

**FILED**  
**FEB 11 2009**  
WILLIAM B. GUTHRIE  
Clerk, U.S. District Court  
By \_\_\_\_\_  
Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

EVANGELISTS FOR CHRIST, INC., an Illinois  
corporation, d/b/a WINGSPREAD PRISON  
MINISTRIES,

*Plaintiff,*

v.

JUSTIN JONES, Director of the Oklahoma  
Department of Corrections, RANDY WORKMAN,  
Warden of Oklahoma State Penitentiary,

*Defendants.*

Case No. **CIV 09 - 059 - JHP**

**COMPLAINT**

COMES NOW the Plaintiff, EVANGELISTS FOR CHRIST, INC., an Illinois corporation, by and through the undersigned attorney Joseph Clark, participating attorney for The Rutherford Institute, and files this Complaint for relief under the First Amendment and 42 U.S.C. § 1983.

**PARTIES**

1. The Plaintiff, Evangelists for Christ, Inc., is an Illinois nonprofit corporation dedicated to the religious ministry of spreading the Gospel of Jesus Christ and helping those in need of assistance. As part of its ministry, the Plaintiff established and operates Wingspread Prison Ministries (hereafter "Wingspread") from headquarters located in Prairie Grove, Arkansas.

2. Defendant Justin Jones is the duly-appointed Director of the Oklahoma Department of Corrections, an agency of the State of Oklahoma charged with the

*Consent given*

management, control, and regulation of penitentiaries, correctional centers, and reformatories established by the State of Oklahoma. Defendant Jones is sued in his official capacity. In all respects hereinafter set forth, Defendant Jones acted under color of the law of the State of Oklahoma.

3. Defendant Randy Workman is the duly-appointed Warden of the Oklahoma State Penitentiary, located in McAlester, Oklahoma, a correctional facility for persons in custody pursuant to the law of the State of Oklahoma. Defendant Workman is responsible for the day-to-day management and control of the Oklahoma State Penitentiary. Defendant Workman is sued in his official capacity. In all respects hereinafter set forth, Defendant Workman acted under color of the law of the State of Oklahoma.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, 2201, and 2202, as it is an action requesting declaratory and injunctive relief arising under the laws and Constitution of the United States and under an Act of Congress providing for the protection of civil rights, specifically 42 U.S.C. § 1983. This Court has supplemental jurisdiction over the Plaintiff's state law claims under 28 U.S.C. § 1367(a), as such claims form part of the same case or controversy between the parties.

5. Venue is properly in the United States District Court for the Eastern District of Oklahoma under 28 U.S.C. § 1391(b) because Defendant Workman resides within the Eastern District of Oklahoma, all Defendants reside within the State of

Oklahoma, and a substantial part of the events giving rise to the claim occurred within the Eastern District of Oklahoma.

### **FACTUAL ALLEGATIONS**

6. The Plaintiff operates Wingspread Prison Ministries, a Christian outreach ministry founded in 1986 by Billie Zal. Wingspread's mission is to present the Gospel of Jesus Christ to persons held in prisons, penitentiaries, and correctional institutions throughout the United States and to allow prisoners to decide for themselves whether to accept and practice Christianity.

7. Wingspread's religious ministry involves personal communications with prisoners, assuring them that God and other persons outside of their institutions care about them and want to assist them in changing their lives. Volunteer members of Wingspread's ministry share their life stories with prisoners because, in doing so, they are better able to relate the Word of God to prisoners and make the message of Christ relevant to the prisoners. Because Wingspread's ministry involves personal communication with prisoners and building a personal relationship with the prisoner, correspondence through the mail is crucial to the pursuit and success of this ministry.

8. In order to assist prisoners who want to learn more about Christianity, Wingspread will send Bibles, books about Jesus Christ and Christianity, newsletters on religious topics, teaching audiotapes, and other religious materials to the prisoners. Some books sent to prisoners are published by Wingspread, and some books sent to prisoners are donated by other publishers.

