

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

JAMAL SCOTT and CALVIN WILSON : CIVIL ACTION
: :
: :
v. : :
: :
: :
MARTIN HORN, et al. : NO. 97-1448

M E M O R A N D U M

Padova, J.

February 6, 1998

Pro se Plaintiffs Jamal Scott and Calvin Wilson, inmates at the State Correctional Institution at Graterford ("SCI-Graterford"), filed this action against Defendants for declaratory and injunctive relief under 42 U.S.C.A. § 1983 (West Supp. 1997), alleging a violation of their First Amendment rights to the free exercise of their religion.¹ On January 26-27, 1998, the Court conducted a non-jury trial. Based on the findings of fact and conclusions of law stated below, the Court finds for the Defendants.

I. FINDINGS OF FACT

A. General Background

1. Plaintiffs Jamal Scott and Calvin Wilson are Sunni Muslim prisoners at SCI-Graterford. They identify themselves as

¹By Order entered on September 8, 1997 (Doc. No. 7), the Court dismissed all of Plaintiffs' claims except for Plaintiffs' First Amendment claim.

part of an Islamic group known as the Association of Islamic Charitable Projects ("A.I.C.P.").

2. The following are Defendants: Martin Horn, Secretary of the Pennsylvania Department of Corrections ("the Department"); Father Francis Menei, Administrator of Religion and Family Services for the Department; Donald T. Vaughn, Superintendent of SCI-Graterford; David DiGuglielmo, Deputy Superintendent of SCI-Graterford; and Gary Olinger, Director of Treatment at SCI-Graterford.² These Defendants are sued in their official capacities only.³

3. Plaintiffs' requested relief in this action is the ability to participate in a one-hour A.I.C.P. communal teaching session during the week and a one-hour A.I.C.P. communal prayer service on Fridays.⁴

B. Religious Services at SCI-Graterford

4. The Department employs a full time Islamic Chaplain, Tahir Aderonmu, at SCI-Graterford. Chaplain Aderonmu

²Rasheed Salahuddin and the Department of Corrections were dismissed as Defendants before trial by agreement of the parties. (1/23/98 Ord., Doc. No. 31.)

³The Court granted judgment in favor of Defendants on Plaintiffs' claim against Defendants in their individual capacities. (1/22/98 Ord., Doc. No. 29.)

⁴This congregational prayer service, which must be held every Friday after the noon hour but before the afternoon prayer, is called "Jummah" or "Jumu'ah."

is a Sunni Muslim. As part of his responsibilities, he leads a communal worship service, which includes a sermon and prayer, for Sunni Muslims at SCI-Graterford on Fridays. These services are currently held in the basement of the chapel building at SCI-Graterford. Depending on the time of year and on whether a day has special religious significance (e.g., during Ramadan), between 250 and 500 inmates attend the Friday services led by Chaplain Aderonmu.

5. In addition to and separate from the Friday communal services for Sunni Muslims, Friday communal services are also permitted at SCI-Graterford for the following Islamic-related groups: the Nation of Islam;⁵ Muhammad's Temple of Islam, the Moorish Science Temple of America; and the Ahmadiyyah Movement.

6. Although a single communal service is held for Protestants, separate communal services are also permitted for some other Protestant groups, including Christian Scientists and Jehovah's Witnesses.

C. The Department's Denial of Recognition of A.I.C.P. as a Religious Group

⁵As a result of the settlement of litigation approximately four or five years ago, SCI-Graterford permits separate communal services for the Nation of Islam as well as Muhammad's Temple of Islam, an off-shoot of the Nation of Islam.

7. A.I.C.P. is a legitimate religion, which has its North American headquarters in Philadelphia, Pennsylvania.

8. There are currently over 100 A.I.C.P. followers at SCI-Graterford.

9. The Department has a Policy on Religious Activities, DC-ADM 819, dated April 18, 1994, which sets forth the policies and procedures for religious programming at State correctional institutions, such as SCI-Graterford. Section VI.G of the Policy addresses the recognition of faiths.

10. On April 1, 1996, Plaintiff Scott submitted a written Request for Recognition of Religious Group, seeking recognition of A.I.C.P., pursuant to the Department's Policy on Religious Activities. On or about December 23, 1996, the Request was denied by the Department on the grounds that "religious services currently being offered are adequate to meet your religious needs." Therefore, A.I.C.P. currently is not an officially recognized religious group at SCI-Graterford. Consequently, A.I.C.P. communal services and religious instruction are not available to Plaintiffs at SCI-Graterford.

