

D. Cause of Action.

Claim One Violation of the First Amendment (the taking away of Reverend Hale's mail rights due to his exercise of constitutionally protected speech, exercise of religion, and association with those of like mind)

1. The individual defendants are employees, officers, and agents of the Federal Bureau of Prisons ("B.O.P.") which is also a defendant in this case.
2. The Plaintiff, Reverend Matt Hale, was ordained as a minister in The Church of the Creator (hereafter "Church") in 1995. The Church is also sometimes referred to as The Creativity Movement.
3. The Church embraces and espouses the religion of Creativity. Creativity has been recognized as a bona fide religion under federal law. *See Peterson v. Wilmur Communications, Inc.*, 205 F.Supp.2d 1014 (E.D. Wisc. 2002).
4. Adherents of the Creativity religion are called "Creators."
5. The Church and the Creativity religious faith were founded by Ben Klassen in 1973 with the publication of his first book, Nature's Eternal Religion. Creators deem this book, as well as others written by Ben Klassen including The White Man's Bible, to be their Holy Scripture and sacred. Ben Klassen died in 1993.
6. The Creativity religion has Sixteen Commandments, a Golden Rule, Daily Affirmations which adherents repeat five times daily, sacred texts, a Creed and Program, as well as child pledging and marriage ceremonies. It also observes several holidays including Klassen Day (Ben Klassen's birthday) on February 20th as well as Martyrs' Day on September 15th marking the martyrdom of several of its adherents by death and imprisonment on account of their faith.
7. The overriding mission of the Church and the Creativity religion is the permanent prevention of the cultural, genetic, and biological genocide of the White Race worldwide and thus the

achievement of White racial immortality. In order to accomplish this mission, the Church and Creativity religion advocate total racial separation so as to stop the mixture, and hence destruction, of White culture and genetic stock as well as murder at the hands of non-white attackers. Creativity thus espouses the collective salvation of the White Race through its immortality on earth rather than individual, personal salvation in a supposed “afterlife” as is the case with some other religions. Nevertheless, with Creativity, the individual also finds his personal salvation in that the focus of his mind is taken away from his own troubles and struggles in life and is placed instead on his personal duty to devote himself to the survival of his race. The salvation of the individual is thus attained through his devotion to his race of which he is a part and he lives on after death through the continued life of his race.

8. The means by which the Church seeks to accomplish its mission of racial salvation consists exclusively in the legal and peaceful proselytizing of Creativity to others. Creativity Scripture specifically forbids any and all illegal and violent acts by its adherents in its fight to attain the salvation of the White Race.

9. Creativity is a proselytizing faith, meaning that its adherents must bring it to the non-converted in order to follow fully its teachings. Thus it is not possible for a Creator to exercise his religion by himself. Rather, he must proselytize it to others. Since it is the salvation and immortality of his race that is at issue, the Creator must proselytize for his White Race to others so that salvation and immortality may be attained.

10. The Church and Creativity religion further believe that the White Race is the elite species on this earth and despises the current dogma of “racial equality” as being an obvious and destructive falsehood. Analogous to Judaism, Creativity believes that there is a chosen people on earth.

However, rather than the Jews, that chosen people is the non-semitic White Race. Also like Judaism, Creativity only seeks the conversion of one's own kind and shuns any proselytizing of the faith to other races.

11. The symbol of the Creativity religious faith is that of a capital "W" standing for the White Race, with a crown and halo atop. The crown represents Creators' belief that White people are the true chosen people by Nature and the halo represents the belief that their bloodlines are holy and sacred.

12. Creators make pilgrimages to the site of Ben Klassen's grave and in 1997, Reverend Hale made such a pilgrimage. Today, Ben Klassen is considered a Prophet by those who adhere to the religion he began.

13. Creativity addresses the suffering, anxiety, and loneliness of Man by transferring the focus of his thoughts away from himself and onto the well-being of his White Race of which he is a part. By doing so, Man's personal struggles in life become far less harsh and unendurable to his mind and he is better able to cope with life.

14. Creativity addresses all of the ultimate questions of life, including the meaning of life and its purpose. The meaning of life for those who embrace Creativity is the benefit of one's own kind and the purpose of life for every White man, woman, and child is to seek the preservation and betterment of their White Racial Family. Creativity thus includes the striving for a sound mind, in a sound body, in a sound society, in a sound environment. Creativity hence teaches its adherents to build their minds, to eat salubriously, to create a society conducive to their mental and physical well-being, and to preserve a pure and natural environment. Morality is that which is in the best interests of the White Race.

15. The Creativity religious diet consists of raw fruits, vegetables, nuts, and seeds only – in their uncooked natural state. Only by eating food in its natural state can Creators properly fulfill their allegiance to Nature’s Laws and thus fully fulfill the tenets of their religious faith.

16. Reverend Hale’s duties as an ordained minister include the espousal and promotion of Creativity to those with whom he corresponds and associates as well as to White people at large. Reverend Hale’s ministry also includes providing counseling to his correspondents who look to him for guidance as their minister.

17. Reverend Hale also authors articles as well as sermons for the Church. He has also written or partially written several books concerning religion, philosophy, politics, and constitutional law.

18. Before he was imprisoned, Reverend Hale performed marriage ceremonies in his home state of Illinois recognized by that state as valid, gave many public speeches and sermons, and edited a monthly newsletter. Thousands of Creators worldwide recognize Reverend Hale as a minister in the Church and recognize Creativity as their religion.

