

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOHN LINDH and BRIAN CARR,)
)
 Plaintiffs,)
)
 v.)
)
 WARDEN, FEDERAL CORRECTIONAL)
 INSTITUTION, TERRE HAUTE,)
 INDIANA,)
)
 Defendant.)

No. 2:09-CV-215 JMS-WGH

Plaintiffs’ Motion to file Second Amended Complaint to Join Additional Plaintiffs

Come now plaintiffs, by their counsel, and file this motion pursuant to Rules 15(a) and 20 of the Federal Rules of Civil Procedure. In support of this the plaintiffs say that:

1. At the current time this action is brought by John Lindh, who was added to this case in an amended complaint filed on June 29, 2010 (Doc No. 40), and by Brian Carr, whose case was consolidated with the current case on September 9, 2010. (Doc. No. 61).
2. On November 8, 2010, this Court denied plaintiffs’ motion that the case be certified as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure, but provided that the “[p]laintiffs have until December 3, 2010 to move to join additional inmates whose affidavits were submitted as evidence for class certification if those individuals seek to be named plaintiffs in this case.” (Doc. No. 67 at 7).
3. Two additional inmates who submitted the affidavits as described above, Ali Asad Chandia and Rafil Dhafir, wish to be added to this case.
4. Rule 20(a)(1) of the Federal Rules of Civil Procedure allows parties to be joined as plaintiffs if:

(A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all plaintiffs will arise in the action.

5. Rule 15(a)(2) of the Federal Rules of Civil Procedure allows for an amendment of a pleading that falls outside, as does this proposed amendment, of the parameters for an amendment as of course, “only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”

6. Mr. Chandia and Mr. Dhafir raise the exact same issue as to congregate prayer within the Communications Management Unit (“CMU”) at the Federal Correctional Institution in Terre Haute as do Mr. Carr and Mr. Lindh.

7. Mr. Chandia and Mr. Dhafir therefore assert a right to relief arising out of the same transaction or occurrence as do Mr. Carr and Mr. Lindh in the pending action and further present questions of law or fact common to the current action.

8. Allowing the amendment at this juncture, as invited by this Court, will not cause any prejudice to defendant.

9. Plaintiffs have submitted with this motion a proposed amended complaint which adds Mr. Chandia and Mr. Dhafir and which also incorporates the factual allegations concerning Mr. Carr that were included in his complaint prior to his consolidation in this action.

10. In further support of this motion the plaintiffs separately submit their memorandum of law.

WHEREFORE, plaintiffs request that this Court allow Ali Asad Chandia and Rafil Dhafir to join this action through the filing of a Second Amended Complaint, and for all other proper relief.

/s/ Kenneth J. Falk
Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059 ext. 104
fax: 317/635-4105

Attorney for Plaintiffs

Certificate of Service

I hereby certify that on this 1st day of December, 2010, a copy of the foregoing was filed electronically with the Clerk of this Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system and the parties may access this filing through the Court's system.

Thomas E. Kieper
Assistant United States Attorney
tom.kieper@usdoj.gov

William L. McCloskey
Assistant United States Attorney
William.mccoskey@usdoj.gov

/s/ Kenneth J. Falk
Kenneth J. Falk
Attorney at Law

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOHN LINDH, BRIAN CARR, ALI)
ASAD CHANDIA, RAFIL DHAFIR,)

)
)
)
)
Plaintiffs,)

v.)

No. 2:09-cv-215 JMS-WGH

)
)
)
)
WARDEN, FEDERAL CORRECTIONAL)
INSTITUTION, TERRE HAUTE,)
INDIANA,)

)
)
)
)
Defendant.)

Second Amended Complaint for Declaratory and Injunctive Relief

Introduction

1. Plaintiffs John Lindh, Brian Carr, Ali Asad Chandia, and Rafil Dhafir are Muslim prisoners confined to the Communications Management Unit (“CMU”) at the Federal Correction Institution in Terre Haute, Indiana. The majority of the prisoners in the unit are Muslim. Despite the fact that plaintiffs’ religion commands them to pray five times daily, and they consider group prayer to be mandatory and superior to individual prayer, congregative prayer is only allowed for one hour a week. This rule is imposed by defendant despite the fact that the prisoners are out of their cells for virtually the entire day and are allowed to engage in a whole variety of congregative activities both in the unit in and an outside recreation area. The defendant’s prohibition on congregative worship imposes a substantial burden on plaintiffs’ exercise of religion and neither furthers a compelling governmental interest nor represents the least restrictive means of furthering a compelling governmental interest. It therefore violates the Religious Freedom

Restoration Act (“RFRA”), 42 U.S.C. § 2000bb-1. Appropriate declaratory and injunctive relief is requested.

