

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE HOLY NAME SOCIETY,	:	CIVIL ACTION
JOSEPH HENNESSEY, ROBERT	:	
RIGLER, ROBERTO MONTANEZ,	:	
and JERRY GANTER,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
MARTIN HORN and DONALD	:	NO. 97-804
VAUGHN	:	
	:	
Defendants.	:	

DUBOIS, J.

August 21, 2001

MEMORANDUM

I. INTRODUCTION

This action brought by plaintiffs, The Holy Name Society, Graterford Chapter (“HNS”), and four inmates at the State Correctional Institution at Graterford (“SCI-Graterford”), Joseph Hennessey, Robert Rigler, Roberto Montanez and Jerry Ganter, raises issues under the Free Exercise Clause of the First and Fourteenth Amendments and the Equal Protection Clause of Fourteenth Amendment. In their complaint, plaintiffs make two allegations: (1) that they were denied their right to freely exercise their religion because defendants have barred them from partaking in a fellowship meal following certain Catholic holy days; and (2) that they were denied their right to Equal Protection because defendants did not allow them to engage in activities in which other organizations or religious groups were permitted to engage —

fundraising and an annual banquet. Plaintiffs seek declaratory and injunctive relief requiring defendants to allow them to have fellowship meals, fundraising events and an annual banquet. Defendants assert that the regulations on plaintiffs' conduct are not unconstitutional and are reasonably related to legitimate penological interests.

The case was tried non-jury for three days beginning October 10, 2000. Based on the following Findings of Fact and Conclusions of Law, the Court finds in favor of defendants and against plaintiffs on all claims and will enter judgment in favor of defendants on all claims. The Court's Findings of Fact are set forth in Section II, *infra*. The Court's Conclusions of Law are set forth in Section III, *infra*.

II. FINDINGS OF FACT

A. Background

1. Plaintiffs are four Roman Catholic prisoners currently incarcerated at SCI-Graterford and HNS. HNS is an unincorporated Roman Catholic religious group, formed in 1987, and sanctioned by the Vatican. Ex. D-10, D-11. The individual plaintiff inmates are all former members of the HNS board. Hennessey, Rigler and Ganter are all currently members of HNS. Montanez is no longer a member of HNS. Tr. of Oct. 11, 2000 ("Tr. 2") at 78.

2. Defendants are two officials of the Pennsylvania Department of Corrections ("DOC"): Secretary of Corrections Martin Horn¹ and SCI-Graterford Superintendent Donald T. Vaughn, in their official capacities.

¹On December 30, 2000, Secretary Horn left his position as Secretary of Corrections to assume another position within the state government. On that same date, Executive Deputy Secretary Jeffrey A. Beard, who appeared as a witness in this case, was named Acting Secretary of Corrections by Governor Tom Ridge. He was confirmed as Secretary of Corrections by the Pennsylvania Senate on February 15, 2001. See <http://www.cor.state.pa.us/history.htm>.

3. SCI-Graterford is one of 24 state correctional institutions within the DOC system subject to DOC policies and regulation. SCI-Graterford has approximately 3,065 inmates. More than 700 inmates are serving life sentences and about 700 or 800 are serving sentences with a minimum in excess of eight years. SCI-Graterford contains all levels of inmate classifications, from minimum to maximum security. Tr. of Oct. 12, 2000 ("Tr. 3") at 10-12. It is considered to be a maximum security institution. Ex. P-19, ¶ 1.

4. HNS adopted a Constitution and By-Laws on December 14, 1987. Until March 1999, only practicing Catholics could be members of HNS. Tr. of Oct. 10, 2000 ("Tr. 1") at 61-63. Beginning at that time, non-Catholics were permitted to become associate members, but could not hold office or have voting privileges. Tr. 1 at 49. At every meeting, HNS members say a pledge in which they proclaim their belief in Jesus, love for the Pope, including the lines "I believe all the sacred truths — which the Holy Catholic Church — believes and teaches" and "I believe O Jesus — that Thou art the Christ — the Son of the Living God." Ex. D-12; Tr. 1 at 64.

5. As of October 2000, HNS had approximately 26 members, down from a maximum of 115 to 120 members. Tr. 2 at 185. HNS meets monthly; the HNS board meets twice a month. Tr. 1 at 35-36, 37. HNS has also had retreats. Tr. 2 at 45.

6. SCI-Graterford has a full-time ordained Catholic chaplain, Father Michael Rzonca, who is employed by the DOC, and Catholic volunteers. Father Rzonca is the HNS spiritual advisor and attends all HNS meetings in this capacity. Tr. 2 at 180-82. Catholic Mass, which meets the Sunday obligation of the Roman Catholic Church, is held weekly at the prison on Saturday evenings. In addition, there are Masses held for major Holy Days of Obligation, frequent Bible study, confession, and rosary groups. Inmates may also pray and meditate individually, say grace

before meals, and make charitable contributions.² HNS is allowed to solicit inmates attending Mass to donate to charitable causes. Inmates are permitted to correspond with religious advisors, seek advice from Father Rzonca, and read the available Catholic books. Tr. 2 at 74-75.

7. The DOC Activities Manual delineates a class of inmate organizations as approved inmate organizations. Approved inmate organizations can generally be described as generic inmate betterment groups, or alternatively as civic groups. They “are prohibited from any discriminatory practice that prohibits membership based on race, color, creed national origin, religion or sex.” Ex. D-7, DOC Activities Manual, IX-07(A); Tr. 2 at 42. Approved inmate organizations must have the recommendation of the prison’s superintendent and the approval of the Secretary of Corrections.³ Tr. 2 at 55. These organizations may request permission to conduct annual banquets and fundraising events to raise money for general inmate welfare, charity and the organization itself. Non-approved inmate organizations are permitted by the DOC, but they are not allowed all of the privileges afforded to approved inmate organizations. For example, under DOC policy, only approved inmate organizations are allowed to hold banquets and conduct fundraising projects. Ex. P-41 (DC-ADM 822).

