UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RAFIQ SABIR and JAMES J. CONYERS, Plaintiffs, v. D.K. WILLIAMS, in her individual capacity and her official capacity as warden of FCI Danbury; HERMAN QUAY, in his individual capacity; and HUGH J. HURWITZ in his official capacity as acting director of the Federal Bureau of Prisons, Defendants.	:	Case No. 3:17-CV-00749 (VAB) June 1, 2018

SECOND AMENDED COMPLAINT

Plaintiffs Dr. Rafiq Sabir and Mr. James J. Conyers ("Plaintiffs"), by and through the undersigned counsel, pursuant to this Court's Orders of December 19, 2017 (ECF No. 16) and May 14, 2018 (ECF No. 34), file this Second Amended Complaint against Defendants and allege as follows:

PRELIMINARY STATEMENT

1. A central tenet of Islam is the obligation for adult Muslims to pray—perform *salah*—five times each day. These prayers, which take place during specific parts of the day (i.e., dawn, early afternoon, late afternoon, post-sunset, and evening) are a fundamental aspect of the Islamic faith. Performing *salah* is one of the Five Pillars of Islam; for the vast majority of Muslims it is considered a foundation of their religious life and identity. Many Muslims also believe that it is vital to perform *salah* in a group setting if there are other Muslims in the vicinity during prayer times.

2. Plaintiffs are incarcerated persons currently housed at Federal Correctional Institution Danbury ("FCI Danbury"), a low-security prison. Plaintiffs are Muslim and share the sincerely-held belief that their religion requires them to engage in daily congregational prayer whenever possible. Yet, Defendants have, without legitimate justification, imposed a policy that substantially restricts and effectively bars Plaintiffs—and other Muslim incarcerated persons housed at FCI Danbury—from engaging in this important religious practice.

3. In March 2014, Maureen Baird, who was at that time the warden of FCI Danbury, issued a policy that categorically limited the ability of Plaintiffs and other Muslim incarcerated persons to engage in congregational prayer. *See* FCI Danbury Institution Supplement no. DAN 5360.09F § 3(b)(2) (Mar. 28, 2014) (the "Policy"), attached hereto as Attachment A. Subsequent wardens, including Defendants Herman Quay and D.K. Williams, kept the Policy in effect. Under the terms of the Policy, prayer in groups of more than two is banned in all parts of the FCI Danbury complex except for the chapel facility. Given that incarcerated persons have very limited access to the chapel facility, the Policy effectively bans congregational prayer in FCI Danbury, making it impossible for Plaintiffs and other Muslim incarcerated persons to perform *salah* in accordance with their sincerely-held religious beliefs.

4. Defendants have failed to provide any valid security or other penological interest to support the Policy. The Federal Bureau of Prisons ("FBOP") has no formal policy banning congregational prayer in its facilities, and both Plaintiffs have been housed in other FBOP facilities that allowed incarcerated persons to engage in group prayer openly and without restriction. In fact, even after then-warden Baird enacted the Policy, certain incarcerated persons at FCI Danbury have at times been allowed to engage in congregational prayer when not in the

chapel facility. Plaintiffs are not aware of any security incidents or concerns that have arisen as a result of any of these congregational prayers.

5. The Policy, however, remains in effect and many corrections officers and other prison officials at FCI Danbury do strictly enforce its terms. For example, in October 2014, Plaintiff Sabir was engaged in congregational prayer with several other incarcerated persons in FCI Danbury's auditorium facility. A corrections officer dispersed the group and warned Plaintiff Sabir that he would face discipline if he violated the Policy and again engaged in congregational prayer. Similarly, in April 2018 another group of Muslim incarcerated persons were threatened with discipline for engaging in congregational prayer in violation of the Policy.

6. As a result of these and other actions Plaintiffs and other Muslim incarcerated persons at FCI Danbury are unable to adhere to their sincerely-held religious beliefs and engage in daily congregational prayer. Defendants' generalized prohibition of congregational prayer imposes a substantial burden on Plaintiffs' exercise of religion. Because the Policy neither furthers a compelling governmental interest nor represents the least restrictive means of furthering a compelling governmental interest, it violates Plaintiffs' rights under the First Amendment of the United States Constitution and the Religious Freedom Restoration Act ("RFRA").

7. Plaintiffs bring this action seeking a court order enjoining Defendants' effective ban on congregational prayer at FCI Danbury and further enforcement of the Policy. Defendants have acted and continue to act under color of law to deprive Plaintiffs of their statutory and constitutional rights. Plaintiffs are suffering irreparable injury and will continue to suffer a real and immediate threat of irreparable injury as a result of the existence, operation, and implementation of the challenged Policy. Plaintiffs also seek a declaratory judgment that the

Policy violates their statutory and constitutional religious freedom rights, and damages, an award of costs and attorneys' fees, and such other and further relief as this court deems just and proper.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1343.

9. This Court has jurisdiction to issue declaratory relief pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201 and 2202. Injunctive relief is authorized by Rules 57 and 65 of the Federal Rules of Civil Procedure and the Court's inherent equitable powers.

10. As detailed below, Plaintiffs have exhausted administrative remedies pursuant to 28 U.S.C. § 2675(a) and 42 U.S.C. § 1997e(b).