11. A.I.C.P. has never been a recognized religious group at SCI-Graterford.

D. Plaintiffs' Religious Beliefs

12. Plaintiffs' A.I.C.P. religious beliefs are

sincere.

13. As Muslims, one of the major obligations of the A.I.C.P. religion is prayer. Jumma is obligatory for A.I.C.P. followers if all of the prerequisites for prayer that are accepted by the A.I.C.P. religion are satisfied. If all of the prerequisites are not satisfied, Jumma is not obligatory for A.I.C.P. followers. Under these circumstances, the individual noontime prayer can be substituted on Fridays for Jumma.

14. As Muslims, another major obligation of the A.I.C.P. religion is the acquisition of a defined body of knowledge, which is called the obligatory knowledge of Islam. Obligatory knowledge can only be attained from an individual who has previously acquired the knowledge from an authentic source; that knowledge must then be mastered. Authenticity of knowledge is established by verifying the chain of transmission of the knowledge. A teacher of obligatory knowledge does not have to demonstrate mastery over the entire body of obligatory knowledge. Once an individual has mastered a piece of obligatory knowledge that was attained from an authentic source, that individual is qualified to teach others that piece of obligatory knowledge.

15. A.I.C.P. was established for the purpose of certifying those who can teach others the obligatory knowledge of Islam.

16. Although obligatory knowledge can be taught in a

group setting, it does not have to be. Therefore, Plaintiffs can attain obligatory knowledge on a one-to-one basis from anyone who has mastered authentic knowledge.

17. Although Plaintiffs identify themselves as Sunni Muslims, they hold certain beliefs that differ from beliefs held by other Sunni Muslims. For example, as A.I.C.P. members, Plaintiffs believe that the proper direction for prayer for those living in North America is southeast. In contrast, Chaplain Aderonmu, also a Sunni Muslim, believes that the proper direction for prayer is northeast. Therefore, he leads Jummah by facing northeast. As A.I.C.P. members, Plaintiffs also believe that Allah (God) exists without attributes of any kind; anything that one can imagine, Allah is not. In particular, A.I.C.P. members believe that Allah is without human attributes (i.e., Allah exists without human form or human characteristics). In contrast, although Chaplain Aderonmu also believes that Allah exists without attributes of any kind, he believes that Allah has a face, hands, and fingers because the Koran includes references to this effect. He believes, however, that it is impossible to describe the face, hands, or fingers of Allah because anything that one can imagine, Allah is not.

18. The difference in belief concerning the attributes of Allah is a fundamental, doctrinal difference between A.I.C.P. followers, such as Plaintiffs, and other Sunni Muslims, such as

Chaplain Aderonmu.

19. Although the difference in belief concerning the proper direction of prayer does not constitute a fundamental, doctrinal difference between Plaintiffs and other Sunni Muslims, this difference is magnified because of the unique circumstances of prison life. Barry Munir Haq, a member of A.I.C.P. for approximately ten years and certified by A.I.C.P. to teach the obligatory knowledge of Islam, has advised Plaintiffs to engage in individual noontime prayer on Fridays instead of the Jummah led by Chaplain Aderonmu. Mr. Haq gave Plaintiffs this advice because if Plaintiffs prayed facing the southeast instead of northeast along with the others, Plaintiffs' behavior would be considered offensive and confrontational. Chaplain Aderonmu also acknowledged that it would be disruptive if Plaintiffs faced southeast to pray instead of following his lead and facing northeast to pray. Chaplain Aderonmu expects that those participating in Jummah will follow his lead and pray facing the northeast.

E. The Availability of Jummah for Plaintiffs

20. Plaintiffs do not have access to communal Friday prayer services that are congruent with their beliefs.

21. Because of the doctrinal differences that exist between A.I.C.P. followers, Chaplain Aderonmu, and other Sunni

Muslims and the tension that would result if Plaintiffs prayed towards the southeast instead of the northeast during the Jummah for Sunni Muslims, Plaintiffs cannot participate in the Sunni Muslim Jummah without compromising their beliefs, disrupting the service, and subjecting themselves to intense discomfort, ridicule, and possible risk.