8. There are four inmate organizations at SCI-Graterford which are approved, the most at any DOC facility — LACEO (Latin American Cultural Exchange Organization), Brotherhood

²Charitable contributions differ from the fundraisers which plaintiffs seek in that charity involves asking a person to contribute something without receiving anything tangible in return, whereas the fundraising activities at issue involve selling something to make money. Tr. 2 at 190.

³It appears that the term Secretary of Corrections and Commissioner are used interchangeably. The head of the Pennsylvania Department of Corrections is correctly called the Secretary of Corrections. See 71 Pa. C.S.A. § 66. The position was previously called Commissioner. Ex. P-18, ¶ 1.

Jaycees, LIFERS (Long Incarcerated Fraternity Engaging Release Studies) and the NAACP (National Association for the Advancement of Colored People). Ex. P-19, ¶ 22. All of these organizations are open to all members of the prison population.⁴ There are also therapeutic and intramural groups at SCI-Graterford, such as Vietnam Veterans of America, Paraprofessional Law Clinic, Montgomery County Task Force, the Step Program, a chess club, as well as various religious groups. Tr. 3 at 13-15.

9. Approved inmate organizations are required to submit a yearly plan of action — a form of content review which is not deemed appropriate for HNS or other religious groups. Approved organizations present agendas, subject to DOC approval, for all meetings, including meetings where banquet and fundraising planning and discussion may occur. Such organizations have a more diverse membership than does HNS, which is essentially Catholic and holds Catholic beliefs as part of its central tenets.

10. In 1995, after Martin Horn⁵ was appointed Secretary of Corrections, DOC undertook a systemwide reorganization of the prisons. On October 23, 1995, there was a state police raid at SCI-Graterford, and a state of emergency was declared. A thorough search of the entire prison facility, including the sewage system, was conducted by the Pennsylvania State Police and correctional officials from outside SCI-Graterford. Many different types of contraband were seized, such as drugs, weapons, money, tools, and photographs of nude women taken in the

⁴LIFERS was originally open only to inmates serving life sentences, or sentences longer than 15 years. Ex. P-19, 24. In approximately 1995, all inmates were permitted to join LIFERS. Tr. Oct. 11, 2000 at 68.

⁵Secretary Horn's appointment was effective March 1, 1995. See <http://www.cor.state.pa.us/history>.

basement of the prison chapel. As a result, the DOC suspended “virtually all” organizational and volunteer activities at SCI-Graterford, and made dramatic staff changes. Tr. 3 at 65-72.

11. Following the October 1995 state police raid, escapes from other state correctional institutions, such as Pittsburgh, Huntingdon and Dallas, further heightened security concerns at SCI-Graterford. Tr. 3 at 25-27.

12. As part of the reorganization, policies that were more strict were instituted to promote security and control at SCI-Graterford and all other DOC institutions. The reorganization resulted in better control over inmate movements. To further the goal of better control within the prisons, the DOC sought to reduce the number of approved inmate organizations and promote one or two civic-type groups to serve the entire population at each institution. Tr. 2 at 48-49. For instance, Executive Deputy Secretary Beard testified that should one of the approved inmate organizations “fold,” it would most likely not be restarted. At SCI-Graterford the goal is to reduce the number of groups to one or two. Id.

13. Before 1995, SCI-Graterford was treated differently than other facilities in the DOC system, in part because of its size. There was an unwritten understanding that it could apply its own rules and selectively enforce system-wide regulations, as it saw fit. However, as a result of the October 1995 state police raid, and Secretary Horn’s reorganization effort, that practice was discontinued and the DOC required SCI-Graterford to follow all DOC regulations.

14. After the October 1995 state police raid HNS and all other prison groups were temporarily placed under suspension pending review. Ex. P-19, ¶ 7. During this period, in addition to weekly Mass, Mass was approved on the six Holy Days of Obligation, but no special group meals were permitted.

15. As part of the reorganization, the DOC established a practice of providing meals for religious groups only when they were religiously mandated. To accomplish this end, the DOC chaplaincy coordinator, Father Francis Menei, solicited advice from the relevant religious leaders, then formulated a recommendation as to which meals were religiously required. Tr. 2 at 58. No inmate group of any kind – civic, religious, therapeutic or other – was allowed to have any banquet, fellowship meal or organized meal of any nature, with the exception of the Jewish and Moslem inmates, whose religions command them to have a Passover Seder and an Eid Feast, respectively, as a required part of their religious ritual. Ex. P-19, ¶ 13.

16. As a result of the internal changes at SCI-Graterford and the system wide reorganization, SCI-Graterford has become a more safe facility, for both the inmates and the public at large. Tr. 3 at 65-72. There is better control of inmates, better security, and punishment that is more strict for inmates who test positive for drugs. Id.

17. As part of the reorganization, the ability of prisoners to congregate in large groups was limited. For example, the number of inmates allowed into the exercise yard at any given time was curtailed. That has resulted in a more calm prison atmosphere. Tr. 3 at 67-70.

18. Prior to the reorganization, HNS was treated like an approved inmate organization by SCI-Graterford, although it was never recognized as such by the DOC. Tr. 2 at 49-50, 52-57; Ex. P-20, ¶ 3. This was also true of a Muslim group and a Jewish group. As a result of the system-wide changes, including DOC enforcement of its statewide policies at SCI-Graterford, beginning in 1998, HNS was no longer treated as an approved inmate organization. Until 1998, HNS was listed as an approved inmate organization in SCI-Graterford local policy. In 1998, the written policy was “clarified” to reflect the correct status of HNS. Ex P-19, ¶ 30.

