

FORM A To be used by a prisoner filing a complaint under the Civil Rights Act, 42 U.S.C. § 1983

4:14013183

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Stel	per	Cavanaugh	<u>.</u>			
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		v.	COI	MPLAINT		
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Dia	V.G	Sabatka-RHINE	_			
Μ(.	Do	Iton (FILST name uno	evailable)			
Tim	K۱	ramer	<u>-</u>			
the	er a	bove the full name of endant or defendants action, if known.)	Ōf			
shou for	ıld k <u>each</u>	If there is more the see attached giving the plaintiff, by name plaint.)	ne information :	in Parts I,	II, and I	
		•	ar i . · · i		٨	
I.	A.	Place of Present Co	onfinement/()(45)	ca state	fen	-
	в.	Parties to this civ	vil action:			
		ease give your commit have used while ind		any other n	name(s)	

(1)	Plaintiff Sicher Cavanavah Registr. No. 19/1
	Address Po Box 22500 Lincoln, NE 68542-2500
	Additional plaintiff's Registr. No. and address:
(2)	Defendant PANNY BARTELT
	is employed askerizions Croldinatel at Miblaska state Pen
	Additional defendant's employment: Frank Holking - Delvty
	Dileter, Nebrasica DePultment of Collections Diane Sabatka-A
\	
Prev	walker, NSP MR. Dotton unit 3 manager MSP Tim knamer MSP Actions Constitutes rious civil Actions
deal	Have you begun other lawsuits in state or federal court ing with the same facts involved in this action? No X
(1)	Title: MA (Plaintiff) (v.) (Defendant)
(2)	Date filed
(3)	Court where filed (specify if the court was state or federal and the level of the court)
(4)	Court number and citation
(5)	Name of judge to whom the case was assigned
(6)	Basic claim made
(7)	Date of disposition
(8)	Disposition (pending) (on appeal) (resolved)
(9)	If decided by the court, state whether for plaintiff or defendant
(10)	Approximate date of filing

	(11) Approximate date of judgment					
	For additional cases, provide the above information in t same format on a separate page.					
	relat	Have you begun other cases in state or federal courts ting to the conditions of your treatment while in inement? Yes X No				
III. Grievance Procedure						
	A.	Does your institution have an administrative or grievance procedure? Yes No				
	В.	Did you present the facts relating to your complaint through the administrative or grievance procedure? Yes X No				
	C.	What was the result? No change				
	D.	If you did not file a grievance, state the reasons M/A				
	E.	Please attach any responses as exhibits to this complaint.				
	F.	If there is not prisoner grievance procedure at your institution, did you complain to prison authorities? Yes No				
	G.	If your answer to F is yes,				
		A. What steps did you take and what was the result?				
IV.	Juris	sdiction				
	A. Is this complaint brought for a violation of your federal constitutional rights by a person employed by the state, county, or municipal government or acting with such government officials? Yes X No					
	If "yes," please state the agency the official(s) is/are employed by or why you believe the defendant(s) was/were acting in conjunction with government					

	officials: NEBraska DePartment of Corrections (a)
В.	Is this complaint brought for a violation of state local law? Yes X No
	If so, please specify (without alleging any support facts) the state law(s) you believe was/were violat NE , $CcnST$, ARI , ARI , SH
	NE CONST. ART 183
	Is/are the defendant(s) residents of the same state you? Yes X No
	If not, specify what state
	•
Stat	tement of Claim:
You or the examination of the examination of the column of the examination of the examina	ate here as briefly as possible the <u>FACTS</u> of your cas must state exactly what each defendant personally difailed to do, that resulted in harm to you, and descr harm. Include the names of other persons involved (mple, other inmates), dates, and places of all events you allege related claims, number and set forth each im in a separate paragraph. Attach an extra sheet, it essary. Unrelated claims should be raised in a separate action. Do not give legal arguments or cite cases tutes except in Part B below.
A	see attacked

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B. auth	State briefly your legal theory or cite appropriate pority: Ste at lackt
Reli	
	.ef Do you request money damages? Yes X No
	Do you request money damages? Yes X No
A.	Do you request money damages? Yes X No
A.	Do you request money damages? Yes X No so, 1. Did you lose any money from this incident?
A.	Do you request money damages? Yes X No No 1. Did you lose any money from this incident? Yes X No If so, how much? \$350 Filing Fee