F. Alternative Means of Worship and Religious Study Available to Plaintiffs

22. Because the Jummah service for Sunni Muslims does not satisfy the prerequisites for Jummah accepted by the A.I.C.P., Plaintiffs can meet the requirements of the Friday communal prayer by performing the individual noontime prayer on Fridays instead. Plaintiffs are permitted to perform the individual noontime prayer on Fridays.

23. Plaintiffs can engage in the study of the obligatory knowledge of Islam even though a class for this purpose is not available to them at SCI-Graterford. Because the obligatory knowledge of Islam can be transmitted from one individual to another, one prison inmate can teach another inmate those portions of the obligatory knowledge that the teaching inmate has acquired from authentic sources and has mastered. For example, although Plaintiff Scott has not mastered all obligatory knowledge, he has mastered a large body of such knowledge, which

he can teach to Plaintiff Wilson.

24. Plaintiffs also have another avenue available to them to continue their study of the obligatory knowledge of Islam. Pursuant to the Department's Policy on Religious Activities, Plaintiffs are allowed to select a religious advisor, subject to the approval of Reverend Edward Neiderhiser, the current Institutional Chaplaincy Program Director at SCI-Graterford. Once approved, a religious advisor can visit an inmate, in accordance with the Department Policy DC-ADM 812, Inmate Visiting Privileges. Neither Plaintiff Scott nor Plaintiff Wilson has requested Rev. Neiderhiser's approval of an individual to serve as his religious advisor. Each Plaintiff is free to select an A.I.C.P. follower to serve as his religious advisor. In this way as well, Plaintiffs can attain the obligatory knowledge of Islam.

25. Plaintiffs can engage in individual prayer five times a day, have their own prayer rugs, wear a ceremonial head covering, have access to the Koran, and observe the fasting requirements of Ramadan.

G. The Reasons for the Department's Refusal to Allow Separate Jummah Services for A.I.C.P. Followers

26. Historically, there have been serious problems with drug usage and trafficking at SCI-Graterford. For that

reason, in 1995 the Department subjected SCI-Graterford to an intensive review of its overall operation. This review resulted in significant changes in prison personnel and inmate practices to tighten security. For example, the Department determined that greater control over inmates must be instituted at SCI-Graterford. As a result, the movement of inmates within the facility is more limited and controlled.

27. For security reasons, the Department has also decreased the number of separate religious services held at SCI-Graterford. For example, prior to the 1995 Departmental review, two different Sunni Muslim groups and a Shiite Muslim group were each allowed to hold separate Jummah services on Fridays at SCI-Graterford. After the 1995 review, the separate services for these groups were replaced with a combined Jummah service for the three groups. This is the Jummah service currently led by Chaplain Aderonmu. This consolidation of Islamic services is part of an overall policy at SCI-Graterford to stop fragmentation of religious groups and to encourage further consolidation of the number of religious services held at the prison.

28. To this end, the Department seeks to hold all Jummah services at the chapel located at SCI-Graterford. To achieve this goal, an annex to the chapel is currently under construction and is expected to be ready for occupation this March. Once construction at the chapel is completed, the Jummah

service for Sunni Muslims, currently held in the basement rooms of the chapel, will be moved to the chapel annex. In addition, Jummah services held in other buildings at the prison, such as the school building, will be moved to the chapel. The Department's goal is to discontinue the use of other prison buildings for religious services and to centralize religious services at the chapel, with its new annex. The concentration of religious services in one location is in keeping with concerns of institutional order and security. By limiting Jummah services to one location, the inmates can be supervised more easily and more closely. In addition, if a disturbance at the prison were to occur, prison officials could more effectively contain the inmates participating in Jummah services if those inmates were in a single location instead of dispersed throughout the prison.

29. Department officials are studying the possibility of further consolidating Jummah services for the different Islamic sects. They are proceeding with caution in this area because of the potential for a disturbance if separate services are taken away from groups that currently are permitted to hold separate services. For these reasons, the Department has decided to end further fragmentation of religious groups and, through discourse with existing religious groups, attempt further consolidation of religious services, including Jummah services.

30. Space is not available at SCI-Graterford for

Jumma services for A.I.C.P. followers. The prison can no longer use the basement of the chapel for services because it is unsafe. Although there are some empty rooms in the school building at the time prescribed for Jumma services, prison officials have limited the use of the school building for religious services. Serious breaches in prison security have occurred at the school building, including two violent attacks on female staff members by inmates. In response to these incidents, prison officials have reduced the amount of non-school related inmate activity in the school building.

