court's decision was reversed and remanded, with the advisement that the lower court could impose shackles during Mr. Claiborne's new trial, but only after a full hearing and the consideration of less restrictive alternatives.

Discussion

In this decision, the Ninth Circuit cited cases from multiple jurisdictions over the past three decades that established a trend away from routine shackling during legal proceedings where an individual's credibility and dangerousness are questions the jury must decide, such as in criminal trials, civil commitment proceedings, prisoner lawsuits against corrections officials, and even death penalty cases. More recently, professional organizations and advocacy groups have agreed with this trend, particularly for juveniles. For example, in 2015, both the American Academy of Child and Adolescent Psychiatry and the Child Welfare League of America developed position statements against the shackling of juveniles (Mandatory Shackling in Juvenile Court Settings, available at: https://www.aacap.org/aacap/policy_statements/2015/mandatory_shackling_in_juvenile_court_settings.aspx, accessed September 1, 2019; CWLA Policy Statement: Juvenile Shackling, available at: https://www.cwla.org/cwla-policy-statement-juvenile-shackling, accessed September 1, 2019), stating that children should be restrained only in extraordinary circumstances.

It is interesting to note that all of these groups seem to take for granted that visible shackles have the potential to bias jurors against the person who wears them. From a scientific perspective, very little evidence supports this conclusion. To our knowledge, no studies have directly addressed the link between shackles and juror bias. Studies of related questions, such as the effects of a defendant's dress on simulated jurors, have noted that institutional attire has a negative impact on perceptions of the defendant's character (Etemad M: To Shackle or Not to Shackle? The Effect of Shackling on Judicial Decision-Making. Rev Law Soc Just 28: 368–70, 2019). These investigations were completed decades ago, however, and it is not clear whether their conclusions still apply in a contemporary context because societal attitudes about attire have shifted significantly. Some may argue that the link between shackles and juror bias is simply common sense, but further investigation could help to clarify this important topic.

Religious Rights in the Criminal Justice System

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Court Terminates Consent Decree Which Had Allowed Muslim Prisoners to Hold Religious Services Without Direct Staff Supervision in Some Circumstances

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In *Brown v. Collier*, 929 F.3d 218 (5th Cir. 2019), the United States Court of Appeals for the Fifth Circuit reversed a district court decision that had denied a claim from the Texas Department of Criminal Justice (TDCJ) seeking to terminate a 1977 consent decree. The decree had protected Muslim inmates' religious rights by exempting Muslims from a requirement that any religious gatherings of more than four inmates be directly supervised by prison staff or approved outside volunteers. In reversing and vacating the consent decree, the Fifth Circuit's reasoning gave substantial consideration to the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e (2018).

Facts of the Case

Bobby Brown, a Muslim inmate, initiated a class action lawsuit against the executive director of the TDCJ, resulting in a 1977 consent decree. Prior to the consent decree, when more than four inmates attended a religious activity, direct in-room supervision by either TDCJ staff or an outside volunteer was required. The consent decree made a special exception that granted Muslim inmates the right to religious practice under indirect supervision; this meant that a staff employee or volunteer was not required to be in the room, as long as an officer was monitoring the activity. The consent decree also provided that Muslim inmates be allowed equal time for religious practices in relation to other religions.

In 2009, William Scott, a Jehovah's Witness, filed a lawsuit against the director of TDCJ. The lawsuit requested injunctive relief directing prison officials to allow Jehovah's Witnesses to hold regularly sched-

uled meetings with or without a volunteer, similar to the privilege extended to Muslim inmates. The district court held in *Scott v. Pierce*, 2012 U.S. Dist. Lexis 190126 (S.D. Tex. 2012), that the Establishment Clause requires "denominational neutrality" and that a "prohibition against preferential treatment of religion is 'absolute'" (*Brown*, p 225). The district court found that, under current practices, Muslim inmates "are preferred to Jehovah's Witnesses with respect to the volunteer policy" (*Brown*, p 225) and ordered the Executive Director of TDCJ to propose a method of compliance. TDCJ responded with Administrative Directive AD-07.30 (rev. 7) (June 30, 2014) (hereafter Scott Plan), which stated that all religious gatherings of more than four inmates required direct supervision, including Muslim inmates, and that religious groups may have one hour of directly supervised activity each week. The new Scott Plan contradicted the 1977 consent decree, and the TDCJ moved to terminate the 1977 consent decree pursuant to the PLRA.

The district court held a hearing on TDCJ's motion to dissolve the 1977 consent decree. The district court concluded that two provisions remained necessary to correct current and ongoing violations of the U.S. Constitution: it required TDCJ officials to allow Muslim inmates equal time for worship compared with other religions, and allowed religious services under the supervision of an inmate leader. The district court found that one hour of direct supervision per week did not allow enough time for Muslims to meet the requirements of their religious practice, that the number of Muslim chaplains and available volunteers were insufficient, and that TDCJ did not assign Muslim inmates to specifically designated units to facilitate religious activities (as was done with other religions).

The district court held that TDCJ's Scott Plan violated the Establishment Clause because the policy resulted in Muslim inmates being able to participate in religious activities for only one hour per week, whereas inmates of other religions had access to six or more hours of religious activities per week. The district court further found that the policy violated the Free Exercise Clause because it did not relate to a legitimate penological purpose and restricted Islamic religious exercise, and that the policy violated the inmates' rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 2 U.S.C. § 2000cc et seq (2000), because it substantially burdened their religious exercise and it did not serve a compelling governmental interest (*Brown v. Livingston*, 17 F. Supp. 3d 616 (S.D. Tex. 2014)). TDCJ appealed the district court's denial of its motion to terminate the consent decree.