19. DOC exercises less control over HNS than it exercises over approved inmate organizations. Although HNS meetings are supervised by a DOC chaplain, the chaplain does not control what is discussed at the meetings, control inherent in pre-approved agendas for approved inmate organizations. HNS does not have to submit a yearly plan of action – a form of content review which is not appropriate for religious groups. Ex. P-20, ¶ 12.

B. Fellowship Meals

20. Plaintiffs seek to participate in fellowship meals following the Holy Days of Obligation,⁶ on which there is a special Mass. In the late 1980s, when HNS requested “full recognition” from the DOC, they proposed to observe the following as Days of Obligation: (1) Solemnity of Mary, January 1; (2) Easter Sunday; (3) St. Patrick’s Day, March 17; (4) Ascension Thursday, forty days after Easter; (5) The Assumption of the Blessed Virgin Mary, August 15; (6) The Solemnity of All Saints, November 1; (7) The Immaculate Conception, December 8; (8) Christmas Day, December 25. Ex. D-10. Since St. Patrick’s Day is not an obligatory holy day and Easter

⁶The term “Days of Obligation” are days on which adherents to the Roman Catholic faith are expected to attend Mass. See DiPasquile v. Board of Educ. of Williamsville Cent. Sch. Dist., 626 F. Supp. 457 (W.D.N.Y. 1985). See also Pielech v. Massasoit Greyhound, Inc., 1994 WL 879559, *2 (Mass. Super. Ct. June 30, 1994) (“The Code of Canon Law states: ‘On Sundays and other days of obligation the faith are bound to participate in the Mass; they are also to abstain from those labors and business concerns which impede the worship to be rendered to God, the joy which is proper to the Lord’s day, or the proper relaxation of mind and body.’ 1983 Codex Iuris Canonici, Canon 1247.”).

always falls on a Sunday, there are only six official Days of Obligation⁷ on which Mass is held in addition to the weekly Mass. Tr. 2 at 208-09.

21. The Court heard testimony about the fellowship meals from two Catholic priests, Father Rzonca⁸ and Father Richard Appicci.⁹ The Court accepted both priests as experts in Catholicism. Fellowship meals take place after Mass and are not part of the Mass. They are a coming together after a Mass where people can discuss their experiences, problems and faith. Tr. Oct. 10, 2000 at 102. The fellowship meals may consist of an ordinary meal or coffee and donuts after Mass. Tr. 1 at 112.

22. Father Appicci, plaintiffs' expert, testified that fellowship meals are religious in nature. Father Rzonca, defendants' expert, testified that the meals are not religious in nature. Both priests agreed that the meals are not required by the Catholic religion. The four individual plaintiffs testified that they viewed fellowship meals as religious in nature. The Court finds that

⁷The Court takes judicial notice that the Archdiocese of Washington recognizes those same six days as Days of Obligation. See <http://www.adw.org/parishes/obligation.html>. The Court notes, however, that the Supreme Court of Canada recognized a somewhat different list of Days of Obligation. See Henry Birks & Sons (Montreal) Ltd. v. Montreal and Attorney-General of Quebec, 113 C.C.C. 135, 143, [1955] S.C.R. 799 (“[I]t may first be observed that the days which are dealt with are, like Sundays, all made feast days ‘of obligation’ by canons 1247 and 1248 of the ‘Codex Juris Canonici’ of the Roman Catholic Church, namely, the day of the circumcision of Our Lord, January 1st; Epiphany, January 6th; Ascension Day (forty days after Easter Sunday); All Saints Day, November 1st; Conception Day, December 8th; and Christmas Day, December 25th. These days are the only feasts of obligation, other than Sundays, required by the canons to be celebrated on the actual days on which they fall and they are dealt with on exactly the same footing as Sundays.”).

⁸Father Rzonca was ordained as a Catholic Priest in 1973. He has worked for the Department of Corrections as a chaplain at SCI-Graterford since 1991. Tr. 2 at 180-82.

⁹Father Appicci was ordained as an Augustinian Priest in 1960. He was a professor of religion at Villanova University from 1960 to 1967. He was a volunteer in prison ministries at Graterford from 1992 to 1997. Ex. P-24.

the fellowship meals are religious in nature, part of the individual plaintiffs' sincerely held religious beliefs, but not a requirement of the Catholic religion.

23. From 1987 until 1992, HNS members were allowed to order catered food from outside the prison for fellowship meals. Fellowship meals did not take place in the main dining facilities; rather food was brought to remote locations within the prison, such as the chapel or auditorium. Tr. 2 at 190. They would pay for the special meals from their inmate accounts using cash slips. Some fellowship expenses, such as coffee, were paid for by HNS. Tr. 2 at 13.

24. Fellowship meals require considerable additional work by inmates and staff. They require groups of inmates to set up prior to, and clean up after, the meal. The meals require extra supervision and staff time from the inmate accounting staff, the food services staff, the activities staff, the Catholic chaplain, and correctional officers to provide security. Planning and approval of the fellowship meals involves the time of the chaplaincy supervisor, the deputy supervisor of centralized services, the executive staff of the prison, the culinary department staff, the activities department staff, and the inmate accounting department staff. Father Rzonca devoted about 20 hours of his time to planning and attending each fellowship meal. Tr. 2 at 189-90.

25. In 1992, the number of fellowship meals were reduced to two per year. Ex. P-19, ¶ 3. Between 1992 and 1995, the post-Mass fellowship meals took the form of a group meal with inmates sitting around multiple tables, with the priest present. Sometimes music and a religious or non-religious video were provided. Discussions were not limited to religious themes. Tr. 1 at 39-41.

26. On December 8, 1994, HNS was permitted to hold a three-hour fellowship meal in the field house after Mass in conjunction with the Feast of the Immaculate Conception and Advent.

Ex. P-31; Tr. 2 at 202-03. In February 1995, HNS received permission to hold Easter and Christmas fellowship meals with no outside guests. Ex. D-20.