19. Creativity functions totally as a religion in the life of Reverend Hale. Reverend Hale has been a convert to Creativity since he first read Nature’s Eternal Religion at the age of 18 in 1990. He is sincere in his belief and considers himself intensely religious. No other faith occupies a role in his life.

20. From 1996 until the expiration of his term of office in 2006, Reverend Hale was the leader of the Church or Pontifex Maximus (“greatest priest”). There has not been a Pontifex Maximus pursuant to Church guidelines since that time.

21. Reverend Hale is a 1998 graduate of Southern Illinois University School of Law and passed the Illinois bar exam that same year. In addition, he is a classical violinist, having played

professionally in several symphony orchestras. Also having an interest in philosophy, Reverend Hale was a member of the North American Nietzsche Society for some years.

22. Reverend Hale was arrested on federal charges in January 2003. Since that time, he has spent his entire imprisonment without a cellmate in solitary confinement.

23. Reverend Hale has never been given any indication whatsoever by the B.O.P. that he will ever be removed from solitary confinement before the expiration of his forty year sentence.

24. Reverend Hale is an innocent man who has proven his innocence of having committed the crimes of his conviction throughout the proceedings of his criminal case. (See e.g. Doc. 29 at pages 6-8, 23-32 of Case No. 11-3868 of the Seventh Circuit Court of Appeals.)

25. As someone (an innocent man) serving a forty year sentence in solitary confinement, Reverend Hale's right to communicate with his friends, supporters, and religious congregation assumes an especially heightened significance in his life far exceeding that which would be the case were Reverend Hale to have the freedom of movement and opportunities for social interaction that the average prisoner has. In essence, his ability to correspond with others forms a major component of what limited life he has managed to retain for himself despite his wrongful conviction. It is through his mail that Reverend Hale is able to engage in his free exercise of religion. It is through his mail that Reverend Hale is able to associate with others in his Church and with those of like mind. It is through his mail that Reverend Hale is able to share with others his religious, ideological, and philosophical views on a host of subjects. It is through his mail that Reverend Hale is able to have any kind of normal social life at all. His mail is thus not only vital for the fulfillment and exercise of his religious, association, and free-speech rights but also for his mental and psychological well-being.

26. Since April 2005, Reverend Hale has been housed at the United States Penitentiary, Administrative Maximum (hereafter “Supermax”), in Florence, Colorado. However, he has no record whatsoever of having committed any violent or illegal act during his imprisonment that would justify such a severe security classification. Rather, he was assigned to Supermax due to hostility towards his religious and ideological beliefs, his participation in and leadership of his Church, and because he was a well-known public figure before his arrest.

27. In all of the years that Reverend Hale has been a federal prisoner, he has never committed a crime with his mail nor tried to commit a crime with his mail.

28. In all of the years that Reverend Hale has been a federal prisoner, he has never been accused by prison staff of having committed a crime with his mail or having tried to do so. Nor has he ever been accused by prison staff of ever having fomented or encouraged violence in any way with his mail.

29. Reverend Hale has never done anything with his mail since becoming a federal prisoner that would in any way justify or legitimize the taking away of his mail rights and nor has Reverend Hale ever been accused of having done so by prison staff.

30. Reverend Hale’s mail has thus always been legal, peaceful, and otherwise squarely within the law since he became a federal prisoner.

31. In July 2010, defendants Davis, Milusnic, Krist, Rangel, Synsvoll, Brieschke, Smith, and the B.O.P. placed Reverend Hale on “Restricted General Correspondence” status (hereafter “mail ban”) for, in part, having written an article for his Church in which Reverend Hale stated that he was reassuming his leadership as Pontifex Maximus, pro tempore (“for the time being”), until the next Pontifex Maximus could be elected by the Church membership pursuant to the guidelines set forth

by Ben Klassen. The restriction banned all personal correspondence between Reverend Hale and anyone aside from his immediate family members and was imposed for an indefinite duration with review every six months.

32. Each of the defendants in the preceding paragraph participated individually and personally in the decision to ban Reverend Hale's mail and each of them agreed to the decision. At the time that they did so, they filled the following offices at Supermax and as officers of the B.O.P.: Defendant Davis was the Warden; Defendant Milusnic was the Assistant Warden; Defendant Synsvoll was the lead Supervisory Attorney; Defendant Brieschke was the Assistant Supervisory Attorney; Defendant Krist was the Special Investigative Agent; Defendant Rangel was the Unit Manager of D Unit where Reverend Hale is housed; and Defendant Smith was the "SIS Technician" who regularly handled Reverend Hale's mail. Since imposing this mail ban, Defendants Davis, Milusnic, Krist and Smith are believed to have left Supermax for other positions in the B.O.P.

33. Defendants Brieschke and Smith specifically told Reverend Hale that his mail was being taken away because Reverend Hale was trying to "direct" his Church.

34. Defendant Davis specifically told Reverend Hale that "we don't want you to be Pontifex Maximus."

35. In September 2010, Reverend Hale asked Defendant Redden what he could write about in his mail in the future, when he got his mail back, without there being a danger that his mail could be taken away from him again. She replied, "you can talk about the weather."