Jurisdiction, venue, cause of action

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. Declaratory relief is authorized by 28 U.S.C. §§ 2201, 2202 and by Rule 57 of the Federal Rules of Civil Procedure.
5. This action is brought pursuant to RFRA, 42 U.S.C. § 2000bb-1(c).

Parties

6. John Lindh, Brian Carr, Ali Asad Chandia, and Rafil Dhafir are adult persons currently confined in the CMU at the Federal Correctional Institution in Terre Haute, Indiana.
7. The Warden of the Federal Correctional Institution, Terre Haute, Indiana, is sued pursuant to Rule 17(d) of the Federal Rules of Civil Procedure and is the duly appointed Warden of the Institution.

Legal Background

8. RFRA provides, in pertinent part at 42 U.S.C. § 2000bb-1:

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person--

- (1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

Factual Allegations

9. The CMU has been created to house certain prisoners who are deemed to require additional monitoring of their communications.

10. As compared to other units within the BOP, the CMU features fewer opportunities for telephone calls and visits.

11. The prisoners within the CMU are housed in individual cells.

12. The prisoners within the CMU are allowed out of their cells from approximately 6:00 a.m. until 9:15 p.m., except for one 30-45 minute “count” period during the week and two such periods during the weekends.

13. During this time they are allowed to engage in a wide variety of congregate activities, including recreation, watching television, playing cards, or sitting at tables or in chairs conversing. They are also allowed to go to their cells or the cells of other prisoners.

14. The CMU contains a multi-purpose room in which classes are held via videotape. However, the multi-purpose room is generally vacant.

15. Plaintiffs are Muslims as are a large majority of the approximately 40 persons on the CMU.

16. Prayer is the second pillar of Islam and it is obligatory on Muslims to pray five times a day.

17. Every Friday, all Muslims engage in the Jum'ah prayer which the Qur'an mandates be done in a group.

18. At the CMU plaintiffs and the other Muslim prisoners are allowed to go to the multi-purpose room for the Jum'ah prayer.

19. However, in the Hadith, the collections of sayings of the Prophet, numerous statements are made that group prayer for all the mandated prayers is preferred and that such prayer multiplies the blessings and utility of prayer.

20. One of the four orthodox schools of Islamic jurisprudence holds that group prayer is mandatory and not merely preferred.

21. All plaintiffs are Sunni Muslims who believe that group daily prayer is a religious requirement.

22. Therefore, whenever possible, Muslims will pray together during the five daily prayers.

23. These daily prayers are very short, and take only a few minutes. The prayers follow a prescribed sequence of actions and words and the prisoners do not converse among themselves during the prayers.

24. When the CMU was opened, Muslim prisoners were allowed to meet together in the multi-purpose room to engage in daily prayers for approximately six months.

25. However, the defendant has now prohibited all congregational prayer for plaintiffs and the other Muslim prisoners, even though the multi-purpose room is generally unoccupied and a schedule could easily be created so that group prayer could occur in the

multi-purpose room without any disruption to other scheduled events.

26. The prohibition was temporarily lifted during the month of Ramadan in 2009 when Muslim prisoners were allowed to go to the multi-purpose room in the CMU for three of the five daily regular daily prayers required of Muslims. Following Ramadan in 2009, the prohibition was reinstated.

27. During the month of Ramadan in 2010 Muslim prisoners in the CMU were allowed to go to the multi-purpose room in the CMU for one of the five regular daily prayers. Following Ramadan in 2010, the prohibition was reinstated.

28. Plaintiffs desire to be able to engage in congregate prayer for all daily prayers that take place during the time that CMU prisoners are otherwise allowed out of their cells.

29. The prohibition imposes a substantial burden on plaintiffs' religious exercises.

30. Plaintiffs have timely and properly pursued all grievances, at each level, provided by the BOP to challenge the denial of the use of the multi-purpose room for group prayer.

