

1 injunction. The standards for such a motion are well-known and
2 need not be repeated here. See Topanga Press Inc. v. City of
3 Los Angeles, 989 F.2d 1524, 1528 (9th Cir. 1993).

4 Plaintiffs move for a preliminary injunction identical to
5 that which the court has previously ordered. They argue that
6 the court may summarily reenter a preliminary injunction based
7 upon the principles of the law of the case.

8 The law of the case doctrine requires that when a court
9 decides on a rule, it should ordinarily follow that rule during
10 the pendency of the case. See Arizona v. California, 460 U.S.
11 605 (1983). It is, of course, merely a prudential doctrine;
12 nonetheless, the doctrine guides the court's discretion on
13 issues such as the one at bar. See Slotkin v. Citizens Cas.
14 Co., 614 F.2d 301, 312 (1979) (The law of the case "does not
15 constitute a limitation on the court's power but merely
16 expresses the general practice of refusing to reopen what has
17 been decided."). "The rule of practice promotes finality and
18 efficiency of the judicial process by 'protecting against the
19 agitation of settled issues. . . .'" Christianson v. Colt
20 Indus. Operating Corp., 486 U.S. 800, 816 (1988).

21 Grounds justifying departure from the law of the case
22 include substantially different evidence, a change in
23 controlling authority, or the need to correct a clearly
24 erroneous decision which would work a manifest injustice. See
25 White v. Murtha, 377 F.2d 428, 431-432 (5th Cir. 1967).

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1 Defendants' contentions were previously argued and rejected
2 when the court issued its successive preliminary injunction
3 orders and in its order denying defendants' motion to dismiss
4 plaintiffs' RLUIPA claim. The court affirms its prior rejection
5 of these contentions because the defendants have failed to
6 identify substantially different evidence, a change in the
7 controlling legal authority, or any error in the court's prior
8 decision. See id.¹

9 Defendants also advance one new argument. Defendants
10 submit that the Ninth Circuit's recent decision in Fenelon v.
11 Riddle, CV 95-00954 (9th Cir. Feb. 7, 2002), supports the
12 conclusion that the requested injunction violates the Prison
13 Litigation Reform Act ("PLRA"). I cannot agree.

14 In Fenelon, plaintiff asserted that Jumu'ah is a
15 permissible ground for ETO under the Department's regulations
16 and that defendants' contrary practice violates those
17 regulations. See Order, dated May 1, 2000, at 7:4-6. In the
18 alternative, plaintiff attacked the Department's ETO regulations
19 and CMF's Jumu'ah policy as infringements on his constitutional
20 rights to free exercise, free speech, free association and equal

21
22 ¹ Defendants again argue that plaintiffs have not shown that
23 the CDC regulations impose a substantial burden on their religious
24 freedoms, that defendants have a compelling interest in the
25 administration and goals of the Work Incentive Program, that the
26 prison's policies and regulations are the least restrictive means
of accomplishing those goals, and that plaintiffs cannot
demonstrate irreparable injury. These arguments were rejected by
both this court and the Ninth Circuit. See Mayweathers v. Newland,
258 F.3d 930, 936-39 (9th Cir. 2001).

1 protection. Id. at 7:6-9. The court never reached the merits
2 of plaintiff's constitutional challenge because it concluded
3 that Jumu'ah was a special religious function. Id. at 18:17-18.

4 The Ninth Circuit reversed and remanded Fenelon finding
5 that the court's reading of Jumu'ah as a special religious
6 function was "strained," and determined that the injunction was
7 entered without specific findings required by the PLRA. Fenelon
8 v. Riddle, CV 95-00954 (9th Cir. Feb. 7, 2002). The Circuit
9 also instructed the court to consider the impact of the
10 intervening changes in the law including RLUIPA.

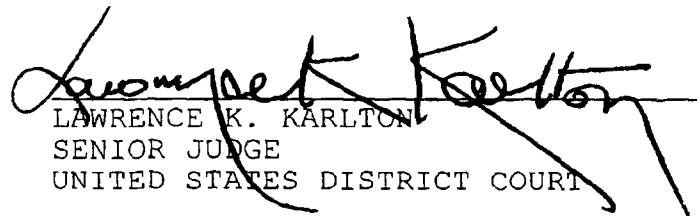
11 In the matter at bar, this court did not avoid the
12 constitutional issue raised by plaintiff's challenge to the CDC
13 regulations. Rather, the court concluded that "defendants
14 disciplining of plaintiffs for attending Jumu'ah may amount to a
15 violation of their right to the free exercise of religion under
16 the First Amendment." See Order, dated March 30, 2001, at 5 n.
17 4. Indeed, the court followed the command of Congress and
18 "issued its original injunction in general terms in an effort to
19 avoid intrusion into the management of the prison." See Order,
20 dated December 19, 2000, at 14:16-18; 18 U.S.C. § 3626(a)(2).
21 The court only expanded the preliminary injunction to prohibit
22 defendants from denying them the opportunity to earn good time
23 credits because of their observation of Jumu'ah when it
24 concluded that plaintiff's RLUIPA claim "significantly
25 increase[d] their likelihood of success on the merits." See
26 Order, dated July 5, 2001 at 5:16-17, 13:8-12. Accordingly, the

1 Ninth Circuit's reversal in Fenelon is of no consequence to this
2 matter.

3 For the foregoing reasons, plaintiffs' motion for a seventh
4 preliminary injunction is GRANTED.

5 IT IS SO ORDERED.

6 DATED: March 25, 2002.

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8 
9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT

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United States District Court
for the
Eastern District of California
March 26, 2002

* * CERTIFICATE OF SERVICE * *

2:96-cv-01582

Mayweathers

v.

Sutton

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on March 26, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

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