31. The accommodation of Plaintiffs' request for separate Jumma services for A.I.C.P. followers is affected by space limitations, security concerns, and staffing needs. If prison officials allowed communal services for A.I.C.P. followers, space would have to be taken away from an existing, recognized religious group. As discussed above, a potential disturbance among the inmates could ensue. Also, additional staff would be needed to supervise the A.I.C.P. group. The Department would either have to hire an additional correctional officer on overtime or reassign an officer from other duties in the prison.

32. If prison officials were to recognize the A.I.C.P., other groups might also seek recognition. For example, an Islamic group called the Five Percenters recently sought, and was denied, recognition at SCI-Graterford. If the A.I.C.P. were

recognized, the Five Percenters might also insist on recognition. If additional groups were recognized, the Department's policy to prevent further fragmentation and to achieve further consolidation of religious groups at SCI-Graterford would be undermined. This would have adverse effects on institutional order and security.⁶

III. DISCUSSION

Plaintiffs bring this Section 1983 action against Defendants for violation of their rights under the Free Exercise Clause of the First Amendment of the United States Constitution. In particular, Plaintiffs contend that Defendants' failure to provide them with the separate Jumma services and religious instruction that they have requested burdens their free exercise of religion.

Defendants do not contest the legitimacy of A.I.C.P. as a religion or the sincerity of Plaintiffs' A.I.C.P. beliefs. Similarly, the Court finds that the A.I.C.P. is a legitimate religion and Plaintiffs' A.I.C.P. beliefs are sincere. Therefore, the Court finds that Plaintiffs are entitled to avail themselves of the protections of the First Amendment. See Long

⁶Defendants do not contend that Plaintiffs or other A.I.C.P. members have posed any security problems at SCI-Graterford. Similarly, the Court in no way suggests that Plaintiffs or other A.I.C.P. members pose any security risk at SCI-Graterford.

v. Parker, 390 F.2d 816, 820 (3d Cir. 1968).

A. Plaintiffs' Free Exercise of Their Religion

Although lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison. O'Lone v. Estate of Shabazz, 482 U.S. 342, 348, 107 S. Ct. 2400, 2404 (1987).

Inmates clearly retain First Amendment protections, applicable to the states by the Fourteenth Amendment, including the directive that no law shall prohibit the free exercise of religion.⁷ Id.

Plaintiffs advance two distinct, but related arguments in support of their free exercise claim. First, Plaintiffs argue that, as members of A.I.C.P., they are not given the same opportunity as other inmates, especially other Islamic inmates, to practice their religion. Among the various religious sects represented in a prison, prison officials may not create unequal opportunities to practice religion. Cruz v. Beto, 405 U.S. 319, 322, 92 S. Ct. 1079, 1081-82 (1972)(denying a Buddhist inmate a reasonable opportunity of pursuing his faith comparable to the opportunity afforded fellow prisoners who adhere to conventional religious precepts states a First Amendment violation against

⁷The First Amendment provides as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

state prison officials); Cooper v. Pate, 378 U.S. 546, 84 S. Ct. 1733 (1964)(allegations that prisoner was denied certain privileges enjoyed by other prisoners because of his religious beliefs stated a cause of action); O'Malley v. Brierley, 477 F.2d 785, 795 (3d Cir. 1973)(where state affords inmates the opportunity of practicing a religion, it may not, without reasonable justification, discriminate against a particular religion); Long v. Parker, 390 F.2d at 820 "Where ... the charge is made that the regulations imposed by prison authorities restricting religious practices fall more harshly on adherents of one faith than another, the courts will scrutinize the reasonableness of such regulations.").

Plaintiffs also contend that their right to freely exercise their religion is being burdened by Defendants' refusal to allow them to participate with other A.I.C.P. followers in communal prayer, which is an essential part of their religious beliefs. The State, however, does not have an affirmative duty to provide every prison inmate with the clergy person or the service of his or her choice. Gittlemacker v. Prasse, 428 F.2d 1, 4-5 (3d Cir. 1970). Nevertheless, the Court of Appeals for the Third Circuit ("the Third Circuit") has recognized that "an opportunity to worship as a congregation by a substantial number of prisoners may be a basic religious experience and, therefore, a fundamental exercise of religion by a bona fide religious group." Small v.

