

Helping to Ensure Justice For All

Muslim Pre-trial Detainees in New York's Westchester County Department of Corrections Facilities

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- Richard B. Cohen

What would you do if you were forced to choose between violating the laws of your religion and obtaining the necessary nourishment to survive?

While many of us will never have to answer that question, Muslim pre-trial detainees in New York's Westchester County Department of Corrections facilities were faced with just such a dilemma. The jail served a "Muslim diet tray" that was not "Halal" - or consistent with Muslim dietary law. To make the tray Halal, the inmates had to remove the meat that was served, leaving a diet that would be unable to sustain them. Although the Kosher food trays served to Jewish inmates upon request met the requirements of Halal, and, therefore, could have been served to the Muslim inmates in satisfaction of their religious dietary restrictions, these trays were denied to Muslim inmates by the jail.

Left with no other choice, the inmates filed suit.

A Moral Duty to Represent an Unpopular Cause

Fox Rothschild partner Richard B. Cohen stepped up to help the inmates in their pro se petitions to receive proper Halal or Kosher meals. He took the case pro bono, and for the next three years, fought steadily on behalf of his clients.

"This was a matter of religious freedom," said Cohen. "The jail was forcing these men to choose between eating and the laws of their religion. They filed numerous pro se lawsuits in federal court in Manhattan, claiming that their constitutional rights to freedom of religion and equal protection were being violated. We felt that it was our moral duty as attorneys to represent them. It is the highest calling of a lawyer in this society to take on unpopular cases, especially for those who cannot afford counsel."

With the aid of associates Melissa Youngman and Samantha Evans, Cohen helped the inmates in their suit, which claimed that the County had abridged their freedom to practice their religion and their right to be treated the same as other religious groups in violation of the First and Fourteenth Amendments to the United States Constitution, the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), and 42 U.S.C. § 1983 (the 150-yearold federal Civil Rights statute), among other claims.

Proving Unconstitutional Conduct

As the case progressed, it was discovered that the defendants had not only misled the Muslim chaplain and the Muslim inmates for many years regarding their unconstitutional conduct, but also violated their own written policy as well as New York state rules relating to accommodation of religious beliefs.

"At certain points, the defendants suggested that serving Halal meals would cause a great economic burden to the County since courts faced with similar situations have deferred to such cost considerations," said Cohen. "But, in fact, no cost analysis had been performed in years by the County, if at all, and the actual extra cost turned out to be negligible."

A Significant Victory for Religious Equality

In a significant departure from current case law, the Court found the equal protection claim persuasive, and strongly recommended that the County settle. Accordingly, as of March 12, 2008, any Muslim inmate throughout the county can request and receive proper Halal meals. This new rule applies to all current and any future inmates.

Through the litigation process, Fox Rothschild's team successfully forced the County to take all steps to comply with the Constitution and ensure religious equality for any inmate.

Said Cohen, "We hope other lawyers who have similar challenges involving other jail or prison systems can use this case as a small building block to overturn similar unconstitutional conduct."