

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

TAHINA CORCORAN,)
as Next Friend on behalf of)
Joseph E. Corcoran,)
Plaintiff ,)
))
v.)
))
CHRISTINA REAGLE,)
Commissioner, Indiana Dept. of)
Corrections,)
))
ANNA QUICK,)
Chief Legal Officer, Indiana Dept.)
Of Corrections,)
))
RON NEAL,)
Warden, Indiana State Prison,)
Defendants.)

Case No. 24-2165
DEATH PENALTY CASE
EXECUTION SCHEDULED
DECEMBER 18, 2024,
BEFORE THE HOUR OF SUNRISE

COMPLAINT UNDER 42 U.S.C. § 1983

INTRODUCTION

1. Joseph Corcoran has been convicted of capital murder in Allen County, Indiana, and the State of Indiana has scheduled his execution to occur on December 18, 2024, between midnight and sunrise.
2. Mr. Corcoran is a lifelong practicing Christian who meets regularly with his spiritual advisor, Reverend David Leitzel, a Wesleyan minister. Rev. Leitzel’s relationship with Mr. Corcoran spans decades from when Mr. Corcoran was a child to now. Mr. Corcoran has requested that the State of Indiana provide a religious accommodation during his execution allowing Rev. Leitzel to “be present in the execution chamber with a Bible, be permitted to pray with Mr. Corcoran, and be permitted to have limited physical contact with Mr.

Corcoran by placing a hand on his shoulder or holding his hand until the execution is complete.” *See* Corcoran’s Accommodation Request Letter, Attached as Exhibit A.

3. But despite unambiguous precedent for allowing spiritual advisors to be with inmates in the execution chamber at the time of their death as required by the Religious Land Use and Institutional Persons Act of 2000 (“RLUIPA”), 42 U.S.C. § 2000cc et seq., (*see e.g.*, *Dunn v. Smith*, 141 S. Ct. 725 (2021); *Ramirez v. Collier*, 595 U.S. 411 (2022)), the Indiana Department of Correction (“IDOC”) rejected Mr. Corcoran’s request because under “Indiana Code Section 35-38-6-11,¹ all persons assisting the Warden with an execution are to remain confidential and anonymous” and IDOC “will not permit an outside person in the death chamber, as the safety, security and secrecy of those staff could be compromised.” *See* IDOC Religious Accommodation Rejection Letter, Attached as Exhibit B.
4. The logical extension of the IDOC’s denial is that spiritual advisors are banned from the execution chamber for all who are to be executed because presumably, the IDOC’s concerns about safety, security and secrecy would be present during all executions. By precluding all spiritual advisors from being present in the execution chamber, the IDOC violates the First Amendment’s Establishment and Free Exercise Clauses because the policy inhibits the practice of religious beliefs for those who are religious. *See Larson v. Valente*, 456 U.S. 228, 244 (1982), and *Comm. for Public Ed. & Religious Liberty v. Nyquist*, 413 U.S. 756, 788 (1973) (noting that, to maintain an attitude of neutrality toward religion, government cannot “advance” or “inhibit” religion).
5. Mr. Corcoran seeks relief under 42 U.S.C. § 1983 to ensure he is executed only in a manner that does not substantially burden the exercise of his religious beliefs and does not violate

¹ The IDOC cites Indiana Code Section 35-38-6-11 which does not exist. Undersigned counsel assumes the IDOC intended Indiana Code Section cite should be 35-38-6-1.

his rights under the RLUIPA or the First Amendment's Establishment and Free Exercise Clauses.

JURISDICTION

6. This Court had jurisdiction under 42 U.S.C. §§ 2000cc-1, 28 U.S.C. §§ 1343, 1651, 2201 and 2202, and under 42 U.S.C. § 1983.

VENUE

7. Defendant Anna Quick, the Chief Legal Officer for the Indiana Department of Corrections, denied Mr. Corcoran's religious accommodation request. *See* Exhibit B. Defendant Christina Reagle is the Commissioner of the IDOC. Because the Indiana Department of Corrections is headquartered in Indianapolis, Indiana, venue lies in this Court because this is the judicial district "in which any defendant resides, if all defendants are residents of the State in which the district is located." 28 U.S.C. § 1391(b)(1).

PARTIES

8. Petitioner Tahina Corcoran is Joseph Corcoran's wife, and she acts here as his next friend.² Joseph Corcoran is an Indiana prisoner incarcerated under sentences of death at the Indiana State Prison, 1 Park Row Street, Michigan City, Indiana. His execution is scheduled for December 18, 2024, between the hours of midnight and sunrise.

² Tahina Corcoran is Joseph Corcoran's wife. She litigates this action on his behalf as next friend petitioner because Mr. Corcoran's paranoid schizophrenia, which manifests in delusions and hallucinations, renders him incompetent and incapable of litigating such an action on his own behalf. Mrs. Corcoran will shortly be litigating Mr. Corcoran's incompetency to be executed under *Ford v. Wainwright* and *Panetti v. Quarterman* in the United States District Court for the Northern District of Indiana.