•	icia meis
	MI Baltelt's repeated modeing and insulting of my Faith.
	4. State the amount of damages claimed 15,000,000
	B. Do you request a jury trial? Yes X No
	C. State briefly <u>exactly what you want the court to do for you</u> . Make no legal arguments. Cite no cases or statutes.
	7 would Like a court older mandating That FSMism receive the
	same rights and privillages affolded to every other religion in Th
	DePaltment of Carlections. I would also like the Detendants to be
	made to Pay damages of the \$350 Filing fee \$5,000,000 Pain and
	Suffering, and Punitive damages
VII.	Request for Appointment of Counsel
	A. Do you want an attorney to represent you in presenting your claim to the court? Yes X No
	B. Did someone help you in preparing this complaint? Yes No X If so, state the person's name (optional)
	C. Have you made any efforts to contact a private lawyer to determine if he or she would represent you in this action? Yes X No
	If so, state the name(s) and address(es) of each lawyer contacted ACLU NINGER, 941 0 St. Linula, NE 64504
r	richal B. Kratville. 11920 Brit St. OMaha, NEG8174 SUITC145
W	Plich Law Film 1299 Farnam st Omnha NE 68189 svite 1220
BO	uce 6. Mason 1505 S. 103 ST. OMaha, NE 69144 If not, state your reasons_

(Note: This court has no funds with which to pay an attorney for handling this type of case. Because of this, appointments are made only in cases where an attorney is greatly needed and the

attorney is willing to take the case without expecting to receive any fee.)

I declare under penalty of perjury that the forgoing is true and correct.

Signed	this	3_	day	of 5	eptember Spegal		2014.
					(Signature(s)	of	Plaintiff(s))

IN THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF NEBRASKA

STEPHEN CAVANAUGH,)		
PLAINTIFF,)		
)		
vs.)	42 U.S.C.	§1983 COMPLAINT
)		
RANDY BARTELT, TIM KRAMER,)		
DIANE SABATKA-RHINE, FRANK)		
HOPKINS, MR. DORTON,)		
DEFENDANTS.)		

I. STATEMENT OF CLAIM

Plaintiff Stephen Cavanaugh "Cavanaugh" is a member of the Church of the Flying Spaghetti Monster. "FSMism" Cavanaugh's beliefs are deeply held and he has openly declared his beliefs for many years including during his time in the military and upon his incarceration. He also has several prominant tattoos proclaiming his faith. In January 2014 he began requesting "accommodated status for the Church which would allow certain rights and privilages to him and other members of the Church within the Nebraska Department of Corrections "Department" that members of every other religious group enjoy. The rights include the ability to order and wear religious clothing and pendants, the right to meet for weekly worship services and classes and the right to receive communion.

When this request was arbitrarily denied, Cavanaugh pursued the matter through the Department grievance process and continued to communicate with the Religious Coordinators Randy Bartelt and Tim Kramer through inmate interview request forms. "kites" In the course of this communication, Mr. Bartelt and Mr. Kramer openly insulted Cavanaugh's beliefs, calling them a "parody" and then lying about talking to church officials. When confronted, they refused to reveal the name or contact information of the official they allegedly spoke with and completely changed their story about contacting anyone at all.

The wearing of special religious clothing is particularly important in FSMism. As in any religion, proselytizing is a vital aspect of showing one's faith. However, unlike most other religions, members of FSMism are restricted in how they may do so. The following is a quote from "The Gospel of the Flying Spaghetti Monster", one of the religion's holy texts.

His chosen outfit... I cannot stress the importance of this enough...

The concise explanation is that He becomes angry if we dont." Accordingly,

Cavanaugh is being forced to choose between angering his God by not

attempting to spread His word and demonstrate his faith, or angering

his God by doing so in a disrespectful manner. This has caused him no

end of stress and spiritual pain.

At no point has Cavanaugh requested anything that is not already given to members of other religions. Nor has he asked for anything that would unduely burden the Department financially. The only reason Cavanaugh's requests were denied is that his religion does not conform to the "traditional" Abrahamic belief structure. This is clearly and obviously religious persecution.

II. LEGAL BASIS FOR CLAIM

The Nebraska and United States Constitutions both guarantee the right to worship which ever God one may choose, and that every person shall receive equal protection under the law. In deying Cavanaugh and the other members of FSMism at the Nebraska State Penitentiary "NSP" the right to effectively practice their beliefs, especially when members of other religions are not so restricted, there can be no argument that the actions of Mr. Bartelt and Mr. Kramer were constitutional.

When specifically asked why Cavanaugh's request was denied, Mr. Kramer responded that he believed FSMism was a "parody" (April 3, 2014 kite, response April 9, 2014). This can be taken as nothing other than an open declaration of religious predjudice. That he attempted to pass blame for this declaration by lying about speaking with a non-existant "founder" shows utter contempt for any religion other than his own.