36. In November, 2010, Defendant Rangel ordered that Reverend Hale be moved to a more restrictive part of Supermax from where he had been because of her personal disdain for Reverend Hale's exercise of his religious beliefs and to punish and penalize him for his attempts to participate

in his Church. Reverend Hale has been kept in this more restrictive part of Supermax ever since. Reverend Hale and the seven other prisoners on his “range” are not allowed to interact with prisoners from other ranges. Reverend Hale is the only prisoner on this range who has no history of causing anyone’s death. Had the mail ban not been imposed, Defendant Rangel would not have had Reverend Hale moved.

37. Pursuant to this mail ban imposed in July 2010, Defendant Milusnic personally approved and signed off on the rejection and return of letters that were mailed to Reverend Hale by his correspondents.

38. Also pursuant to this mail ban, Defendants Smith and Redden personally arranged for the rejection and return of letters that were mailed to Reverend Hale by his correspondents.

39. Reverend Hale was informed by Defendants Brieschke and Redden on January 9, 2011, or thereabouts, that the mail ban had been lifted. However, Defendants Brieschke and Redden told Reverend Hale to avoid becoming too involved with his Church with his correspondence and that they could not guarantee that his mail would not be taken away again if they saw fit. Reverend Hale specifically asked if everything would be okay if he refrained from directing, or attempting to direct, his Church, but Brieschke and Redden refused to commit to that.

40. Reverend Hale was thus left in fear concerning the resumption of his correspondence rights not knowing what would, or what would not, trigger another mail ban.

41. The defendants who impose the mail ban (as stated in para. 32 above), as well as Defendant Redden who began enforcing it after its imposition, deliberately sought to intimidate Reverend Hale from exercising his First Amendment speech, association, and free exercise of religion rights by refusing to explain what exactly would trigger another mail ban and by holding over Reverend

Hale's head the threat that another ban on his mail would be forthcoming if he engaged in First Amendment protected activity with the resumption of his correspondence.

42. Defendants Davis, Milusnic, Synsvoll, Brieschke, Krist, Rangel, Smith, and Redden, through their imposition and enforcement of the July 2010-January 2011 mail ban and through their willingness and threat to impose another one should they not like Reverend Hale's particular exercise of his First Amendment protected rights in his resumed correspondence, deliberately sought to chill Reverend Hale's exercise of these rights and to intimidate Reverend Hale from exercising those rights in the future. In this, they succeeded: they prevented Reverend Hale from reasserting his leadership of his Church, prevented him from being actively involved with his Church, and in general made him fearful regarding all of his correspondence since it could be taken away from him at any time, for any arbitrary reason, regardless of his compliance with all statutory laws and prison rules to which Reverend Hale accepts that he is bound. Thus the wrong that the defendants committed through their imposition of the mail ban in July 2010 continued long after that imposition began.

43. Beginning in July 2012, Reverend Hale began issuing written sermons to the Church on a monthly basis, each sermon being called a "Sermon from Solitary." Among other things, the sermons urged Creators and others to stay within the law, refrain from any violence, and use persuasion to win over others to Creativity and to the cause of Racial Loyalty generally.

44. Reverend Hale felt that such a message (as stated in para. 43) would be helpful both to his Church, his religious faith, his fellow believers and those of like mind, as well as to law enforcement and society in general.

45. From July 2012 until January 29, 2013, the defendants made no complaint to Reverend Hale

regarding the sermons and he mailed them out accordingly.

46. From the lifting of the mail ban in January 2011 until January 2013, the defendants in fact made no complaint to Reverend Hale regarding the content of his outgoing mail generally.

47. Lest his mail rights be taken away from him again, Reverend Hale tried to avoid any possibility that he could be accused of “directing” or trying to direct his Church and thus sought to keep his involvement in the Church to a minimum consistent with his duties as an ordained minister.

48. Nevertheless, on January 29, 2013, Defendant Redden came to Reverend Hale’s cell and informed him that he was being placed on “Restricted General Correspondence” status again and gave him paperwork to that effect.

49. This second band of Reverend Hale’s mail was personally and individually imposed by Defendants Berkebile, Kuta, Synsvoll, Brieschke, Rangel, Tuttoilmundo, Heim, Redden, and the B.O.P. and each agreed to the decision. At the time of its imposition, the individual defendants held the following positions at Supermax: Defendant Berkebile was Warden; Defendant Kuta was Assistant Warden; Defendant Synsvoll was Supervisory Attorney; Defendant Brieschke was Assistant Supervisory Attorney; Defendant Rangel was Acting Special Investigative Agent; Defendant Tuttoilmundo was Acting Unit Manager of D unit where Reverend Hale was housed; Defendant Heim was Assistant Inmate Systems Manager; and Defendant Redden was “SIS Technician” who handled Reverend Hale’s mail.

50. When he was informed of the new mail ban, Reverend Hale asked Defendant Redden why it was being imposed and she said, “you’re trying to be something that you are not allowed to be anymore,” meaning an ordained minister for his Church, and she also said, “we don’t like you writing your Church.” Defendant Redden also told Reverend Hale that the ban had “been in the

works for a long time.”