Lehman, 98 F.3d 762, 765-66 (3d Cir. 1996)(quotations and citations omitted).⁸

Currently at SCI-Graterford, worship services are permitted for five different Islamic groups, but are not allowed for the A.I.C.P. In addition, although a group congregational service is offered for Protestants, certain Protestant groups, including Christian Scientists and Jehovah's Witnesses, are allowed to hold separate communal services. Whatever the historical reasons for the current constellation of recognized religious groups, prison officials have created unequal opportunities for inmates to practice religion at SCI-Graterford. In this way, Defendants have impinged upon Plaintiffs' rights to freely exercise their religion.

Defendants also have impinged upon Plaintiffs' free exercise rights by denying Plaintiffs the opportunity to participate with other A.I.C.P. members in communal prayer. Fundamental doctrinal differences exist between the A.I.C.P. and the other recognized Islamic groups, including Chaplain Aderonmu's Sunni Muslim group. During Chaplain Aderonmu's trial testimony, it was clear that

⁸Small, which held that the Religious Freedom Restoration Act ("RFRA") applies to claims of prisoners, was decided before the United States Supreme Court struck down the RFRA as unconstitutional in City of Boerne v. Flores, ___ U.S. ___, 117 S. Ct. 2157 (1997). Although Small has been overruled in part by Boerne, the finding in Small that communal worship may be a fundamental aspect of the exercise of religion continues to be good law in the Third Circuit.

Plaintiffs' and Chaplain Aderonmu's beliefs are divergent in certain respects. Some of these differences in beliefs strike at the essence of Plaintiffs' belief system. In addition, although prison officials profess that religious services are to be as ecumenical as possible, the services led by Chaplain Aderonmu are not truly ecumenical.⁹ On the witness stand, Chaplain Aderonmu's unwillingness to accord due consideration to Plaintiffs' beliefs was palpable. This attitude towards Plaintiffs' beliefs only serves to heighten the gulf between Plaintiffs and other Sunni Muslim inmates at SCI-Graterford. Under these circumstances, Plaintiffs cannot participate in the sermon portion of the Friday services led by Chaplain Aderonmu.

Defendants argue that even if Chaplain Aderonmu's sermons run counter to Plaintiffs' beliefs, Plaintiffs can skip the sermon and participate only in the obligatory Jummah led by the Chaplain. Although this is true in theory, in practice Plaintiffs cannot participate in the prayer either because they pray in a different direction than the rest of the Sunni Muslim group. This is not just a slight difference in the geographical orientation of prayer, as Defendants have characterized it. This difference in and of itself prevents Plaintiffs from meaningfully joining in the Sunni Muslim Jummah.

⁹Webster's Ninth New Collegiate Dictionary defines "ecumenical" as follows: worldwide or general in extent, influence, or application.

Plaintiffs' witnesses testified that Plaintiffs' prayer would be valid according to the A.I.C.P. religion if they prayed towards the southeast while the others prayed towards the northeast. This, however, does not mean that Plaintiffs can participate in the Jummah that is currently offered. Chaplain Aderonmu expects everyone to pray in the direction that he prays. Even though he stated that he could not force Plaintiffs to pray towards the northeast, he made it clear that he believed that the correct direction for prayer was the northeast and that he would try to achieve unity within the group by having everyone follow his northeast lead. Chaplain Aderonmu also acknowledged that tension in the group and disruption in the prayer would result if Plaintiffs prayed in a different direction. This tension and disruption poses an insurmountable barrier to Plaintiffs' participation in the Jummah led by Chaplain Aderonmu.

For these reasons, the Court finds that Defendants have impinged upon Plaintiffs' free exercise rights by denying Plaintiffs the opportunity to hold Jummah prayer with other A.I.C.P. members.¹⁰

¹⁰Plaintiffs also contend that their free exercise rights have been violated because Defendants will not allow them to hold A.I.C.P. teaching sessions, during which the obligatory knowledge of Islam can be transmitted. The Court finds, however, no impingement of Plaintiffs' First Amendment rights in this regard. There is no requirement that the teaching of the obligatory knowledge of Islam take place in a group setting. The transmittal of this knowledge can take place on a one-to-one basis between the Plaintiffs and other inmates or between each