27. In January, 1996, HNS requested an Easter fellowship meal following Easter Mass. SCI-Graterford disapproved the meal in February, 1996 on the ground that having such a meal following Easter Mass was not obligatory for Catholics. HNS has not requested a fellowship meal since 1996. Tr. 1 at 77.

28. Providing the requested fellowship meals would result in extra expenses for the prison. Even if the regular prison food was provided for the special meals, there are additional security costs involved in transporting the food to another location. There are also added costs of maintaining the temperature of the food. Tr. 3 at 22.

29. Providing the requested fellowship meals would likely result in the other Christian groups, totaling about 1800 inmates, requesting fellowship meals, and in inmate resentment towards those inmates who receive the special meals. Doing so would likely result in inmate jealousy.

30. It is not feasible to provide fellowship meals at minimal cost to the Commonwealth.

C. Fundraisers and Banquets

31. Prior to 1995, DOC policy allowed approved inmate organizations to hold fundraisers and annual banquets. Ex. P-18, ¶ 4. Fundraisers have been curtailed at SCI-Graterford since 1995. There have been no fundraisers since 1998, but prison officials anticipate approving projects for approved inmate organizations within reduced guidelines. Tr. 3 at 39-49.

32. The four approved inmate organizations at SCI-Graterford have the right to apply for permission to have an annual banquet. As of October 2000, there were three pending banquet

requests. As of October 2000, no group had received permission to have an annual banquet at SCI-Graterford since the end of 1995. Tr. 3 at 56.

33. Prior to September 1993, HNS was permitted to hold an annual catered banquet to which each member was permitted to invite two outside guests.

34. An HNS banquet, approved for September 1993 after Mass and catered by an outside caterer, was canceled when contraband liquor was discovered. Tr. 2 at 24; Tr. 3 at 52-53. As a result of this security breach, sanctions were imposed on HNS including forfeiture of the annual banquets for 1994 and 1995, forfeiture of Christmas and Easter fellowship meals for the remainder of 1993 and 1994, and forfeiture of the right to purchase Christmas gifts for its membership in 1993. Ex. D-17. The 1993 incident prompted a statewide change in policy whereby all fellowship and banquet meals and all other meals were required to be prepared inside the individual correctional institutions. Outside catering was no longer permitted. Tr. 2 at 38.

35. In February 1995, the sanctions against HNS were modified, and HNS was granted permission to hold one banquet with two guests per inmate that year. That banquet was held on October 7, 1995. Ex. D-20; Tr. 2 at 120. HNS has not been permitted to hold an annual banquet since that date.

36. The individual plaintiffs may participate in fundraisers and banquets for the approved inmate organizations of which they are members, although inmates are permitted to attend only one annual banquet per year, regardless of the number of organizations to which they might belong. Tr. 2 at 51-52; Ex. P-41 (DC-ADM 822). All of the individual plaintiffs are, or have been, members of some of the approved inmate organizations.

III. CONCLUSIONS OF LAW AND DISCUSSION

A. Introduction

Plaintiffs have made two constitutional claims: (1) that defendants' barring of plaintiffs from partaking in fellowship meals following the six Days of Obligation violates the free exercise clause of the First Amendment, and (2) that they were denied the right to participate in fundraisers and have annual banquets, unlike other inmate organizations, violated their right to equal protection.

It should be stated at the outset that prisoners do not retain all the rights of free citizens, see e.g. Pell v. Procunier, 417 U.S. 817, 822, 94 S. Ct. 2800, 41 L. Ed. 2d 495 (1974); Castle v. Clymer, 15 F. Supp. 2d 640, 660 (E.D. Pa. 1998), however, convicts “do not forfeit all constitutional protections by reason of their conviction and confinement in prison.” Bell v. Wolfish, 441 U.S. 520, 545, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979). “Inmates clearly retain protections afforded by the First Amendment, . . . including its directive that no law shall prohibit the free exercise of religion.” DeHart v. Horn, 227 F.3d 47, 50 (3d Cir. 2000) (quoting O’Lone v. Estate of Shabazz, 482 U.S. 342, 348, 107 S. Ct. 2400, 96 L. Ed. 2d 282 (1987)). However, incarceration, and “the valid penological objectives of deterrence of crime, rehabilitation of prisoners, and institutional security justify limitations on the exercise of constitutional rights by inmates.” Id. at 50-51 (citing Pell, 417 U.S. at 822-23). Prisoners only retain those rights which “are not inconsistent with his status as a prisoner or with the legitimate penological objectives of the corrections system.” Id. at 51 (quoting Pell, 417 U.S. at 822).

B. Free Exercise Claim

Plaintiffs claim that defendants have acted to bar HNS and the individual plaintiffs from partaking in fellowship meals following the celebration of six Holy Days of Obligation, in violation of their right to freely exercise their religious beliefs, guaranteed by the First Amendment to the United States Constitution. It is well established that the Fourteenth Amendment incorporates the First Amendment, and is applicable to the states. See Cantwell v. Connecticut, 310 U.S. 296, 303, 60 S. Ct. 900, 84 L. Ed. 1213 (1940); DeHart, 227 F.3d at 50.

In Turner v. Safley, the Supreme Court set forth a standard for reviewing prison regulations challenged on constitutional bases: “when a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.” 482 U.S. 78, 89, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987). This test is a balance between the principle that “federal courts must take cognizance of the valid constitutional claims of prison inmates” and the principle that “‘courts are ill equipped to deal with the increasingly urgent problems of prison administration’ and [that] separation of powers concerns counsel a policy of judicial restraint.” DeHart, 227 F.3d at 51 (quoting Turner, 107 U.S. at 84-85 (quoting Procunier v. Martinez, 416 U.S. 396, 405, 94 S. Ct. 1800, 40 L. Ed. 2d 224 (1974))) (alterations in original). In other words,

this standard of review requires a court to respect the security, rehabilitation and administrative concerns underlying a prison regulation, without requiring proof that the regulation is the least restrictive means of addressing those concerns, it also requires a court to give weight, in assessing the overall reasonableness of regulations, to the inmate’s interest in engaging in constitutionally protected activity.

