

DORMAN V. ARONOFSKY: ELEVENTH CIRCUIT HOLDS
THAT A REGISTRATION REQUIREMENT TO PARTICIPATE
IN A RELIGIOUS CELEBRATION IS NOT A SUBSTANTIAL
BURDEN AND PERSONAL NOTICE OF NEW DEADLINE IS
NOT REQUIRED

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In *Dorman v. Aronofsky*, the United States Court of Appeals for the Eleventh Circuit addressed whether an inmate’s constitutional and statutory rights were violated when the county jail prohibited him from participating in the Jewish Passover celebration due to the inmate’s failure to punctually register.¹ The plaintiff, inmate Bradley Dorman, filed a claim against two chaplains of the Broward County Main Jail, alleging that the chaplains violated his rights under the Religious Land Usage and Institutionalized Persons Act (“RLUIPA”), the First Amendment, and the Fourteenth Amendment.² The Eleventh Circuit held that the jail’s requirement that inmates register forty-five days prior to Passover did not substantially burden the inmate’s exercise of religion under RLUIPA.³ In addition, the notice of the new registration timeline given by the chaplains did not violate the Due Process Clause of the Fourteenth Amendment.⁴

Dorman was a Jewish inmate serving his sentence at the Broward County Main Jail in Fort Lauderdale, Florida when he was prohibited from participating in the facility’s Passover celebration.⁵ In 2017, Dorman successfully registered for the Passover on the jail’s kiosk system a week before the religious celebration began.⁶ On April 1, 2018, however, Dorman tried to register for the Passover on the kiosk two days after the Passover had begun.⁷ Dorman’s request was denied by Chaplain Capri Jordan because of a newly implemented registration deadline at the jail that required inmates to register forty-five days in advance.⁸ Chaplain Jordan explained that the new registration policy required all

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¹ *Dorman v. Aronofsky*, 36 F.4th 1306, 1310–11 (11th Cir. 2022).

² *Id.* at 1310.

³ *Id.* at 1314.

⁴ *Id.* at 1317–18.

⁵ *Id.* at 1310.

⁶ *Id.*

⁷ *Dorman*, 36 F.4th at 1310, 1312.

⁸ *Id.* at 1310.

inmates to register for Passover by February 14.⁹ Dorman, surprised by the new registration deadline, inquired about the lack of notice regarding the policy change.¹⁰ Chaplain Jordan explained that the deadline was digitally posted on the kiosks, which Dorman was familiar with due to his prior use of the device.¹¹ Soon after, Dorman filed a grievance with the Chaplain's Office, alleging that the deadline to sign up for Passover was never posted on the kiosks.¹² Chaplain Richard Aronofsky denied Dorman's grievance as "unfounded."¹³ Dorman appealed, but Chaplain Aronofsky again denied the grievance.¹⁴

Dorman filed a *pro se* complaint under 42 U.S.C. § 1983, asserting that Chaplains Aronofsky and Jordan denied him the opportunity to take part in Passover in violation of RLUIPA and the First Amendment.¹⁵ Dorman further alleged that the Chaplains' failure to provide adequate notice of the new forty-five-day registration policy violated the Due Process Clause of the Fourteenth Amendment.¹⁶ Dorman sought a declaratory judgment, a permanent injunction, and compensatory and punitive damages.¹⁷

Chaplains Aronofsky and Jordan filed a motion to dismiss, which contained a printout of the jail's kiosk homepage listing the Passover registration deadline as February 14, 2018.¹⁸ Although Dorman's complaint alleged that notice of the new policy was never posted on the kiosks, Dorman conceded in his response to the chaplains' motion that the notice was posted on the kiosk; however, he subsequently alleged that he was not aware of the posting because "all notifications that [were] important [were] printed and placed around the kiosk."¹⁹ The district court, adopting the recommendation of the magistrate judge, dismissed Dorman's complaint for failure to state a claim.²⁰

On appeal, the Eleventh Circuit applied a plenary standard of review in affirming the dismissal of Dorman's complaint.²¹ Specifically,

⁹ *Id.*

¹⁰ *Id.* at 1311.

¹¹ *Id.*

¹² *Id.*

¹³ *Dorman*, 36 F.4th at 1311.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* The digital notice stated: "Passover will begin Friday, March 30, 2018–Saturday, April 7, 2018. If you would like to participate, please request[] that your name is added to the list for services. All requests must be placed by Wednesday, February 14, 2018." *Dorman*, 36 F.4th at 1316.

¹⁹ *Id.* at 1311.