9. Defendant Anna Quick is the Chief Legal Officer of the IDOC, Indiana Government Center – South, 302 W. Washington Street, Indianapolis, Indiana. She is sued in her official capacity.
10. Defendant Christina Reagle is the Commissioner of the IDOC, Indiana Government Center – South, 302 W. Washington Street, Indianapolis, Indiana. As Commission of the IDOC, she is responsible for the management of all Indiana correctional institutions. She is sued in her official capacity.
11. Defendant Ron Neal is the Warden at Indiana State Prison, 1 Park Row Street, Michigan City, Indiana, and is responsible for ending Mr. Corcoran’s life. He is sued in his official capacity.

PROCEDURAL HISTORY

12. On May 22, 1999, an Allen County jury found Mr. Corcoran guilty of four counts of murder, and on May 25, 1999, recommended a sentence of death on each count. On direct appeal, the Indiana Supreme Court reversed his death sentences and remanded to the Allen Superior Court for resentencing. *Corcoran v. State*, 739 N.E.2d 649 (Ind. 2000). The trial court reimposed the death sentences, and the Indiana Supreme Court affirmed. *Corcoran v. State*, 774 N.E.2d 495 (Ind. 2002).
13. In state post-conviction proceedings, Mr. Corcoran initially refused to sign the post-conviction petition counsel prepared and waived post-conviction review because he wanted to be executed to gain relief from the pain caused by the delusions he suffers as a person with paranoid schizophrenia. After three experts testified at a 2003 competency hearing that Mr. Corcoran was not thinking rationally or logically (and was incapable of doing so because of his paranoid schizophrenia) and was out of touch with reality, the post-

conviction court nevertheless found him competent to waive his appeals, a decision upheld by the Indiana Supreme Court. *Corcoran v. State*, 820 N.E.2d 655 (Ind. 2005)(Rucker, J., dissenting). Mr. Corcoran later changed his mind and requested to file a petition for post-conviction relief, but the court dismissed the petition as untimely. Over a dissent, the Indiana Supreme Court affirmed. *Corcoran v. State*, 845 N.E.2d 1019 (Ind. 2006).

14. Mr. Corcoran filed a federal habeas corpus petition in the U.S. District Court for the Northern District of Indiana (INND Case No. 3:05-cv-00389-JD). That court granted relief on a Sixth Amendment claim. *Corcoran v. Buss*, 483 F. Supp. 2d 709 (N.D. Ind. 2007). The Seventh Circuit Court of Appeals reversed the district court's judgment on the Sixth Amendment claim but failed to address the other habeas claims. *Cocoran v. Buss*, 551 F.3d 703 (7th Cir. 2008). Of note on the competency question, Judge Williams of the Seventh Circuit noted, "No one contests that Corcoran suffers from a mental illness." *Corcoran v. Buss*, 551 F.3d 703, 714 (7th Cir. 2008) (Williams, J., dissenting).
15. The Supreme Court then granted certiorari and vacated the Seventh Circuit's judgment, finding that the Seventh Circuit erred when it did not address any other claim except for the Sixth Amendment claim. The Supreme Court remanded to the Seventh Circuit. *Corcoran v. Levenhagen*, 558 U.S. 1 (2009) (per curiam).
16. On remand, the Seventh Circuit considered the other claims in Mr. Corcoran's habeas petition. The court found that the trial court had considered non-statutory aggravating circumstances in sentencing Mr. Corcoran to death, granted relief, and remanded to the trial court for resentencing. *Corcoran v. Levenhagen*, 593 F.3d 547 (7th Cir. 2010). The State petitioned the Supreme Court for certiorari, which the Court granted. The Court vacated

the Seventh Circuit's grant of relief and remanded for further proceedings. *Wilson v. Corcoran*, 562 U.S. 1 (2010) (per curiam).

17. On remand, the Seventh Circuit reinstated its opinion issued in *Corcoran v. Buss*, 551 F.3d 703 (7th Cir. 2008), and remanded to the district court to consider Mr. Corcoran's remaining habeas claims. *Corcoran v. Wilson*, 651 F.3d 611 (7th Cir. 2011). The district court subsequently denied Mr. Corcoran's habeas petition in full. *Corcoran v. Buss*, No. 3:05-cv-389-JD (N.D. Ind. Mar. 27, 2013). The Seventh Circuit affirmed, *Corcoran v. Neal*, 783 F.3d 676 (7th Cir. 2015), and the Supreme Court denied certiorari. *Corcoran v. Neal*, 577 U.S. 1237 (2016).
18. Almost a decade later, on June 26, 2024, the State filed a motion to set Mr. Corcoran's execution date. The Indiana Supreme Court set December 18, 2024, as that date, stating "the Court finds there is no stay of execution now in effect and the only issue properly before us is our administrative task to set an execution date under Indiana Code section 35-5-2-9(h) and Indiana Criminal Rule 6.1(G)(1)." *Corcoran v. State*, No. 24S-SD-222 (Order dated 9/11/24). The Court noted that while they believed setting an execution date was an "administrative task" based on the State's "Motion to Set Execution Date" and they could not consider claims not based on "previously undiscovered evidence," Mr. Corcoran could still "raise constitutional claims through a successive petition for post-conviction relief under Post-Conviction Rule 1(12), or raise challenges to an execution protocol through a civil lawsuit." *Id.*
19. Since the Indiana Supreme Court set his execution, Mr. Corcoran has filed lawsuits challenging the death sentence.

20. On October 24, 2004, Mr. Corcoran filed in the Allen County Superior Court a Motion for Relief from Judgment pursuant to Indiana Trial Rule 60(b)(Allen Superior Court Case Nos. 02D04-0502-PC-000012 and 02D04-9707-000465). In his motion, Mr. Corcoran sought to revive his original state motion for post-conviction relief which the post-conviction court struck down because it was not signed or verified by Mr. Corcoran. He also sought to revive a second post-conviction motion which Mr. Corcoran did sign and verify, but the post-conviction court dismissed because it was filed out of time. Thus, the post-conviction court's decisions completely deprived Mr. Corcoran of state post-conviction process. To support his Motion for Relief from Judgment, Mr. Corcoran noted a recent change in Indiana law which does not require a post-conviction motion to be signed and verified. *See Isom v. State*, 170 N.E.3d 623, 632 (Ind. 2021). On December 2, 2024, the Allen County Superior Court denied Mr. Corcoran's Motion for Relief from Judgment. On December 5, 2024, Mr. Corcoran appealed the Superior Court's decision, and on December 6, 2024, he filed a Motion to Stay his execution. The appellate court ordered the State to respond to the Motion to Stay by December 9, 2024.
21. On November 15, 2024, Mr. Corcoran sought permission from the Indiana Supreme Court to file a successive motion for post-conviction relief in the Allen County Superior Court and a proposed successive motion for post-conviction relief arguing that evolving community standards of decency prohibit the execution of those like Mr. Corcoran who are seriously mentally ill (Cause No. 24S-SD-222). On December 5, 2024, the Indiana Supreme Court denied Mr. Corcoran's request. *Corcoran v. State*, Case No. 24S-SD-222 (Ind. Dec. 5, 2024).

22. On November 15, 2024, Mr. Corcoran presented his competency to be executed claim with supporting exhibits to the Indiana Supreme Court (Cause No. 24S-SD-222). On that same day, he also moved for a stay of execution. On November 19, 2024, the Indiana Supreme Court set a briefing schedule. On November 26, 2024, the State filed its response with supporting exhibits. On December 3, 2024, Mr. Corcoran filed his reply in support. On December 5, 2024, the Indiana Supreme Court denied the claim noting the “Court will promptly issue a written opinion explaining its reasons.” *Corcoran v. State*, Case No. 24S-SD-222 (Ind. Dec. 5, 2024). Once the Indiana Supreme Court issues its opinion, Mr. Corcoran will file his competency to be executed claim in federal court.

FACTUAL BACKGROUND

23. Rev. David Leitzel has been the Corcoran family’s minister for many years. He first met Mr. Corcoran’s mother, Mrs. Kathryn Corcoran, when she began attending his church, Hamilton Wesleyan Church in Hamilton, Indiana. It was Kathryn Corcoran who first introduced Mr. Corcoran to Rev. Leitzel when Mr. Corcoran was about twelve years old. *See* Affidavit of David Leitzel, Attached as Exhibit C. Rev. Leitzel was later the officiant at Kim Corcoran’s wedding to her husband Matthew Brown on June 13, 1993.
24. Although Mr. Corcoran was active in the church youth group, Rev. Leitzel observed that he was generally quiet and somewhat socially withdrawn. He remembers that Mr. Corcoran rarely smiled.
25. When Mr. Corcoran was about fourteen years old and at a church summer camp, Rev. Leitzel remembers that after he had preached a session about relationships with parents, Mr. Corcoran was crying. When Rev. Leitzel asked Mr. Corcoran about what was

bothering him, Mr. Corcoran confided in Rev. Leitzel, disclosing how his father abused him physically and emotionally.

26. After Mr. Corcoran was arrested for the murder of his parents, Rev. Leitzel did his best to visit Mr. Corcoran at least once a week at the jail. It was during these visits that Leitzel noticed Mr. Corcoran's paranoid behavior. After Mr. Corcoran's acquittal of his parents' murder, Rev. Leitzel's relationship with Mr. Corcoran became more distanced because Mr. Corcoran rarely attended church. But after Mr. Corcoran was arrested for the Fort Wayne murders, Rev. Leitzel again began visiting Mr. Corcoran once a week at the Allen County Jail.

27. It was during the Allen County jail visits, that Rev. Leitzel remembers Mr. Corcoran becoming more spiritual. Most of their conversations centered on the Bible or religion, but Rev. Leitzel also noticed Mr. Corcoran's increasing paranoia about those around him.

28. Rev. Leitzel continues to minister to Mr. Corcoran weekly at Indiana State Prison. Mr. Corcoran has expressed to counsel his desire to have Rev. Leitzel present in the execution chamber, praying with him as he is executed.