31. Copies of the grievances and responses for plaintiff Lindh are attached to this complaint as Exhibit A.

32. Copies of the grievances and responses for plaintiff Carr are attached to this complaint as Exhibit B. At the time that Mr. Carr filed his original complaint in Cause No. 2:10-cv-0175 JMS-WGH, which was consolidated with this case on September 9, 2010 (Doc. No. 61), his grievance was pending at the final level review at the office of General Counsel for the Bureau of Prisons for more than the original 40 days provided by federal regulations and for more than the additional 20 days extended by the Bureau of Prisons. Accordingly, pursuant to 28 C.F.R. § 542.18, the grievances have been deemed to be denied.

33. Copies of the grievances and responses for plaintiff Chandia are attached to this complaint as Exhibit C. Mr. Chandia's grievance has been pending at the final level of review at the office of General Counsel for the Bureau of Prisons for more than the original 40 days provided by federal regulations and for more than the additional 20 days extended by the Bureau of Prisons. Accordingly, pursuant to 28 C.F.R. § 542.18, the grievances have been deemed to be denied.

34. Mr. Dhafir no longer has his paperwork for his grievances, but he believes that he fully exhausted his grievances some time ago as to the issue of congregate prayer.

35. The defendant's actions in this matter are not substantially justified.

36. The actions of defendant are causing plaintiffs irreparable harm for which there is no adequate remedy at law.

Claim for relief

37. The failure of the defendant to allow plaintiffs to participate in daily group prayer imposes a substantial burden on plaintiffs' religious exercise and neither furthers a compelling governmental interest, nor is it the least restrictive alternative to further that interest. It is therefore unlawful as violating the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1.

Request for relief

WHEREFORE, plaintiffs requests that this Court:

- a. Accept jurisdiction of this case and set it for hearing.
- b. Declare that defendant is violating federal law as noted above.
- c. Enter a preliminary injunction, later to be made permanent, enjoining defendant to allow the plaintiff-Muslim prisoners to engage in daily group prayers during the times that prisoners are otherwise allowed out of their cells.

- d. Award plaintiffs their costs and reasonable attorney's fees pursuant to 28 U.S.C. § 2412.
- e. Award all other proper relief.

/s/ Kenneth J. Falk

Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059 ext. 104
fax: 317/635-4105

Attorney for Plaintiffs

Certificate of Service

I hereby certify that on this 1st day of December, 2010, a copy of the foregoing was filed electronically with the Clerk of this Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system and the parties may access this filing through the Court's system.

Thomas E. Kieper
Assistant United States Attorney
tom.kieper@usdoj.gov

William L. McCloskey
Assistant United States Attorney
William.mccoskey@usdoj.gov

/s/ Kenneth J. Falk

Kenneth J. Falk
Attorney at Law

Exhibit 1

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Unit Manager Juliano	DATE: 1/15/09
FROM: John Linch	REGISTER NO.: 45426-083
WORK ASSIGNMENT: n/a	UNIT: D

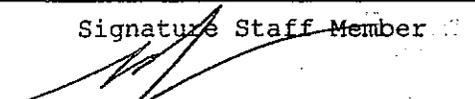
SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I am a Muslim, and my religion requires that I perform 5 daily prayers in congregation. This is mandatory and not optional. Prisoners in general population in federal prisons across the country are allowed to use a room in the chapel to pray any time they choose. Here we are not provided with a chapel, but there is a multi-purpose room which remains locked and unused most of the day. I request that you allow this room to be opened and used for the performance of my 5 daily prayers in congregation.

(Do not write below this line)

DISPOSITION:

See Response

Signature Staff Member 	Date 1/20/09
---	-----------------

Record Copy File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86 and BP-S148.070 APR 94

WALKER LINDH, John
Reg. No.: 45426-083
CMU

Inmate Request to Staff Response

The administration is willing to provide the required time for congregational prayer on Fridays for Jumah Prayer only. Inmates may pray individually in their personal areas, but no additional congregational prayer time(s) shall be provided other than Friday's Jumah Prayer.

