

cause for the delay in filing an answer, plaintiff is not prejudiced by the delay and defendants have offered a meritorious defense. I will therefore deny plaintiff's motion for default judgment.

Defendants filed no dispositive motions in this case, and both sides have submitted pre-trial memoranda, so this case is theoretically ready to proceed to trial. The Prisoner Litigation Reform Act, 28 U.S.C. § 1915(e)(2), however, directs that "the court shall dismiss the case at any time if the court determines that ... the action or appeal ... fails to state a claim upon which relief may be granted... ." Accepting plaintiff's allegations as true, and giving them the liberal construction due pro se claims, I am nonetheless concerned that he has failed to state a claim upon which relief may be granted.

Muhammad alleges that the defendants limited his observance of Ramadan in February 1995 in violation of his rights to free exercise under the First Amendment and the Religious Freedom Restoration Act ("RFRA"). The Supreme Court has held that the Religious Freedom Restoration Act is unconstitutional on the basis that Congress, in enacting RFRA, exceeded its enforcement power granted under Section 5 of the Fourteenth Amendment. City of Boerne v. Flores, 117 S.Ct. 2157 (1997). Accordingly, in order to proceed on his free exercise claim, Muhammad must satisfy the "reasonableness" test applied to claims brought by

prisoners under the Free Exercise Clause of the First Amendment prior to the enactment of RFRA. See O'Lone v. Shabazz, 482 U.S. 342, 349 (1987). Muhammad must allege that the restrictions placed on his religious observance were not reasonably related to the prison's legitimate penological interests in security. O'Lone, 482 U.S. 342. Under the reasonableness test, prison officials are accorded wide-ranging discretion and deference in the adoption and execution of policies and practices to maintain internal order and security. Bell v. Wolfish, 441 U.S. 520 (1979). Here, Muhammad has alleged that he made several formal and informal complaints to defendants Sweeney and Klotz, and others, regarding the alleged inadequacies of the prison's procedures for Ramadan observance by Muslim prisoners. Muhammad has failed to allege that the inadequacies of the procedures (which he does not describe), however harmful to his religious practices, were not reasonably related to the prison's legitimate interests. I emphasize that Muhammad has not alleged that he was not permitted to participate in observance of Ramadan; rather he has alleged that his complaints regarding the prison's procedures for Ramadan observance were not resolved satisfactorily. This, without more, is not sufficient to state a claim for relief under the Free Exercise clause. O'Lone. Since plaintiff is pro se, however, and because he has not yet received requested discovery from defendants, I will give plaintiff an opportunity to explain

how the requested discovery will help him to establish that the procedures for Ramadan observance at Lehigh County Prison in 1995 impermissibly interfered with the free exercise of his religion, and were not reasonably related to legitimate penological interests in security. An appropriate order follows.

Copies **FAXED** on _____ to: Copies **MAILED** on _____ to: