IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE

WESTERN DIVISION

BOAZ PLEASANT-BEY,

Plaintiff,

No. 2:17-cv-02502-TLP-tmp v.)

SHELBY COUNTY GOVERNMENT, ROBERT MOORE, GATEWOOD, and ARMARK,

Defendants.

ORDER DIRECTING CLERK TO MODIFY THE DOCKET, PARTIALLY DISMISSING COMPLAINT, AND DIRECTING THAT PROCESS BE ISSUED AND

SERVED ON THE REMAINING DEFENDANTS

Plaintiff Boaz Pleasant-Bey, an inmate at the Trousdale Turner Correctional Center (TTCC) in Hartsville, Tennessee, 1

sued pro se under 42 U.S.C. § 1983 and moved to withdraw the $350.00 civil filing fee ECF No. 1; ECF No. 2.) prior

incarceration at the Shelby County Jail (SCJ) in Memphis, Tennessee. (Compl., ECF No. 1 at PageID 1.) The Court then issued an order extending the time to comply fully with 28 U.S.C. § 1915(a)(2). (Order, ECF No. 4.) Plaintiff then submitted a new motion to withdraw the $400.00 filing fee from his prison trust fund account and to dismiss his previous motion. (Mot., ECF No. 5.) The Court grantand denied

1 the TDOC website, however, he now is in custody at TTCC. The Clerk is DIRECTED to please

leave to proceed in forma pauperis under the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a) (b). (Order, ECF No. 6.) The Clerk is ordered to record the Defendants as Shelby County;

Robert Moore, Chief Jailer at Shelby County Jail; Detention Response Team Officer First Name Unknown (FNU) Gatewood; and Aramark. 2

BACKGROUND Plaintiff asserts that he is a Muslim and, as a Muslim, he wears a kufi or turban and eats only traditional halal foods. (Compl., ECF No. 1 at PageID 2 3.) He alleges that a staff member at SCJ told him that he could not wear a kufi in the jail per Chief Moore . (Id. at PageID 3.) Also Defend kufi, forcing Plaintiff to remove it and walk to his cell. (Id.)

Plaintiff continues to allege enforced unconstitutional policies/customs that prohibit inmates from conducting religious Id. at PageID 4.) For example, Plaintiff states that SCJ policy prohibited him from p prayer on two dates in the summer of 2017. (Id.) Plaintiff also alleges that Shelby County and Chief Moore have not hired a qualified Sunni Muslim Imam to hold these services, yet these Defendants have hired several Christian Chaplains and hold weekly church services at the jail. (Id.) Plaintiff next claims that Aramark and Shelby County have treated Muslim inmates unfairly by failing to provide halal food options. (Id. at PageID 5.) Plaintiff alleges that

2 complaint make clear that Plaintiff intends to sue Aramark, food service provider to SCJ. The Clerk is DIRECTED to please MODIFY the docket with the correct spelling for this Defendant.

Defendants give Muslim inmates the same non-halal food as the general prison population despite their religious beliefs. (Id.) Plaintiff asserts that these policies violate his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc(a)(1)(A) (B), the Free Exercise and Establishment Clause of the First Amendment, and the Equal Protection Clause of the Fourteenth Amendment. (Id. at PageID 3 4.) Plaintiff sues the Defendants in their official and individual capacities and seeks monetary damages and abolition of all contested policies. (Id. at PageID 5.)

LEGAL STANDARDS I. Twenty-eight U.S.C. § 1915A Screening Requirements The Court has to screen prisoner complaints and to dismiss any complaint, or any portion of them, if the complaint

(1) is frivolous, malicious, or fails to state a claim upon which relief may be

granted; or (2) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b); see also 28 U.S.C. § 1915(e)(2)(B). In assessing whether the complaint states a claim on which relief may be granted, the standards under Federal Rule of Civil Procedure 12(b)(6), as stated in Ashcroft v. Iqbal, 556 U.S. 662, 677 79 (2009), and in Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 57 (2007), are applied. Hill v. Lappin, 630 F.3d 468, 470 71 (6th Cir. 2010). The Court accepts the - r the ggest an entitlement to relief. Williams v. Curtin, 631 F.3d 380, 383 (6th Cir. 2011) (quoting Iqbal, 556 U.S. at 681) Iqbal,

556 U.S. at 679 claim showing that the plead Rule 8(a) requires factual

Twombly, 550 U.S. at 555 n.3. Courts recognize that pro se litigants are rarely lawyers but they do not give pro se complaints special consideration. Pro se Williams, 631 F.3d at 383 (quoting Martin v. Overton, 391 F.3d 710, 712 (6th Cir. 2004)). Pro

se litigants, however, are not exempt from the requirements of the Federal Rules of Civil Procedure. Wells v. Brown, 891 F.2d 591, 594 (6th Cir. 1989); see also Brown v. Matauszak, 415 F. (affirming dismissal of pro se complaint for Life Ins. Co., 518 F.2d 1167, 1169 (6th Cir. 1975))).