B. Defendants' Refusal to Permit A.I.C.P. to Hold Communal Prayer Services

But the Court's analysis does not stop here, because an inmate's First Amendment rights are not absolute. "[A] prison regulation may validly impinge on an inmate's constitutional rights if it is reasonably related to a legitimate penological interest." Small v. Lehman, 98 F.3d at 765-66 (citing Turner, 482 U.S. at 93, 107 S. Ct. at 2263 and O'Lone, 482 U.S. at 353, 107 S. Ct. at 2406)). Therefore, even though the Department's refusal to permit separate communal prayer services for A.I.C.P. impinges on Plaintiffs' First Amendment rights, the Court finds such impingement is constitutionally acceptable.

In making this determination, the Court begins with the guiding principle that courts must show appropriate deference to policy decisions made by prison officials. O'Lone, 482 U.S. at 349, 107 S. Ct. at 2404. This principle of deference is based on the recognition that prison officials are in the best position to make difficult decisions involving prison administration. Turner, 482 U.S. at 84-85, 107 S. Ct. at 2259-60. As the Supreme

Plaintiff and his chosen religious advisor. In addition, the evidence adduced at trial does not support a finding that Defendants have created unequal opportunities at SCI-Graterford for religious instruction. For example, there was no evidence before the Court concerning opportunities available to other religious groups for religious study at SCI-Graterford.

Court has explained, the "evaluation of penological objectives is committed to the considered judgment of prison administrators, 'who are actually charged with and trained in the running of the particular institution under examination.'" O'Lone, 482 U.S. at 349, 107 S. Ct. at 2404 (quoting Bell v. Wolfish, 441 U.S. 520, 562, 99 S. Ct. 1861, 1886 (1979)). For that reason, the prison policy at issue here is evaluated under a reasonableness test, which is "less restrictive than that ordinarily applied to alleged infringements of fundamental constitutional rights." O'Lone, 482 U.S. at 349, 107 S. Ct. at 2404.

To determine the reasonableness of prison management decisions, a court may consider the following factors: (1) whether there is a valid and rational connection between the prison regulation and the legitimate governmental interest justifying the regulation; (2) whether there are alternative means available to the prisoner to exercise the right; (3) the impact the accommodation of the asserted right will have on prison resources and guards; and (4) the existence of easy, obvious alternatives to accommodate the prisoner's rights. Turner, 482 U.S. at 89-90, 107 S. Ct. at 2262.

The Court has used the above-listed factors to evaluate the reasons given by Defendants for their refusal to allow separate Jummah services for A.I.C.P. followers at SCI-Graterford. The Court concludes that the policy at issue here clearly meets the

standard of reasonableness.

The policy of ending further fragmentation of religious groups, attempting further consolidation of religious services, and centralizing religious services in one location is justified by concerns of institutional order and security as well as personnel costs. According to prison officials, inmates can be supervised more easily, effectively, and efficiently under this policy. Therefore, the Court finds that the first factor is met -- the policy is logically related to the legitimate governmental interests invoked to justify it.

With respect to the second factor, there are no alternate means available to Plaintiffs of attending Jummah services under the current policy of the Department. Defendants will not allow separate Jummah services for A.I.C.P. followers and, for the reasons set forth above, Plaintiffs cannot attend the Jummah services for other Sunni Muslims. Plaintiffs, however, are not deprived of all forms of religious exercise. Each can engage in individual prayer five times a day, have his own prayer rug, wear a head covering, have access to the Koran, observe the fasting requirements of Ramadan, and choose a religious advisor that follows the religious practices of the A.I.C.P. The ability of Plaintiffs to participate in these other religious observances of their faith further supports the conclusion that the restrictions placed on Plaintiffs are reasonable.

Finally, the Court has examined the impact that the accommodation of Plaintiffs' asserted right would have on other inmates, prison personnel, and the allocation of prison resources. According to prison officials, even with the newly added chapel annex, there will not be space to hold a Jummah service for the A.I.C.P. in the chapel or chapel annex because of services that are already being held for other Muslim groups and because of the stringent requirements as to the time at which Jummah must be held. Plaintiffs have suggested from the beginning of this litigation that they could use one of the empty rooms in the school building to hold Jummah services for the A.I.C.P. The prison, however, is under pressure from the school union¹¹ to limit the use of the school building for non-school related inmate activities. This position stems from the violent attacks on female staff by inmates in the school building. In response, the prison has cut back on the amount of inmate activity taking place at the school building. Although one very small Jummah service is currently held in the school building, prison officials plan on moving that service to the chapel once the annex is completed. For security reasons, the goal is to hold all Jummah services in the chapel and chapel annex.

