

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
Southern Division**

LAMONT HEARD, WILLIAM JOHNSON  
JAMERO MOSES, and ANTHONY NELSON,

Plaintiffs,

V.

TOM FINCO and BRAD PURVES, sued  
In their individual capacities,

Defendants.

Case No. 1:13—CV—373  
HON. GORDON J. QUIST  
Magistrate Judge Ray Kent  
**JURY TRIAL DEMANDED**

**PLAINTIFFS' SUPPLEMENTAL CIVIL COMPLAINT**

JURISDICTION

This Court has jurisdiction over this civil action pursuant to 28 USC §§ 1337, and 1343 et seq.

VENUE

Venue is proper in this Court because the constitutional violation occurred in the Western District of Michigan. See 28 USC § 1391 et seq.

Parties

1. Plaintiff, Lamont Heard (Heard) is incarcerated in the custody of Michigan Department of Corrections (MDOC). He is currently located at Kinross Correctional Facility, 16770 W Watertower Dr, Kincheloe, MI. 49784, prison identification number 252329.
2. Plaintiff William Johnson (Johnson) is incarcerated in the custody of MDOC, prison number 235820, and is located at Chippewa Correctional Facility.

3. Plaintiff Jamero Moses (Moses) is incarcerated in the custody of MDOC. He is currently located at Chippewa Correctional Facility, Kincheloe, MI 49788, prison number 231885.
4. Plaintiff Anthony Nelson (Nelson) is incarcerated in the custody of MDOC. He is currently located at Lakeland Correctional Facility, 141 First Street, Coldwater, MI., 49306, prison number 210771.
5. Defendant Thomas Finco is Deputy Director of MDOC. He is personally responsible for approving religious menus between the years 2011 to present.
6. Defendant Brad Purves is a retired MDOC Food Service Manager. Between the years 2010-2014, his responsibilities included preparing Ramadan menus, advising and managing Ramadan meal plans, and determining how much calories, nutrition, and food Muslim Ramadan participants received.
7. Both Defendants are sued as to the 2013 and 2014 claims in their individual capacities
8. Each defendant acted under the color of law during the entire relevant time period.

#### FACTUAL BACKGROUND

9. Plaintiffs Heard, Johnson, Moses, and Nelson (herein known as “Plaintiffs”) are Muslim and members of the protected class; the Nation of Islam Prison Reform Ministry.
10. The Plaintiffs sincerely held beliefs are found in the Holy Qur’an, the divine scriptures of the Muslims.
11. One of the tenets of Plaintiffs sincerely held beliefs mandates that they fast during the daylight hours of the Arabic Lunar month of Ramadan.
12. Ramadan was the month the Holy Qur’an was revealed to Prophet Muhammad, and is a Holy month in Islamic Jurisprudence.
13. The “fast” is not a fast in the sense of not eating for 30 consecutive days.

14. A Ramadan fast means abstaining from food and liquid during the daylight hours.
15. Once the sun sets, Muslims consume an adequate meal that meets the Dietary Guidelines for Americans, recommended caloric and nutritional intake levels for their age group and activity level, and civilized norms.
16. The fast also include[s] the achievement of a blessed experience.
17. During Ramadan, Muslims seek spiritual bliss and brotherhood; read the entire Holy Qur'an; maintain a peaceful mindset and God consciousness and oneness with Allah, and good physical health.
18. Mental, physical, and spiritual health goes hand in hand in Islam. A Muslim cannot have one without the other.
19. Plaintiffs expected Defendants to provide them with adequate meals that met the Dietary Guidelines for Americans between 2013-2014, as well as Plaintiffs' "active" to "moderate" lifestyles and age bracket. However, these expectations were not met.
20. Plaintiffs know of no actual MDOC Ramadan policy. Ramadan is instituted based on the prison official in office. Thus, Plaintiffs use the nomenclature "custom and policy" to describe Defendants' procedure and treatment of Plaintiffs during previous Ramadans.
21. It is the custom and policy of MDOC to post a pre-Ramadan notice in housing units, informing Muslims how to sign-up to participate in Ramadan and the Ramadan eating schedule.
22. MDOC's custom and policy is to provide a fast observant with a pre-dawn meal and a post-sunset meal during Ramadan.
23. Once the person notifies the designated prison official- usually the Chaplain- of his intentions to participate in the fast, that person's name is compiled with a list of other fast

- participants. The list is subsequently posted in each housing unit, food service, and facility control center.
24. Once Ramadan starts, participants are given an itinerary, which regulates the times they can enter the dining hall to receive their pre-dawn and post-sunset meals.
  25. The itinerary specifically denies them access to the dining hall to receive their normal lunch meal.
  26. If a Ramadan participant enters the dining hall during lunch and accepts the meal, he will receive a misconduct and an administrative hearing to determine if he should be removed from the Ramadan list.
  27. An adequate meal, according to the MDOC “Offender Meal” policy directive is a daily meal that meets the Dietary Reference Caloric Values as approved by the National Research Council and the Dietary Guidelines for Americans.
  28. Each facility Food Service Director had the option to make his or her own Ramadan menu or follow the statewide menu. If the statewide menu did not meet civilized norms, Food Service Directors would add more calories and nutrition to the menu.
  29. Prior to 2009, MDOC custom and policy was to provide both Jewish and Muslim prisoners with adequate meals for the holidays that included fasting, such as Seder and Ramadan.
  30. Plaintiffs have personal knowledge of this because they have been participating in Ramadan since the 1990’s while incarcerated in MDOC, plus during those times, they were employed by the MDOC Food Service Department.