Id.

Turner goes on to articulate a four pronged test to determine whether a prison regulation is reasonable. The Third Circuit explained the Turner test as follows:

[Turner] directs courts to assess the overall reasonableness of such regulations by weighing four factors. “First, there must be a ‘valid, rational connection’ between the prison regulation and the legitimate governmental interest put forward to justify it,” and this connection must not be “so remote as to render the policy arbitrary or irrational.” Second, a court must consider whether inmates retain alternative means of exercising the circumscribed right. Third, a court must take into account the costs that accommodating the right would impose on other inmates, guards, and prison resources generally. And fourth, a court must consider whether there are alternatives to the regulation that “fully accommodate[] the prisoner’s rights at de minimis cost to valid penological interests.”

DeHart, 227 F.3d at 51 (citing Waterman v. Farmer, 183 F.3d 208, 213 (3d Cir. 1999) (internal citations omitted)) (alterations in original).

As a predicate, plaintiffs have the burden of demonstrating that a constitutionally protected interest is at stake. Id. at 51. A simple assertion of a religious belief does not automatically trigger First Amendment protections. “[O]nly those beliefs which are both sincerely held and religious in nature are entitled to constitutional protection.” Id. (citing Africa v. Pennsylvania, 662 F.2d 1025, 1029-30 (3d Cir. 1981)).

The fellowship meals at issue in this case are religious in nature and part of plaintiffs’ sincerely held religious beliefs. Facts, ¶ 22. It therefore follows that plaintiffs have a constitutionally protected interest upon which defendants may not unreasonably infringe. See DeHart, 227 F.3d at 52. Since plaintiffs have met their initial burden, the Court will address the issue of whether a legitimate and reasonably exercised state interest outweighs the proffered First Amendment Claim. Id. at 52.

The Court will analyze the asserted infringement on plaintiffs' constitutionally protected interest using the reasonable relationship test. Previously, this Court held that the reasonable relationship test supplies the proper burden of proof when applying Turner in a retaliatory transfer setting. See Castle v. Clymer, 15 F. Supp. 2d 640, 662 (E.D. Pa. 1998). This test, which mirrors Turner, is a balancing test which places the final burden on the defendant, who must show that the action complained of is reasonably related to legitimate penological interests. Id. at 661; see also Madison v. Horn, 1998 WL 531830, *16 (E.D. Pa. August 21, 1998) (adopting reasonable relationship test). The reasonable relationship test requires a causal relationship between the action and the "inmate's exercise of a constitutional right and then balances any infringement of a constitutional right with the prison's need to achieve penological objectives." Id. This test is consistent with the recent decision in Rausser v. Horn, 241 F.3d 330 (3d Cir. 2001), in which the Third Circuit held, in a retaliation claim, that "once a prisoner demonstrates that his exercise of a constitutional right was a substantial or motivating factor in the challenged decision, the prison officials may still prevail by proving that they would have made the same decision absent the protect conduct for reasons reasonably related to a legitimate penological interest." Id. at 334.

Accordingly, the Court will apply a reasonable relationship test when applying Turner in the free exercise context—the final burden falls on defendants to show that denying plaintiffs the ability to partake in a fellowship meal is reasonably related to legitimate penological interests.

1. Rational Connection to Legitimate Penological Interests

The first prong of Turner addresses the question of whether the prison regulation at issue—barring plaintiffs from partaking in fellowship meals—has a rational connection to legitimate penological interests. Defendants must demonstrate the existence of a legitimate penological interest in creating the restriction.

Specifically, plaintiffs complain about the DOC's decision to restrict special group meals to those religious groups where the meal is religiously mandated. Currently, the prison system only allows Jews and Moslems special group meals, the Passover Seder and the Feast of Eid, respectively. Facts, ¶ 15.

The Third Circuit has held that a “prison’s interest in an efficient food system and in avoiding inmate jealousy are legitimate penological concerns under Turner.” DeHart, 227 F.3d at 53. Moreover, defendants’ policy of allowing group meals only when they are a commandment of the religion is rationally related to legitimate penological interests. Organized group meals burden prison resources in the amount of administrative time and security resources that the group meals take up. These factors weigh on the prisons legitimate penological interest of efficient administration and general safety in the facility.

Further, restricting meals to only those religious groups where such meals are religiously mandated serves the legitimate penological interest of keeping morale high among the entire prison population. Having group meals is likely to cause resentment and jealousy from other inmates who would perceive the meals as disparate treatment. Facts, ¶ 29. See DeHart, 227 F.3d at 53 (“it is not irrational to think that providing DeHart with a vegetarian diet to accommodate his religious beliefs might involve some risk of inmate jealousy”).

Additionally, it is axiomatic that a prison has a vital interest in maintaining safety and order within its walls. See Madison, 1998 WL 531830, *8-9 (security is a legitimate penological interest); Castle, 15 F. Supp. 2d at 661 (same). Before the 1995 reforms, prison life at SCI-Graterford was much less organized was more dangerous than at present. Part of the reforms included limiting prisoner's ability to congregate in large groups, due to the inherent security problems of large inmate gatherings. As such, the DOC has a legitimate interest in restricting group gatherings.

The policies implemented since October 1995, which include curtailing all group activities at SCI-Graterford and requiring SCI-Graterford to conform to DOC regulations, are reasonable responses to the problems existing at SCI-Graterford prior to the implementation of these new policies. The previous practice at that institution, characterized by Secretary Horn as a policy of inmate appeasement, created reasonable administrative and security concerns. Ex. P-18. The new policies are a reasonably geared to addressing those concerns. Ex. P-19, ¶ 29.