11. Venue lies in this district pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

12. Plaintiff Dr. Rafiq Sabir is a practicing Muslim and has identified as a member of the Sunni Muslim community for nearly 40 years. He is and was, at all times relevant hereto, an incarcerated person in the custody of FBOP. Dr. Sabir was transferred to FCI Danbury in July 2014 and since that time has been confined at FCI Danbury, excluding from approximately March 15, 2015 to July 2016 when he was transported to and confined in the Federal Medical Center Devens ("FMC Devens") and Metropolitan Detention Center Brooklyn, for surgery and medical treatment during his recovery from surgery.

13. Plaintiff James Conyers is a practicing Muslim who converted to Islam approximately 21 years ago. He is and was, at all times relevant hereto, an incarcerated person in the custody of FBOP. Mr. Conyers was transferred to FCI Danbury in September 2016 and has been confined at that facility since that time.

14. Defendant D.K. Williams is the current Warden of FCI Danbury and is legally responsible for the operation of FCI Danbury and for the welfare of all incarcerated persons in that prison. She is sued in her individual and official capacities.

15. Defendant Herman Quay was the Warden of FCI Danbury from July 2014 until December 2015. He is sued in his individual capacity.

16. Defendant Hugh J. Hurwitz[1] is the current Acting Director of FBOP and is legally responsible for the operation of all prisons within FBOP and for the welfare of all its incarcerated persons throughout FBOP. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. The Importance of Congregational Prayer

17. Within Islam there are a number of foundational tenets, known as the Five Pillars, to which all members of the faith are expected to adhere. One of those tenets is daily prayer or *salah*. With extremely limited exceptions, most Muslims who have reached the age of puberty are expected to pray five times each day.

18. The five daily prayer times are measured according to the movement of the sun: (i) pre-dawn/sunrise (*fajr*), (ii) early afternoon (*dhuhr*), (iii) late afternoon (*asr*), (iv) post-sunset (*maghrib*), and (iv) night (*isha*). During the month of Ramadan, an additional nightly prayer is required.

19. The most important prayer of the week is the Friday early afternoon prayer (*Ju'muah* service), which many Muslims believe must be prayed in congregation. As for the other daily prayers, many Muslims sincerely believe that observing prayer in congregation is also mandatory whenever possible (i.e., when they are in the presence or vicinity of other Muslims

[1] Pursuant to Federal Rule of Civil Procedure 25(d), Defendant Hurwitz is substituted in his official capacity for former Director of the FBOP Thomas Kane.

during prayer times), as it has more spiritual and social benefits than individual observance. For these believers, engaging in congregational prayer with the maximum number of practicing Muslims possible is required because such prayer multiplies the blessings and utility of prayer.

20. When Muslims engage in congregational prayer, participants stand in straight rows behind the person who leads the prayer, known as the *imam*.

21. When *salah* is performed in a group setting, there is a congregational prayer that takes approximately five minutes to perform. There are additional individual supplementary prayers made either immediately before or after the congregational prayer that generally take an additional two to five minutes.

22. The prayers follow a prescribed sequence of actions and words and the congregants do not converse among themselves during the prayers. Often, a large portion of the communal prayers are silent. The spoken portions of prayers can be performed in a manner that does not disturb others in the nearby vicinity.

23. For Plaintiffs Sabir and Conyers—as well as many other Muslim incarcerated persons housed at FCI Danbury—it is their sincerely-held religious belief that if two or more Muslims are together at a time of required prayer, they must pray together behind one prayer leader, and that it is not permissible to break up into smaller groups.

B. FCI Danbury's Restrictions on Congregational Prayer

24. FBOP has no formal policy that categorically bans congregational prayer in its facilities. Rather, the warden of each correctional facility within FBOP is tasked with determining whether any specific religious practice jeopardizes the facility's safety and security.

If so, the warden is authorized to temporarily restrict the practice and/or identify an alternative practice.[2]

25. A number of FBOP facilities permit incarcerated persons to engage in congregational prayer openly and without restriction. When confined at FMC Devens, Plaintiff Sabir was permitted to engage in congregational prayer at locations throughout that facility. He is not aware of any situations in which Muslim congregational prayer interfered with or disturbed the orderly function at FMC Devens.

26. Likewise, Plaintiff Conyers has been housed in a number of FBOP facilities, including Federal Medical Center Butner, Federal Prison Camp Montgomery, and both the Federal Correctional Institution and the Federal Prison Camp at Fort Dix. In those facilities, he was generally permitted to engage in daily congregational prayer. He is not aware of any situations in which Muslim congregational prayer interfered with or disturbed the orderly function at those facilities.

27. FBOP's Danbury facility houses three separate institutions: (i) Federal Prison Camp Danbury, a minimum-security prison housing approximately 194 incarcerated persons; (ii) Federal Satellite Low Danbury, a low-security all-female facility housing approximately 115 persons; and (iii) FCI Danbury, a low-security male FBOP facility housing approximately 836

[2] FBOP policy states that "The Warden may periodically review religious practices to determine whether a religious practice remains within the scope of best correctional practice and religious accommodation. If upon review, the Warden determines that a religious practice jeopardizes institution safety, security and good order, the practice may be temporarily restricted." FBOP Program Statement P5360.009(7)(a) (Dec. 31, 2004). The policy also provides "[w]hen necessary, Wardens may identify alternative practices and implement the least restrictive alternative consistent with the security and orderly running of Bureau institutions. *Id.* P5360.009(7)(d).

incarcerated persons.[3] Upon information and belief, approximately 150 of the persons incarcerated at FCI Danbury currently identify as Muslim.

