



United States Department of Justice
Civil Rights Division

RELIGIOUS FREEDOM IN FOCUS

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Religious Freedom in Focus is a periodic email update about the Civil Rights Division's religious liberty and religious discrimination cases. Through vigorous enforcement of:

- Federal statutes prohibiting religion-based discrimination in education, employment, housing, public facilities, and public accommodations;
- Federal laws against arson and vandalism of houses of worship and bias crimes against people because of their faith; and
- The Religious Land Use and Institutionalized Persons Act (RLUIPA);

the Civil Rights Division is working to protect the right of all people to practice their faiths freely and without discrimination.

Back issues of this newsletter may be found at www.FirstFreedom.gov. You may also contact the Special Counsel for Religious Discrimination, Eric W. Treene, at (202) 353-8622.

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Georgia Policy Change to Allow Religious Headcoverings in Court; DOJ Closes Inquiry

On July 29, the U.S. Department of Justice's Civil Rights Division notified the Georgia Department of Law that it was closing its review of whether the Georgia courts were improperly excluding people wearing religious headcoverings, after the Judicial Council of Georgia implemented a new headcoverings policy.

The Civil Rights Division's [Coordination and Review Section](#) had initiated a compliance review of the Judicial Branch of Georgia on January 30, in response to complaints from several Muslim women that they had been barred from entering courthouses in Georgia because they were wearing headscarves. The compliance review was opened to ensure that the Georgia courts, which are recipients of Department of Justice funding under the Omnibus Crime Control and Safe Streets Act, were in compliance with the law's non-discrimination provisions.

On July 24, the Georgia Department of Law informed the Civil Rights Division that it had adopted the following policy:

Head coverings are prohibited from the courtroom except in cases where the covering is worn for medical or religious reasons. To the extent security requires a search of a person wearing a head covering for medical or religious reasons, the individual has the option of having the inspection by a same-sex officer in a private area. The individual is

allowed to put his or her own head covering back on after the inspection is complete.

In response to the policy change, which ensures equal access to the courtrooms for persons without regard to religion, the Civil Rights Division closed its compliance review, but will monitor the matter for a period of three years to ensure that the policy is being implemented in all Georgia courts.

Suit Filed Against County that Barred Corrections Worker from Wearing Headscarf

On June 8, the Civil Rights Division [filed a lawsuit](#) against Essex County, New Jersey alleging that it discriminated against a Muslim corrections officer in violation of Title VII of the Civil Rights Act of 1964 when it refused to allow her to wear a religiously mandated headscarf, or khimar.

[Title VII](#) prohibits employment discrimination on the basis of race, color, sex, national origin and religion. Its religious discrimination provisions include a requirement that employers make a reasonable accommodation of employees' religious observances and practices. The Justice Department enforces Title VII's prohibitions against employment discrimination with respect to state and local governments.

The United States' complaint, filed with the United States District Court in Newark, alleges that the Essex County Department of Corrections first suspended Beshier, and then terminated her, on the ground that her khimar violated its uniform policy for corrections officers. The complaint alleges that Beshier had requested a religious accommodation that would permit her to wear her khimar, but the Department of Corrections denied her request.

The suit seeks a court order requiring Essex County to adopt a policy that reasonably accommodates the religious observances and practices of employees and prospective employees who are subject to the uniform policy for corrections officers. The suit also seeks monetary damages and other relief for Beshier.

"Employees should not have to choose between their religious beliefs and their economic livelihood," said Loretta King, Acting Assistant Attorney General for the Civil Rights Division, said when the suit was filed. "Federal law requires all employers, even those having policies regarding the wearing of uniforms, to reasonably accommodate the religious observances and practices of their employees."

The Civil Rights Division is committed to actively enforcing Title VII's prohibitions against religious discrimination. In February, the Division obtained court approval of a [settlement agreement with the Washington Metropolitan Area Transit Authority](#) requiring the authority to adopt a religious accommodation policy to its uniform requirements for bus drivers, and providing relief to a prospective Apostolic Pentecostal employee and two Muslim employees who required religious accommodations. The Division also has a pending [suit against the New York City Transit Authority](#) alleging it has discriminated against Muslims, Sikhs and other employees through its uniform policy. More information about these and other Title VII cases is available at the [Employment Litigation Section homepage](#).

"Shabbos House" Suit May Proceed, Court Rules

On June 25, [a federal court in New York ruled](#) that the United States' suit under the [Religious Land Use and Institutionalized Persons Act \(RLUIPA\)](#) should proceed to trial against a village that barred a Jewish group from operating a "Shabbos House" next to a hospital. The United States District Court for the Southern District of New York ruled that the United States' suit stated a claim under RLUIPA that the village's actions imposed a substantial burden on the religious exercise of the Shabbos House, which provides meals and lodging to observant Jews visiting patients at the hospital on the Sabbath and to patients released from the hospital on or near the Sabbath.