WALKER LINDA

Attachment 1
THX-1330.13J

FEDERAL CORRECTIONAL COMPLEX
TERRE HAUTE, INDIANA
INFORMAL RESOLUTION FORM

Inmate Name: John Lindh Reg. No. 45426-083
Unit: D

NOTICE TO INMATE: You are advised normally prior to filing a Request for Administrative Remedy, BP-2999(13), you must attempt to informally resolve your complaint through your Correctional Counselor. Please follow the steps listed below:

1. **State your complaint:** I am a Muslim, and my religion requires that I perform 5 daily prayers in congregation. This is mandatory and not optional. Prisoners in general population in federal prisons across the country are allowed to use a room in the chapel to pray any time they choose. Here we (see attachment,

(If more space is needed, you may use up to one letter size (8 1/2 x 11) continuation page. You must also submit one copy of supporting exhibits. (Exhibits will not be returned with the response to the BP-229(13) responses.))

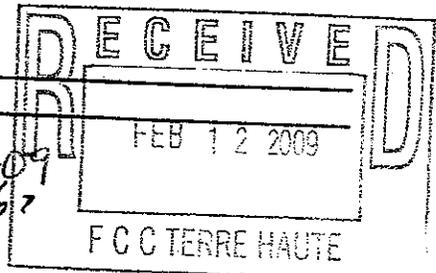
2. **State what actions you have made to informally resolve your complaint:** I have written to the unit manager requesting that he resolves this problem.

3. **State what resolution you expect:** To expect to be provided with access to the multipurpose room to perform my 5 daily prayers in congregation as required by my religion.

Inmate's Signature: John Lindh

Date: 1/22/09

Correctional Counselor's Comments (Steps to Resolve): See attached response



Counselor's Signature: A. Buttner

Date: 1-23-09

Unit Manager's Review: SB

Date: 1/23/09

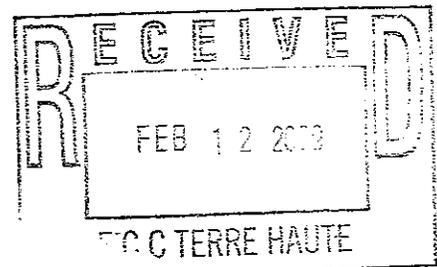
Informally Resolved: _____

Date: _____

	BP-8 ISSUED	BP-8 RETURNED	BP-9 ISSUED	BP-9 RETURNED
DATE	1-22-09	01-23-09	1-26-09	1-28-09
TIME	1:00pm	1:15pm	1:00	1:00
COUNSELOR	A. Buttner	A. Buttner	A. Buttner	A. Buttner

Attachment:

(continued from page 1) are not provided with a chapel, but there is a multi-purpose room which remains locked and unused most of the day. I request that ~~I~~^{I be} allowed to use this room for the performance of my 5 daily prayers in congregation as required by my religion.



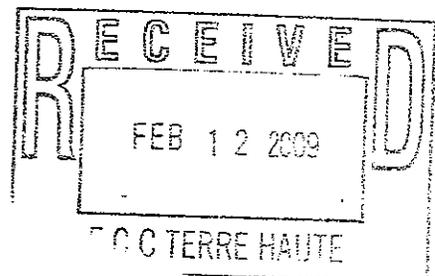
WALKER LINDH, John
Reg. No.: 45426-083
CMU

Informal Resolution Response

This is in response to your Request for Informal Resolution, received on January 23, 2009, wherein you request to be allowed group prayer five (5) times a day.

Per Program Statement 5360.09, Religious Beliefs and Practices, "Authorized congregate services will be made available for all inmates weekly."

The administration is willing to provide the required time for congregational prayer on Fridays for Jumah Prayer only. Inmates may pray individually in their personal areas, but no additional congregational prayer time(s) shall be provided other than Friday's Jumah Prayer.



Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

(<u> </u>) <u> </u> <u> </u> <u> </u>	<u> </u>	<u> </u>	<u> </u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

I am a Muslim, and my religion requires that I perform 5 daily prayers in congregation. This is mandatory and not optional. Prisoners in general population in federal prisons across the country are allowed to use a room in the chapel to pray any time they choose. Here we are not provided with a chapel, but there is a multi-purpose room which remains locked and unused most of the day. I request that I be allowed to use this room for the performance of my 5 daily prayers in congregation as required by my religion. If the prison administration can allow me to perform Jumah prayer in congregation which is mandatory, it can also allow me to perform my 5 daily prayers in congregation.

