

IN THE DISTRICT COURT OF LYON COUNTY, KANSAS

Dusti Howell

Plaintiff,

vs.

Joan D. Brewer, individually

and

Jim Persinger, individually

and

Emporia State University

Defendants.

Case No.

1. Dusti Howell is a resident of Emporia, Kansas and is employed by Emporia State University.
2. Joan Brewer is a Dean at Emporia State University.
3. Jim Persinger is an employee of Emporia State University.
4. Emporia State University is a state operated public university.

COUNT 1

Kansas Preservation of Religious Freedom Act

vs

Each Named Defendant

5. Plaintiff restates and incorporates by reference the allegations in the above paragraphs.
6. The named defendants are “government” as defined under K.S.A. 60-5302. The defendants acted under color of law.
7. For 52 years, since the plaintiff was 7 years old, he has exercised his religion by celebrating festivals including the Feast of Tabernacles. The

plaintiff is a Christian that keeps the Biblical Holy Days like the Feast of Tabernacles and Passover as opposed to traditional days like Christmas and Easter. For 23 years at Emporia State, the plaintiff has not been targeted, prohibited, or otherwise burdened regarding his religious exercise until 2021 by Dean Brewer.

8. The religious liberty interest protected by the Kansas Preservation of Religious Freedom Act is an independent liberty that occupies a preferred position, and no encroachments upon this liberty shall be permitted, whether direct or indirect, unless required by clear and compelling governmental interests of the highest order.

9. The defendants have directly and indirectly constrained, inhibited, curtailed and denied the plaintiff's exercise of religion as defined under the Kansas Preservation of Religious Freedom Act (KPRFA).

10. The defendants actions, orders, and policies as applied to the plaintiff, both directly and indirectly, constrains, inhibits, curtails and denies his respective practices or observance of religion under section 7 of the bill of rights of the constitution of the state of Kansas.

11. Each defendant's actions, orders, and policies requires the plaintiff to act or refuse to act in a manner substantially motivated by a sincerely-held religious tenet or belief, whether or not the exercise is compulsory or a central part or requirement of their respective religious tenets or beliefs.

12. That the interests referenced by the actions, orders, and policies of each defendant, as applied to the plaintiff, are not of the highest order and not otherwise served.

13. There is no clear and convincing evidence that any of the defendant's actions, orders, or policies, further a compelling governmental interest, as applied to the plaintiff or that those actions, orders, and policies are the least restrictive means of furthering any compelling governmental interest as applied to the plaintiff.

WHEREFORE the plaintiff Dusti Howell requests all of the relief under K.S.A. 60-5303 including, but not to the exclusion of others, injunctive and declaratory relief, actual damages, costs and attorney fees, as applied to him and as against each defendant.

By:/s/Linus L. Baker
Linus L. Baker KS 18197
6732 West 185th Terrace
Stilwell, Kansas 66085-8922
913.486.3913
913.232.8734 (fax)
E-Mail: linusbaker@prodigy.net
Attorney for the plaintiff