

Roderick and Solange MacArthur Justice Center

EXECUTIVE DIRECTOR AND
CLINICAL PROFESSOR OF LAW
Locke E. Bowman
312.503.0844
l-bowman@law.northwestern.edu

CLINICAL ASSOCIATE
PROFESSOR OF LAW
Sheila A. Bedi
312.503.2492
sheila.bedi@law.northwestern.edu

CLINICAL ASSISTANT
PROFESSOR OF LAW
David M. Shapiro
312.503.0711
david.shapiro@law.northwestern.edu

CLINICAL ASSISTANT
PROFESSOR OF LAW
Alexa Van Brunt
312.503.1336
a-vanbrunt@law.northwestern.edu

GENERAL COUNSEL
David J. Bradford
312.222.9350
dbradford@jenner.com

FOR IMMEDIATE RELEASE
Nov. 13, 2015

CONTACT: Jim Bray
217-494-5532 (mobile)

Federal Prisoner's Constitutional Right to Religious Liberty at Stake in West Virginia Case

Amicus Brief Filed by MacArthur Justice Center, ACLU and ACLU of West Virginia

RICHMOND, Va. – The U.S. Court of Appeals for the Fourth Circuit has been asked to overturn a lower court's dismissal of a case filed by a federal prisoner, who seeks damages for violations of his constitutional right to free exercise of his religion.

Marvin X. Damon's lawsuit alleges he was served a ceremonial meal that violated his religion's dietary laws. While a prisoner at the Federal Correctional Institution at McDowell near Welch, West Virginia, Damon, a member of the Nation of Islam, was served a meal that substituted kidney beans for the navy beans called for by his religion.

"Some would dismiss this case as nothing more than a hill of beans," said an amicus brief in support of Damon's appeal, "but it in fact presents an important question that strikes at heart of religious liberty and has divided the Circuits: Does the Prison Litigation Reform Act prevent an incarcerated plaintiff from recovering compensatory damages for violations of Free Exercise Rights that do not result in physical injury?"

The amicus brief was filed by the Roderick and Solange MacArthur Justice Center at Northwestern University School of Law, the ACLU and the ACLU of West Virginia.

David M. Shapiro, clinical assistant professor of law and attorney at the MacArthur Justice Center, said eight federal circuit courts have ruled on the question of whether the Prison Litigation Reform Act requires a showing of physical injuries in damage claims. Four circuits ruled a showing of physical injury is required for a claim for mental or emotional injury, but four others have ruled a physical injury is not required for a claim of a First Amendment violation.

- more -

In Damon's case, the lower court said a prisoner cannot bring a claim for the deprivation of religious rights because prohibiting the practice of one's faith is a mere "mental or emotional injury." The amicus brief argues the court misinterpreted the Prison Litigation Reform Act (PLRA) and that Congress did not intend to impose a physical injury requirement on cases involving injuries to religious liberty.

"First Amendment violations are usually not accompanied by physical injuries, and a violation of the free exercise of religion is not a mere emotional injury," Shapiro said. "It is a violation of a fundamental liberty granted by the Constitution to all of us, including people in prison."

"Congress did not intend to restrict religious liberties, and at least four federal circuit courts have agreed that religious liberty claims cannot be dismissed just because they did not result in physical injuries," Shapiro continued.

"The outcome of the Damon case will have profound implications for the ability of men and women in prison to practice their faith, for the vast majority of Free Exercise infringements — forbidding worship, prohibiting access to religious texts, refusing visits with clergy, and banning sacred objects, to name a few—inflict an injury not to the body but to liberty and conscience," said Jamie Lynn Crofts, Staff Attorney with the ACLU of West Virginia.

The full amicus brief is available here:

<http://www.law.northwestern.edu/legalclinic/macarthur/projects/treatment/other.html>

###

About the Roderick and Solange MacArthur Justice Center

The Roderick and Solange MacArthur Justice Center advocates for human rights and social justice through litigation. As one of the nation's premier civil rights organizations, the MacArthur Justice Center has played a prominent role in bringing Chicago police misconduct and torture to the public's attention and has helped wrongfully convicted men and women win multi-million dollar verdicts and settlements as compensation for the time they spent in prison.

For additional information, visit <http://www.law.northwestern.edu/legalclinic/macarthur/>