To summarize, the Court concludes that SCI-Graterford and the DOC have legitimate penological interests implicated by the activities at issue in this case including, but not limited to the following:

- a) deterrence of crime in general by limiting activities available to the inmates;
- b) deterrence of crime within the prison by limiting opportunities for coercion of other inmates or corrections officials;
- c) not promoting religion;
- d) eliminating inmate perception of disparate treatment by prison officials;
- e) keeping morale high within the prison population;

- f) efficient use of the prison's food preparation facilities;
- g) efficient prison administration relating to food delivery outside of the main dining facility; and
- h) maintenance of security by limiting the ability of inmates to congregate and to pilfer food and use it for coercion on cell blocks.

Moreover, the policy of limiting the number of approved inmate organizations is rationally related to legitimate security and administrative concerns.

Defendants have met their burden in showing that the prison regulation is related to legitimate penological interests. Permitting religious groups to have special meals only when mandated by the religion is a rational way of balancing ordinary overall security and other legitimate penological goals with the religious needs of the inmates.

2. Alternative Means of Practicing Religion

In applying the second prong of Turner, “courts must examine whether an inmate has alternative means of practicing his or her religion generally, not whether an inmate has alternative means of engaging in the particular practice in question.” DeHart, 227 F.3d at 55. Courts should not inquire into the “orthodoxy” of the belief, as “it would be inconsistent with a long line of Supreme Court precedent to accord less respect to a sincerely held religious belief solely because it is not held by others.” Id. at 55-56. However, the second Turner factor “is directed solely to evaluating the interest of the inmate in having his request accommodated. Our holding with respect to the impropriety of disregarding a sincerely held belief solely because it is not an orthodox one relates specifically to the issue of whether alternative means of expression are available to the inmate.” Id. at 56 n.5.

This prong places the burden of proof on defendants to show that there are adequate alternative means of expression available to the inmate. “Where the regulation leaves no alternative means of exercising the asserted right, the inmate’s interest in engaging in constitutionally protected activity is entitled to greater weight in the balancing process.” Id. at 53. However, the Court must inquire “whether [plaintiffs have] alternative means of exercising [their religious] beliefs generally (e.g., by prayer, worship, meditation, scripture study, etc.)” Id. at 54. “If the prison does afford the inmate alternative means of expressing his religious beliefs, that fact tends to support the conclusion that the regulation at issue is reasonable.” Id. at 56.

In O’Lone v. Estate of Shabazz, 482 U.S. 342, 107 S. Ct. 2400, 96 L. Ed. 2d 282 (1987), the Supreme Court upheld a New Jersey prison regulation which made it impossible for Muslims to attend Jumu’ah, a weekly congregational service. This regulation was deemed constitutional because Muslims had many other opportunities to express their faith, such as the ability to congregate for prayer or discussion, except during working hours, the ability to avoid pork which is forbidden by Islamic law, and the ability to observe Ramadan, a month-long period of fasting and prayer. O’Lone at 352, 107 S. Ct. at 2406.

Further, in DeHart, the plaintiff wanted the prison to provide him with a vegetarian diet in conformance with his sincerely held Buddhist beliefs. He was permitted to pray, to recite the Sutras, to meditate, and to correspond with the City of 10,000 Buddhas, a center of Buddhist teaching. 227 F.3d at 54. He was also allowed to purchase special items, such as canvas shoes, rather than leather sneakers. Id. In remanding the case for further proceedings, the Third Circuit held that “the record shows that, while the prison’s regulations have prohibited DeHart from

following a diet in conformity with his religious beliefs, he has some alternative means of expressing his Buddhist beliefs.” Id. at 57.

Moreover, the Supreme Court explained “in Turner [where a prison regulation barred correspondence between inmates in different institutions], that it was sufficient if other means of expression (not necessarily other means of communicating with inmates in other prisons) remained available, and in O’Lone [it was sufficient] if prisoners were permitted to participate in other Muslim religious ceremonies.” Thornburgh v. Abbott, 490 U.S. 401, 417-18, 109 S. Ct. 1874, 1883-84, 104 L. Ed. 2d 459 (1989). In other words, the Supreme Court has made clear it that when analyzing whether alternative means are available, it is not impermissible to preclude participation in one particular avenue of faith so long as other avenues of faith are open.

Partaking in fellowship meals is not a commandment of the Roman Catholic faith. However, having fellowship meals is part of plaintiffs’ sincerely held religious beliefs.¹⁰ Like the plaintiffs who were unable to attend the Jumu’ah service or the plaintiff who was unable to have a vegetarian meal, plaintiffs in this case have numerous opportunities to practice their Catholicism. At SCI-Graterford, plaintiffs are able to attend Mass each week and on the Holy Days of Obligation, attend Bible study, pray in rosary groups, and make confession. Plaintiffs

¹⁰ It should be noted that even if plaintiffs had demonstrated that fellowship meals were a mandatory part of Catholicism, their views would not be orthodox. While the Third Circuit has held that a court should not let the orthodox/non-orthodox distinction weigh too heavily on its decision in cases such as this, the Circuit has left the door open for courts to look at this distinction. It held that “the fact that it is impermissible to discriminate against an inmate solely because of the non-orthodox character of his or her faith does not exclude the possibility that there may be legitimate administrative burdens or other penological concerns that will justify distinguishing between orthodox and non-orthodox believers.” DeHart, 227 F. 3d at 60. This Court, however, is not using an orthodox/non-orthodox distinction in making its decision in this case.

are also able to pray and meditate individually, say grace before meals, and discuss religious issues with other inmates at their leisure. Facts, ¶ 6. The Court concludes that there are adequate alternative means available to inmates at SCI-Graterford to practice Catholicism without requiring the prison to provide fellowship meals following the Days of Obligation.