The restrictions imposed on Cavanaugh and other members of FSMism are indeed unreasonable and based on no factors other than the religious coordinators' opinion of the religion. This creates a clear and undeniable violation of the First Amendment to the U.S. Constitution, and Article 1 § 4 of the Nebraska Constitution. As stated above, the reason for the denial of Cavanaugh's request was already given to him in writing. this "reason" did not cite any safety, security, disciplinary, or even significant economic concerns that could potentially justify such denial.

Furthermore, Cavanaugh has not asked for anything for FSMism that is not already granted to other religious groups in the institution. This establishes a very clear violation of the Equal Protection Clause of the 14th Amendment to the U.S. Constitution and Article 1 § 3 of the Nebraska

Constitution. It is well established that "If members of one faith can practice their religious beliefs and possess religious materials, equivalent opportunity must be available to members of another faith." Newton V. Cupp 474 P.2d 536 and that "The right to equal protection of law is almost an absolute right, always to be respected." State V Cubbage 210 A.2d at 567.

By allowing members of other faiths to purchase and possess all manner of religious items, including; bandanas, pendants, prayer oils, prayer rugs, prayer beads, thikr beards, kufi, amulets and rosaries, as well as other special ordered religious clothing, while deying any of these items to members of FSMism, the religious coordinators of NSP have clearly violated the Constitution. Cavanaugh has not asked that any religious items be purchased for him by the state, only that he be allowed to purchase the items himself. A right which is clearly granted to all other faiths.

The actions of Mf. Bartelt and Mr. Kramer are so outside the realm of constitutionality as to transcend their "official capacity" as officers of the Department and serves to hold them personally liable for the damages they have caused. The same applies to Mr. Dorton, Mr. Hopkins, and Mrs. Sabatka-Rhine. While they may have been acting "officially" by responding to Cavanaugh's grievances, they cannot be protected from personal liability for the authorization of such heinously unconstitutional acts, evidenced by their refusal to act when presented with said grievances. Additionally, "A prison warden can be held liable for policy decisions which create unconstitutional conditions" Martiv V. Sargent 780 F.2d 1334 (1985) as such, Mrs. Sabatka-Rhine can be held "officially" liable and is therefore subject to demands for injunctive relief.

DATED THIS 3 DAY OF September 2014

BY THE PLAINTIFF

STEPHEN CAVANAUGH

*#*78775

PO BOX 22500

LINCOLN, NE 68542-2500

INFORMAL GRIEVANCE RESOLUTION FORM UNIT: STAFF

WII LOW

FROM: Cavanavah STOPPEN W 7977h

Last Name, First, Middle Initial

PART A: Inmate Request/Concern.

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If Marlier

Date

Signature

PART B: Response and Reason(s) for Decision Reached.

I have checked with the Religion Study Committee Chair and have been informed that your request has been denied.

3/11/A

Signature

NOTE: A copy of this completed Informal Grievance Resolution Form

accompany any Step 1 Institutional Grievance Form.

NEDRAORA DEPARTIMENT OF CORRECTIONAL SERVICES

GRIEVANCE FORM Step One CHIEF EXECUTIVE OFFICER

INSTRUCTIONS: TYPE OR USE BALL POINT PEN. IF MORE SPACE IS NEEDED, USE ATTACHMENT SHEET IN TRIPLICATE.

From: Cavanavin STEPHEN W	74775 NO.	FACILITY/HOUSING UNIT
Part A – INMATE REQU	EST/CONCERN:	
I understand that my leavest was the subject of my glieve no reason for denial and it me from practicing my beliefs. decision be overtured. Not	ince. These selves only	is absolutely 1 To Prevent Nat Ihe
17 Ma()L		SIGNATURE OF REQUESTOR

Part B - RESPONSE AND REASONS FOR DECISION REACHED

I support the response to the Informal Grievance Resolution Form.

March 28, 2014

DATE

CHIEF EXECUTIVE OFFICER

ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

GRIEVANCE FORM Step Two CENTRAL OFFICE APPEAL

INSTRUCTIONS: TYPE OR USE BALL POINT PEN. IF MORE SPACE IS NEEDED, USE ATTACHMENT SHEET IN TRIPLICATE.

From: <u>Cavavavyh</u> Last name,	STEPHEN W	74775 NO.GROUP	NSP 3DL
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Part B - RESPONSE AND REASONS FOR DECISION REACHED

- See attached response. Mypkmi ORIGINAL: TO BE RETURNED TO INMATE AFTER COMPLETION.

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

GRIEVANCE FORM Step Two Central Office Appeal

RESPONSE AND REASONS FOR DECISION REACHED

Inmate Name:

CAVANAUGH STEPHEN W

Inmate Number:

78775

Date Received:

4/3/2014

Grievance Number:

2014-2530

Subject:

Religion

Response:

You are grieving the denial of your request that the Church of the Flying Spaghetti Monster be a recognized religion. Your request was reviewed by the Religious Study Committee and was denied. That decision will not be modified at this time.