28. As a low-security facility, incarcerated persons in FCI Danbury have a high degree of personal autonomy. Many of the housing units do not have locks on the doors of the living quarters—including G-Unit, where Plaintiff Conyers is housed, and H-unit, where Plaintiff Sabir is housed—and even in those units where locks are available, they are rarely used. Incarcerated persons at FCI Danbury routinely gather in large groups for prison-approved activities such as inmate-led fitness classes, card games, and sports, some of which can involve over 20 incarcerated persons at a time.

29. The primary recreation area of FCI Danbury includes a recreation yard, weight room, gymnasium, bathroom, wellness room, hobbycraft room, music room, video viewing area with game tables, the chapel facility, and several offices (together, "the recreation area"). Other areas accessible to incarcerated persons include the medical area, food services, education and housing facilities, laundry, the barber shop, and the prison work program area (together, the "other areas").

30. On March 24, 2014, then-warden Maureen Baird enacted the Policy, which severely restricted the ability of incarcerated persons to engage in congregational prayer. The Policy specifically provides:

> Congregate Prayer, outside of the Chapel, for all faith groups [*sic*] will follow the following guidelines:
>
> a) Must get the approval of the location to pray from work supervisor, program supervisor, etc.

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[3] See FBOP Population Statistics, https://www.bop.gov/about/statistics/population_statistics.jsp (select "Danbury" from "Facility" drop-down menu and press "Generate Report" button) (last visited June 1, 2018).

> b) Prayer individually or in pairs is permitted, however, group prayer of 3 or more is restricted to the Chapel.
> c) Prayers can be made at work detail sites, school, or units during break times.
> d) Prayer rug or clean towel is permitted to cover the floor.
> e) In cases of institutional emergency or instructed by staff [sic] prayers will be terminated.

FCI Danbury Institution Supplement DAN 5360.09F (Mar. 28, 2014).

31. The Policy prohibits congregational prayer in most parts of the FCI Danbury complex even though incarcerated persons are allowed to engage in other group activities in those spaces. FCI Danbury officials authorize many group activities in which large numbers of incarcerated persons gather. For example, card games in the recreation area often involve six to seven players, with another six to seven spectators watching the games. Group sports are permitted, including basketball, indoor hockey, soccer, volleyball, and softball. These games often involve between 10 and 20 incarcerated persons. Incarcerated persons at FCI Danbury are also regularly authorized to participate in and lead fitness classes, which can include as many as 20 individuals.

32. Although the Policy permits congregational prayer in FCI Danbury's chapel facility, incarcerated persons have sporadic access to the chapel facility. The chapel facility is only open when chapel staff are present and the facility's rooms are not already occupied or reserved by other individuals. While FCI Danbury officials have reserved a room in the chapel facility for the weekly *Ju'muah* service, it is frequently unavailable during other prayer times throughout the week. In addition, Muslim incarcerated persons are often required to be in other parts of the prison at prayer time for work duties, classes, medical reasons, or other reasons.

33. Defendants have offered no meaningful justification for the Policy. Plaintiffs are not aware of any incidents of congregational prayer interfering with or disturbing the orderly function of FCI Danbury notwithstanding the fact that Muslim incarcerated persons engage in

congregational prayer (i) for the weekly *Ju'muah* service, (ii) in the chapel facility when it is available, and (iii) in other areas of FCI Danbury where the Policy is inconsistently enforced. *See* Section D, *infra*.

C. Defendants' Enforcement of the Policy Prevents Plaintiffs from Practicing their Faith Consistent with Their Sincerely-Held Religious Beliefs

34. Defendants' enforcement of the Policy has infringed on Plaintiffs and other Muslim incarcerated persons' ability to engage in congregational prayer.

35. For example, in October 2014, Plaintiff Sabir was engaged in congregational prayer with two other incarcerated persons in the auditorium at FCI Danbury.

36. At all times before, during, and after the group prayer, Dr. Sabir and his fellow incarcerated persons conducted themselves peacefully, respectfully, and cooperatively, and they did not interfere with other incarcerated persons or the functioning and operation of FCI Danbury.

37. Towards the conclusion of the group prayer and while Dr. Sabir performed additional individual prayers, certain incarcerated persons who had participated in the congregational prayer were approached by a corrections officer.

38. The corrections officer informed the incarcerated persons that they had been observed by surveillance cameras performing congregational prayer and that such activity is only permitted in the chapel facility. The corrections officer also informed the incarcerated persons that violation of this rule may result in disciplinary action.

39. Following that exchange, Dr. Sabir and another corrections officer joined the conversation. The corrections officer informed the group that the Policy restricted congregational prayer to two people throughout the FCI Danbury complex, unless inside the chapel facility.

40. Dr. Sabir and the other incarcerated persons informed the corrections officers that their religion demanded they engage in congregational prayer five times a day and that the chapel facility was not available for them during all those times. In response, the corrections officers reiterated the terms of the Policy.

41. Even though it is Dr. Sabir's sincerely-held religious belief that he should participate in congregational prayer whenever possible, Defendants' enforcement of the Policy prevents him from doing so. As a result of the October 2014 incident, he is fearful that if he engages in daily congregational prayer he will be subjected to discipline and sanction.