29. As written above, Mr. Corcoran through counsel requested a religious accommodation from the IDOC. *See* Exhibit A. Mr. Corcoran requested that Rev. Leitzel be permitted to "be present in the execution chamber with a Bible, be permitted to pray with Mr. Corcoran, and be permitted to have limited physical contact with Mr. Corcoran by placing a hand on his shoulder or holding his hand until the execution is complete." Citing "Indiana Code Section 35-38-6-11," the IDOC rejected Mr. Corcoran's request due because "an outside person" in the death chamber "could" compromise the safety, security and secrecy of staff.

30. It is not disputed that Mr. Corcoran suffers from paranoid schizophrenia. PCR R. 242. His symptoms include the delusion that prison guards use a secret ultrasound device to bombard him with invisible and inaudible sound waves which cause him physical pain and emotional turmoil. Mr. Corcoran recently published a book, *Electronic Harassment: A Whistle-blower Report*, in which he expounds on the scientific plausibility of his belief that he is being tortured with sound waves. Given his delusional state, counsel for Mr. Corcoran are challenging his competency to be executed under the legal standards espoused in *Ford v. Wainwright*, 477 U.S. 399 (1986) and *Panetti v. Quarterman*, 551 U.S. 930 (2007).
31. Mr. Corcoran has not utilized the prison grievance process to request Leitzel's presence in the execution chamber. Even if he were competent to do so, the effort would be futile given IDOC's response to his religious accommodation request occurred on December 2, 2024.

CLAIMS FOR RELIEF

32. Mr. Corcoran re-alleges and incorporates herein by reference all the allegations contained in the proceeding paragraphs of this Complaint.

First Claim for Relief: Establishment Clause

33. The First Amendment to the United States Constitution commands that "Congress shall make no law respecting an establishment of religion." U.S. Const. amend. I. This command is binding on the states through the Fourteenth Amendment. *See Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). It is well-settled that the Establishment Clause not only prohibits governmental entities from passing laws that prefer one or more religions over others, but also those that demonstrate a hostility toward religion. *See*

Larson v. Valente, 456 U.S. 228, 246 (1982); *Zorach v. Clauson*, 343 U.S. 306, 313-15 (1952); *Everson v. Bd. of Ewing Twp.*, 330 U.S. 1, 15 (1947) (“Neither a state nor the Federal Government . . . can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion.”).

34. By precluding all spiritual advisers from being present in the execution chamber, which the IDOC justifies based on a statutory requirement of secrecy, Defendants violate the Establishment Clause because the policy penalizes only those who based on their sincere religious beliefs wish to have a spiritual advisor present in the death chamber and because it inhibits the practice of religious beliefs. *See Comm. for Public Ed. & Religious Liberty v. Nyquist*, 413 U.S. 756, 788 (1973) (noting that to maintain an attitude of neutrality toward religion, government cannot advance or inhibit religion). Thus, the IDOC demonstrates a hostility toward religion.
35. A policy that is not neutral between religion and non-religion, like that of the IDOC, is inherently suspect. *See Larson*, 456 U.S. at 246. Such a policy may only be upheld if it passes strict scrutiny – in other words, if it is narrowly tailored to a compelling interest. *Id.* at 246 – 47.
36. For its compelling interest, the IDOC cites a statutory provision, Indiana Code Section “35-38-6-11”³, which designates certain information as “confidential” including “the identity of an officer, an employee, or a contractor of a person described in subdivision (1).” I.C. § 35-38-6-1(f)(2). The statute mentions nothing about safety and security as referenced in the rejection letter. *See Exhibit B.*

³ Again, Indiana Code Section 35-38-6-11 does not exist. Counsel assumes the IDOC meant to rely on Section 35-38-6-1.

37. That a spiritual advisor in the death chamber “could” compromise secrecy is a speculative justification that does not pass strict scrutiny. *See Kennedy v. Bremerton School Dist.* 597 U.S. 507, 543 (2022) (the “mere shadow” of a conflict does establish competing interests are at odds); *see also Gutierrez v Saenz*, No. 1:19-cv-00185, slip op. at 29 (S.D. Tex. Nov. 24, 2020) (holding in a case where the Texas Department of Criminal Justice instituted a policy barring all spiritual advisors from the execution chamber that “the extensive evidence submitted by [the Texas Department of Criminal Justice] *does not demonstrate that serious security concerns would result* from allowing inmates the assistance of a chosen spiritual advisor in their final moments. Speculative hypotheticals without evidentiary support do not create an unmanageable security risk.” (emphasis added)).
38. The IDOC offers no explanation of its attempts to ameliorate the situation by taking measures to ensure secrecy and security even with a spiritual advisor in the chamber. Without such an explanation, the IDOC’s blanket refusal to allow spiritual advisors in the execution chamber is overbroad and is not narrowly tailored to achieve the objective without violating the Establishment clause. Moreover, the Supreme Court has already found these types of categorical bans to *not* be the least restrictive means of protecting the government’s interest in safety. *Ramirez*, 595 U.S. at 429-32. Indeed, *every* other state that actively carries out executions as a policy matter allows spiritual advisors to be present, physically touch, and talk quietly with their spiritual charge as they are dying.