JX. Hapking for

4-9-14

Date

Director

TO: Religious Cooldinatel	DATE: 3 APR 14
FROM: TOTAL COVERAVAL 78775	FACILITY LOCATION
WORK LOCATION:	UNIT STAFF:
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ORIGINAL – DCS Employee	Shirt
YELLOW – inmate Both copies need to be submitted for response.	Signature
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to support a parady.	
4/9/14	RC T. Krame

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TO: Religious Conflington	DATE: 11 19 14 14
FROM: State Cavarach 76775	$\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$ $\frac{1}{2}$
NAME / NUMBER	FACILITY LOCATION
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ORIGINAL – DCS Employee	Siting
YELLOW – Inmate	Signature
Both copies need to be submitted for response.	*
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REPLY:	
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4-27-14	Retailed
Date	A Water of the

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YELLOW – Inmate Both copies need to be submitted for response.	· Sig	nature
REPLY:		
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	Representation Signature	

NEDRAGIA DEL ALLIMENTO DE CONTREO NOMAS CENTROS.

TO: Walden	DATE: 27 Mal 161
FROM: TETHER COVAR COLA 76775	FACILITY 3 D LOCATION
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ORIGINAL – DCS Employee	2 Angh
YELLOW – Inmate	Signature
Both copies need to be submitted for response.	29
REPLY:	
REPLY:	
REPLY: Mr. Cavanaugh: It is my understanding that your request for religious accommoda	ations for the Church of the Fiving Spagnetti Monster was
REPLY: Mr. Cavanaugh: It is my understanding that your request for religious accommodarecently reviewed by the NDCS Religion Study Committee (RSC) and	ations for the Church of the Flying Spaghetti Monster was denied. I do not have the authority to reverse the decision
REPLY:	ations for the Church of the Flying Spaghetti Monster was denied. I do not have the authority to reverse the decision Form to the Chairperson of the RSC so that the Committee
REPLY:	ations for the Church of the Flying Spaghetti Monster was denied. I do not have the authority to reverse the decision Form to the Chairperson of the RSC so that the Committee
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REPLY:Mr. Cavanaugh:	ations for the Church of the Flying Spaghetti Monster was denied. I do not have the authority to reverse the decision Form to the Chairperson of the RSC so that the Committee
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NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

To Religious Cooldinated	DATE: 26 / Ch / T
FROM TIPHEN CAVARAVA	1977 NSP 3D1
FROM: NAME / NUMBER	FACILITY LOCATION
WORK LOCATION:	UNIT STAFF:
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ORIGINAL - DCS Employee	
YELLOW – Inmate Both copies need to be submitted for response.	Signature
REPLY: Mr. Cavanaugh.	
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for the Church	of the Felying Apaghetti Mountain
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3-9-14	K Bailert
Date	Signature

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WORK LOCATION:	UNIT STAFF:
MESSAGE: I was lot The ALLOW Pastatalians Agaisian has been leache The Nothing Hours!	on as an accommedated ultipion
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MEDIAGNA DEL'ALLIMENT OF COUNTECTIONAL CERTICES

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REPLY:	eccesin of the 1.29.14 RSC
1-12-19	SCALITA
Date	Signature

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES

TO: Religious Cooldinatel	DATE: \ feb14
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2-3-14	RNach
Date	Signature

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NEDMAONA DEPARTIMENT OF CONTRECTIONAL CENTROLS

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1/2/14	Rd. Cor. 7	In Kim
Date	Signa	ature

TO: Felinger Conditated	DATE: 27 () (C)
FROM: STEPHER Cavagaugh 7877	δ
WORK LOCATION:	UNIT STAFF:
MESSAGE: There are was avoid the To	Purchase a religious
ORIGINAL – DCS Employee YELLOW – Inmate	Signature
Both copies need to be submitted for response.	
REPLY: all put your in for a.	Dervice and your langer Dervice - 1-10-14
17-29-17	TJ3
Date	Signature

NEBRASKA DEFAR LIVIENT OF CORRECTIONAL CERTIFICA

TO: Rand Portet - taigues co	19 The	DATE:
FROM: TONIC COLONIA TO	77K NOP	
NAME / NUMBER	FACILITY	LOCATION
WORK LOCATION:	UNIT STAFF:	
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ORIGINAL - DCS Employee	A. M. A.	
YELLOW – inmate Both copies need to be submitted for response.	S	ignature
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REPLY:		
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