Ruling and Reasoning

In the ruling, Judge Owen noted that the consent decree does not remain necessary to correct current and ongoing violations of RLUIPA, the Free Exercise Clause, or the Establishment Clause. The Fifth Circuit found that TDCJ's motion to vacate the consent decree should have been granted, terminated the consent decree, and vacated the award of attorneys' fees. The Fifth Circuit indicated the PLRA strongly disfavors continuing relief through the federal courts and does not authorize the district court to expand the consent decree. The inquiry under the PLRA was whether there was an ongoing violation of a federal right.

Applying precedent from *Adkins v. Kaspar*, 393 F.3d 559 (5th Cir. 2004), and *Baranowski v. Hart*, 486 F.3d 112 (5th Cir. 2007), the Fifth Circuit asserted that it was not the Scott Plan that imposed a burden on the Muslim inmates' religious exercise; rather, it was the lack of volunteers. The Fifth Circuit said, as in *Adkins*, that Muslims had alternative means of exercising their religious rights. Reviewing *O'Lone v. Estate of Shabazz*, 482 U.S. 342 (1987), the Fifth Circuit applied the standard of review set forth in *Turner v. Safley*, 482 U.S. 78 (1987), and noted it did not agree with the district court that TDCJ's direct supervision requirement failed *Turner*'s rationality review and violated the Free Exercise Clause. The Fifth Circuit found that direct supervision of inmate religious gatherings of more than four individuals had legitimate government interests, including safety and security in prisons. The Fifth Circuit further reasoned that the assignment of some Jewish and Native American inmates to particular units did not support the conclusion that they had greater access to chaplains, volunteers, or religious activities. Therefore, the Fifth Circuit concluded that the consent decree did not remain necessary to correct current and ongoing violations of the Free Exercise Clause, Establishment Clause, and RLUIPA.

Dissent

In his dissent, Judge Dennis concluded that the Scott Plan violated the rights of Muslim inmates under RLUIPA because it imposed a substantial burden on Muslim prisoners, did not further a compelling interest, and was not the least restrictive means of addressing the inmates'

rights. He said that the majority's conclusion and reliance on *Adkins* was misplaced and distinguishable. Citing *Tagore v. United States*, 735 F.3d 324 (5th Cir. 2013) and testimony, Judge Dennis pointed out that the district court found that indirect supervision posed no safety concerns and, therefore, TDCJ failed to meet the first requirement that the Scott Plan furthers a compelling government interest. He also stated that "simply allowing Muslim inmates to continue holding inmate-led services is clearly sufficient to further the government's interest" (*Brown*, p 258) and is a less restrictive means of doing so. Judge Dennis concluded that this ongoing violation of RLUIPA justified the district court's refusal to terminate the consent decree.

Discussion

The case highlights the challenges and questions regarding the role of religion and spirituality in correctional settings and brings to light the psychosocial impact of religion. "[TDCJ] officials testified that participation in religious activities has a calming, positive, and rehabilitative effect on prisoners" (*Livingston*, p 616). Additionally, the Director of Chaplaincy Services at TDCJ stated that "participation in religious activities is 'beneficial for the rehabilitation of inmates,' because 'if you change a man's heart, you change his actions'" (*Livingston*, p 626). Both the district court and Fifth Circuit considered evidence that demonstrated there is a relationship between religion and a prisoner's well-being.

Multiple studies have demonstrated an inverse relationship between religious faith or spirituality and depression. Additionally, literature demonstrates the protective effects on suicide rates through various proposed mechanisms (Norko M, Freeman D, Phillips J, *et al*: Can religion protect against suicide? J Nervous Mental Dis 205:9–14, 2017). Individuals with religious or spiritual beliefs tend to have fewer medical, substance use, and mental health problems, but there are limited studies regarding the role of religion and spirituality in incarcerated populations. This topic warrants further exploration.

Religion may be a critical component of rehabilitation and support in the prison population. "Higher levels of inmate religiousness are associated with better psychological adjustment to the prison environment" (Clear T, Sumter M: Prisoners, prison, and religion, in Religion, the Community, and the Rehabilitation of Criminal Offenders. Edited by O'Connor T, Pallone N. New York: Haworth Press Inc., 127–159, 2002, p 128). The role of religion in incarcerated populations raises many unanswered questions. Does attending religious activities improve a prisoner's mental health or reduce prison violence? Does individual religious practice differ from group-based practice? Are there advantages to consistently or periodically attending religious activities? Can psychiatrists be asked to evaluate the impact of prisoners not being allowed to access religious activities of their choice? By having familiarity with the impact of faith on mental health in the prison population, clinicians may be more prepared to address these matters with patients and the courts, be able to take a thorough religious history, and best utilize prison resources to provide optimal care.

Challenging the Insanity Defense

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The Trier of Fact Can Reject an Insanity Defense Despite Nonconflicting Expert Opinion in Support of the Defense

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The Supreme Court of Indiana in *Barcroft v. State*, 111 N.E.3d 997 (Ind. 2018) determined that the trier of fact could reasonably draw an inference of sanity from evidence of the defendant's demeanor, flaws in the expert testimony, and lack of a well-documented mental illness, notwithstanding unanimous expert testimony supporting an insanity defense. Accordingly, the Supreme Court of Indiana upheld a conviction of guilty but mentally ill.

Facts of the Case

The trial court heard that defendant Lori Barcroft's mental health had been deteriorating for years. Her adult son became increasingly worried about his mother and, believing she was possessed,