42. Defendants' enforcement of the Policy also prevents Plaintiff Conyers from engaging in daily congregational prayer as mandated by his sincerely-held religious beliefs.

43. Since coming to FCI Danbury, Mr. Conyers has been repeatedly informed that congregational prayer outside of the chapel facility is not permitted. Rather than risk discipline for engaging in congregational prayer—even though the practice is mandated by his religious beliefs—Mr. Conyers has refrained from engaging in congregational prayer on many occasions.

44. Because of their inability to perform daily prayer in congregation, Plaintiffs have been forced to choose between acting in accordance with their sincere religious beliefs and facing discipline at the prison, including possible solitary confinement and loss of other privileges. This choice has caused the Plaintiffs mental and physical distress.

45. Defendants continue to enforce the Policy at FCI Danbury. Upon information and belief, in April 2018, FCI Danbury staff approached several Muslim incarcerated persons who were engaged in congregational prayer and informed them that they would be issued disciplinary write-ups and face other sanctions if they continued to engage in congregational prayer.

46. Defendants' enforcement of the Policy has a chilling effect on the ability of Plaintiffs and other Muslim incarcerated persons to practice their faith in a manner consistent with their sincerely-held religious beliefs. In spring 2017, officials at FCI Danbury circulated a flyer to the incarcerated persons which cited to the Policy and stated that "group prayer of 3 or more is restricted to the Chapel" and "Staff Will be Enforcing This Policy." Upon information and belief, in recent months at least two other Muslim incarcerated persons at FCI Danbury have filed grievances against the Policy and its restrictions on congregational prayer.

D. Defendants' Inconsistent Application of the Policy Demonstrates that Congregational Prayer Does Not Jeopardize the Safety or Security of FCI Danbury

47. The Policy is not applied equally throughout FCI Danbury, depending on which members of staff are on duty at the time and the area of the prison. Within the recreation area, the Policy is generally strictly enforced by FCI Danbury staff members. Throughout the other areas, the Policy is applied inconsistently, often depending on which staff members are present at the time. Some counselors, case managers, and unit managers strictly enforce the Policy in these areas, while others turn a blind eye.

48. For example, in some housing units, corrections officers allow Muslim incarcerated persons to pray in congregation during morning prayers. Similarly, Muslim incarcerated persons have been permitted to engage in congregational prayer in an outdoor space adjacent to the chapel facility.

49. Plaintiffs are not aware of any security issues occurring during these congregational prayer sessions. Because incarcerated persons who identify as Muslim are often spread out in different parts of the FCI Danbury complex, the groups are often small (usually around three to six people). The prayers usually last five minutes or less.

50. The lack of clarity about Defendant's enforcement of the Policy continues to chill Plaintiffs and other Muslim incarcerated persons from practicing in a manner consistent with their sincerely-held religious beliefs. Plaintiffs can never be assured of their ability to engage in daily congregational prayer, even though the actions of FCI Danbury staff make clear that the practice does not jeopardize the facility's safety and security.

E. Plaintiffs Have Exhausted All Administrative Remedies

51. Plaintiff Sabir fully exhausted his administrative remedies. The documents reflecting this exhaustion are attached hereto as Attachment B.

52. During the grievance process, Dr. Sabir informed FCI Danbury and other FBOP officials that the Policy violates his sincerely-held religious beliefs, and that FCI Danbury could allow him and other Muslim incarcerated persons to engage in daily congregational prayer without jeopardizing the facility's safety. FCI Danbury and FBOP officials denied his grievance and the subsequent appeals, and failed to provide any meaningful justification for the Policy.

53. Plaintiff Conyers has also fully exhausted his administrative remedies. The documents reflecting this exhaustion are attached hereto as Attachment C.

54. During the grievance process, Mr. Conyers informed FCI Danbury and other FBOP officials that the Policy violates his sincerely-held religious beliefs, and that FCI Danbury could allow him and other Muslim incarcerated persons to engage in daily congregational prayer without jeopardizing the facility's safety. FCI Danbury and FBOP officials denied his grievance and the subsequent appeals, and failed to provide any meaningful justification for the Policy.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
(Violation of First Amendment Free Exercise of Religion)

55. Plaintiffs repeat and reallege the allegations contained in the prior paragraphs.

56. The First Amendment protects the rights of all persons to freely exercise their religious beliefs.

57. By implementing and arbitrarily enforcing the Policy and refusing to allow Plaintiffs to participate in daily congregational prayer as required by their sincerely-held religious beliefs, Defendants Williams and Hurwitz, acting under color of law and their authority as Warden of FCI Danbury and Acting Director of the FBOP, respectively, and Herman Quay, acting under color of law in his individual capacity, intentionally or recklessly violated Plaintiffs' right to free exercise of religion guaranteed to them under the First Amendment to the United States Constitution and substantially burdened Plaintiffs' sincerely held religious beliefs.

SECOND CAUSE OF ACTION
(Violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq*.)

58. Plaintiffs repeat and reallege the allegations contained in the prior paragraphs.

59. By implementing and arbitrarily enforcing the Policy and refusing to allow Plaintiffs to participate in daily congregational prayer as required by their sincerely-held religious beliefs, Defendants Williams and Quay, acting under color of law and their authority as Wardens of FCI Danbury, and Defendant Hurwitz, acting under color of law and his authority as Acting Director of the FBOP, have imposed and continue to impose substantial burdens on the religious exercise of Plaintiffs in violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq*.