31. After 2008, the former MDOC Deputy Director Straub, approved the reduction of Ramadan observant meals, based on MDOC dietician Anderson and Purves' recommendations. He then reduced Ramadan meals by two-thirds of civilized norms.
32. Also, he did that, despite the fact that in 2001 MDOC settled in *Hudson-Bey v. Martin* Case No. No. 1:00-cv-389 (Order) (May 23, 2002) (Enslin, J.) (docket no. 51-1). In *Hudson-Bey*, the Court held that providing Muslims with less than 2,000 kcals per day during Ramadan violates both the First and Eight Amendments.
33. Also, the change included mandating all Food Service Directors follow the statewide menu and prohibited adding additional food, even if the daily calories did not meet civilized norms.
34. However, that restriction and custom change was not placed on Jewish holiday menus that were made to accommodate daily fasts.
35. In or around 2010, Deputy Director Straub appointed Defendant Purves-former MDOC Food Service Manager- to enforce MDOC Ramadan custom and policy.
36. Plaintiffs notified Deputy Director Straub and Defendant Purves that the meals were inadequate and contained food items that Plaintiffs were prohibited to eat, such as bean burgers, turkey ham and certain beans.
37. Deputy Director Straub and Purves not only provided inadequate meals, they also put food items on the menu that they knew Muslims were prohibited to eat.
38. Plaintiffs also requested to enter the dining hall to package their lunch meal to eat after sunset to compensate for the inadequate meals.
39. Defendants responded with a no, telling Plaintiffs, "You chose to fast, thus you have to stay restricted to the statewide Ramadan meals."

40. Furthermore, Defendants Finco and Purves claimed the menu met national norms.
41. If the Plaintiffs had not learned how to count calories, they would not have known the Ramadan meals did not meet civilized norms.
42. Defendants were aware of the facts that Plaintiffs were being fed between 1,000 – 1,500 daily during Ramadan from 2009 through 2013 when the original complaint was filed.
43. Defendants were aware that this practice of not providing the equivalent of three meals a day at Ramadan had been the practice of the MDOC for years.
44. Defendant Purvis needed the approval of Defendant Finco to provide such limited number of calories to Muslim during Ramadan.
45. After learning Defendants had deceived Plaintiffs regarding the adequacy of Ramadan meals, Plaintiffs filed the original civil action against Defendants Finco and Purves, and requested a Preliminary Injunction mandating Defendants to provide Plaintiffs with adequate meals during Ramadan.
46. Before the Court granted the injunction, Defendants Finco and Purves added another third of food to the menu and MDOC Dietician Anderson misrepresented to the Court that the Ramadan menu met civilized norms.
47. In March of 2014, the Court found Defendants did not comply with the Court's order and held Defendants in contempt.
48. Defendants Finco and Purves instructed subordinates not to comply with the Court Order, thus denying Plaintiffs adequate meals during Ramadan 2013 and 2014.
49. Defendants basically robbed Plaintiffs of their Ramadan experience.
50. Each inadequate meal took Plaintiffs' focus off the objectives of the fast.

51. Defendants' acts in effect pressured the Plaintiffs to break the fast. Plaintiffs felt like they were in a David vs. Goliath situation.
52. Plaintiffs held hate in their hearts against Defendants and prison staff. Prison staff would laugh at Plaintiffs saying, "If you want to eat an adequate meal, stop fasting."
53. During Ramadan, instead of studying the words of God and communing with God, Plaintiffs' focus was diverted instead toward filing complaints, grievances, researching case law and maintaining their health.
54. Plaintiffs were depressed and suffered mental anguish, spiritual deprivation, and humiliation.
55. Physically, they were dizzy, suffered significant weight loss, migraine headaches, hunger pains, fatigue and decrease in mental alertness -among other symptoms.

CAUSES OF ACTIONS FOR RAMADAN 2013 and 2014

FIRST AMENDMENT AND RLUIPA CLAIM

56. Plaintiffs Re-incorporate the above Paragraphs.
57. Defendants Finco and Purves were personally involved in substantially burdening Plaintiffs' exercise of religion by requiring them to abandon precepts of religion in order to survive during the 2013 and 2014 Ramadan.
58. Defendant Purves authored the Ramadan menus and managed the operation of Ramadan.
59. Defendant Purves knew that some of the food items he placed on the menus for Ramadan violated the dietary laws of Plaintiffs' faith and that Plaintiffs would not eat such items.
60. Defendant Purves knew that the menu contained inadequate daily calories and nutrition, and thus, would make Plaintiffs upset and take Plaintiffs out of the spirit of fasting, and

