

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

DONALD LEE ARMOUR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:17-cv-02003-CSB
)	
CHAD KOLITWENZEW, et al.,)	
)	
Defendants.)	

SUMMARY JUDGMENT ORDER

On August 20, 2018, this Court entered a partial summary judgment order in this case [ECF 37], granting the parties thirty days to respond to the Court’s intent to enter judgment independent of the motion pursuant to Federal Rule of Civil Procedure 56(f). *See* Fed. R. Civ. P. 56(f) (requiring a court to provide the parties “notice and a reasonable time to respond” before the Court may “grant the motion on grounds not raised by a party”). The parties have timely filed a response [38, 40]. Plaintiff had also filed a motion to request counsel [39].

In his initial complaint, Plaintiff alleged, in part, that Defendants Michael Downey, the Kankakee County Sheriff; Chad Kolitwenzew, the Chief of Corrections at Jerome Combs Detention Center (JCDC); and Robert Schultz, the Assistant Chief of Corrections at JCDC, in their respective individual capacity, denied him the right to practice his religious beliefs in violation of his First Amendment rights. Specifically, Plaintiff claimed that Downey, Kolitwenzew, and Schultz failed to honor his numerous requests for a kosher vegan diet.

Despite Plaintiff’s claim regarding his communications with Defendants Downey, Kolitwenzew, and Schultz, the Court determined that (1) none of Plaintiff’s requests were

addressed to Downey; (2) despite addressing some of his requests to Kolitwenzew, Plaintiff did not provide any evidence that Kolitwenzew was aware of Plaintiff's requests or that Kolitwenzew responded; and (3) although Schultz did review and provide a response to one of Plaintiff's requests, it did not evince an intent to personally and unjustifiably place a substantial burden on Plaintiff's religious practices, and more important, Schultz's review of Plaintiff request did not establish his personal involvement. The Court concluded that Downey, Kolitwenzew, and Schultz were entitled to summary judgment because Plaintiff's failed to show their personal involvement in denying his requests for a kosher vegan diet, which was a basis not argued by Defendants in their motion for summary judgment.

In Plaintiff's response pursuant to Rule 56(f), he does not specifically address the personal involvement of Defendants Downey, Kolitwenzew, and Schultz. Instead, as Plaintiff argued in his response to Defendants' motion for summary judgment, he renews his claim that a genuine dispute exists because Kolitwenzew stated in his affidavit that Kankakee County has a "policy and practice of providing pork-free meals but denying inmate request for strictly Halal, Kosher, vegetarian, and vegan diets (unless medically required by a certified physician or as required by law to accommodate an inmate's sincerely held religious belief)" (32-10: p. 10:22; 40: p. 2:1.) Kolitwenzew's statement, however, neither proves his personal involvement nor that of Downey and Schultz.

Accordingly, the Court enters summary judgment on Plaintiff's claim that Defendants Downey, Kolitwenzew, and Schultz denied him the right to practice his religious beliefs in violation of his First Amendment rights.

IT IS THEREFORE ORDERED:

- 1) Plaintiff's motion to request counsel [39] is denied as moot.**

2) Defendants’ motion for summary judgment [32] is GRANTED pursuant to Fed. R. Civ. P. 56. The Clerk of the Court is directed to enter judgment in favor of Defendants and against Plaintiff. The case is terminated, with the parties to bear their own costs. All deadlines and internal settings are vacated. All pending motions not addressed in this Order are denied as moot. Plaintiff remains responsible for the \$350 filing fee.

3) If Plaintiff wishes to appeal this judgment, he must file a notice of appeal with this Court within 30 days of the entry of judgment. Fed. R. App. P. 4(a)(4). A motion for leave to appeal *in forma pauperis* MUST identify the issues the Plaintiff will present on appeal to assist the court in determining whether the appeal is taken in good faith. *See* Fed. R. App. P. 24(a)(1)(c); *see also Celske v Edwards*, 164 F.3d 396, 398 (7th Cir. 1999) (an appellant should be given an opportunity to submit a statement of his grounds for appealing so that the district judge “can make a reasonable assessment of the issue of good faith.”); *Walker v O’Brien*, 216 F.3d 626, 632 (7th Cir. 2000) (providing that a good faith appeal is an appeal that “a reasonable person could suppose...has some merit” from a legal perspective). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee regardless of the outcome of the appeal.

Entered on September 25, 2018.

s/ Colin S. Bruce

COLIN S. BRUCE
UNITED STATES DISTRICT JUDGE