9. These materials, in particular the Bible, are essential to the religious message Wingspread desires to communicate to prisoners and are necessary for the prisoners to develop their faith and learn about Jesus Christ and Christianity. Prior to March 2008, Wingspread had sent Bibles, religious books, and other materials to prisoners held by the Oklahoma Department of Corrections, and these materials had been delivered to the prisoners.

10. Wingspread's ministry also involves providing small financial gifts to prisoners who are indigent or mentally ill. Wingspread sends money orders, usually between \$15 and \$20 to prisoners, especially around Christmas, in order to assist prisoners in obtaining small items that may make prisoners' lives more comfortable. This giving is an integral part of Wingspread's ministry and is a tangible expression of concern for the well-being and lives of prisoners.

11. On or about March 6, 2008, Wingspread received a call from the Chaplain of the Oklahoma State Penitentiary in McAlester, Oklahoma, informing Wingspread that it could no longer send Bibles or religious books to prisoners. After the initial call, Rodney McDaniel, a volunteer member of Wingspread's ministry, called the Chaplain back for an explanation and clarification. The Chaplain explained that the restriction on sending books was because of a policy requiring that books must be sent from a publisher, book store, or book dealer.

12. A regulation of the Oklahoma Department of Corrections titled "Correspondence, Publications, and Audio/Video Media Guidelines," OP-030117, provides that "[a]ll orders for publications will be made directly to the publisher of the material or to a legitimate bookstore." The same regulation also provides that a

correctional facility “is not authorized to implement a prohibition on any materials that inmates receive by subscription,” but requires that each issue sent to an inmate be reviewed and inspected. The regulation also provides that “[a]ll incoming non-privileged mail and packages will be opened and inspected for enforcement of correspondence guidelines and institutional security.”

13. On June 4, 2008, Margaret McDaniel, a volunteer member of Wingspread’s ministry, sent a personal letter to Henry Buckaloo at the Oklahoma State Reformatory in Granite, Oklahoma. The letter was never received by Buckaloo and was not returned to McDaniel or Wingspread.

14. On July 2, 2008, Wingspread sent a personal letter and a \$20 U.S. Postal money order to inmate Buckaloo at the Oklahoma State Reformatory.

15. In response to the July 2 letter, Wingspread received a letter from Chaplain Mark Sewell, who was acting on behalf of the Oklahoma Department of Corrections and the Oklahoma State Reformatory. Chaplain Sewell wrote that the letter was “personal, containing information about Mr. Buckaloo’s family” and that it contained a \$20 money order. Chaplain Sewell also wrote that the Reformatory had been informed that Wingspread was sending money orders to at least 30 other offenders at Oklahoma State Penitentiary. Chaplain Sewell wrote that Wingspread “is hereby restricted from corresponding with Mr. Buckaloo or any offender at Oklahoma State Reformatory.” Chaplain Sewell also returned the \$20 money order Wingspread had sent to Buckaloo.

16. A regulation of the Oklahoma Department of Corrections titled “Correspondence, Publications, and Audio/Video Media Guidelines,” OP-030117, allows

money orders to be sent to prisoners, providing that “[c]ashier checks and money orders will be credited to the inmate’s trust fund draw account and a receipt given to the inmate.”

17. Thereafter, Margaret McDaniel spoke by telephone with Chaplain Sewell. Sewell told McDaniel that an individual may write a personal letter to a prisoner, but a ministry may not write a personal letter to a prisoner. McDaniel asked if an individual could send a money order to a prisoner, but Chaplain Sewell did not provide a clear answer as to whether that was allowed.

18. On July 2, 2007, Wingspread sent a personal letter and \$15 money order to Ronnie Harry, an inmate at Joseph Harp Correctional Center in Lexington, Oklahoma. Harry received the letter, but the money order was returned to Wingspread and was not credited to Harry’s trust account.