60. These substantial burdens are not imposed in furtherance of any compelling governmental interest nor are they the least restrictive means of furthering any governmental interest.

DEMAND FOR JURY TRIAL

Plaintiffs request a trial by jury for all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1) Declare that the Policy violates the First Amendment of the United States Constitution and the Religious Freedom Restoration Act on its face and as applied to the Plaintiffs;

2) Enter an injunction ordering Defendants to permit congregational prayer at FCI Danbury and to refrain from enforcing any policy that prohibits such practice;

3) Award Plaintiffs compensatory damages against Defendants Williams and Quay in their individual capacities, in an amount to be proved at trial;

4) Award Plaintiffs nominal and punitive damages against all Defendants in an amount to be proved at trial;

5) Award Plaintiffs the costs of this action, including reasonable attorneys' fees; and

6) Award any other relief the Court deems just and equitable.

Dated: June 1, 2018

Respectfully submitted,

By: /s/ Matthew W. Callahan

Johnathan J. Smith (No. phv09573)
Matthew W. Callahan (No. phv09574)
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2018, a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will provide notice to all defendants who have entered an appearance in the case. I certify that I notified the following defendants by mail:

Herman Quay
Warden
Metropolitan Detention Center Brooklyn
80 29th St.
Brooklyn, NY 11232

D.K. Williams (individual capacity)
Warden
FCI Danbury
Route 37
Danbury, CT 06811

/s/ Matthew W. Callahan
Matthew W. Callahan

Attachment A

U.S. Department of Justice
Federal Bureau of Prisons
Federal Correctional Institution
Danbury, Connecticut

Institution Supplement

Number: **DAN 5360.09F**
Date: **March 28, 2014**
Subject: **Religious Beliefs and Practices**

PURPOSE: To establish local procedures in reference to the religious beliefs and practices of the inmate population at FCI, Danbury, Connecticut.

1. DIRECTIVES AFFECTED:

a. Directives Rescinded:

DAN 5360.09E Religious Beliefs and Practices (06/03/2012)

b. Directives Referenced:

P.S. 5266.09 Incoming Publications (01/10/2003)
P.S. 5360.09 Religious Beliefs and Practices (12/31/2004)
P.S. 5553.06 Escapes/Death Notification (8/23/99)
P.S. 5580.06 Inmate Personal Property (07/19/1999)

2. CORRECTIONAL STANDARDS:

a. American Correctional Association Standards for Adult Correctional Institutions 3rd Edition:

1) 3-4261, 3-4265, 3-4274,3-4300, 3-4301, 3-4374, 3-4375, 3-4387, 3-4454, 3-4455, 3-4456, 3-4457, 3-4458, 3-4459, 3-4460, 3-4461, 3-4462, 3-4463, 3-ALDF-3D-24, 3-ALDF-3E-04, 3-ALDF-4C-07, 3-ALDF-4C-08, 3-ALDF-4E-44, 3-ALDF-4E-45, 3-ALDF-4F-04, 3-ALDF-5F-01, 3-ALDF-5F-02, 3-ALDF-5F-03, 3-ALDF-5F-04, 3-ALDF-5F-05, 3-ALDF-5F-06, 3-ALDF-5F-0, 3-ALDF-5F-09, and 3-ALDF-5F-10

b. American Correctional Association 2nd Edition Standards for the Administration of Correctional Agencies:
1) 2-CO-5E-01

3. **PROCEDURES**:

a. Serious Illness and Death Notifications:

1) The Chaplain will be responsible for the notification of serious illness or death of an inmate's family member. The *Notification of Injury/Illness or Death*, (Attachment 1), will be completed and copies forwarded to the appropriate departments. In the event a Chaplain is not available, the Operations Lieutenant will verify the information, notify the inmate, and forward the notification form to Religious Services.

2) Staff will notify the Chaplain immediately upon the death or imminent death of an inmate. The Chaplain will notify the inmate's family in accordance with PS 5553.05, *Escape/Death Notifications*. The Chaplain will convey the wishes of the family to the Warden, and advise of any religious practices which may influence the performance of an autopsy.

b. Call outs, Congregate Prayer, Religious Holy Days, Special Activities, Ceremonial Meals, Religious Diet, Religious Fasts, Marriage:

1) Call outs

a) Callouts to programs in the Chapel will be restricted to those inmates whose religious preference reflects the religion of the scheduled program.

2) Congregate Prayer, outside of the Chapel, for all faith groups will follow the following guidance:
   a) Must get the approval of the location to pray from work supervisor, program supervisor, etc.
   b) Prayer individually or in pairs is permitted, however, group prayer of 3 or more is restricted to the Chapel.
   c) Prayers can be made at work detail sites, school, or units during break times.
   d) Prayer rug or clean towel is permitted to cover the floor.
   e) In case of institutional emergency or instructed by staff prayers will be terminated.