Second Claim for Relief: Free Exercise of Religion

39. The First Amendment also commands that “Congress shall make no law . . . prohibiting the free exercise of” religion. U.S. Const. amend. I. Like the Establishment Clause, the

Free Exercise Clause is binding on the states through the Fourteenth Amendment. *See Cantwell*, 310 U.S. at 303.

40. The IDOC policy will prohibit Mr. Corcoran’s free exercise of his Christian faith in the crucial moments leading to his passage to the afterlife. The level of scrutiny to be applied when reviewing policies that hinder an individual’s ability to freely exercise his religion depends on whether the law is neutral and generally applicable. *Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 531 (1993). A law that is “neutral and of general applicability need not be justified by a compelling government interest even if the law has the incidental effect of burdening a particular religious practice.” *Id.* A law that does not satisfy both requirements “must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest.” *Id.*; *see also Masterpiece Cakeshop v. Colorado Civil Rights Comm’n*, 584 U.S. 617, 643 (2018).
41. Here, like above, IDOC offers no explanation of its attempts to ameliorate the situation by taking measures to ensure secrecy even with a spiritual advisor in the chamber. And its blanket refusal should not be considered narrowly tailored without further explanation. *See Lukumi* at 547 (city ordinance banning all ritual sacrifices was not narrowly tailored to achieve legitimate governmental interests in protecting health and cruelty to animals). Moreover, the Supreme Court has already found these types of categorical bans to *not* be the least restrictive means of protecting the government’s interest in safety. *Ramirez*, 595 U.S. at 429-32. Indeed, *every* other state that actively carries out executions as a policy matter allows spiritual advisors to be present, physically touch, and talk quietly with their spiritual charge as they are dying.

Third Claim for Relief: RLUIPA

42. Congress enacted the RLUIPA “to provide very broad protection for religious liberty.” *Holt v. Hobbs*, 574 U.S. 35, 356–57 (2015). Indeed, the RLUIPA grants “expansive protection for religious liberty” and affords inmates with “greater protection” than the relevant First Amendment precedents. *Id.* at 358, 361.
43. Under RLUIPA, government and state entities may not “impose a substantial burden on the religious exercise of a person residing in or confined to an institution even if the burden results from a rule of general applicability” unless the entity shows that the imposition of the burden both is in furtherance of a compelling governmental interest and is the least restrictive means of furthering said interest. 42 U.S.C. § 2000cc-1(a) (2000).
44. “Religious exercise” under the RLUIPA is defined broadly as “any exercise of religion whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc-5(7)(A); *see Dunn*, 141 S. Ct. at 725 (Kagan, J., concurring) (requiring Alabama to allow a spiritual advisor to pray with and lay hands on inmate Willie Smith during his execution because “Smith understood his minister’s presence in the execution chamber as integral to his faith and part of his spiritual search for redemption.”).
45. A plaintiff raising a claim under RLUIPA bears the initial burden of making a prima facie case that a prison practice substantially burdens his sincere religious exercise. *West v. Radtke*, 48 F.4th 836 (7th Cir. 2022). A substantial burden on religious exercise occurs when a prison attaches some meaningful negative consequence to an inmate’s religious exercise, forcing him to choose between violating his religion and incurring that negative consequence. *Id.* at 845 (relying on *Holt* and *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014)).

46. To be sure, there is unambiguous precedent for allowing spiritual advisors to be with inmates in the execution chamber at the time of their death as required by the RLUIPA. *See, e.g., Ramirez v. Collier*, 595 U.S. 411 (2022) (finding that petitioner was likely to succeed on his RLUIPA claims because Texas’ policy refusing religious touch and audible prayer in the chamber during the execution burdens religious exercise and is not the least restrictive means of furthering a compelling governmental interest); *Dunn*, 141 S. Ct. at 725–26 (Kagan, J., joined by Breyer, Sotomayor, & Barrett, JJ., concurring in denial of application to vacate injunction) (noting that both Alabama and the United States Federal Government have a history of performing executions with chaplains present in the chamber, that in fact, the “Federal Government has conducted more than 10 executions attended by the prisoner’s clergy of choice,” and that based on such history, “a prison may ensure security without barring all clergy members from the execution chamber.”); *see also Murphy v. Collier*, 139 S. Ct. 1475 (2019) (mem.) (requiring Texas to allow an inmate’s Buddhist spiritual advisor or another Buddhist reverend to be present in the execution chamber with the inmate during the execution). *See generally Gutierrez v. Saenz*, No. 1:19-cv-00185, slip op. at 3 (S.D. Tex. Nov. 24, 2020) (citations omitted) (noting that “[b]etween 1982 and March 2019 Texas conducted 560 executions . . . [and] the presence of a chaplain did not cause any security incident during those years.”).
47. There can be little doubt that IDOC’s policy prohibiting a spiritual advisor in the execution chamber substantially burdens Mr. Corcoran’s exercise of his sincerely held religious beliefs which include having his life-long spiritual advisor, Rev. David Leitzel, praying with him as he passes to the afterlife. *See, e.g., Dunn*, 141 S. Ct. at 725 (Alabama’s policy substantially burdens the exercise of religion because it bars all clergy

members from the execution chamber, leaving inmates to die without spiritual attendance.).