51. This second mail ban, like the first, was imposed for an indefinite duration with review every six months.

52. Defendant Redden refused to provide Reverend Hale with her first name for purposes of this lawsuit.

53. Defendants Synsvoll and Brieschke, attorneys for Supermax, routinely counsel the employees of the B.O.P. and those of Supermax specifically, to violate the constitutional and other legal rights of prisoners. They do so with malice and with the deliberate intent that prisoners be deprived of their legal rights to the maximum extent desired without subjecting the B.O.P. and themselves to civil liability if at all possible. They hope and assume that prisoners are ignorant of their legal rights and even if they are not, that they will lack the courage, money, patience, or endurance to vindicate their legal rights through prolonged proceedings in the courts. Their sole concern and sole role as attorney employees of the B.O.P. is that the B.O.P. and its employees succeed in and get away with violating the legal rights of prisoners as much as happens to be desired at the given time. They have no regard for the Constitution of the United States nor for any decision of any court making clear the constitutional rights of prisoners unless there is a specific court order in question that is directed at a specific prisoner in which case they will obey the court’s decision in regards to that specific prisoner only while continuing to violate the same exact rights of other prisoners as before.

54. In accordance with this modus operandi of Defendants Synsvoll and Brieschke as stated in paragraph 53, they urged and advised the other defendants to impose both mail bans on Reverend Hale knowing full well that the bans violated his constitutional and other legal rights.

55. All of the defendants imposed and enforced both mail bans with the realization and

understanding that Reverend Hale's correspondence was perfectly in comportment with all federal and state laws as well as B.O.P. policy.

56. The defendants, in imposing both mail bans, did not believe that his correspondence posed a threat of violence or any illegality in any way.

57. Rather, the defendants took his mail rights away totally because of their disdain for his exercise of his First Amendment rights, because of their personal animosity for his Church and religion, and because they wanted to eliminate his First Amendment rights and hurt Reverend Hale personally because of the religion he adheres to and the opinions he holds otherwise.

58. On February 16, 2013, Defendant Redden informed Reverend Hale that even though Defendant Davis is no longer warden at Supermax, he played a personal and important role in the decision to impose the second mail ban. Defendant Davis, apparently as an assistant to the Director of the B.O.P. in Washington DC, urged the other defendants to impose the ban.

59. On February 19, 2013, Defendant Rangel stopped by Reverend Hale's cell, telling Reverend Hale that the new mail ban "was a management decision made by all of us."

60. Pursuant to this second mail ban, Defendant Kuta personally approved and signed off on the rejection and return of each letter that was mailed to Reverend Hale by his correspondents.

61. Pursuant to the second mail ban, Defendant Redden personally arranged for the rejection and return of the letters that were mailed to Reverend Hale by his correspondents.

62. When letters to Reverend Hale are rejected, he is supposed to receive a notice of the rejection. However, on numerous occasions, Reverend Hale's correspondents wrote him during the two mail bans without Reverend Hale being given any rejection notice and nor was the correspondence returned to the sender. Indicative of their malicious intent to interfere with and

stymie Reverend Hale's free exercise of religion rights as well as to cause him grief for daring to exercise his First Amendment freedom of speech, association, and religious rights, Defendants Smith and Redden deliberately failed to provide him with rejection notices so that he would think that his congregation and others had failed to try to write him and thus abandoned him. Defendants Smith and Redden thus deliberately sought to cause Reverend Hale psychological anguish for exercising his First Amendment rights. Furthermore, both Defendants Smith and Redden would deliberately cover up the addresses on the rejection notices that they did issue to Reverend Hale in an effort to prevent him from writing his correspondents back once his mail rights were restored, again in an effort to thwart his exercise of his First Amendment rights.

63. As evidence indicating his own religiously discriminatory intent in imposing the second mail ban, Defendant Kuta told Reverend Hale that he does not want him to be associated with his Church and has prohibited him from going to the Supermax "step down unit" because of that association.

64. Part of the motivation of the defendants in violating Reverend Hale's First Amendment right to free exercise of religion, freedom of speech, and freedom of association with those of like mind through the imposition of the mail bans is to coerce Reverend Hale into abandoning his religious faith and his Church.

65. Part of the motivation of the defendants in imposing the mail bans is that they wanted to impede and stymie the progress of Reverend Hale's Church and Creativity religion in the conversion of others to their Creativity religious faith. They consider Reverend Hale important to that progress and believe that by taking away his correspondence, that progress would be undermined if not eliminated.

66. Part of the motivation of the defendants in imposing the mail bans is that the defendants

wanted to destroy Reverend Hale's relationships with those who care about him in the outside world.

67. The defendants specifically desire that Reverend Hale convert to a different religion, one that meets their personal approval.

68. The defendants, through their imposition of the mail bans, sought to punish and persecute Reverend Hale for the religious faith that he adheres to, for the religious beliefs and other ideological beliefs he espouses, and because of the Church to which he belongs.

69. The defendants acted with malice when they imposed both mail bans upon Reverend Hale and desired to inflict psychological and emotional harm upon him.

70. The defendants were fully aware that Reverend Hale's correspondence is within all prison rules and statutory laws and that it poses no threat to anyone or anything. Nevertheless, the defendants lied to Reverend Hale when they claimed to him that his correspondence posed a "special threat" when they notified him about the imposition of the mail bans. They did so in an attempt to justify their own unlawful conduct in imposing the mail bans, knowing that their conduct was indeed unlawful.

71. The defendants, when they impose mail bans upon prisoners, routinely in fact claim that the prisoners' correspondence poses a "threat" regardless of whether this is sincerely believed or not. They do this as a means of discouraging prisoners from contesting the mail bans, from bringing lawsuits against the bans in court, and as a means of prevailing in such lawsuits should they be brought all the same. The defendants thus routinely hide behind what is facially a legitimate basis for the mail bans without necessarily believing in its legitimacy themselves and the claimed justification for the mail bans is actually meaningless since the claim of a "threat" is made regardless of whether there is any truth to the assertion as happened with Reverend Hale.

