

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

|                              |   |                                    |
|------------------------------|---|------------------------------------|
| RAFIQ SABIR, <i>et al.</i> , | ) |                                    |
| Plaintiffs,                  | ) |                                    |
|                              | ) |                                    |
| v.                           | ) | Civil Action No. 3:17-cv-749 (VAB) |
|                              | ) |                                    |
| D.K. WILLIAMS, WARDEN FCI    | ) |                                    |
| DANBURY, <i>et al.</i> ,     | ) |                                    |
| Defendants.                  | ) | September 14, 2018                 |

**DEFENDANTS' MOTION TO DISMISS  
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants D.K. Williams, Herman Quay, and Hugh Hurwitz move to dismiss the Second Amended Complaint filed on June 1, 2018 [ECF No. 36] on the following grounds:

- First, the Supreme Court's decision in *Ziglar v. Abbasi*, 137 S. Ct. 1843 (2017) bars Plaintiffs' *Bivens* claims against Defendants Williams and Quay, in their personal capacities, because Plaintiffs seek to extend the *Bivens* remedy to a new context, alternative processes exist to protect Plaintiffs' interests, and multiple special factors counsel hesitation against creating a free-standing damages remedy in this case.
- Second, Plaintiffs' personal-capacity claims against Defendants Williams and Quay under the First Amendment and the Religious Freedom Restoration Act (RFRA) are barred by qualified immunity. Neither the Supreme Court nor the Second Circuit has ever recognized any right of inmates to pray in all areas of a federal prison together "with the maximum number of practicing Muslims possible." Compl. ¶ 19. Plaintiffs have failed to allege that the conduct of Defendants Williams or Quay personally violated any clearly established constitutional or statutory right.

- Finally, Plaintiffs' official-capacity claims against Defendants Williams and Hurwitz fail to state a claim for relief under RFRA or the First Amendment because (1) the Second Amended Complaint fails to allege facts showing that the prison's policy substantially burdens the free exercise of religion, and (2) sovereign immunity bars any attempt to recover money damages from the Defendants in their official capacities.

Accordingly, Defendants respectfully request that the Court grant this motion and dismiss Plaintiffs' Second Amended Complaint in its entirety. A supporting memorandum of law accompanies this motion.

Dated: September 14, 2018

Respectfully submitted,

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**CERTIFICATION**

I hereby certify that on September 14, 2018, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by electronic mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated in the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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