48. Under the RLUIPA, a prison may not impose a substantial burden on a prisoner's religious exercise unless doing so satisfies strict scrutiny – that is, the challenged policy must be the “least restrictive means of furthering a compelling governmental interest.” *Dunn*, 141 S. Ct. at 725. Strict scrutiny is an exceptionally demanding standard under which if any less restrictive means is available for the state to achieve its goals, then they must use it. *Id.* As far as Mr. Corcoran can tell, the IDOC has made no effort at all to achieve their goal of secrecy and security in the least restrictive way, and their blanket refusal of Mr. Corcoran's religious request is completely inconsistent with well-established jurisprudence. *See, e.g., Dunn*, 141 S. Ct. at 726 (a state can take any number of measures to ensure security including doing a background check on the minister, it can interview him and it can seek a pledge that he will obey all rules). The RLUIPA places a heightened duty on prison officials to demonstrate, not to just assume, that a plausible, less restrictive alternative would be effective, something the IDOC apparently fails to recognize. *See id.*
49. Ordinarily, an inmate must exhaust all administrative remedies under the Prison Litigation Reform Act of 1995 (“PLRA”) before filing a § 1983 claim under RLUIPA, even in the execution context. *See Ramirez*, 595 U.S. at 422; 42 U.S.C. § 1997e(a). If, however, administrative remedies are not “available,” exhaustion is not required. *Ross v. Blake*, 578 U.S. 632, 642 (2016) (an inmate is required to exhaust those, but only those, grievance procedures that are “available,” that is “capable of use” to obtain “some relief for the action complained of.”); *Booth v. Churner*, 532 U.S. 731, 737 38 (2001). An administrative procedure is unavailable when it operates as a simple dead end – with officers unable to

provide any relief to the aggrieved inmate. *Id.* at 643 (citing *Booth*, 532 U.S., at 736, 738). “Where the relevant administrative procedure lacks *authority* to provide any relief, the inmate has nothing to exhaust.” *Ross*, 578 U.S. at 643 (emphasis added). Because the rejection of Mr. Corcoran’s case came directly from the highest authority within the department, the Chief Legal Officer of the IDOC, no lower IDOC official would have the authority to grant relief to Mr. Corcoran through the administrative remedy process. Indeed, “when the facts of the ground demonstrate” that no potential for relief exists, “the inmate has no obligation to exhaust the remedy.” *Id.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court provide relief as follows: 1) A declaratory judgment that Indiana Department of Corrections policy violates Mr. Corcoran’s rights under the First Amendment’s Establishment and Free Exercise Clauses; 2) A declaratory judgment that Indiana Department of Corrections policy violates RLIUPA; and 3) A preliminary and permanent injunction prohibiting Defendants from executing Mr. Corcoran until they can do so in a way that does not violate his rights.

Respectfully submitted,

/s/ Laurence E. Komp

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CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2024, I sent it via email to Mr. Tyler Banks,
Supervising Deputy Attorney General, Office of the Indiana Attorney General, at
Tyler.Banks@atg.in.gov.

/s/ Laurence E. Komp
Laurence E. Komp, MO. Bar. No. 40446

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) _____</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.



Federal Public Defender
Western District of Missouri
Capital Habeas Unit

1000 Walnut – Suite 600
Kansas City, Missouri 64106
PHONE: 816-471-8282 FAX: 816-471-8008

LAINE CARDARELLA
FEDERAL PUBLIC DEFENDER

LAURENCE KOMP
SUPERVISOR, CAPITAL HABEAS UNIT

November 18, 2024

Via email: AnQuick@idoc.IN.gov (original not to follow)

Ms. Anna Quick
Chief Legal Officer
Indiana Department of Correction
302 W. Washington St., Rm W341
Indianapolis, IN 46204

Re: Rev. Leitzel Accommodation

Dear Ms. Quick,

Facing a scheduled execution on December 18, 2024, Mr. Joseph Corcoran has been meeting with his spiritual advisor, Rev. David Leitzel, Pastor of Hamilton Wesleyan Church, Hamilton, IN. Rev. Leitzel's ministry offers spiritual comfort to Mr. Corcoran regarding his impending execution. Rev. Leitzel has complied with the visitation guidelines set by Indiana State Prison, his credentials have been vetted and approved, and he has been visiting Mr. Corcoran in his capacity as a spiritual advisor.

Rev. Leitzel would like to visit with Mr. Corcoran in the days preceding the execution and the evening of Tuesday, December 17th. He would like to bring in a Bible for each visit and some form of communion for one of the visits. Please advise what times will be provided for these visits. The accommodation is necessary to confidentially seek spiritual guidance and comfort from Rev. Leitzel in these last days of Mr. Corcoran's life.