72. The defendants are fully aware that Reverend Hale is a non-violent person.

73. The defendants are fully aware that Reverend Hale has renounced violence consistently in his correspondence.

74. Part of the motivation of the defendants in imposing the mail bans is their hope that Reverend Hale could be so badly wronged, treated so blatantly unlawfully by their actions that he would finally resort to violence out of sheer frustration and anger at the injustice done to him. Thus the defendants, in imposing the mail bans, sought to create a self-fulfilling prophecy: they took away Reverend Hale's mail rights under a knowingly false claim that his correspondence constituted a "threat" in the hopes that he would respond with threatening words or deeds, thus providing supposed, after the fact justification for their phony claim of a "threat" that never existed in the first place. The defendants thus sought to manufacture a legal justification for imposing the mail bans where none exists.

75. The defendants in this case are essentially quasi-criminals regardless of their happening to be employees of the federal government. Reverend Hale in fact asserts that their blatant and flagrant violation of his precious and clearly established constitutional rights is more egregious than were they to have merely violated a criminal law since the Constitution of the United States is the supreme law of the land and all laws and regulations are required to be subordinate thereto.

76. With this lawsuit, Reverend Hale complains about the two particular mail bans heretofore described as well as any mail bans imposed upon him in the future by whatever authority and under whatever name the ban is called. So long as he is a prisoner, he complains about the imposition of any restriction upon whom he can correspond with and any censorship of his mail on grounds that violate the First Amendment guarantees of speech, free exercise of religion, and association.

77. On August 6, 2013, Defendant Redden came to Reverend Hale's cell and informed him that the latest mail ban had been lifted.

78. Creativity, like other religions, teaches the existence of a struggle between good and evil. Good is personified by the White Race and the crusade for its future while evil is personified by its antithesis in this world, the Jewish Race. The symbol of Creativity is holy while the symbol of Judaism is wicked. Analogous to Jesus Christ's denunciation of the Jews in John 8:44 as being the children of the devil, and St. Paul's denunciation of the Jews in I Thessalonians 2:14 as being "contrary to all men," Creativity teaches that "The Jew is the root of all evil" and that Judaism is essentially a conspiracy against all non-Jews designed to manipulate and dominate the world. Thus both religions, Creativity and Christianity, condemn the Jews as an evil. However, Creativity teaches that since Christianity has a Jewish origin, it is necessarily tainted with the very evil that it condemns. Creativity thus calls for a new day altogether, trusts in Nature and her laws, and strives for eternal salvation.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim One.

Claim Two First Amendment Retaliation (the taking away of Reverend Hale's mail rights because of his engagement in constitutionally protected activity)

79. Reverend Hale repeats and realleges paragraphs 1 through 77 as if fully stated herein.

80. By imposing mail bans upon him because of his trying to participate in his Church and religious faith as well as his exercise of his freedom of speech, the defendants have intimidated

Reverend Hale from continuing to engage in these constitutionally protected activities.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Two.

Claim Three Violation of the Religious Freedom Restoration Act, 42 U.S.C. sec. 2000 bb-1 (the taking away of Reverend Hale’s mail rights because of his involvement in his Church and religious faith)

81. Reverend Hale repeats and realleges paragraphs 1 through 80 as if fully stated herein.

82. By imposing and threatening to impose mail bans upon him because of his exercise of his religious faith and involvement in his Church through his correspondence, the defendants have substantially burdened Reverend Hale’s religious exercise in violation of 42 U.S.C. sec. 2000 bb-1(c).

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Three.

Claim Four Violation of Fifth Amendment due process (the taking away of Reverend Hale’s mail rights without affording him a prior opportunity to be heard)

83. Reverend Hale repeats and realleges paragraphs 1 through 77 as if fully stated herein.

84. Prior to the imposition of the (July 2010-January 2011 and the January 2013-August 2013) mail bans, Reverend Hale was given no notice or opportunity to be heard whatsoever. Rather, his mail rights were taken away from him without his being afforded any notice that such an imposition

was to be forthcoming nor being given any opportunity prior to its imposition to raise any objection or evidence against it.

85. B.O.P. policy, recognizing that prisoners have a Fifth Amendment due process right to notice and a hearing prior to the deprivation of their mail rights, codifies the constitutional requirement that a hearing be held before placing an inmate on restricted general correspondence status. As stated by 28 C.F.R. sec. 540.15(c), in pertinent part:

“The warden shall use one of the following procedures *before* placing an inmate on restricted general correspondence.

2. Where there is no incident report, the warden:

- (ii) shall give the inmate the opportunity to respond to the classification or change in classification.”

(emphasis added)

86. Since Reverend Hale was not provided said opportunity before being placed on the mail restrictions, the defendants deprived him of his liberty interest without due process of law.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Four.

Claim Five Violation of First Amendment (the refusal by defendants Berkebile, Redden, and B.O.P. to allow Reverend Hale to have the scripture of his religious faith)

87. Reverend Hale repeats and realleges paragraphs 1 through 80 as if fully stated herein.

88. In February 2013, defendants Redden, Berkebile and B.O.P. rejected and refused to allow Reverend Hale to have Nature’s Eternal Religion, the main Bible of Reverend Hale’s Creativity religious faith, when it arrived for him at Supermax.

89. Defendants Redden, Berkebile, and B.O.P. refused to allow Reverend Hale to have Nature's Eternal Religion due to their disdain of the beliefs contained therein and in an effort to deny Reverend Hale access to those beliefs. They also wanted to inhibit his ministerial duties.