1/29/09

[Signature]

DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 5760064

CASE NUMBER: _____

Part C- RECEIPT

Return to:	_____	_____	_____	_____
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

Remedy No.: 526006-F1

FCC Terre Haute, IN

PART B - RESPONSE

This is in response to your Administrative Remedy received on February 12, 2009, in which you request to have additional congregational prayer five (5) times a day in the Communication Management Unit (CMU).

A review of your request indicates the administration provides the required time for congregational prayer on Fridays for Jumah Prayer only. According to Program Statement 5360.09, Religious Beliefs and Practices, "Authorized congregate services will be made available for all inmates weekly."

Inmates may pray individually in their personal area, but no additional congregational prayer time(s) shall be provided other than Friday Jumah Prayer.

Therefore, your request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Federal Bureau of Prisons, Gateway Complex, Tower II, 8th Floor, 4th & State Ave., Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

2-20-09

Date

Wendell Jett

B.R. Jett, Warden

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

Name: Lindh, John P.W. REG. NO. 45426-083 UNIT D-33 INSTITUTION FLI Terrville

Part A - REASON FOR APPEAL

I am a Muslim, and my religion requires that I perform 5 daily prayers in congregation. This is mandatory and not optional. Prisoners in general population in federal prisons across the country are allowed to use a room in the chapel to pray any time they choose. Here we are not provided with a chapel, but there is a multi-purpose room which remains locked and unused most of the day. I request that I be allowed to use this room for the performance of my 5 daily prayers in congregation as required by my religion. If the prison administration can allow me to perform Juman prayer in congregation it can also allow me to perform my 5 daily prayers in congregation.

DATE

SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 5000

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____ LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 526006-R1

This is in response to your Regional Administrative Remedy Appeal received in this office on March 6, 2009, in which you allege you are not allowed to participate in five daily congregative prayers. Specifically, you allege there is a multi-purpose room on the Communications Management Unit (CMU) unused most of the day which could be used for the five daily congregative prayers. You are requesting the use of the multi-purpose room to accommodate your five daily congregative prayers.

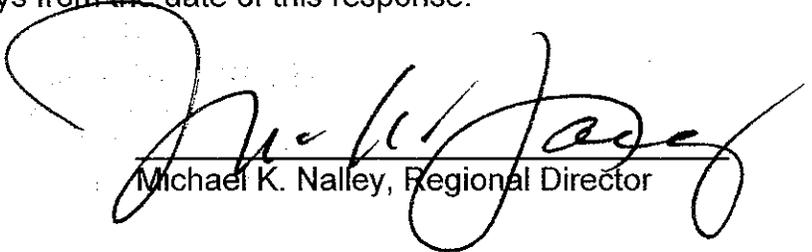
We have reviewed your appeal and the response the Warden provided to your BP-229. You were advised Program Statement 5360.09, Religious Beliefs and Practices, allows for congregative services for all inmates once a week. Therefore, you are allowed to participate in congregative prayer during Friday Jumah Prayer services. All other required daily prayers should be accommodated individually in your cell.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

Date

3/20/09


Michael K. Nalley, Regional Director

Federal Bureau of Prisons

Type of use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: Lindh, John P. W. 45426-083 D FCI Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL I am a Muslim, and my religion requires that I perform 5 daily prayers in congregation. This is mandatory and not optional. Prisoners in general population in federal prisons across the country are allowed to use a room in the chapel to pray any time they choose. Here we are not provided with a chapel, but there is a multi-purpose room which remains locked and unused most of the day. I request that I be allowed to use this room for the performance of my 5 daily prayers in congregation as required by my religion. If the prison administration can allow me to perform Jumu'ah prayer in congregation, it can also allow me to perform my 5 daily prayers in congregation.

DATE 4/3/09

John Lindh
SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED

APR 15 2009

Administrative Remedy Section
Federal Bureau of Prisons

RECEIVED

MAY 12 2009

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 526006-A2

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

Administrative Remedy No. 526006-A2

Part B - Response

This is in response to your Central Office Administrative Remedy Appeal in which you request to participate in five daily congregate prayers. You state there is a multi-purpose room in the Communications Management Unit unused most of the day which could be used for the five daily congregate prayers. You request use of the multi-purpose room to accommodate your five daily congregate prayers.