Bikur Cholim, which means "visiting the sick" in Hebrew, is an Orthodox Jewish

organization that has operated a Shabbos House near Good Samaritan Hospital in Suffern since 1988. The Shabbos House enables observant Jews to travel to and from the hospital on the Sabbath. The nearest hotel to the hospital is a 1.8 mile walk along a major commercial road with only intermittent sidewalks. Originally, the Shabbos House was on the grounds of the hospital, but hospital expansion required it to move to a house across from the hospital's parking lot, in a residential district.

The village began enforcement action against Bikur Cholim on the ground that the Shabbos House is not a permitted use in a residential district. Bikur Cholim sought a variance, which the village denied. The United States [filed suit](#) under Section 2(a)(1) of RLUIPA, contending that the Village's actions imposed a substantial burden on the religious exercise of Bikur Cholim and the people it serves without a compelling government interest pursued in the least restrictive means. The village moved to dismiss, and moved for summary judgment. The United States also moved for summary judgment.

The court, in its June 25 ruling, rejected the village's motion to dismiss the United States' complaint, holding that the United States' allegations set forth a valid claim that the village was imposing a substantial burden on the Shabbos House, and held that the case must be permitted to proceed to trial. The court rejected the Village's argument that facilitating visiting the sick on the Sabbath was not "religious exercise" for purposes of triggering the protections of RLUIPA. The court held that "religious exercise" under RLUIPA is intended "to be defined broadly," and "covers most activity that is tied to a religious group's mission." Thus, the court held, Bikur Cholim's facilitation of Sabbath observance for Jews visiting the hospital or being discharged from the hospital constitutes religious exercise under the statute. The court held, however, whether the Village's actions were a "substantial burden" on that religious exercise, and whether the Village had a compelling interest for the restriction that was pursued in the least restrictive means, were issues for trial.

A trial date has not been set. The case is being handled by the United States Attorney's office for the Southern District of New York and the Civil Rights Division. More information about the Civil Rights Division's RLUIPA land use cases may be found at the [Housing and Civil Enforcement Section's homepage](#).

Catholic Prisoner Had Right to Vegetarian Diet, Appeals Court Rules

A [federal appeals court ruled](#) on July 1 that Illinois officials violated a prisoner's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) when they denied him a vegetarian diet required by his religion. The United States Court of Appeals for the Seventh Circuit ruled in the case, *Nelson v. Miller*, that the prisoner, who is Catholic and sought the vegetarian diet as an act of penance, could not be denied a vegetarian meal that was available to prisoners of various other faiths. The United States had filed a [friend-of-the-court brief](#) in support of the prisoner's position.

Brian Nelson is a Roman Catholic prisoner incarcerated at the Tamms Correctional Center in Illinois. Tamms provides vegan meals to prisoners, such as Muslims and Buddhists, whose religious beliefs forbid them from eating the standard diet. Nelson sought a diet free from meat on Fridays and during Lent as an act of penance. He stated that he was willing to take the vegan meal year-round if that was necessary for administrative convenience. His request was denied on the ground that this dietary restriction was not required by the Roman Catholic faith, despite his submitting a letter from a priest that while this diet is not required of Roman Catholics generally, Nelson's belief that he should follow the diet of Benedictine monks was consistent with his faith. During Lent, Nelson abstained from all meat in the regular diet. He testified that he lost a substantial amount of weight during this time and was eventually hospitalized.

After grievances with the prison were denied, Nelson brought suit in federal district court, alleging violation of RLUIPA and other claims. Section 3 of RLUIPA provides that "No government shall impose a substantial burden on the religious exercise of a person . . . [when RLUIPA's jurisdictional requirements are met] unless the government demonstrates that imposition of the burden on that person (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that

compelling governmental interest.” After a bench trial, the district court ruled against Nelson on all claims, and Nelson appealed.

On appeal, the United States [submitted a brief](#) arguing that Nelson had presented sufficient evidence to support his claim that his religious exercise was substantially burdened by the denial of a vegetarian diet. The appeals court agreed, holding that the denial of the vegetarian diet substantially burdened Nelson’s practice of religion. The court held: “Because the undisputed evidence shows, at the very least, that Nelson would be required to forego adequate nutrition on Fridays and for the forty days of Lent in order to comply with his sincerely held religious beliefs, we hold that Miller’s refusal to grant Nelson a non-meat diet during those periods imposed a substantial burden on his religious exercise.” The court thus remanded the case to the district court for further proceedings. The court also held that since Miller is currently receiving a religious diet, which he started receiving three years after filing his lawsuit, injunctive relief was not available. The court also held that while damages under RLUIPA were not available, they may be available under the Illinois Religious Freedom Act or 42 U.S.C. 1983, and the court remanded the case.

More information about the Civil Rights Division’s enforcement efforts under Section 3 of RLUIPA and other efforts to protect the religious rights of persons in institutions may be found at the [Special Litigation Section website](#).

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