90. The defendants did not and do not believe that allowing Reverend Hale to have Nature's Eternal Religion poses any kind of threat or risk of harm to anyone or anything in any way. Rather, the defendants simply wished, and wish, to deny Reverend Hale his scripture for the reasons stated in the above paragraphs. The same motivations that inspired all of the defendants to impose the mail bans inspired the refusal to allow Reverend Hale to have his religious scripture.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Five.

Claim Six Violation of Equal Protection of Rights (treating Reverend Hale worse than other prisoners on account of his constitutionally-protected religion, speech, and associations)

91. Reverend Hale repeats and realleges paragraphs 1 through 90 as if fully stated herein.

92. Supermax regularly administers to the religious needs and interests of its black prisoners by showing Nation of Islam and Louis Farrakhan videos, as well as other black religious programming, on its religious television channel.

93. As is well known, the Nation of Islam and Louis Farrakhan espouse black pride and black separatism, as well as anti-semitism according to many. The address of the Nation of Islam is provided on the programs so that black prisoners may be able to write and get involved with that organization.

94. Even though the defendant B.O.P. is willing to show black separatist programs on its television channel, as alleged in the preceding paragraphs, the defendants took away Reverend Hale's mail rights because of his espousal of White pride and White separatism in correspondence that, unlike videos shown on the prison television channel, have nothing to do with the prison.

95. Had Reverend Hale instead been a black prisoner and ordained minister of a black-oriented church, the defendants would not have imposed the bans on his mail or the denial of his religious scripture that occurred in this case. Thus the defendants treated Reverend Hale worse than other similarly-situated prisoners on account of his beliefs, religion, and race.

96. If Reverend Hale were a Christian, Muslim, or Jew, the defendants would leave him alone and let him exercise his religious and ideological speech, exercise, and association rights without interference or punishment. However, since Reverend Hale does not adhere to the aforesaid religious faiths, the defendants feel free to treat him worse than other similarly-situated prisoners who adhere to those faiths and in fact do so.

97. Had Reverend Hale been a Christian, Muslim, or Jew instead of a Creator, the defendants would not have imposed the mail bans or denied him his scripture.

98. The defendants do not like the fact that Reverend Hale writes articles and sermons for his faith and church and took his mail away on both occasions, in part, for so doing. However, other similarly-situated prisoners in the B.O.P. engage in same or similar conduct without penalty.

99. If Reverend Hale were a Christian, defendants Redden, Berkebile, and B.O.P. would have allowed him to receive the scripture of his religious faith. Instead, because he is a Creator, they denied him his scripture, Nature's Eternal Religion.

100. While defendants Redden, Berkebile, and B.O.P. refused to allow Reverend Hale Nature's

Eternal Religion, the bible of his own religious faith, defendant B.O.P. distributes the Christian Bible and the Muslim Koran to prisoners upon request.

101. Reverend Hale has in fact received both the Christian Bible and the Muslim Koran, upon his request to the Religious Services Department, since arriving at Supermax.

102. Reverend Hale is treated unequally by the defendants because of his religious beliefs and Church affiliation.

103. By imposing the mail bans, the defendants denied Reverend Hale his fundamental right to freedom of speech, freedom of association, and freedom to exercise the religion of his choosing.

104. Similarly-situated prisoners of other religious faiths are allowed by the defendants to participate freely in their religions and religious organizations whereas the defendants do not allow Reverend Hale to do so because they disdain his particular religion and church.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Six.

Claim Seven Violation of Religious Freedom Restoration Act, 42 U.S.C. sec. 2000 bb-1 (the refusal by defendants Berkebile, Redden, and B.O.P. to allow Reverend Hale to have his religious scripture so that he can exercise his faith)

105. Reverend Hale repeats and realleges paragraphs 1 through 90 as if fully stated herein.

106. By refusing to allow Reverend Hale to have the scripture of his religious faith, Nature's Eternal Religion, the defendants have substantially burdened Reverend Hale's religious exercise in violation of 42 U.S.C. sec. 2000 bb-1.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim

Seven.

Claim Eight Violation of First Amendment (the refusal by defendants Berkebile and B.O.P. to provide Reverend Hale with meals that comply with his Creativity religious dietary requirements)

107. Reverend Hale repeats and realleges paragraphs 1 through 20 as if fully stated herein.

108. In June 2013, Reverend Hale asked defendants Berkebile and B.O.P. to provide him with meals that meet his religious dietary needs but they refused his request in July 2013.

109. The Creativity religious diet is integral to the Creativity religion itself. There is no such thing as fully following the Creativity religion without following its religious diet.

110. Reverend Hale practiced his Creativity religious diet when he was a free man and has requested it on several occasions during his imprisonment but it has always been denied.

111. Since the Creativity religious diet consists merely of raw fruits, vegetables, nuts, or seeds, it is extremely easy to fulfill in regards to B.O.P. staff and budgetary concerns since no cooking or processing is necessary or allowed.

112. The Tenth Circuit Court of Appeals has stated that “this circuit recognizes that prisoners have a constitutional right to a diet conforming to their religious beliefs.” *Beerheide v. Suthers*, 286 F.3d 1179, 1185 (10th Cir. 2002).

113. The meals provided to Reverend Hale by defendant B.O.P. violate his religious beliefs in numerous ways. Specifically, they are cooked, contain animal products, and do not consist of fruits, vegetables, nuts, or seeds only.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim

Eight.