19. On behalf of Wingspread, McDaniel wrote a letter to the Hon. Brad Henry, Governor of the State of Oklahoma, dated July 15, 2008. The letter explained that Wingspread had been informed by officials of the Oklahoma Department that it may not send books or Bibles to prisoners and that it had been forbidden from sending personal letters and money orders to prisoners, as set forth *supra*. The letter explained that the correspondence and written materials were crucial to the ministry of Wingspread and would assist prisoners in rehabilitating their lives. Neither Wingspread nor McDaniel received a response to this letter.

20. Thereafter, Wingspread contacted The Rutherford Institute, a civil liberties organization located in Charlottesville, Virginia, about the restrictions placed upon Wingspread’s ministry to prisoners held by the Oklahoma Department of Corrections.

21. On August 13, 2008, The Rutherford Institute sent a letter on behalf of Wingspread to Defendant Jones informing him of the restrictions on correspondence with prisoners that had been imposed upon Wingspread. The letter requested that the restrictions be removed because such restrictions violated the First Amendment and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") or were contrary to existing regulations of the Oklahoma Department of Corrections. A signed receipt was returned to The Rutherford Institute indicating that the letter had been received on August 18, 2008.

22. Although the letter requested a response from Defendant Jones, neither The Rutherford Institute, Wingspread, nor McDaniel received any response to the letter.

23. On September 4, 2008, Wingspread sent by mail a book titled *The Fabric of Our Lives*, authored by Billie Zal, to inmate Marlin Resinger at the Oklahoma State Penitentiary in McAlester, Oklahoma. The original package containing the book was returned unopened to Wingspread on September 22, 2008, marked "Refused."

24. On September 7, 2008, Wingspread mailed a personal letter and money order in the amount of \$15 to inmate Julius Young at the Oklahoma State Penitentiary in McAlester, Oklahoma. Although the letter was delivered to Mr. Young, the money order was seized by penitentiary officials.

25. On September 11, 2008, Mr. Young filed a "Request to Staff" form at Oklahoma State Penitentiary notifying penitentiary staff of the seizure of the money order and requesting an explanation for the seizure.

26. Mr. Young received the form back with the "Disposition" filled in. The written disposition, dated September 12, 2008, was "Wingspread Ministries were notified

of DCC policy” and “made the decision that their contact would be another offender. Therefore funds will remain seized per OSP 120230-02.”

27. Wingspread sends Bibles, other religious materials and books, and money orders to prisoners in other states, including Arizona, Texas, Colorado, Kansas, Arkansas, Illinois, Louisiana, and New York. Wingspread has not encountered restrictions upon and impediments to its ministry similar to those encountered in Oklahoma in these other states.

## COUNT I

### **Violation of the First Amendment to the United States Constitution**

28. The Plaintiff realleges and incorporates by reference the allegations of ¶¶ 1-27, set forth above.

29. The Defendants have interfered with and substantially burdened the rights of the Plaintiff, d/b/a Wingspread Prison Ministries, to freedom of speech and to freely exercise the religious ministry of Wingspread, as guaranteed and protected by the First Amendment to the United States Constitution, by imposing restrictions upon the ability of Wingspread to correspond with inmates and prisoners held by the Oklahoma Department of Corrections, by refusing to deliver Bibles and other religious materials and writings sent to inmates by Wingspread, and by refusing to receive and credit to the trust accounts of prisoners money orders sent by Wingspread to prisoners.

30. The restrictions imposed by the Defendants and the Oklahoma Department of Corrections upon Wingspread’s correspondence with inmates are not supported by a legitimate, rational governmental interest.



31. Any government interest in institutional security supporting the restrictions imposed upon Wingspread's correspondence with inmates may be served by alternative measures that already exist and would allow Wingspread and the inmates to exercise their First Amendment rights.

32. The restrictions imposed upon Wingspread's sending of Bibles, religious books, and religious material to inmates in the Oklahoma Department of Corrections violate the First Amendment because such restrictions are not neutral in that they treat less favorably the Bibles and religious books sent by Wingspread than other similarly-situated written materials, and the different treatment is not supported by any legitimate institutional concern.