3) Religious Holy Days and Special Activities:

a) Inmates wishing to participate in Holy Days, public fasts, and ceremonial meals must apply in writing to the Chaplain

Attachment B

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: SABIR, RAFIQ A. | 55312-066 | F | FCI DANBURY
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

Part A- INMATE REQUEST The [redacted] policy for congregational prayer at FCI Danbury specifying "Prayer individually or in pairs is permitted", and that "group prayer of 3 or more is restricted to th Chapel", is in violation of the First Amendment Free Exercise Clause as interpreted for inmates by the Supreme Court of the United States, which specifies that the least restrictive means must be used, and that a valid explanation must be given to any such restrictions instituted. Here at FCI Danbury no such valid explanation has been given.for the restrictions instituted. In addition, the recent decision in John Walker Lindh v. Warden, Terre Haute in the Seventh Circuit clearly explained that such restrictions without valid reasons is a violation of the Free [redacted] Exercise Clause.

1 November 2014
DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 862141-F1

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

PRINTED ON RECYCLED PAPER

BP-229(13)
APRIL 1982

REQUEST FOR ADMINISTRATIVE REMEDY
SABIR, Rafiq
Register Number 55312-066

PART B - RESPONSE 802141-F1

This is in response to your Request for Administrative Remedy in which you state that your First Amendment Free Exercise Clause is being violated due to the restrictions on congregate prayer and that no valid explanation has been given.

A review of the record in this matter reveals that your First Amendment Free Exercise Clause is not being violated. Contrary to your claims congregate prayer is not restricted at the institutional level per Institutional Supplement 5360.09F section 3. b. 2, which specifies congregate prayer, outside of the Chapel, for all faith groups will follow the following guidance: Prayer individually or in pairs is permitted, however, group prayer of 3 or more is restricted to the Chapel. Additionally, congregate prayer is permitted in the Chapel.

Based on the above information your request is for informational purposes.

If you are dissatisfied with this response, you may appeal to the Regional Director at Bureau of Prisons, Northeast Regional Office, U.S. Customs House, 7th Floor, 2nd and Chestnut Streets, Philadelphia, Pennsylvania, 19106. Your appeal must be received by the Regional Office within 20 calendar days of the date of this response.

H. Quay, Warden

1/27/15
Date

U.S. Department of Justice

Federal Bureau of Prisons

Regional Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: SABIR, RAFIQ A.	55312-066	F	FCI DANBURY
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A - REASON FOR APPEAL Danbury institutional policy violates my first amendment right to free exercise by restricting my ability to pray in congregation to the chapel, or individually or in pairs outside the chapel. My religious beliefs, according to Hanbali Math-hab, requires that I pray in congregation for all prayers. Danbury policy is overly burdensome and contradicts my religious beliefs, and therefore conflicts with Lindh v. Warden Terre Haute 2013. In the warden's response he contradicts himself, stating, "congregate prayer is not restricted", and then states, "group prayer of 3 or more isrestricted" The warden has given no reason for this restriction, and therefore the policy violates my free exercise right.

** See attachment.

4 February 2015
DATE

SIGNATURE OF REQUESTER

Part B - RESPONSE

See Attached Response

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 802141-A2

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____ _____ _____ _____
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

BP-230(13)

RAFIQ SABIR #55312-066

v.

WARDEN, FCI DANBURY

SWORN STATEMENT IN SUPPORT OF BP-10
Re: PRAYER IN CONGREGATION

1. I, Rafiq Sabir declare that I am petitioner in above stated issue.
2. The following declarations are being made in support of that.
3. The facts contained herein are based on my first-hand knowledge, observations and experiences, except where otherwise noted.
4. I am a Sunni Muslim, and I have been strictly following my faith for over thirty years.
5. Prayer in congregation is a requirement of my religious beliefs.
6. I have not seen nor heard of any incident here at FCI Danbury since it opened as a men's facility in March 2014 involving congregational prayer that caused even the slightest possible security issue.
7. In or around October 2014, after three Muslims, including myself, were observed praying in congregation in the auditorium, I was informed by a corrections officer and a lieutenant that prayer in congregation is only permissible in the chapel by FCI Danbury policy. This policy was verified by the response to BP-8 filed immediately after that.
8. On 3 November 2014 I filed BP-9; I received two extensions from the warden, the second one ending 30 December 2014. As of today 8 January 2015 I have not received any response nor any further notice of extensions from the warden.
9. On 2 January 2015 I informed my counselor that I did not receive a response, and so she sent an e-mail to the warden's secretary regarding the lack of response as I stood there in her office.
10. Today I requested form BP-10 because by FBOP rule no response means a denial; and she agreed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 8 January 2015

BY: _____
RAFIQ SABIR #55312-066

FCI DANBURY
33 1/2 Pembroke Rd.
Danbury, Connecticut 06811

SABIR, Rafiq
Reg. No. 55312-066
Appeal No. 802141-R2
Page One

Part B - Response

You appeal the response of the Warden at FCI Danbury in which he explained the availability of prayer opportunities at that institution. You claim institution policy regarding prayer violates your free exercise rights. It appears you seek permission to conduct group prayer or congregational prayer throughout the institution.

FCI Danbury permits inmates to pray in pairs in areas throughout the institution which have been determined by staff to not disrupt the orderly running of the institution. In addition, groups larger than two are accommodated in the chapel when staff supervision and scheduling of space permits this to occur. As such, you have not been denied the opportunity to pray with other inmates. You have been provided a reasonable, least restrictive alternative of accommodating prayer by groups of three or more inmates in the chapel when the schedule permits. Accordingly, your appeal is denied.

If you are dissatisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons. Your appeal must be received in the Administrative Remedy Section, Office of General Counsel, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534, within 30 calendar days of the date of this response.

