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FILED
JAN 27 2003
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 DEPUTY CLERK

LODGED

JAN 22 2003

9 Attorneys for Defendants ~~Boyer~~ ^{CLERK, U.S. DISTRICT COURT}
 Terhune, Smith, Newland and ~~Valdez~~ ^{EASTERN DISTRICT OF CALIFORNIA}
 10 48149280-CA1997CX0307

Warwick
 JAN 30 2003
 CA1997CX0307

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

13 KARLUK MAYWEATHERS, et al.,

14 Plaintiffs,

15 v.

16 C. A. TERHUNE, et al.,

17 Defendants.

No. CIV S-96-1582 LKK JFM P

**STIPULATION RE
 PRELIMINARY
 INJUNCTIONS DURING
 PENDENCY OF REVIEW OF
 THE NINTH CIRCUIT'S
 DECISION; (PROPOSED)
 ORDER**

ORIGINAL

20 On December 27, 2002, the Ninth Circuit issued its decision on defendants'
 21 consolidated appeals, finding the Religious Land Use and Institutionalized Persons Act of
 22 2000 ("RLUIPA") constitutional. Subsequently, on January 10, 2003, defendants
 23 petitioned the Ninth Circuit for rehearing *en banc*. The Ninth Circuit has not yet issued a
 24 mandate in this case, nor remanded the case back to this Court. Defendants' challenge to
 25 the constitutionality of RLUIPA is the only issue remaining on appeal in the Ninth
 26 Circuit.

27 On December 30, 2002, plaintiffs notified this Court of the Ninth Circuit's
 28 decision and requested leave to file a motion for summary judgment. In its order of

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Stipulation re Preliminary Injunctions



1 January 10, 2003, this Court granted plaintiffs' request, ordering plaintiffs' motion for
2 summary judgment be heard within 90 days of the order. Because defendants are seeking
3 review of the Ninth Circuit's decision in the Ninth Circuit and/or the Supreme Court of
4 the United States, the parties stipulate to preserve the status quo of this case as follows:

5 1. The status quo of the preliminary injunctions re Jumu'ah and
6 grooming will be preserved until a final decision is made by the Ninth Circuit and/or the
7 Supreme Court either denying defendants' petitions for review or granting review and
8 determining the constitutionality of RLUIPA;

9 2. The preliminary injunctions re Jumu'ah and grooming will
10 automatically be renewed every 90 days, during the pendency of review of the Ninth
11 Circuit's decision, without further motions by plaintiffs and without further order of this
12 Court;

13 3. Defendants preserve their opposition to the issuance of the
14 preliminary injunctions re Jumu'ah and grooming and their ability to present additional
15 evidence before this Court under the Prison Litigation Reform Act; and

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4. Plaintiffs will not move for summary judgment, requesting permanent injunctions, while this stipulation is in effect.

DATED: January 21, 2003

BILL LOCKYER
California Attorney General

By: M. Warwick

TAMI M. WARWICK
Deputy Attorney General
Attorney for Defendants

DATED: January _____, 2003

PRISON LAW OFFICE

By: _____

SUSAN D. CHRISTIAN
Attorney for Plaintiffs

IT IS SO ORDERED.

DATED: _____

LAWRENCE K. KARLTON
United States Chief Judge Emeritus

-0877.vpd

11:25 JAN 27, 2003

TEL NO: 938-4015

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Susan D. Christian

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4. Plaintiffs will not move for summary judgment, requesting permanent injunctions, while this stipulation is in effect.

DATED: January _____, 2003

BILL LOCKYER
California Attorney General

By: _____
TAMI M. WARWICK
Deputy Attorney General
Attorney for Defendants

DATED: January 21, 2003

PRISON LAW OFFICE

By: Susan D. Christian
SUSAN D. CHRISTIAN
Attorney for Plaintiffs

IT IS SO ORDERED.

DATED: 1/23/03

Lawrence K. Karlton
LAWRENCE K. KARLTON
United States Chief Judge Emeritus

01/27/03

Stipulation re Preliminary Injunctions

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **KARLUK MAYWEATHERS, et al. v. C. A. TERHUNE, et al.**

No.: **CIV S-96-1582 LKK JFM P**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar which member's direction this service is made. I am 18 years of age and older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 22, 2003, I served the attached **STIPULATION RE PRELIMINARY INJUNCTIONS DURING PENDENCY OF REVIEW OF THE NINTH CIRCUIT'S DECISION; [PROPOSED] ORDER** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550, addressed as follows:

**SUSAN D. CHRISTIAN
Prison Law Office
General Delivery
San Quentin, CA 94964-0001**

Attorney for Plaintiff

**MICHAEL RAAB
U.S. Department of Justice
Civil Division, Federal Programs Branch
901 E Street, N.W., Room 905
Washington, DC 20530**

Intervening Party

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 22, 2003, at Sacramento, California.

M. STEELE

Declarant

m. steele

Signature

41159.spd

ndd

United States District Court
for the
Eastern District of California
January 27, 2003

* * 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 January 27, 2003, 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.

Susan Dee Christian
Prison Law Office
General Delivery
San Quentin, CA 94964

AR/LKK

CF/JFM

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Jack L. Wagner, Clerk


by: Deputy Clerk