33. The Defendants have acted under color of state law in depriving and continuing to deprive the Plaintiff of its rights under the First Amendment.

34. The Plaintiff is entitled to relief for this deprivation of its First Amendment rights under 42 U.S.C. § 1983.

## **COUNT II**

### **Violation of the Equal Protection Clause of the**

### **Fourteenth Amendment to the U.S. Constitution**

35. The Plaintiff realleges and incorporates by reference the allegations of ¶¶ 1-34, set forth above.

36. The restrictions imposed upon Wingspread's sending of Bibles, religious books, and religious material to inmates in the Oklahoma Department of Corrections violate the Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution because such restrictions are not neutral in that they treat less favorably the Bibles and religious books sent by Wingspread than other similarly-situated written materials, and the different treatment is not supported by any legitimate governmental interest or institutional concern.

37. The restrictions imposed upon Wingspread's sending of Bibles, religious books, and religious material to inmates in the Oklahoma Department of Corrections violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because such restrictions treat Wingspread less favorably than other similarly-situated distributors of books and written materials, and such differing treatment is not supported by any legitimate governmental interest of institutional concern.

38. The Defendants have acted under color of state law in depriving and continuing to deprive the Plaintiff of its rights under the Fourteenth Amendment.

39. The Plaintiff is entitled to relief for this deprivation of its Fourteenth Amendment rights under 42 U.S.C. § 1983.

### **COUNT III**

#### **Oklahoma Religious Freedom Act**

40. The Plaintiff realleges and incorporates by reference the allegations of ¶¶ 1-39, set forth above.

41. The Defendants have interfered with and substantially burdened the rights of the Plaintiff, d/b/a Wingspread Prison Ministries, to freely exercise the religious ministry of Wingspread, as guaranteed and protected by the First Amendment to the

United States Constitution and Article 1, Section 2 of the Constitution of the State of Oklahoma.

42. The restrictions imposed by the Defendants and the Oklahoma Department of Corrections upon Wingspread's exercise of its religious ministry are not supported by a compelling governmental interest and are not the least restrictive means of serving that governmental interest.

43. The actions of the Defendants as described above are in violation of the Oklahoma Religious Freedom Act, 51 Okla. Stat. Ann. §§ 251 et seq.

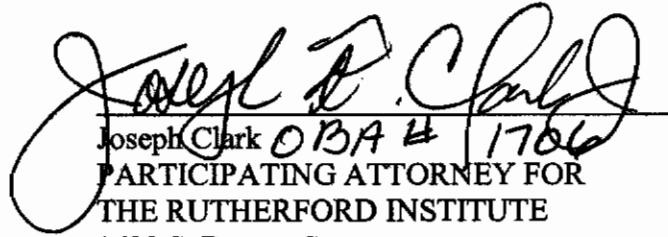
44. The Plaintiff is entitled to relief for the substantial burden imposed upon its religious ministry under 51 Okla. Stat. Ann. § 256.

WHEREFORE, the Plaintiff respectfully requests that judgment be entered in its favor as follows:

a) declaring that the restrictions imposed by the Defendants and the Oklahoma Department of Corrections preventing Wingspread Prison Ministries from sending Bibles, religious books, personal correspondence, and money orders to inmates held by the Oklahoma Department of Corrections violate the First and Fourteenth Amendments to the United States Constitution and the Oklahoma Religious Freedom Act;

b) enjoining the Defendants, their agents, and other officers and employees of the Oklahoma Department of Corrections from preventing inmates held by the Department from receiving Bibles, books, correspondence, and money orders sent by Wingspread Prison Ministries; and

c) awarding the Plaintiff its costs in bringing this action and reasonable attorney's fees under 42 U.S.C. § 1988 and 51 Okla. Stat. Ann. § 256.

  
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