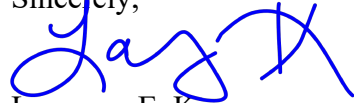
During the execution, we request that Rev. Leitzel be permitted to be present in the execution chamber with a Bible, be permitted to pray with Mr. Corcoran, and be permitted to have limited physical contact with Mr. Corcoran by placing a hand on his shoulder or holding his hand until the execution is complete. We understand that there may be an orientation session for him prior to the execution regarding the procedure in the execution chamber.

Mr. Corcoran seeks the above accommodations with Rev. Leitzel pursuant to the Free Exercise Clause of the First Amendment and Religious Land Use and Institutionalized Persons Act ("RLUIPA") (U.S. Const., amend. 1; 42 U.S.C. § 2000cc (2000)).

The above accommodations are requested with the understanding they may not be ultimately needed should the execution be stayed or the conviction and/or death sentence vacated.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laurence E. Komp". The signature is stylized and cursive.

Laurence E. Komp
Capital Habeas Unit Chief



STATE OF INDIANA
Department of Correction

Indiana Government Center—South

Eric J. Holcomb
Governor

302 W. Washington Street • Indianapolis, Indiana 46204-2738
Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: www.in.gov/idoc/

Christina Reagle
Commissioner

December 2, 2024

VIA email only

Laurence Komp
Capital Habeas Unit Chief
Federal Public Defender
Western District of Missouri
1000 Walnut-Suite 600
Kansas City, MO 64106

Re: Rev. Leitzel Accommodation

Dear Mr. Komp,

The Indiana Department of Correction (“IDOC”) has received your request for accommodations to be made for Reverend David Leitzel during the execution of your client, Joseph Corcoran on December 18, 2024, as well as the days leading up to that date.

Mr. Leitzel shall be allowed to enter the Indiana State Prison to visit with Mr. Corcoran at anytime during the days leading up to the execution. He can continue to work with Warden Neal to schedule these visits at his convenience. IDOC will accommodate visits as long as there are no emergent issues that would require IDOC to restrict visitation for the entire facility. Mr. Leitzel shall be allowed to bring his bible to any visit that he wishes. It may be subject to search, per policy. On the day that Mr. Leitzel would like to bring Mr. Corcoran communion, he needs to share that date with Warden Neal so that the items can be put on a clearance list. Any liquid must be less than 3 ounces and in a sealed container.

On December 17, 2024, per policy, all visits with Mr. Corcoran must end by 6pm. Mr. Corcoran can have Mr. Leitzel be his last visitor, if that is what he wishes. Any persons wishing to witness the execution must be on Mr. Corcoran’s list. Under Indiana Code Section 35-38-6-11, all persons assisting the Warden with an execution are to remain confidential and anonymous. IDOC takes the anonymity of our staff very seriously and will not permit an outside person in the death chamber, as the safety, security and secrecy of those staff could be compromised.

If you have any further questions, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Anna Quick". The signature is written in a cursive, flowing style.

Anna Quick
Chief Legal Officer

000392

STATE OF INDIANA)	IN THE ALLEN SUPERIOR COURT
)	SS:
COUNTY OF ALLEN)	CAUSE NO. 02D04-9707-CF-465

JOSEPH E. CORCORAN,)
Petitioner,)
)
v.)
)
STATE OF INDIANA,)
Respondent.)

AFFIDAVIT OF DAVID LEITZEL

COMES NOW, the affiant, David Leitzel, upon his oath does swear or affirm the following:

1. My name is David Leitzel. I live in Marion, Indiana. I am an instructor at Indiana Wesleyan University. I am also the part-time minister at the Wesleyan Church in Hamilton, Indiana. From 1983 through 1999, I served as the full-time pastor at that church.

2. I first met Joe after Joe’s mother began attending my church. Shortly after his mother began attending, Joe also started coming to the church. Joe may have been about twelve at the time. While Joe was active in the church youth group, he was generally quiet and somewhat socially withdrawn. One thing I remember distinctly is that Joe rarely smiled.

3. I recall an occasion when Joe was at church camp during the summer. I believe Joe was about fourteen at the time. There had been a talk given about relationships with their parents. After the talk, I observed Joe crying. That was unusual for Joe. He rarely showed his emotions. When I asked Joe what was bothering him, he began talking about his father and how hard he treated him. Joe described one occasion when his father came home drunk very early in the morning. He got Joe out of bed and made him go downstairs, set a bottle of whiskey in front of him and tried to force him to drink the whiskey. I recall Joe telling

me there was a physical confrontation between him and his father because he did not want to drink and his dad continued to try and force it on him. Joe told me he believed this was his father's way of making him a man. Joe confided in me that this was not the only time he had physical confrontations with his dad, although he did not go into detail. Joe did not want me to tell his mom about the incident.

4. After the death of his parents, Joe began to disconnect from the church. When I did talk with him, he seemed to be evasive about what was going on in his life.

