

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

WILLIAM C. SMITH,

Plaintiff,

v.

CASE NO. 4:22cv373-RH-MAF

RICKY D. DIXON,

Defendant.

_____ /

BRUCE BEHENSKY,

Plaintiff,

v.

CASE NO. 4:23cv65-RH-MAF

RICKY D. DIXON,

Defendant.

_____ /

**ORDER DIRECTING THE CLERK TO NOTIFY
BAR MEMBERS OF THE OPPORTUNITY TO
REPRESENT THE PLAINTIFFS PRO BONO**

These separate but related cases present the question whether the Florida Department of Corrections must allow a prisoner to grow a six-inch beard—or any

beard longer than the Department’s half-inch limit—to accommodate his religion. The answer turns on genuine disputes of material fact. Orders have been entered denying summary judgment. This order directs the clerk to send a notice to attorneys—first to those who represented the plaintiff in an earlier case presenting the same issue, and, if they do not choose to represent the current plaintiffs, then to all attorneys registered with the court’s electronic filing system. The earlier case was *Sims v. Inch*, 400 F. Supp. 3d 1272 (N.D. Fla. 2019), *aff’d sub nom. Sims v. Sec’y, Fla. Dep’t of Corrs.*, 75 F.4th 1224 (11th Cir. 2023).

The notice must state:

This is notice of an opportunity to provide pro bono service either individually or by overseeing work of a law student or other qualified individual, including, for example, a retired attorney.

The notice applies to two separate but related cases: *William C. Smith v. Ricky D. Dixon*, No. 4:22cv373-RH-MAF; and *Bruce Behensky v. Ricky D. Dixon*, No. 4:23cv65-RH-MAF. A nonjury trial will be set in Tallahassee at a date acceptable to both sides. In a similar case, all evidence was presented in a single day, with closing arguments the next day. *See Sims v. Inch*, 400 F. Supp. 3d 1272 (N.D. Fla. 2019), *aff’d sub nom. Sims v. Sec’y, Fla. Dep’t of Corrs.*, 75 F.4th 1224 (11th Cir. 2023).

The plaintiffs are inmates in the Florida Department of Corrections. They are currently housed at Hardee Correctional Institution. They assert a right under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), based on their Jewish faith, to grow a beard extending at least six inches or in any event longer than the half-inch maximum set by the Department’s current beard policy.

Separate orders denying summary judgment were docketed in each case on March 17, 2025. The orders cite the most relevant authorities on a prisoner's right under RLUIPA to grow a beard longer than allowed for prisoners generally. The cited cases included both *Sims*, in which the plaintiff prevailed, and a more recent Eleventh Circuit decision in which the defendant prevailed. *See Smith v. Owens*, 13 F.4th 1319 (11th Cir. 2021).

No further discovery is anticipated. The cases are ready for trial, or nearly so. It is likely the cases will be tried together.

Public funds are not available for the payment of attorney's fees. Fees may be recoverable under applicable law if a plaintiff ultimately prevails. *See* 42 U.S.C. §1988. Limited funds sometimes are available from the district's Bench and Bar Fund for the payment of out-of-pocket expenses incurred by an attorney providing representation of this type. The plaintiff prevailed in *Sims*, so attorneys who represented him in response to a notice like this one recovered fees, but that does not mean the plaintiffs will prevail and attorneys will recover fees here.

An attorney who wishes to represent either or both plaintiffs may contact them directly and may enter a case by filing a notice of appearance.

Access to the electronic docket will be made available without charge for consideration of a response to this notice.

An attorney who wishes to appear should file a notice of appearance as soon as the decision is made and in any event by April 15, 2025.

SO ORDERED on March 25, 2025.

s/Robert L. Hinkle
United States District Judge