

Court rules Muslim inmates may wear beards and skullcaps

May 5, 2016

Texas prisons must allow Muslim inmates to wear the four-inch beards and knit skullcaps their religion demands, a federal court ruled.

The U.S. Fifth Circuit Court of Appeals in New Orleans ruled in favor of David Rasheed Ali, who sued the Texas Department of Criminal Justice in 2009, saying his faith required him to wear a “fist-length” beard and a white knit kufi.

Ali, an inmate at the Michael Unit near Palestine, asserted the TDCJ policies violated the Religious Land Use and Institutionalized Persons Act. The law bars the government from imposing a “substantial burden” on prisoners’ religious practices unless officials can show a compelling interest, and it requires the government to use the “least restrictive” means possible.

A district court ruled in Ali’s favor, and the appeals court affirmed that decision.

Strong protections for religious rights of inmates

The appeals court opinion demonstrates the “strong protections for the religious liberty interests of prisoners” the Religious Land Use and Institutionalized Persons Act provides, said Holly Hollman, general counsel with the Baptist Joint Committee for Religious Liberty.

“While safety and security are obviously important governmental interests, the Supreme Court has made clear that courts should not give undue deference to prison officials. This case follows that guidance,” she said.

TDCJ asserted security risks

At the time Ali filed his suit, the prison system permitted inmates to wear religious skullcaps only inside their cells or during religious worship services, and the TDCJ grooming policy required all male inmates to be clean-shaven, aside from certain medical exemptions.

The agency later amended its policy to allow inmates to grow half-inch beards for religious reasons, but the TDCJ insisted longer beards and skullcaps presented a security risk because prisoners could hide weapons and other contraband in them.

Other TDCJ objections to beards focused on issues of identification—beards could cover facial tattoos or other distinguishing marks and could allow inmates to change their appearance, and kufis also could hide gang tattoos.

Not ‘least restrictive’ means

The appeals court ruled the prison system has a compelling interest in maintaining security and eliminating contraband in prison. However, the court ruled, the TDCJ did not demonstrate banning longer beards and restricting when and where inmates could wear kufis was the “least restrictive” means to accomplish its legitimate security concerns.

Under prison system procedures, correctional officers require inmates with long hair to prove it is free of contraband, and the court asserted the prison likewise could require a similar process for long beards.

“TDCJ could revoke an inmate’s beard privilege if he abused it or refused to comply with the searches,” Justice Edward Prado wrote for the three-judge panel.

Make available for inspection

Likewise, the appeals court noted the prison system already allows inmates

to own kufis and prayer rugs, and it requires the prisoners to make the items available to correctional officers for inspection.

“TDCJ fails to adequately explain why it can search an inmate’s kufi when he is traveling with it to and from religious services but not if he was to wear it at other times,” Prado wrote. “Further, TDCJ has not shown why it is impracticable to revoke kufi privileges for those inmates that resist such searches.”

The appeals court ruling affirmed a 2014 decision by U.S. Magistrate Zack Hawthorn of Beaumont. He ordered prison officials to allow Ali to grow a longer beard and wear a kufi inside the prison, but the TDCJ appealed.

“We are reviewing the decision and have no further comment at this time,” said Jason Clark, director of public information for the TDCJ.