²⁰ *Id.*

²¹ *Id.* at 1312.

the court evaluated (1) whether Dorman presented valid claims under RLUIPA and the First Amendment and (2) whether Dorman received proper notice of the new Passover registration policy under the Due Process Clause.²² In affirming the district court’s decision, the Eleventh Circuit held that the forty-five-day registration requirement did not violate RLUIPA and thus did not violate the First Amendment.²³ Additionally, the Eleventh Circuit held that the notice of the Passover registration deadline complied with the Due Process Clause.²⁴

First, the Eleventh Circuit explained that an RLUIPA claimant must prove that his or her religious beliefs have been substantially burdened by the government in order to present a viable claim.²⁵ “[A] substantial burden is more than an inconvenience and is akin to significant pressure which directly coerces the religious adherent to conform his or her behavior accordingly.”²⁶ Although Dorman was arguably inconvenienced by the implementation of the forty-five-day registration requirement, the Eleventh Circuit noted that Dorman could have participated in the Passover had he timely registered.²⁷ Therefore, the registration requirement did “not pressure, force, or coerce Mr. Dorman . . . to abandon, forego, conform or delay any of [his] religious beliefs or practices.”²⁸ as such, Dorman was not substantially burdened, and his claim failed under RLUIPA.²⁹

Moreover, the Eleventh Circuit concluded that Dorman’s First Amendment claim failed as well because RLUIPA affords greater protection of religious practices than the First Amendment.³⁰ Thus, a policy that does not violate RLUIPA “necessarily fails under the First Amendment.”³¹ Because Dorman’s claim failed under RLUIPA, the Eleventh Circuit did not evaluate Dorman’s claim under the First Amendment.³²

The Eleventh Circuit further held that the placement of the notice of the forty-five-day registration period upon frequently used kiosks was sufficient under the Due Process Clause.³³ Notice is sufficient if it

²² *Id.* at 1312, 1315.

²³ *Id.* at 1312–13.

²⁴ *Dorman*, 36 F.4th at 1318.

²⁵ *Id.* at 1313–14.

²⁶ *Id.* at 1314 (internal quotation marks omitted) (quoting Thai Meditation Ass’n of Ala., Inc. v. City of Mobile, 980 F.3d 821, 829–30 (11th Cir. 2020)).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Dorman*, 36 F.4th at 1313.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 1316–18.

is “reasonably calculated . . . to apprise interested parties of the pendency of the [government] action and afford them an opportunity to present their objections.”³⁴ Under this rule, the court found Dorman’s Due Process challenge meritless for three reasons: (1) the announcement of the notice was placed on the homepage of computer kiosks, (2) the notice reasonably conveyed the new policy regarding the Passover registration period, and (3) the notice was displayed in a size comparable to other text on the screen.³⁵ Dorman himself used one of the kiosks to register for the previous year’s Passover celebration and to file his grievance with the Chaplain’s Office, showing that the kiosks were used to communicate with inmates.³⁶

The Eleventh Circuit next addressed Dorman’s argument that the policy should have been physically printed and posted on the kiosks, or in the alternative, provided Dorman personal notice.³⁷ First, the court noted that Dorman’s only allegation that important notices were generally posted in print was set forth in his response to the chaplains’ motion to dismiss, not his complaint.³⁸ In fact, Dorman’s complaint was “silent about how other similar announcements or notices were communicated.”³⁹ Because “facts contained in a motion or brief ‘cannot substitute for missing allegations in the complaint,’” the Eleventh Circuit did not consider this argument on appeal.⁴⁰

The chaplains used “reasonably calculated” methods to provide the inmates with notice.⁴¹ Notice digitally posted on kiosks that were frequently and reliably used to communicate with inmates constituted a reasonably calculated method.⁴² The chaplains were not required to give Dorman personal notice because “[a]ctual receipt of notice is not the touchstone of due process.”⁴³ Thus, the court found that the jail afforded Dorman sufficient notice of the registration deadline.⁴⁴

In conclusion, the registration policy and its implementation did not amount to an RLUIPA or constitutional violation; therefore, the Eleventh Circuit affirmed the dismissal of Dorman’s RLUIPA and Due

³⁴ *Id.* at 1316 (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)).

³⁵ *Id.* at 1317.

³⁶ *Dorman*, 36 F.4th at 1317.

³⁷ *Id.* at 1316–17.

³⁸ *Id.* at 1317.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Dorman*, 36 F.4th at 1317.

⁴³ *Id.*

⁴⁴ *Id.* at 1317.

Process claims.⁴⁵ RLUIPA is only violated when the government's hindrance on religious practices places a substantial burden upon an individual.⁴⁶ Here, the Eleventh Circuit found that a timely registration requirement is more akin to an inconvenience than a substantial burden, holding that Dorman was not pressured or coerced to abandon his religious practices.⁴⁷ The court also noted that county jail chaplains are only required to provide notice to inmates of policy changes relating to their religion using "reasonably calculated" measures, which did not require the chaplains to provide Dorman personal notice.⁴⁸ Under this precedent, an individual may not rely on the protection afforded by RLUIPA or the Due Process Clause to seek relief for his or her personal failure to comply with reasonably implemented policies that, if complied with, would not affect religious practices.⁴⁹

⁴⁵ *See id.* at 1314.

⁴⁶ *Id.* at 1314.

⁴⁷ *Id.* at 1312–13.

⁴⁸ *Dorman*, 36 F.4th at 1317.

⁴⁹ *See id.* at 1314, 1318.