II. Requirements to State a Claim Under 42 U.S.C. § 1983 Plaintiff filed his complaint under 42 U.S.C. § 1983. To state a claim under § 1983, a

ed States, and (2) that a defendant caused harm while acting under color of state law. Adickes v. S.H. Kress & Co., 398 U.S. 144, 150 (1970). For his complaint to succeed, Plaintiff must satisfy these requirements.

ANALYSIS I. Religious Headwear A. relief.

Plaintiff alleges that Chief Moore enacted a policy prohibiting religious headwear at SCJ, and that Officer Gatewood enforced that policy and on one occasion tried to forcibly remove the kufi Plaintiff was wearing. (Compl., ECF No. 1 at PageID 3.) -capacity claims against Chief Moore and Officer Gatewood are construed as against Shelby County. The complaint, however, does not state a valid § 1983 claim against Shelby County. When a Plaintiff asserts a § 1983 claim against a municipality or county, the court must analyze two distinct issues: (1) was caused by a constitutional violation; and (2) if so, whether the municipality or county is responsible for that violation. Collins v. City of Harker Heights, Tex., 503 U.S. 115, 120 (1992). because it employs a tortfeasor or, in other words, a municipality cannot be held liable under §

1983 on a respondeat superior ., 436 U.S. 658, 691 (1978) (emphasis in original); see also Searcy v. City of Dayton, 38 F.3d 282, 286 (6th Cir. 1994). A municipality is not responsible for a constitutional deprivation unless there is a direct causal link between a municipal policy or custom and the alleged constitutional deprivation. Monell, 436 U.S. at 691 92; Deaton v. Montgomery Co., Ohio, 989 F.2d 885, 889 (6th Cir. 1993) custom, (2) connect the policy to the municipality, and (3) show that his particular injury was Alkire v. Irving, 330 F.3d 802, 815 (6th Cir. 2003) (citing , 8 F.3d 358, 364 (6th Cir. 1993)

the municipality, and thereby make clear that municipal liability is limited to action for which City of St. Louis v. Praprotnik, 485 U.S. 112, 138 (1988) (quoting Pembaur v. Cincinnati, 475 U.S. 469, 479 80 (1986)) (emphasis in original). Plaintiff does not allege that he suffered an injury because of an unconstitutional policy or custom issued by Shelby County prohibiting him from wearing a kufi. That said, he does that SCJ jail staff enforced it. Monell liability can attach when the Miller v. Calhoun Cty., 408 F.3d 803, 813 (6th Cir. 2005); see also Burgess v. Fischer, 735 F.3d 462, 479 (6th Cir. 2013) (holding municipal liability may attach when the) (citing Pembaur v. City of Cincinnati, 475

U.S. 469, 481 84 (1986) (plurality opinion)). Monell

Pembaur, 475 U.S. at 480 (quoting Monell, 436 U.S. at 694). course of action is made among various alternatives by the official or officials responsible for

establishing final policy with respect to Id. at 483 84 (citation omitted). Plaintiff alleges here that Chief Moore promulgated the policies at issue and that Officer Gatewood followed that policy to the point of becoming physically aggressive with Plaintiff. The record is unclear whether Chief Moore was the final policymaker for the county jail, or just a county employee granted discretion to run the jail in a certain manner. This difference is key

to the See Miller, 408 F.3d at 814 (holding that the to exercise discretion while performing particular functions does not make a municipal