3. Effects on Prison if Plaintiffs Were Accommodated

The Court now turns to analyzing the impact which providing plaintiffs with fellowship meals would have on other inmates and prison resources generally. The burden of proof on the third Turner prong, costs imposed on other inmates and prison resources generally, is again on the defendant. Like the previous prongs, the burden is a light one – the reasonable relationship test will apply. It should be noted that in the context of the third prong, the second Turner prong does not make it “impermissible for prison officials to distinguish between different categories of religious believers when such a distinction is reasonably related to legitimate penological interests.” DeHart, 227 F.3d at 56 n.5.

Much of the trial was spent demonstrating the impact that allowing fellowship meals would have on the prison. The Court concludes that allowing these meals would place a serious burden on prison resources, inmates and guards.

It should be noted that plaintiffs argue that they were treated differently from other religious groups, namely Jews and Muslims, who are allowed to have religious meals. However, this distinction is rationally related to legitimate penological interests. First of all, there is a legitimate penological interest in keeping to a minimum the number of special meals provided in the prison. Looking at the totality of the situation at SCI-Graterford, a policy which distinguishes

between groups which command its adherents to partake in a religious meal and those groups for which such a meal is not mandatory provides a reasonable basis for line-drawing.

As discussed above, under the first Turner prong, it is reasonable to conclude allowing fellowship meals would cause resentment among the other Christian prisoners who are not given fellowship meals. See DeHart, 227 F.3d at 53. Further, allowing fellowship meals for members of HNS is likely to lead to demands from some or all of the 1800 Christian inmates for such meals. Providing special meals for so many people would create a substantial burden on the prison in additional security and other administrative costs. While the actual cost of the food would differ depending on the type of meal served, the overall cost of providing special meals, in terms of money and manpower, would not be insignificant. Other prisoners are also likely to resent the appearance of preferential treatment of plaintiffs.

Special group meals are also taxing on the prison's culinary facilities. Holding many special meals would put an undue burden on the prison's food services as the meals would have to be transported to another location and maintained at a specific temperature.

Further, allowing large group gatherings increases the opportunity for security breaches. Defendants presented evidence that as part of the reforms which began in 1995, the prison reduced the opportunities for large group gatherings. Since these reforms were instituted, SCI-Graterford is a more safe place for inmates, guards and for the community at large. Allowing fellowship meals to resume could lead to a rise in activity detrimental to the security at the prison by giving inmates additional opportunities to engage in illegal activities.

There are many factors which speak to the costs related to resuming fellowship meals. Considering all of the evidence on this issue, the Court concludes defendants have met their

burden of showing that the impact of allowing fellowship meals would not be in the best interest of the prison.

The Court notes that defendants presented evidence that by allowing special meals that are not religiously required, there might be Establishment Clause problems. More specifically, defendants argue that allowing a group to have a meal which is not religiously required might result in encouraging other inmates to attend HNS meetings, which are inherently religious. Because this case can be resolved on other grounds, and because this argument is not outcome determinative, the Court will not reach this issue.

4. Alternatives

The fourth Turner prong instructs that following plaintiffs' suggestion of alternatives, defendants have the burden of proving that such alternatives would have more than a de minimis cost to valid penological interests. However, this burden should be light, consistent with the reasonable relationship test.

There are no ready alternatives available to accommodate plaintiffs' desire for fellowship meals. They are asking for fellowship meals on the Holy Days of Obligation. As stated above, there are legitimate penological reasons for disallowing this request.

At trial, plaintiffs presented evidence that a fellowship meal could consist of coffee and donuts after Mass. Tr. 2 at 40. However, all of the concerns articulated above, such as the added costs of planning the event, providing security, inmate jealousy, and the impact on staff and prison management (with the exception of the culinary staff), remain even if only coffee and donuts are provided.

Plaintiffs argue that the number of fellowship meals could be reduced, thereby minimizing the DOC concerns. In that connection, the Court notes that in 1992, the number of fellowship meals was reduced from six to two per year. However, if defendants were required to provide two such meals, that too would create an undue burden on the system. All of the concerns set forth in this Memorandum would still apply. Therefore, no ready alternatives exist to plaintiffs' proposal.

Accordingly, the Court concludes that plaintiff's request for declaratory judgment and injunctive relief on the free exercise claims are denied. Defendants have met their burden under the Turner test — the policy that allows only groups whose religion commands them to partake in a religious meal to have that meal is reasonably related to legitimate penological interests.

C. Equal Protection Claims

Plaintiffs claim that their rights under the Equal Protection Clause of the Fourteenth Amendment were violated because HNS, and other non-approved inmate organizations, are unable to hold annual banquets or fundraisers. The Equal Protection Clause requires that similarly situated persons be treated equally. See Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382, 72 L. Ed. 2d 786 (1982). Plaintiffs must demonstrate “the existence of purposeful discrimination” and that they received “different treatment from that received by other individuals similarly situated.” Andrews v. City of Philadelphia, 895 F.2d 1469, 1478 (3d Cir. 1990); see also Madison v. Horn, 1998 WL 531830, *19 (E.D. Pa. Aug. 21, 1998).

Plaintiffs have the burden of demonstrating that the groups which are treated differently are so similar to HNS that there is no rational basis for the distinctions which defendants make, and “that the discretion of prison officials to treat groups differently has been abused.” See

Madison v. Horn, 1998 WL 531830, *19 (citing Jones v. North Carolina Prisoners' Labor Union, Inc., 433 U.S. 119, 136, 97 S. Ct. 2532, 2543, 53 L. Ed. 2d 629 (1977)). Defendants need only establish that they had a rational basis relating to a legitimate penological interest for treating plaintiffs differently than other groups.¹¹ Id.

Plaintiffs argue that HNS should be allowed to hold fundraisers and annual banquets. They assert that they were an approved inmate organization, and therefore, under DOC regulations, should be eligible to have these events. Plaintiffs further allege that treating religious and civic organizations differently violated the Equal Protection Clause.