Our review reveals that the Warden and Regional Director adequately responded to the issues you raised in your appeal. P.S. 5360.09, Religious Beliefs and Practices, states the Bureau of Prisons provides inmates of all faith groups with reasonable and equitable opportunities to pursue religious beliefs and practices, consistent with the security and orderly running of the institution and the Bureau of Prisons. Congregate prayer is not allowed for any faith group due to security concerns. You are allowed to participate in congregate prayer during the Friday Jumah Prayer services. Inmates are permitted to conduct religious prayer in their assigned cell anytime each day as long as they are not disrupting their unit.

Staff are working diligently to ensure your ability to adhere to the tenets of your faith are upheld and facilitated to the maximum extent possible, and in a manner consistent with P.S. 5360.09, Religious Beliefs and Practices, and institution safety and security.

Therefore, we concur with the responses provided. Accordingly, your appeal is denied.

July 28, 2009
Date

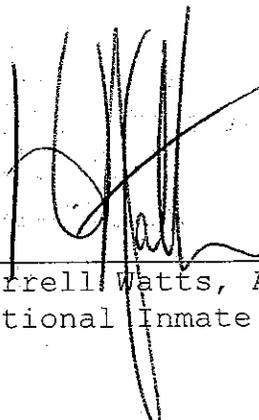

Harrell Watts, Administrator
National Inmate Appeals

Exhibit 2

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 569389-R1

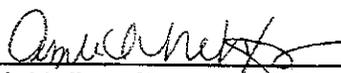
This is in response to your Regional Administrative Remedy Appeal received on February 5, 2010, in which you allege the Bureau of Prisons (BOP) is violating your religious rights. Specifically, you allege you are being denied congregate prayer for your five daily Islamic prayers in the Communications Management Unit (CMU). You are requesting the BOP accommodate you with five daily congregate prayers in the CMU.

We have reviewed your appeal and the response the Warden provided to your BP-229. You are allowed to participate in obligatory congregate prayer services each Friday afternoon in the CMU. Additionally, your five daily prayers will be accommodated in your cell as an individual practitioner. Accordingly, this accommodation does not violate your religious rights.

Based on the above information, this response to your Regional Administrative Remedy Appeal is for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

2-11-10
Date



Michael K. Nalley, Regional Director

U.S. Department of Justice

B. ISMILLAH

Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: CARR, BRIAN, E. 14820-016 CMU Terre Haute, FCI
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

Pursuant to all legal authorities previously cited including the Religious Freedom and Restoration Act. I have been to the present time continuously denied my religious and legal right to pray as 'prescribed Islamically in congregation' with follow muslims the five daily fardh/obligatory prayers. The FBOP can not dictate Islamic worship. These procedures were forced on the muslims purely out of hatred and hostility towards muslims and Islam.

This is another example and part of a long pattern of religious oppression; abuse; discrimination; disrespect; and religious insensitivity and provocative instigation and 'crusader mentality' openly displayed by Supervisory Chaplain, D. Odean and other staff members towards muslim inmates here. Every chance chaplain, Odean gets to stike at muslims he takes by way of denial of religious rights; and through the discouragement and some times intimidation to dissuade muslims from persuing their religious rights. Most of the time these rights and requests are permitted or allowed by FBOP policy. Including the deliberate sabotagee Islamic religious events such as the 'Eid-ul-Adha meal in which he and his chapel staff didn't supervise and as a direct result of their neglect and carelessness there was not enough food and when the muslim inmates tried to peacefully have the matter corrected at the time, including requesting

March 1st 2010
DATE

Brian E. Carr
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

Islamic 5 Daily Prayers

BP-11

CMU

(continuation Page

the Chaplains on the scene presence to which he nor his staff showed. We as a result were falsely accused of a (group demonstration) by Warden, B.R. Jett the next day. This happened on 12/19 and 20th, of 2007, here in CMU in. a clear attempt to provoke a disturbance/situation with the muslim inmates in the Terrorist Communication Management Unit. Muslim Inmate, Peter Bliss in 2004/05 had to file suit against Odean concerning deprivations and issues, in addition to the current lawsuits. His hatred of Islam and muslims is no secret and he does not hide it.