(quoting Feliciano v. City of Cleveland, 988 F.2d 649, 655 (6th Cir. 1993)). As a result, it is

plausible at this stage of the proceedings that Plaintiff could succeed on his claim First Amendment claims against Shelby County. B. Gatewood in their individual capacities state a claim upon which relief can be

granted. -capacity claims against Chief Moore and Officer Gatewood allege a First Amendment violation under the Free Exercise and Establishment Clauses. (Compl., ECF No. 1 at PageID 3 hall make no law Const. amend. I. The First Amendment applies to the States through the Fourteenth Amendment. Cantwell v. Connecticut, 310 U.S. 296, 303 (1940). Though prisoners retain a First Amendment gious beliefs. Hayes v. Tennessee 546, 549 (6th Cir. 2011) (quoting Walker v. Mintzes, 771 F.2d 920, 929 (6th Cir. 1985)). Courts

Id. (quoting Mintzes, 771 F.2d at 929). constitutional rights, the regulation is valid if it is reasonably related to legitimate penological

Turner v. Safley, 482 U.S. 78, 89 90 (1987).

Plaintiff alleges that Chief Moore enacted policies prohibiting Plaintiff from wearing a kufi inside SCJ. Under § unconstitutional conduct of their subordinates under a theory of respondeat superior Iqbal,

556 U.S. at 676; see also Bellamy v. Bradley plaintiff must plead that each Government- s own

Iqbal, 556 U.S. at 676. showing that the supervisor encouraged the specific incident of misconduct or in some other way directly participated in it. At a minimum, a § 1983 plaintiff must show that a supervisory official at least implicitly authorized, approved or knowingly acquiesced in the

unconstitutional conduct of the offending subordinates. Bellamy, 729 F.2d at 421 (citation omitted). Plaintiff alleges that Chief Moore created and enforced a policy at SCJ prohibiting inmates from wearing religious headwear or a kufi. Plaintiff asserts jail staff followed this policy, which substantially burdened the exercise of his religion while he was in SCJ from June 28, 2017 through July 12, 2017. These allegations suffice to state a claim under the First tried to forcibly remove the kufi Plaintiff was wearing under the policy promulgated by Chief Moore also states a First Amendment claim. 3 II. Denial of Religious Services unconstitutional policy prohibiting Muslim inmates from conducting religious services inside

3 violation of the Eighth Amendment (Compl., ECF No. 1 at PageID 3) is an unsupported legal conclusion that is not entitled to the assumption of truth. See Iqbal, 556 U.S. at 679.

SCJ. (Compl., ECF No. 1 at PageID 4.) He states that, because of the policies, the jail has refused to hire a full-time Sunni Muslim Imam despite hiring several Christian Chaplains. (Id.) Plaintiff asserts these claims under the First and Fourteenth Amendments on behalf of himself and all Muslim inmates at SCJ. Plaintiff, however, cannot sue for deprivations of the

Ariz. Christian Sch. Tuition Org. v. Winn, 563 U.S. 125, 133 (2011).

[T]he irreducible constitutional minimum of standing contains three elements: an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of . . . . Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 61 (1992) (internal quotation marks, footnote, and citations omitted); see also Lance v. Coffman, 549 U.S. 437, 439 (2007) requiring a particular injury, the Court meant that the injury must affect the plaintiff in a

Winn, 563 U.S. at 134 (internal quotation marks and citation Percival v. McGinnis ; see also

Corn v. Sparkman, No. 95-5494, 1996 WL 185753, at *1 (6th Cir. Apr. 17, 1996) cannot bring claims on behalf of other prisoners. A prisoner must allege a personal loss and seek to vindicate a deprivation of his own constitutio . The same rules that guide standing under Article III apply to a claim asserted under RLUIPA. 42 U.S.C § 2000cc-2(a). vices twice while at SCJ because of the policies of Shelby County and Chief Moore prohibiting those kinds of

religious services. If Plaintiff asserts his claim on his own behalf, he sufficiently states a claim under the First Amendment against Shelby County and Chief Moore. That said, Plaintiff does not assert that Defendants discriminated against him personally by refusing to hire a full-time Imam. Rather, he makes only general assertions on behalf of the entire Muslim inmate community at SCJ. Plaintiff lacks standing to assert these claims on behalf of all Muslim inmates at SCJ. See Jacobs v. Strickland, No. 2:08-cv-680, 2009 WL 2476896, at *3 (S.D. Mr. Jacobs could not assert the claims of other Sunni