5. After his arrest for the murder of his parents, I tried to visit Joe at least once a week at the jail. I recall that Joe seemed to have an unreasonable concern that his conversations were being listened to by someone. This concern was true even during conversations that were totally unrelated to his case. At times, I would have to draw conversation out of him because of his concern that someone might be listening. I felt he seemed paranoid about someone listening to us.

6. After Joe was found not guilty of the murder of his parents, I rarely saw him. He would occasionally come to church but he was very distant. After he moved to Fort Wayne, I did not see Joe again until after the death of his brother.

7. After Joe was arrested for the murders in Fort Wayne, I began visiting him at the Allen County Jail. I tried to see him about once a week. The first big change I noticed about Joe was that he wanted to be much more spiritual than he had been in the past. In fact, he said, "Well I am just like you."

8. I also observed Joe becoming extremely irrational regarding others in the jail listening to him while he slept. No matter how much I tried to get him to understand how

paranoid his thinking was regarding others listening to him talking in his sleep, he became more and more adamant about it.

9. I recall speaking with Joe's attorney, while he was in the Allen County Jail, about his mental health. At numerous times, Joe told me he wished to see a doctor about his sleep talking problem. Even though I believe he saw a doctor about the problem, I never felt the treatment he received had any effect.

10. During his time in the Allen County Jail, Joe seemed to lose all interest in the outside world. He occasionally would ask about a family member. Most conversations revolved around the Bible or religion. When the conversation moved to his personal life, jail or cellmates, it was not unusual for Joe to become increasingly evasive, vague and bizarre. I could tell he had withdrawn from the conversation, and it was time to move to another subject.

11. I had several conversations with Joe's attorney in the Allen County case, but was not asked to testify.

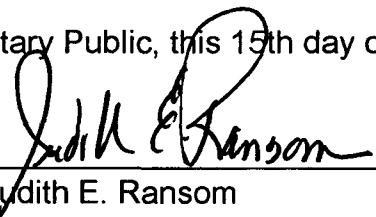
FURTHER AFFIANT SAYETH NOT.



David Leitzel, Affiant

STATE OF INDIANA)
) SS:
COUNTY OF GRANT)

Subscribed and sworn to before me, a Notary Public, this 15th day of October, 2003.



Judith E. Ransom

My Commission Expires:

County of Residence:

11-29-09

Marion

STATE OF INDIANA)) SS COUNTY OF ALLEN)	IN THE ALLEN SUPERIOR COURT CAUSE NO. 02D04-9707-CF-465
JOSEPH E. CORCORAN) Petitioner,)) v.)) STATE OF INDIANA) Respondent)	

AFFIDAVIT OF DAVID LEITZEL

COMES NOW, the affiant, David Leitzel, upon his oath does swear or affirm the following:

- 1. My name is David Leitzel. I live in Marion, Indiana. I am an instructor at Indiana Wesleyan University. I am also the part time minister at the Wesleyan Church in Hamilton, Indiana. From 1983 thru 1999 I served as the full time pastor at that church.**

- 2. I first met Joe after Joe's mother began attending my church. Shortly after his mother began attending, Joe also started coming to the church. Joe may have been about twelve at the time. While Joe was active in the church youth group, he was generally quiet and somewhat socially withdrawn. One thing I remember distinctly is that Joe rarely smiled.**

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Oct 13 03 02:27p

Michael Dennis

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p. 2

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5. After his arrest for the murder of his parents, I tried to visit Joe at least once a week at the jail. I recall that Joe seemed to have an unreasonable concern about that his conversation were being listened to by someone. This concern was true even during conversations that were totally unrelated to his case. At times I would have to draw conversation out of him because of his concern that someone might be listening. I felt he seemed paranoid about someone listening to us.
6. After Joe was found not guilty of the murder of his parents, I rarely saw him. He would occasionally come to church but he was very distant. After he moved to Ft. Wayne I did not see Joe again until after the death of his brother.
7. After Joe was arrested for the murders in Ft. Wayne I began visiting him at the Allen County Jail. I tried to see him about once a week. The first big change I noticed about Joe was that he wanted to be much more spiritual then he had been in the past. In fact he said, "Well I am just like you."
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11. I had several conversations with Joe's attorney in the Allen County case, but was not asked to testify.

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Michael Dennis

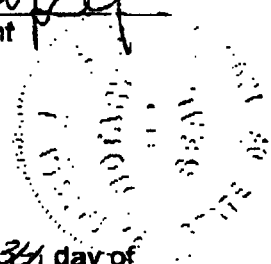
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p. 4

FURTHER AFFIANT SAYETH NOT.

David Leitzel
David Leitzel, Affiant

STATE OF INDIANA)
) SS:
COUNTY OF GRANT)



Subscribed and sworn to before me, a Notary Public, this 13th day of October, 2003.

Patricia J. Guenin
Notary Public
PATRICIA J GUENIN
NOTARY PUBLIC STATE OF INDIANA
WABASH COUNTY
MY COMMISSION EXP. MAY 11, 2008
Printed Name

My Commission Expires:
5/11/08

County of Residence
Wabash