The Court again notes that the DOC is not treating approved inmate organizations differently as HNS was never an approved inmate organization. Although at one time HNS was treated as an approved inmate organization by SCI-Graterford, it never received DOC approval. Facts, ¶ 18.

¹¹It should be noted that the Turner test does not apply to the type of Equal Protection claim advanced here by plaintiffs. Though the Supreme Court has held that “the standard of review we adopted in Turner applies to all circumstances in which the needs of prison administration implicate constitutional rights,” Washington v. Harper, 494 U.S. 210, 224, 110 S. Ct. 1028, 1037, 108 L. Ed. 2d 178 (1990) (citing Turner, 482 U.S. at 85, 107 S. Ct. at 2259), there is no constitutional right implicated in the Complaint with respect to fundraising and annual banquets.

Moreover, even if the regulation at issue applied only to religious groups, a heightened level of scrutiny would not apply. The Supreme Court “has held that a rule that applies equally to all religions offends neither the Free Exercise Clause nor the Establishment Clause.” Abdul Jabbar-al Samad v. Horn, 913 F. Supp. 373, 376 (E.D. Pa. 1995) (citing Jimmy Swaggart Ministries v. Board of Equalization, 493 U.S. 378, 110 S. Ct. 688, 107 L. Ed. 2d 796 (1990)). Therefore, the general rule applies, and “the prison regulation can withstand an Equal Protection challenge if the distinction it draws between civic and religious civic groups is rationally related to a legitimate state interest.” Id. (citing City of Cleburne v. Cleburne Living Ctr., Inc., 473 U.S. 432, 440, 105 S. Ct. 3249, 3254, 87 L. Ed. 2d 313 (1985)).

The DOC has a rational basis for treating religious and broad-based civic organizations differently. One district court found a number of differences between religious and non-religious groups in prison, such as:

Prisoners have a constitutional right to meet in religious groups; therefore such groups cannot be banned from a prison as can non-religious groups, and, for the same reason, it is much harder to keep an inmate, for disciplinary reasons, from participating in a religious group than in a non-religious group. Religious groups and their leaders also carry a kind of authority that non-religious groups do not because they are based on more than simply common interests.

Madison, 1998 WL 531830, *19. In this case, the policy of non-discrimination in approved inmate organizations is one reason for the disparate treatment. Secondly, the goal of restricting inmate activity and avenues for inmate gatherings to further security and organizational order at SCI-Graterford, and the prison system as a whole provide other legitimate reasons for differentiating between approved inmate organizations and religious groups.

Moreover, HNS is not similarly situated to the approved inmate organizations which do not discriminate based upon religion as its membership is not open to all inmates. While HNS amended its charter to allow non-Catholics to become associate members, because of the religious nature of the HNS pledge, recited at every meeting, the mission of HNS, and since non-Catholics are not permitted to become full members, the Court concludes that HNS is a religious organization.

Organized group meals, with or without outside guests, and fundraising activities increase security and other administrative problems in state prisons. There are similar concerns which surround fundraising activities within the prison. These concerns are legitimate reasons for the DOC to limit fundraisers and banquets to approved inmate organizations. Tr. 2 at 43-48. “At

present, Graterford has about 15 religious denominations accommodated.” Ex. P-19, ¶ 34. If banquets and fundraisers were offered to all these religious groups, the number of activities would increase dramatically, creating serious security and logistical concerns for prison management.

Plaintiffs have not met their burden of showing that HNS and approved inmate organizations are similarly situated and that there is purposeful discrimination on the part of the DOC. Conversely, defendants have established the reasonableness of the regulations at issue. Accordingly, plaintiffs’ Equal Protection claims fail on the merits. They have not established a right to injunctive relief.

D. Roberto Montanez and Holy Name Society as Plaintiffs

A plaintiff bears the burden of establishing standing. See Lujan v. Defenders of Wildlife, 504 U.S. 555, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992). Plaintiff Roberto Montanez is not an HNS member. Tr. 2 at 78. Accordingly, he lacks standing to sue because, as a non-member of HNS, he does not have a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy. See Sierra Club v. Morton, 405 U.S. 727, 92 S. Ct. 1361, 31 L. Ed. 2d 636 (1972). For that reason, Montanez will be dismissed as a plaintiff.

Defendants claim that, under the HNS Charter, any action by HNS, including the institution of a lawsuit, must be approved by its spiritual director. It is admitted that Father Rzonca, spiritual director of HNS, did not approve this suit. Accordingly, defendants argue that HNS must be dismissed as a party. The Court need not reach this issue as it has ruled in favor of defendants on the merits of the case.

IV. CONCLUSION

For the reasons set forth above, judgment will be entered in favor of defendants on all counts. An appropriate order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE HOLY NAME SOCIETY,	:	CIVIL ACTION
JOSEPH HENNESSEY, ROBERT	:	
RIGLER, ROBERTO MONTANEZ,	:	
and JERRY GANTER,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
MARTIN HORN and DONALD	:	NO. 97-804
VAUGHN	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 21st day of August, 2001, following a non-jury trial, based on the attached Findings of Fact and Conclusions of Law, the Court **FINDS IN FAVOR** of defendants, Martin Horn and Donald Vaughn, and against plaintiffs, The Holy Name Society, Joseph Hennessey, Robert Rigler, and Jerry Ganter, on all claims on all claims.

It is **FURTHER ORDERED** that judgment is **ENTERED** in favor of defendants, Martin Horn and Donald Vaughn, and against plaintiffs, The Holy Name Society, Joseph Hennessey, Robert Rigler, and Jerry Ganter, on all claims.

It is **FURTHER ORDERED** that plaintiff Roberto Montanez is **DISMISSED AS A PLAINTIFF** for lack of standing.

BY THE COURT:

JAN E. DUBOIS, J.