Claim Nine Violation of Religious Freedom Restoration Act, 42 U.S.C. sec. 2000 bb-1 (the refusal by defendants Berkebile and B.O.P. to provide Reverend Hale with his Creativity religious diet)

114. Reverend Hale repeats and realleges paragraphs 107 through 113 as if fully stated herein.

115. By refusing to provide Reverend Hale with meals that comply with his Creativity religious dietary requirements, defendants Berkebile and B.O.P. have substantially burdened Reverend Hale's religious exercise in violation of 42 U.S.C. sec. 2000 bb-1.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Nine.

Claim Ten Violation of First Amendment (the refusal by defendants Berkebile and B.O.P. to allow Reverend Hale to be interviewed in person by Larry Yellen of Fox News Chicago)

116. In March or April 2013, Larry Yellen, a reporter for Fox News in Chicago, made a request to defendants Berkebile and the B.O.P. that he be allowed an in-person, on camera interview with Reverend Hale.

117. Reverend Hale's family had contacted Yellen to inform him that Reverend Hale desired the interview in order to bring public awareness to the fact of his innocence and wrongful convictions.

118. Reverend Hale, as a well-known public figure, had interviewed with Yellen several times when he was a free man concerning his Church and religious pro-white activism.

119. The fact that a prisoner maintains that he is innocent of any crime and that he is being

wrongfully imprisoned is a matter of significant public concern.

120. 28 C.F.R.sec. 540.63 allows prisoners to have personal interviews with representatives of the news media. An interview can only be denied for the reasons stated in paragraph (g), none of which apply in Hale's case.

121. Nevertheless, Defendant Berkebile and Defendant B.O.P. denied Yellen's request for the interview on May 13, 2013, citing "institution safety and security concerns."

122. Defendant Berkebile is well aware that Yellen's requested interview with Reverend Hale poses no "institution safety and security concerns" but made that false claim merely in an effort to justify the denial of the interview.

123. Defendant Berkebile does not want the public to know that there are innocent men being held at his "Supermax" prison and this motivated his decision, in part, to deny Yellen's interview request.

124. Defendant Berkebile was also motivated by a desire to silence Reverend Hale because of his religious and ideological beliefs and to stop any of those beliefs from being presented to the public.

125. The denial of the interview is part of the same pattern of religious and ideological oppression that Reverend Hale has stated in the previous claims of this complaint.

126. Defendants Berkebile and B.O.P. had no legitimate basis for denying the interview request.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Ten.

Claim Eleven Violation of Eighth Amendment (the imposition of broad mail bans and religious scripture bans upon a prisoner housed in solitary confinement for indefinite duration)

127. Reverend Hale repeats and realleges paragraphs 1 through 106 as if fully stated herein.

128. Reverend Hale is confined to his cell for an average of 22 hours per day with two hours out of his cell for recreation periods.

129. Due to the onerous restrictions on social visits at Supermax as well as his having had no previous ties to the state of Colorado, Reverend Hale has only been able to receive two social visits at Supermax since he arrived there in 2005.

130. As a prisoner who has been kept in solitary confinement for more than 10 years and who has no indication that he will ever be freed by the B.O.P. from that status before the expiration of his 40 year sentence, the defendants have an obligation to refrain from imposing additional onerous conditions upon his confinement that would cumulatively render his imprisonment cruel and unusual under the Eighth Amendment. They have failed to do so here. Taking away a prisoner's personal mail who is already in solitary confinement, without him having done anything wrong, as happened here, is cruel and unusual. It is cruel and unusual for a prisoner kept in solitary confinement also to lose his personal mail without evidence that he has committed, or attempted to commit, any illegal or unlawful activity.

Wherefore, Reverend Hale prays that this Honorable Court issue judgment in his favor on Claim Eleven.

G. Request for Relief

Request for Declaratory Judgment

1. Reverend Hale requests that this Court issue a declaratory judgment that 28 C.F.R. sec.

540.15 is, on its face, unconstitutional in that it provides for the taking away of *all* of a prisoner's personal correspondence not to and from his immediate family without any determination that such a broad restriction is necessary to address a legitimate penological concern. For example, even if the B.O.P. is concerned about only one of a prisoner's correspondents, the correspondence between the two people, the regulation allows for the banning of *all* personal correspondence not to and from his immediate family instead of merely the correspondence that is of concern. Furthermore, the regulation allows for the banning of a prisoner's personal correspondence for any reason whatsoever, likewise facially violating the First Amendment as interpreted by *Procunier v. Martinez*, 416 U.S. 396, 413-414 (1974); *Turner v. Safley*, 482 U.S. 78, 89-91 (1987); and *Thornburgh v. Abbott*, 490 U.S. 401, 408 (1989). On its face, the banning of *all* non-immediate family personal correspondence is "greater than necessary or essential to the protection of [any] particular governmental interest involved" and has a "sweep [that] is unnecessarily broad." *Thornburgh* at 408.

2. Reverend Hale requests that this Court issue a declaratory judgment that 28 C.F.R. sec. 540.15, as it was applied to Reverend Hale by the defendants in this case, is unconstitutional in that the defendants used the regulation to take away Reverend Hale's First Amendment right to freedom of speech, free exercise of religion, and freedom to associate with the church of his choosing as well as to retaliate against him for the exercise of such rights.