Even if space were available for a separate Jummah service

¹¹The teachers at the prison are employees of the Pennsylvania Department of Education, not the Department of Corrections.

for the A.I.C.P., the Department submits that allowing such a service would result in either an increase in personnel costs or the compromise of security for other prison programs. According to prison officials, the Department would have to hire a correctional officer on overtime or pull an officer from other duties to supervise the A.I.C.P. group. Under these circumstances, the Court finds that the Department's position on the undesirable impact that the accommodation of Plaintiffs' request would have on the institution is reasonable.

These difficulties also make clear that there are no obvious, easy alternatives to the policy adopted by the Department with respect to Plaintiffs' request for separate Jummah services for the A.I.C.P. For these reasons, the Court finds that the Department's policy is reasonably related to legitimate penological interests. Therefore, the Court finds that Defendants did not violate Plaintiffs' rights under the Free Exercise Clause of the First Amendment, and Defendants prevail in this law suit.

Although the Court finds in favor of Defendants, the Court concludes with these final comments. By its very nature, incarceration necessarily places limits on the activities of inmates. Here, those limits prevent Plaintiffs from practicing their religion as they would if they were not in prison. As a result, Plaintiffs' commitment to their religious beliefs and

their pursuit of additional religious instruction may be challenged. Although Plaintiffs undoubtedly will be disappointed by the ruling against them, the Court encourages Plaintiffs to take advantage of the other avenues available to them in prison to practice their faith and to continue their religious studies. The Court was impressed with the depth and sincerity of Plaintiffs' beliefs. For this reason, the Court is confident that Plaintiffs will continue to take positive steps towards personal growth and improvement.

Although the Court has shown appropriate deference to Defendants' policy decisions, this should not be construed as an endorsement of the religious services that are currently offered for Sunni Muslims at SCI-Graterford. The Court in no way will second-guess the Department's decision not to accommodate the A.I.C.P. group. The Court is concerned, however, that religious leaders at SCI-Graterford are not doing more to foster greater tolerance for the religious beliefs of a significant faction of the prison community.

The Court echoes the sentiments expressed by Father Menei at trial. Through education in tolerance and in religious doctrine, bridges can be built between the A.I.C.P. and other Sunni Muslims. By emphasizing the commonalities and minimizing the differences of the two groups, the prison's religious leaders can broaden the appeal of the Jumma service for Sunni Muslims. The

Court encourages Defendants to follow the counsel of Father Menei by enhancing the ecumenical nature of the combined Jumma service. The Court also trusts that Defendants will cooperate with Plaintiffs so that they will be able to take full advantage of alternative means of exercising their religion.

III. CONCLUSIONS OF LAW

1. Defendants' refusal to permit separate A.I.C.P. communal prayer services impinges upon Plaintiffs' First Amendment rights to freely exercise their religion.

2. The Department's decision to deny recognition to A.I.C.P. as a religious group at SCI-Graterford is based on the Department's policy to end further fragmentation of religious groups, to encourage further consolidation of religious services, and to centralize religious services in the Chapel and Chapel Annex. This policy is reasonably related to the legitimate penological interests of maintaining security and containing personnel costs at SCI-Graterford.

3. There is a valid and rational connection between the Department's policy and the governmental interest justifying the policy.

4. Alternate means exist at SCI-Graterford for Plaintiffs to exercise their religion.

5. There are no obvious, easy alternatives to the policy

adopted by the Defendants with respect to Plaintiffs' request for separate Jummah services for the A.I.C.P.

6. Accommodation of Plaintiffs' request for separate A.I.C.P. prayer services and separate A.I.C.P. instruction will place an additional burden on prison resources and guards, and will serve to undermine the Department's policy to end fragmentation and to continue the consolidation of religious services at SCI-Graterford.

7. Defendants did not violate Plaintiffs' rights under the Free Exercise Clause of the First Amendment.

8. Plaintiffs are not entitled to declaratory or injunctive relief because Plaintiffs have not succeeded on the merits of their First Amendment claim.

An appropriate Order follows.