Odean made bias and negative public statements about what should happen to U.S. Army Chaplain, James Yee before the muslim chaplain was acquitted of all charges by a court of law.

Odean is being allowed to perpetrate these offences against muslims, when are you going to stop him, instead of keep covering for him? *I need to be able to pray in Congregation with other muslims as is my religious and legal Right to. Enclosed is a photo of the top stamped BP-9 form because the other carbon-copy blue forms were never returned to me.*

Sincerely

Brian Carr
BRIAN CARR

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: APRIL 5, 2010

FROM: ADMINISTRATIVE REMEDY COORDINATOR
CENTRAL OFFICE

TO : BRIAN E CARR, 14820-016
TERRE HAUTE FCI UNT: CMU QTR: D03-031L
4200 BUREAU ROAD NORTH
TERRE HAUTE, IN 47808

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 569389-A1 CENTRAL OFFICE APPEAL
DATE RECEIVED : MARCH 8, 2010
SUBJECT 1 : RELIGIOUS PROGRAMS - (EXCEPT FOOD/DIETS/MEALS), ACCESS TO
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU DID NOT SUBMIT PROPER NUMBER OF CONTINUATION PAGES WITH YOUR REQUEST/APPEAL. ~~2 - WARDEN'S LEVEL; 3 - REGIONAL LEVEL; AND 4 - CENTRAL OFFICE LEVEL.~~ THE NUMBER CITED INCLUDES YOUR ORIGINAL.

REJECT REASON 2: YOU MAY RESUBMIT YOUR APPEAL IN PROPER FORM WITHIN 15 DAYS OF THE DATE OF THIS REJECTION NOTICE.

EXTENSION OF TIME FOR RESPONSE - ADMINISTRATIVE REMEDY

DATE: JUNE 3, 2010

FROM: ADMINISTRATIVE REMEDY COORDINATOR
CENTRAL OFFICE

TO : BRIAN E CARR, 14820-016
TERRE HAUTE FCI UNT: CMU QTR: D03-031L

ADDITIONAL TIME IS NEEDED TO RESPOND TO THE CENTRAL OFFICE APPEAL IDENTIFIED BELOW. WE ARE EXTENDING THE TIME FOR RESPONSE AS PROVIDED FOR IN THE ADMINISTRATIVE REMEDY PROGRAM STATEMENT.

REMEDY ID : 569389-A2
DATE RECEIVED : APRIL 23, 2010
RESPONSE DUE : JUNE 22, 2010
SUBJECT 1 : RELIGIOUS PROGRAMS - (EXCEPT FOOD/DIETS/MEALS), ACCESS TO
SUBJECT 2 :
INCIDENT RPT NO:

Exhibit 3

Attachment 1
THX-1330.13J

FEDERAL CORRECTIONAL COMPLEX
TERRE HAUTE, INDIANA
INFORMAL RESOLUTION FORM

Inmate Name: AMANDIA Reg. No. 46811.083
Unit: CMW

NOTICE TO INMATE: You are advised normally prior to filing a Request for Administrative Remedy, BP-2999(13), you must attempt to informally resolve your complaint through your Correctional Counselor. Please follow the steps listed below:

1. State your complaint: Muslim inmates should be allowed to pray 5 times a day as is mandated in their faith. Doing so is also in accordance with RFRA.

(If more space is needed, you may use up to one letter size (8 1/2 x 11) continuation page. You must also submit one copy of supporting exhibits. (Exhibits will not be returned with the response to the BP-229(13) responses.))

2. State what actions you have made to informally resolve your complaint: Filed all the way to BP 11 but got rejected due to untimely appeal.

3. State what resolution you expect: Please allow Muslims in the CMU to pray in congregation 5 times a day.

Inmate's Signature: [Signature]

Date: 06/01/10

Correctional Counselor's Comments (Steps to Resolve):

See attached response

Counselor's Signature: [Signature]

Date: 6/15/10

Unit Manager's Review: [Signature]

Date: 6/16/10

Informally Resolved: [Signature]

Date:

	BP-3 ISSUED	BP-3 RETURNED	BP-3 ISSUED	BP-3 RETURNED
DATE	6/1/10	6/2/10	6/15/10	6/16/10
TIME	1230	1230	1230	1230
COUNSELOR	CMW	CMW	CMW	CMW

U.S. DEPARTMENT OF JUSTICE

REQUEST FOR ADMINISTRATIVE REMEDY

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Chandia, Ali, A 46811-083 CMU FCI Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

Muslim inmates should be allowed to pray 5 times a day as is mandated in their faith. Doing so is also in accordance with RFRA.