Date: March 11, 2015

J. L. NORWOOD
Regional Director

...of Justice
...au of Prisons

Central Office Administrative Remedy Appeal

...e or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: SABIR, RAFIQ A. 55312-066 P-3 FMC DEVENS
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

Part A—REASON FOR APPEAL

This BP-11 was delayed because I did not receive the BP-10 response from the region until 7 April 2015. See Sworn Statement in support of BP-11 attached. The FBOP policy to restrict congregational prayer outside the chapel violates my free exercise religious right of the First Amendment, despite the fact of my conviction and incarceration. See Lindh v. Warden Terre Haute and Sworn Statement in support of BP-11. FCI Danbury is a low level security facility, housing males merely one year; and during that time there have been no incidents involving group prayer to justify restricting my free exercise of my religious beliefs. In the warden's response to my BP-9 he contradicted himself when he wrote, "congregational prayer is not restricted ...", an prayer ... is not restricted." He failed to demonstrate a clear need to restrict group prayer outside the chapel to pairs, as stated in the institutional policy; according to law (Religious Land Use Act) and Lindh, this policy is in violation of law and court precedent. The regional director's appraisal was accurate when s/he stated that I seek permissiono conduct group prayer ... throughout the institution." However, the FBOP policy for group prayer outside the chapel is not the "least r

28 APRIL 2015
DATE

SIGNATURE OF REQUESTER

Part B—RESPONSE

RECEIVED
MAY 04 2015
Administrative Remedy Office
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 802141

Part C—RECEIPT

CASE NUMBER:

Return to:
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT:

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

USP LVN

Printed on Recycled Paper

BP-231(13)
APRIL 1982

Administrative Remedy No. 802141-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you claim institution policy regarding congregate prayer violates your free exercise of religious rights.

We have reviewed the documentation related to your appeal and concur with the response provided by the Warden and Regional Director. As outlined in the local policy for FCI Danbury, prayers are allowed outside of the Chapel area for groups of two or as an individual; however, prayers involving three or more inmates are considered congregate and must be performed in the Chapel area under staff supervision. In accordance with Program Statement 5360.09, Religious Beliefs and Practices, the institution's Chaplaincy Services staff is providing you with a reasonable and equitable opportunity to pursue your religious beliefs and practices.

We encourage you to work with the institution's Chaplaincy Services staff regarding any other religious needs that may arise.

Accordingly, this response is for informational purposes only.

9/27/16
Date

Ian Connors, Administrator
National Inmate Appeals

Attachment C

5/11/17

REQUEST FOR ADMINISTRATIVE REMEDY

...e ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

...ERS JAMES J	25915-083	G-A	DANbury
...ST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

...MATE REQUEST The Warden's Policy of Banning group prayer, ...ept for only two people prevents me from Fulfilling my religious obligations. I follow the Hanbali School, which requires me to praying in Congregation, and we are not allowed to break up into groups of two for our prayer (5) Times a day everyday. The Chapel is not available for group Prayer (5) times a day. The Warden's Policy violates my First Amendment right. I am being harmed as long as I am Prevented from group prayer. This Policy must change.

05-16-2017
DATE

James Conyers
SIGNATURE OF REQUESTER

Part B– RESPONSE

Please see attached

DATE

WARDEN OR REGIONAL DIRECTOR

...satisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

...OND COPY: RETURN TO INMATE CASE NUMBER: 902357-F1

...t C– RECEIPT CASE NUMBER:

...rn to:

LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

...ECT:

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

LVN

PRINTED ON RECYCLED PAPER

BP-...

REQUEST FOR ADMINISTRATIVE REMEDY
Part B - Response

Name: CONYERS, James

Admin. Remedy Case #: 902357-F1

Reg. No.: 25915-083

Unit: G-A

This is in response to your Request for Administrative Remedy, dated May 16, 2017, in which you claim the policy that describes group prayer violates your first amendment right.

Institutional Supplement 5360.09G Religious Beliefs and Practices, dated May 1, 2017, page 2, section 3b(2a) states that "Congregate Prayer, outside of the Chapel, for all faith groups will follow the following guidance: Prayer individually or in pairs is permitted, however, group prayer of 3 or more is restricted to the Chapel."

Furthermore, in consulting with Muslim Imams, the Religious Services Department has been given the guidance that the five (5) daily prayers do not need to be done in groups of three (3) or more.

Accordingly, your Request for Administrative Remedy is denied.

If you are not satisfied with this decision, you may appeal to the Regional Director at Bureau of Prisons, Northeast Regional Office, U.S. Customs House, 7th Floor, 2nd and Chestnut Streets, Philadelphia, Pennsylvania, 19106. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

D.K. Williams

D.K. Williams, Warden

5/19/17

Date

(4) 5/30/17

U.S. Department of Justice — Regional Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From:	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION
	CONYERS, JAMES	25915-083	G-A	Danbury

Part A - REASON FOR APPEAL

I am appealing the Warden's denial of my request to change the policy banning group prayer except in the chapel, Because the Warden's denial is a violation of my First Amendment rights of free exercise of my Religion. The Warden has not given any over riding Government interest to support the Ban, and so it violates RFRA and RLUIPA. I am a follower of Hanbali School of Islam, which requires me to pray in congregation (5) times a day. It is not permissible for me to break up our congregation into pairs as the Warden's policy requires. Whoever the Warden consulted cannot represent my personal beliefs. The policy must change.

