

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AARON UTLEY,

Petitioner,

Case Number 13-10157

Honorable David M. Lawson

v.

TIM DONELLON, TOM BLISS, OLJENIK,  
SZELOG, PHILLIBEN, and TOM SUPPO,

Defendants.

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**CONSENT DECREE AND SETTLEMENT AMONG DEFENDANT ST. CLAIR  
COUNTY SHERIFF AND PLAINTIFF**

WHEREAS on January 15, 2013, Plaintiff Aaron Utley, then an inmate at the St. Clair County Intervention and Detention Center, filed this lawsuit against Defendant Sheriff Tim Donnellon, in his individual and official capacity, and Captain Tom Bliss, Sergeant Richard Oljenik, Sergeant David Szelog, Sergeant Philliben and Jail Chaplain Tom Seppo in their individual capacities, based upon an initial denial of Mr. Utley's request for a halal meal diet as a religious accommodation while he was incarcerated in the St. Clair County Jail beginning on December 4, 2012.

WHEREAS, in the lawsuit, Mr. Utley challenges the legality and constitutionality of the St. Clair County Jail's religious dietary screening process utilized to determine whether a request for a special religious diet is legitimate or not, under the Religious Land Use and Institutionalized Persons Act and the First and Fourteenth Amendments to United States Constitution.

WHEREAS, the Council on American-Islamic Relations, Michigan and the law firm of Akeel & Valentine, PLC (hereinafter “Counsel”) entered an appearance on behalf of Mr. Utley and indicated a desire to help develop a revised religious dietary screening process.

WHEREAS, Defendants denied and continue to deny that the Jail’s religious dietary screening process is illegal or unconstitutional, but are amenable to working with the Counsel to developing an altered and improved policy.

WHEREAS, without any admission of liability or wrongdoing, the parties met with Magistrate Judge R. Steven Whalen on January 21, 2014, and with the assistance of the Judge and legal counsel for the parties, worked together to develop an improved screening policy acceptable to all parties.

THEREFORE, as a result of the foregoing, the parties agree and the Court hereby enters the following Consent Decree and Settlement.

#### **TERMS**

1. Term of Consent Decree:

This Consent decree will continue in full force and effect for a period of five years from the date of entry, after which it will terminate and the case will be dismissed with prejudice.

2. Injunctive Relief:

The St. Clair County Jail policy on religious dietary accommodation requests will be revised by the St. Clair County Sheriff (“the County”) to implement the following provisions:

- a. Upon a written request by an inmate for a religious dietary accommodation offered by the St. Clair County Jail, the Jail will first look to and consider affiliation with the particular religion, and that would include a letter or communication from clergy of a recognized religion attesting to his or her

knowledge of the inmate's religion and sincerely-held religious beliefs. Upon receipt of a valid letter to this effect, the St. Clair County Jail will grant such request.

- b. In the absence of such a letter or communication from clergy, the Jail will look to any documentary or other supporting evidence supporting the inmate's claim of a sincerely-held religious belief. The St. Clair County Jail will also consider any other observations, including but not limited to the inmate's participation in religious services or other activities that would be relevant to his or her claim of a sincerely-held religious belief.
- c. If the Jail is unable to make a decision based upon the information provided in subparagraph b above, or still has questions about the legitimacy of the claim and has not granted the request, the Jail may provide the inmate with a written test that will contain the following questions and opportunities for explanation:
  - i. The Jail may ask the inmate to briefly explain the teachings of the particular religion.
  - ii. The Jail may ask the inmate to explain why the particular dietary accommodation is required by the religion.
  - iii. The Jail may ask the inmate to explain what the religious diet consists of and how it is different from the food otherwise provided by the prison.

- iv. The Jail may require the inmate to provide a narrative statement, explaining in his or her own words any other reason or explanation in support of his or her claim of a sincerely held religious belief.
- d. Upon review of the responses to the questions of the written test set forth above, the Jail Chaplain will review all other pertinent information supplied by the inmate and/or jail authorities, and make a determination, based on all of the above factors and under the totality of the circumstances, as to the whether the inmate holds a sincerely-held religious belief that would qualify him or her for the religious dietary accommodation. If the Jail Chaplain denies the inmate's request, the inmate may file a grievance challenging the decision. At step 1 of the grievance process, the Jail Chaplain will conduct an in-person interview of the inmate and make a *de novo* determination of the inmate's request for an accommodation. If the inmate, for any reason, refuses or declines to meet with the Jail Chaplain other than for an extenuating circumstance such as the inmate is hospitalized, the grievance will be denied. If the grievance is denied for any reason at step 1, the reasons will be stated and the inmate may then proceed to exhaust the St. Clair County Jail's grievance procedure. The procedures set out above applies to all faiths.

3. Attorneys' Fees and Costs

The County agrees to pay Counsel the sum of \$15,000 in the form of costs and attorneys' fees.

4. No Other Payments

The relief set forth in paragraphs 2 and 3 constitute a full and complete settlement of all claims that Mr. Utley has, to date, arising out of his incarceration at the St. Clair County Jail, and no other payments will be made by the Defendants.

5. Release and Settlement

In exchange for the consideration specified in paragraphs 2 and 3 of this consent decree and settlement, Plaintiff hereby fully and completely releases and discharges The County of St. Clair, the Sheriff of St. Clair County Tim Donnellon, in his individual and official capacity, and Captain Tom Bliss, Sergeant Richard Oljenik, Sergeant David Szelog, Sergeant Philliben and Jail Chaplain Tom Seppo in their individual and official capacities from any and all claims, demands, actions or causes of action, whether known or unknown, which Plaintiff may have had or may now have arising out of his incarceration in the St. Clair County Jail, including, but not limited to, all claims asserted in this lawsuit, as well as attorneys' fees and costs.

6. Retention of Jurisdiction

The parties agree that the Court shall retain jurisdiction to enforce any and all terms of this Consent Decree through the time period of the consent decree.

**Read on this 31st day of January 2014 and approved as to substance and form by:**

/s/ Lena Masri  
Lena Fatina Masri (P73461)  
Council on American-Islamic  
Relations, Michigan  
Counsel for Plaintiff

/s/ Todd Shoudy  
Todd J. Shoudy (P41895)  
Fletcher Fealko Shoudy &  
Francis, P.C.  
Counsel for Defendants

/s/ Shereef Akeel  
Shereef H. Akeel (P54345)  
Akeel & Valentine, PLC

All parties having agreed, and the Court having reviewed it and found it equitable, it is hereby **ORDERED** that the consent decree is **ENTERED** on February 20, 2014.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: February 20, 2014

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S mail on February 20, 2014.

s/Shawntel Jackson \_\_\_\_\_