Please allow Muslims in the CMU to pray in congregation 5 times a day.

6/16/10
DATE

Ali C

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 595364-71

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL

JUN 23 2010

CASE NUMBER: _____

SUBJECT: _____
REG. NO. UNIT INSTITUTION

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Charles A. A. 22811-003 CMU FDJ
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

Most inmates should be allowed to pay to keep
going as is mandated in their faith. Doing so is
in accordance with GPRM.

Please allow Charles A. A. to pay _____
per day.

5/11/11
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 5953014

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

Remedy No.: 595364-F1

FCC Terre Haute, IN

PART B - RESPONSE

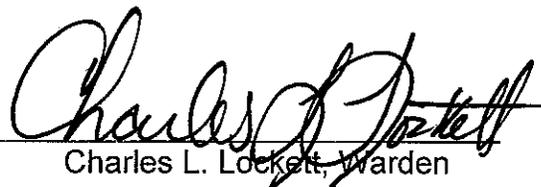
This is in response to your Administrative Remedy receipted on June 16, 2010, in which you state Muslims should be allowed to pray five times a day as mandated by the Islamic faith. As relief, you request Muslim inmates in the CMU be allowed to pray in congregation five times a day.

A review of your request reveals, each religious group in the CMU is provided one hour for worship and one hour for study. In addition, individual prayer in an inmate's assigned cell is not restricted. No additional time will be allotted for congregational prayer.

Therefore, your Request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Federal Bureau of Prisons, Gateway Complex, Tower II, 8th Floor, 4th & State Ave., Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

7/19/10
Date


Charles L. Lockett, Warden

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Chandia, Ali A 46811-083 CMU FCI Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

Muslim inmates should be allowed to pray 5 times a day in congregation as is mandated in their faith. Doing so is also in accordance with RFRA.

Please allow Muslims in the CMU to pray in congregation 5 times a day.

7/20/10
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 595364-R1

This is in response to your Regional Administrative Remedy Appeal received on July 26, 2010, in which you allege it is mandatory for Muslim inmates to pray five times daily in congregation. You are requesting the Muslim inmates in the Communications Management Unit be allowed to pray five times daily in congregation.

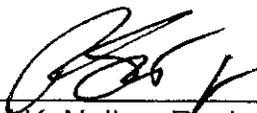
We have reviewed your appeal and the response the Warden provided to your BP-229. We concur with the manner in which the Warden addressed your concerns. Furthermore, the appropriate religious accommodations are being provided to meet your religious needs.

Based on these findings, this response to your Regional Administrative Remedy Appeal is for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

8/13/10

Date



Michael K. Nalley, Regional Director

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: Chardia Ali A 46811-083 CMU FCI Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

Muslim inmates should be allowed to pray 5 times a day in congregation as is mandated in their faith. Doing so is also in accordance with RFRA. Please allow Muslims in the CMU to pray in congregation 5 times a day.

8/30/10
DATE

Ali A
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOHN LINDH, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:09-CV-215 JMS-WGH
)	
WARDEN, FEDERAL CORRECTIONAL)	
INSTITUTION, TERRE HAUTE,)	
INDIANA,)	
)	
Defendant.)	

ORDER

Come now plaintiffs, having filed their Motion to file Second Amended Complaint to Join Additional Plaintiffs (Doc No. 76), and the Court having read the Motion and being duly advised, finds that good cause exists to grant it, and,

IT IS THEREFORE ORDERED that the previously submitted Second Amended Complaint for Declaratory and Injunctive Relief may be filed by plaintiffs within three days of this Order. Defendant shall answer or otherwise respond within twenty days thereafter.

Date

Judge, United States District Court

cc:
Kenneth J. Falk
ACLU of Indiana
kfalk@aclu-in.org

Thomas E. Kieper
Assistant United States Attorney
tom.kieper@usdoj.gov

William L. McCloskey
Assistant United States Attorney
William.mccoskey@usdoj.gov