's aforementioned actions caused Plaintiff's immune system to become weak, which resulted in Plaintiff having a difficult time with fighting Covid-19.

75. Further, the aforementioned actions of Defendants Singleton and Ashley were the proximate cause of the arthritic, back and stomach pain Plaintiff experienced for several weeks, as well as depression.

76. Consequently, Defendants Singleton and Ashley are being sued in their individual capacities for compensatory and punitive damages.

77. On November 13, 2020, the GDC and Defendants Singleton and Ashley ordered, allowed, and condoned that beef hot-dogs and hamburgers to be served to Wilcox State Prison (WSP) vegans at lunch; this was done in violation of S.O.P. 409.04.28, which prohibits non-vegan products to be served on vegan trays.

78. On November 25, 2020, the GDC and Defendants Singleton and Ashley repeated the violation mentioned in paragraph 77, except the meal was chicken burgers.

79. On December 11, 2020, the GDC and Defendants Singleton and Ashley passed out Kentucky Fried Chicken to prisoners in WSP, but nothing was done to accommodate vegan prisoners.

80. On December 18, 2020, the GDC and WSP staff passed out meat pizzas to prisoners at lunch, but nothing was done to accommodate vegan prisoners.

81. On December 31, 2020, the GDC and WSP staff passed out Kentucky Fried Chicken to prisoners but nothing was done to accommodate vegan prisoners.

82. On January 15, 2021, the GDC and WSP staff passed out Little Caesars Pizza (made with cheese and pepperoni) to prisoners, but nothing was done to accommodate vegan prisoners.

83. The incidents described in paragraphs 77 through 82 show a pattern of discrimination that the GDC and WSP staff routinely commit against vegans.