

beliefs.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 2000e-6(b) and 28 U.S.C. §§ 1331, 1343, and 1345.

3. Venue lies in this judicial district pursuant to 42 U.S.C. § 2000e-5(f)(3).

THE PARTIES

4. Plaintiff is the United States of America.

5. Defendant New York State Department of Correctional Services (“DOCS”) is an agency of the State of New York. DOCS is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

PATTERN OR PRACTICE OF UNLAWFUL DISCRIMINATION

6. DOCS is the agency of New York State responsible for the confinement of persons under sentence of imprisonment by the State of New York, and the operation of facilities where such persons are confined. N.Y. Correct. Law §§ 5, 70 *et seq.* The Acting Commissioner of DOCS is Brian Fischer.

7. DOCS employs over 31,000 persons. Approximately 21,000 of those employees are uniformed security personnel, including superintendents, deputy superintendents, captains, lieutenants, sergeants, and correction officers.

8. DOCS is responsible for establishing the terms, conditions, policies, and practices that bear upon the employment of its employees.

9. DOCS has promulgated Directive Number 3083, entitled “Uniform/Equipment Issue and Appearance,” which establishes uniform and grooming requirements for its uniformed

security personnel. Directive 3083 was last issued September 3, 2003, and last revised November 15, 2005. Directive 3083 sets forth the composition of each class of uniform and permissible accessories to be worn by correction officers. *Id.* ¶¶ III–VIII. The Directive also sets forth personal grooming standards. *Id.* ¶ IX.

10. Directive 3083 does not recognize or permit any exceptions to its requirements to provide accommodation for any employee’s religious observance, practice, and/or belief. Nor does Directive 3083 establish any procedure for its uniformed security personnel to request such religious accommodations.

11. DOCS maintains and enforces a policy or practice of refusing to grant any accommodation to uniformed security personnel that would alter DOCS’s uniform or grooming requirements for reasons of religious observance, practice, and/or belief.

12. DOCS has pursued and continues to pursue policies and practices that discriminate against employees on the basis of religion, in violation of section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), among other ways by failing or refusing to reasonably accommodate employees who are unable to comply with DOCS’s uniform or grooming requirements because of their religious observances, practices, and/or beliefs; and by failing or refusing to take appropriate action to eliminate the discriminatory policies and practices and to remedy the effects of those policies and practices.

13. Upon information and belief, DOCS discriminated against Abdus Samad N. Haqq, who is employed by DOCS as a correction officer, on the basis of his religion in violation of section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by failing or refusing to reasonably accommodate Mr. Haqq’s religious observance, practice, and/or belief as a Muslim of wearing a

kufi, i.e., a skullcap. Upon information and belief, DOCS directed Mr. Haqq in May 2005 to stop wearing his kufi while working as a correction officer, even though Mr. Haqq had previously worn his kufi while working as a correction officer for years without incident and even though allowing him to wear a kufi would not cause undue hardship to DOCS.

CLAIM FOR RELIEF

14. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 13 as if fully set forth in this paragraph.

15. DOCS's policies and practices described above constitute a pattern or practice of resistance to the full enjoyment by employees of equal employment opportunities without discrimination on the basis of religion in violation of section 707 of Title VII, 42 U.S.C. § 2000e-6. The pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by Title VII. Unless restrained by an order of this Court, DOCS will continue to pursue policies and practices that are the same as or similar to those alleged in this Complaint.

WHEREFORE, plaintiff United States prays that this Court enter judgment enjoining DOCS, its officers, agents, employees, successors, and all persons in active concert or participation with them, from discriminating on the basis of religion, and specifically:

A. enjoining DOCS from failing or refusing to accommodate the religious observances, practices, and/or beliefs of DOCS's uniformed security personnel who are unable to comply with DOCS's uniform or grooming requirements because of their religious observances, practices, and/or beliefs;

B. ordering DOCS to adopt a uniform and grooming policy that reasonably accommodates the religious observances, practices, and/or beliefs of DOCS's uniformed security

personnel who are unable to comply with DOCS's uniform or grooming requirements because of their religious observances, practices, or beliefs;

C. ordering DOCS to take such other steps as may be necessary to prevent and remedy employment discrimination and the patterns or practices of discrimination in employment identified above;

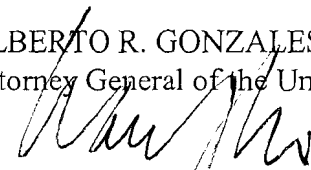
D. granting such further relief as the Court may deem just, together with the United States' costs and disbursements in this action.

Dated: Washington, D.C.
January 4, 2007

Respectfully submitted,

ALBERTO R. GONZALES
Attorney General of the United States

By:

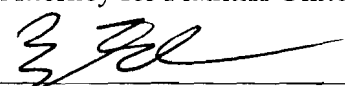


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