Muslims who were allegedly deprived of therefore fails to state a claim under the First and Fourteenth Amendments against SCJ for not hiring a full-time Imam. III. Failure to Provide Halal Food Options Plaintiff alleges that Aramark, Shelby County, and Chief Moore have denied Muslim inmates halal food options and provided only non-halal options, the same foods given to the general jail population. (Compl., ECF No. 1 at PageID 5). But again, Plaintiff lacks standing to assert deprivations of the rights of the Muslim inmate population inside SCJ. He does not allege that he requested halal food options personally and was denied those foods by any named Defendant. Even had he alleged standing to assert this claim, Plaintiff fails to state a claim against that performs the traditional state function of operating a prison acts under color of state law for purposes of § Thomas v. Coble, 55 F. (citing Street v. Corr. Corp. of Am., 102 F.3d 810, 814 (6th Cir. 1996)). The Sixth Circuit has applied the standards for assessing municipal liability to claims against private corporations that operate prisons or that provide medical care or food

services to prisoners. Id. at 748 49; Street, 102 F.3d at 817 18; Johnson v. Corr. Corp. of Am., ; see also Eads v. State of Tenn., No. 1:18-cv-00042, 2018 WL 4283030, at *9 (M.D. Tenn. Sept. 7, 2018). To prevail on a § 1983 claim against Aramark, -sett Braswell v. Corr. Corp. of Am., 419 F.

. Plaintiff has not alleged that a policy or custom of Aramark or Shelby County

Plaintiff also does not have a constitutional right to halal meats; he has a right only to a diet that is nutritionally adequate without forcing him to consume non-halal meats. See Alexander v. Carrick Dotson v. Shelby Cty., No. 13-2766-JDT-TMP, 2014 WL 3530820, at *9 (W.D. Tenn. July 15, 2014) (citing cases). Plaintiff does not allege that his diet has been inadequate without the halal foods or meats. He alleges only that Defendants have not provided those foods to Muslim inmates. Plaintiff therefore fails to state a claim under the First or Fourteenth Amendments. IV. RLUIPA Claims U.S.C §

2000cc- oes not encompass monetary damages. See Pleasant-Bey v. Luttrell, No. 2:11CV-02138-TLP-TMP, 2018 WL 4291935, at *4 & n.4 (W.D. Tenn. Sept. 7, 2018) (quoting Haight v. Thompson, 763 F.3d 554, 568 70 (6th Cir. 2014)). Plaintiff is no longer at SCJ, and so his request for an injunction is moot. Moore v. Curtis, 68 F. declaratory and injunctive relief against prison staff moot when inmate transferred to another

facility); Kensu v. Haigh, 87 F.3d 172, 175 (6th Cir. for an injunction is denied as moot, he may receive only monetary damages at this stage of the action. Pleasant-Bey, 2018 WL 4291935, at *4. As noted above, Plaintiff is not eligible for monetary damages under RLUIPA. His RLUIPA claims are therefore DISMISSED.

CONCLUSION First and Fourteenth Amendments for not providing halal food options and for not hiring a full-time Imam. Additionally, his RLUIPA claims are DISMISSED for failure to state a claim on which relief can be granted under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). His claims against

Shelby County, Chief Moore, and Officer Gatewood for violating his First Amendment rights to wear religious headgear may proceed. Defendant Aramark is TERMINATED. The Clerk is DIRECTED to issue process for Defendants Shelby County, Chief Moore, and Officer Gatewood and deliver that process to the U.S. Marshal for service. Service must be made on Defendants Shelby County, Chief Moore, and Officer Gatewood under Federal Rule of Civil Procedure 4(e) and Tennessee Rules of Civil Procedure 4.04(1), (10) by registered or certified mail or personally if mail service is not effective. All costs of service must be advanced by the United States. It is also ORDERED that Plaintiff must serve a copy of every later document he files in this cause on the attorneys for Defendants Shelby County, Chief Moore, and Officer Gatewood.

Plaintiff must make a certificate of service on every document filed. Plaintiff must familiarize 4 Plaintiff must promptly notify the Clerk of any change of address or extended absence. Failure to comply with these requirements, or any other order of the Court, may result in the dismissal of this case without further notice for failure to prosecute under Federal Rule of Civil Procedure 41(b).

SO ORDERED, this 15th day of April, 2019.

s/Thomas L. Parker THOMAS L. PARKER UNITED STATES DISTRICT JUDGE

4 A copy of the Local Rules may be obtained https://www.tnwd.uscourts.gov/pdf/content/LocalRules.pdf.