



Bailey & Wyant Obtains Dismissal from US District Court of WV

Hatcher v. Rubenstein et al. – David Mincer and Michael Taylor obtained dismissal from the United States District Court for the Southern District of West Virginia, Judge Copenhaver presiding, of a case brought by an inmate at Mount Olive Correctional Complex alleging that his religious rights were violated by the fact that he was Muslim and was not provided a non-pork meat-based diet and he was not permitted to wear his kufi, a brimless hat commonly worn by Muslims, outside his cell other than during times of religious worship and on his way to and from there. He alleged that other than the standard inmate dietary option, which often included pork which he was not permitted to eat for religious reasons, his only other option offered was a vegetarian Brahman Diet and he alleged violations of his rights under RLUIPA (the Religious Land Use and Institutionalized Persons Act), the First Amendment Free Exercise and Establishment Clauses, and Equal Protection under the Fourteenth Amendment. He asserted that the offer of meals consistent with the Brahman diet showed preference to the Hare Krishna religion. Mr. Mincer and Mr. Taylor asserted on behalf of the Defendants that the “religious special diet” satisfied the restrictions of Kosher, Muslim/Halal, and Brahman diets and did not favor any one of them even though it was closest to the Brahman diet by virtue of it being most restrictive. Ultimately, the Court found that the “religious special diet” did not impose a substantial burden on Plaintiff’s exercise of religion. With regard to the Kufi issue, the Court found, upon Mr. Mincer and Mr. Taylor’s urging, that Plaintiff had failed to exhaust his administrative remedies prior to filing suit.

This case is extremely significant and a big victory for correctional facilities throughout West Virginia in that if Plaintiff succeeded with his claim, all other inmates similarly situated could bring, and would be successful, on their own claims, which would have been very costly to our correctional facilities and ultimately the taxpayers of this state. It is not often that significant federal constitutional claims with such far-reaching implications are brought and Mr. Mincer and Mr. Taylor are proud to have been able to obtain a victory for the State of West Virginia and its public officers.