5-30-2017
DATE

James Conyers
SIGNATURE OF REQUESTER

Part B - RESPONSE

CONYERS, James
Reg. No. 25915-083
Appeal No. 902357-R1
Page One

Part B - Response

You appeal the response of the Warden at FCI Danbury denying your request for a change in policy relating to group prayer. You allege the Warden has banned group prayer, except for two people, in areas other than the chapel. You state that your religion prohibits dividing the congregation in groups of two for the purpose of prayer and, claim the policy violates your First Amendment right. You request a change in policy.

Program Statement 5360.09, Religious Beliefs and Practices, states, institutions shall have space designated for the conduct of religious activities. This designated space will be sufficient to accommodate the needs of all religious groups in the inmate population fairly and equitably.

Institutional Supplement 5360.09G, Religious Beliefs and Practices, states, group prayer occurring outside the Chapel, for all faith groups, is restricted to individuals or pairs. Group prayer of three or more is restricted to the Chapel.

A review of this matter reveals that the institution's policy on prayer does not ban group prayer. Instead, the policy provides the necessary structure to promote equity among all faith groups in regards to prayers in the chapel area. This allowance offers you a least restrictive alternative when congregational prayer cannot be accommodated. Accordingly, your appeal is denied.

If you are dissatisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons. Your appeal must be received in the Administrative Remedy Section, Office of General Counsel, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534, within 30 calendar days of the date of this response.

Date: July 5, 2017

M.D. CARVAJAL
Regional Director

U.S. Department of Justice

Federal Bureau of Prisons

7/7/17

Central Office Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From CONYERS, JAMES, JR (LAST NAME, FIRST, MIDDLE INITIAL) 25915-083 (REG. NO.) G-A (UNIT) FCI Danbury (INSTITUTION)

Part A—REASON FOR APPEAL

The First Amendment guarantees free exercise of Religi
Even for inmates, unless there is some overriding governmen
interest. My Religion's beliefs require that I pray in con-
gregation, and not limited to pairs as the FBOP and the
institutional Policy states. The institution has not given any
overriding interest to limit my prayer in Congregation to pairs,
Therefore FCI Danbury and FBOP are in violation of the
United States Constitution. I am being harmed due to the polic
and so I want that Policy to be rescinded.

7-10-2017
DATE

James Conyers
SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

Part C—RECEIPT

CASE NUMBER:

Return to: LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT:

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

U.S. Department of Justice — Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

7.24.17

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From:	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION
	Conyers, James, Junior	25915-083	G-A	FCI Danbury

Part A—REASON FOR APPEAL IN Re BP-11 ON Congregational Prayer: This is the second BP-11 ON this issue. The first one was sent ON 7-11-2017 which is without BP-10 Because The Region did NOT return it until 7-11-2017 which is afte I mailed BP-11 and it was over due (due date 7-5-2017) The first BP-11 was not returned, I However felt a need to refile now that I have the BP-10 response The first Amendment Guarantees free exercise of Religion even for Inmates, unles There is some overriding Government interest, my Religions beliefs require that Pray in Congregation, and not limited to pairs as the FBOP and institutional Polic states. The institution has not given any overriding interest to limit my praye in Congregation to pairs, Therefore FCI Danbury and FBOP are in violation of the United States Constitution. I am being harmed due to the Policy, and so I want that Policy rescinded.

7-26-2017
DATE

James Conyers
SIGNATURE OF REQUESTER

Part B—RESPONSE

AUG 07 2017

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 902357-A1

Part C—RECEIPT

CASE NUMBER:

Return to: LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT:

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

USP LVN

BP-231(13)
APRIL 1982

Administrative Remedy No. 902357-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you appeal the decision of the Warden and Regional Director regarding your request for a change in policy at FCI Danbury concerning group prayer. Specifically, you allege the current policy bans group prayer, except for two people, in areas other than the Chapel. You claim your religion requires that you pray in congregation, and not limited to groups of two. You state the current policy violates your First Amendment right. For relief, you are requesting a change in policy.

We have reviewed documentation relevant to your appeal and, based on the information gathered, concur with the manner in which the Warden and Regional Director addressed your concerns at the time of your Request for Administrative Remedy and subsequent appeal. Program Statement 5360.09, Religious Beliefs and Practices states the Bureau of Prisons provides inmates of all faith groups with reasonable and equitable opportunities to pursue religious beliefs and practices, within the constraints of budgetary limitations and consistent with the security and orderly running of the institution and the Bureau of Prisons. As indicated in the lower level responses to this appeal, the institution's policy on prayer does not ban group prayer; instead, the policy provides the necessary structure to promote equity among all faith groups in regards to prayers in the Chapel area. Further, the institution is allowing prayers in groups of two as the least restrictive alternative in order to afford inmates with more opportunities to practice this religious observance consistent with security and budgetary constraints.

The Chaplaincy Services Department is responsible for planning and supervising all religious activities in a manner consistent with the security and orderly running of the institution, and the safety of staff and inmates. We encourage you to continue working with the institution Chaplaincy Services staff to address any additional religious needs you may have.

Accordingly, your appeal is denied.

10/24/17
Date

Ian Connors, Administrator
National Inmate Appeals WSM