3. Reverend Hale requests that this Court issue a declaratory judgment that the defendants violated 28 C.F.R. sec. 540.15(c), as well as the due process clause of the Fifth Amendment, by not providing him with prior notice and an opportunity to be heard before taking away his mail rights on both occasions.

4. Reverend Hale requests that this Court issue a declaratory judgment that 28 C.F.R. sec.

540.15(c), should the regulation as a whole survive constitutional scrutiny otherwise, requires that federal prisoners, when no incident report has been issued, must be given prior notice and an opportunity to be heard before their mail rights are taken away from them by the B.O.P..

5. Reverend Hale requests that this Court issue a declaratory judgment that the due process clause of the Fifth Amendment requires that federal prisoners must be given prior notice and an opportunity to be heard before any of their mail rights may be taken away from them by the B.O.P., absent exigent circumstances.

6. Reverend Hale requests that this Court issue a declaratory judgment that the defendants violated his First Amendment freedom of speech, exercise of religion, and association rights; his Fifth Amendment equal protection and due process rights; his First Amendment right to be free from retaliation for exercising his First Amendment rights; his Eighth Amendment right to be free from cruel and unusual punishment; and his statutory rights under the Religious Freedom Restoration Act.

Request for Injunctive Relief

7. Reverend Hale requests that this Court enjoin the defendants from ever again imposing any ban upon his mail due to its religious or any other ideological content.

8. Reverend Hale requests that this Court enjoin the defendants from ever again imposing any ban upon his mail because of his participation and activism in his church, in his religion, or in any other constitutionally or statutorily protected activity.

9. Reverend Hale requests that this Court enjoin the defendants from interfering, or attempting to interfere, in any way, with Reverend Hale's participation in his church, with his duties as an ordained minister, or with any of his correspondence concerning same absent evidence that Reverend Hale is engaging in or attempting to engage in illegal conduct with these activities.

10. Hale requests that this Court enjoin the defendants from discriminating against him, or treating him worse than other prisoners in any way, because of his Creativity religious beliefs, his church affiliation, his ministry in his church, or due to any other beliefs or conduct that are protected by the First Amendment and the Religious Freedom Restoration Act.

11. Reverend Hale requests that this Court order the defendants to provide him with his scripture, Nature's Eternal Religion, and enjoin the defendants from ever again disallowing him from receiving any of the books, or any other printed matter, of his Creativity religious faith and church.

12. Reverend Hale requests that this Court order the defendant B.O.P. to provide him entirely with meals that fully comply with his Creativity religious dietary requirements, namely that they consist exclusively of raw fruits, vegetables, nuts, or seeds.

13. Reverend Hale requests that this Court order defendants Berkebile and B.O.P. to allow him in-person interviews with Larry Yellen of Fox News Chicago as well as with any other reporter who requests same.

14. By deliberately counseling the other defendants to violate Reverend Hale's constitutional rights as well as directly participating in the egregious conspiracy to do so as heretofore described, defendants Synsvoll and Brieschke violated the oaths they took to become members of the Colorado Bar as well as members of the federal bar; namely, they violated their sworn oaths to uphold, protect, and defend the Constitution of the United States. Reverend Hale therefore requests that this Court suspend Synsvoll and Brieschke from the federal bar and also requests that this Court recommend to the Colorado Supreme Court that they be disbarred from the practice of law in this state.

Request for Money Damages

15. Due to the aforesaid flagrant, blatant, and outrageous violation of Reverend Hale's clearly

established and precious constitutional and statutory rights, done with the specific and deliberate intent that Reverend Hale be maliciously and personally harmed on account of his religious beliefs and deprived of basic freedoms taken for granted throughout the Federal Bureau of Prisons as well as the United States generally, and so that Reverend Hale may be adequately compensated for the severe harm that he has suffered and continues to suffer, and so that the defendants may be punished for their conduct and deterred from harming Reverend Hale as well as harming other prisoners on the same or similar grounds in the future, and so that other federal officials may be deterred from engaging in similarly outrageously unlawful conduct in the future thus fostering obedience to the law, Reverend Hale requests that this Court order the individual defendants to pay money damages as follows:

Defendant Davis: Three Million Dollars

Defendant Berkebile: Two Million Dollars

Defendant Synsvoll: Three Million Dollars

Defendant Brieschke: Three Million Dollars

Defendant Smith: One Million Dollars

Defendant Rangel: One Million Dollars

Defendant Kuta: Two Million Dollars

Defendant Milusnic: Two Million Dollars

Defendant Redden: 500,000 Dollars

Defendant Tuttoilmondo: 500,000 Dollars

Defendant Heim: 500,000 Dollars

Defendant Krist: 500,000 Dollars

Total: 19 million dollars

Reverend Hale also requests that this Court order the defendants to pay all of his costs in bringing this suit.

16. In order to prevent any delays of Reverend Hale receiving mail from the Court and the attorney for the defendants, thus enabling him to meet all filing deadlines in this case, Reverend Hale requests that the Court instruct the Clerk and attorney for the defendants to mark all envelopes of correspondence sent to him “Special Mail: Open Only in Inmate’s Presence.” Otherwise it is almost certain that the prison will delay his receipt of correspondence from the Court and attorney for the defendants thus prohibiting him from meeting filing deadlines. All mail from the Court and government lawyers is entitled to this special mail status. See 28 C.F.R. sec. 540.

Respectfully submitted,

Reverend Matt Hale
Plaintiff, pro se