- therefore deteriorate Plaintiffs' health. The menus provided approximately 1,000-1,500 kcals per day.
61. Defendant Finco approved Ramadan menus and mandated each facility to abide by the same menu, without deviation.
  62. Defendant Finco knew the menu had false representations and was inadequate, which would make Plaintiffs angry and take Plaintiffs out of the spirit of fasting.
  63. Plaintiffs filed complaints, grievances, and proposals to MDOC dietician Anderson and Defendants Finco and Purves, notifying them of the negative impact the Ramadan customs, policies, and menus were having on Plaintiffs' exercise of religion.
  64. Defendants responded, "No change will be made to the Ramadan menu", and instructed subordinates not to add food to the menu.
  65. These actions by the Defendants caused Plaintiffs to be depressed and pressured them to think about discontinuing Ramadan.
  66. This pressure caused the Plaintiffs to be taken out of the spirit of fasting.
  67. Thus, because of Defendants actions, Plaintiffs were taken out of the spirit of fasting and Plaintiffs lost the concentration, peace of mind, etc. and grew hatred toward prison staff.
  68. Defendants burdened the practice of Plaintiffs' faith and inhibited the free exercise of their religion during Ramadan.
  69. Defendants placed a substantial burden on the practice of the religious beliefs of the Plaintiffs.
  70. The Plaintiffs exhausted their administrative remedies.
  71. Defendants are not entitled to qualified immunity, *see Welch v. Spaulding*, Case No. 14-cv-2050, --Fed.Appx. -- (6<sup>th</sup> Cir. Sept. 30, 2015) (unpublished).



EIGHTH AMENDMENT CLAIM

72. Defendants Finco and Purves denied Plaintiffs adequate meals during 2013 and 2014 Ramadan.
73. During a normal day in prison, prisoners receive breakfast, lunch and dinner meals.
74. During Ramadan, fast participants are prevented from entering the dining hall during lunch to receive a lunch meal.
75. If Plaintiffs had entered the dining hall, they would have received a misconduct.
76. Thus, during Ramadan, Defendants deny Plaintiffs their normal lunch meal.
77. The meal calories and nutrients are not made-up in other meals.
78. Plaintiffs have filed complaints, grievances and proposals requesting to package their lunch meal for eating after sunset, since the statewide Ramadan menu is inadequate.
79. Defendants Finco and Purves responded “no” claiming MDOC Dietician Anderson, stated the menu is sufficient, since Plaintiffs chose to fast.
80. Defendants inflicted cruel and unusual punishment on Plaintiffs because Plaintiffs are Muslims.
81. Almost every day of Ramadan each of the Plaintiffs suffered from different level of hunger due to the low level of calories that were provided each day.
82. As a result of Defendants’ action, Plaintiffs were subjected to both physical and mental pain.
83. Defendants’ actions have caused significant injury to Plaintiffs’ emotional, mental and physical health during the 2013 and 2014 Ramadan.

EQUAL PROTECTION

84. Plaintiffs Re-incorporate the above Paragraphs.

85. During Jewish Passover and Seder, prisoner participants receive adequate meals that are prepared in accordance with their dietary regimen.
86. Defendants did not reduce Jewish fast participants menu below civilized norms.
87. Defendants discriminated against Plaintiffs because Plaintiffs are Muslim, in violation of the 14<sup>th</sup> Amendment of the U.S. Constitution during the 2013 and 2014 Ramadan.

CIVIL CONSPIRACY

88. Plaintiffs Re-incorporate the above paragraphs.
89. Defendants had a meeting of the minds regarding the insufficient Ramadan menus for 2013 and 2014 Ramadan.
90. It was at that time Defendants Finco and Purves agreed to provide Muslims with less calories and nutrition than MDOC policy regulates and constitutional norms demand.
91. Defendants did deprive Plaintiffs of adequate meals through their Ramadan policy.
92. Neither Defendant Finco nor Purves abandoned the conspiracy, or exposed it.
93. These Defendants did conspire for the purpose of depriving Plaintiffs of privileges and rights secured by the United States Constitution in violation of 42 USC § 1983.

WHEREFORE, this Court should grant the following relief to the Plaintiffs:

1. Grant a declaratory judgment that Plaintiffs' rights were violated during the 2013 and 2014 Ramadan.
2. Award Plaintiffs compensatory and punitive damages.
3. Award attorneys' fees and costs.
4. Award any other relief that this Courts find is just and equitable.

Respectfully submitted,

s/ Daniel E. Manville .  
Daniel E. Manville (P39731)  
Director, Prisoners' Rights Clinic

Alexa Herlosky  
Broc Gullett  
Clinical Law Students

Michigan State University College of Law  
610 Abbott Rd.  
East Lansing, MI 48823  
517-336-8088 (office)  
517-336-8089 (fax)  
[daniel.manville@law.msu.edu](mailto:daniel.manville@law.msu.edu)

**CERTIFICATE OF SERVICE**

I certify that on November \_\_\_\_\_, the foregoing document was served on Defendants' counsel of record through ECF on Defendants' counsel.

/s/Daniel E. Manville  
Daniel E. Manville (P39731)