

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 21, 2004

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-3552
STATE OF WISCONSIN**

Cir. Ct. No. 03CV000298

**IN COURT OF APPEALS
DISTRICT IV**

**IN THE MATTER OF THE CHANGE OF NAME OF TERRANCE
JAMES SHAW:**

TERRANCE JAMES SHAW,

PETITIONER-APPELLANT,

v.

DEPARTMENT OF CORRECTIONS,

INTERVENOR-RESPONDENT.

APPEAL from an order of the circuit court for Dodge County:
DANIEL W. KLOSSNER, Judge. *Affirmed.*

Before Deininger, P.J., Vergeront and Higginbotham, JJ.

¶1 PER CURIAM. Terrance James Shaw appeals a circuit court order on his name change petition. After the circuit court initially denied the petition, Shaw moved for reconsideration. When the circuit court denied reconsideration,

Shaw appealed. By order dated May 13, 2004, we held the appeal untimely as to the first order, and limited the appeal to matters first raised on reconsideration. The only issue so raised is whether denying the name change petition violated the Religion Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C.A. §§ 2000cc-5. We affirm on that issue.

¶2 Shaw, a prison inmate, petitioned to change his name to Reverend Terrance James Shaw, D.B.S., Ph.D., D.D. His petition alleged that the name change reflected his spiritual awakening as a born-again Christian, and his membership in the Universal Life Church. The Department of Corrections intervened in the circuit court to oppose the petition and, as noted above, the circuit court denied it and then denied reconsideration.

¶3 The RLUIPA provides that a state may not impose a substantial burden on an inmate's religious practices unless it furthers a compelling governmental interest, and is the least restrictive means of furthering that interest. 42 U.S.C.A. § 2000cc(a)(1).

This is not to say that all regulation of religious activity or expression must be supported by a compelling state interest.... To exceed the "substantial burden" threshold, government regulation must significantly inhibit or constrain conduct or expression that manifests some central tenet of a prisoner's individual beliefs, ... must meaningfully curtail a prisoner's ability to express adherence to his or her faith; or must deny a prisoner reasonable opportunities to engage in those activities that are fundamental to a prisoner's religion....

Werner v. McCotter, 49 F.3d 1476, 1480 (10th Cir. 1995).

¶4 Here, Shaw contends that denying his name change imposes a substantial burden because changing one's name after a born-again experience is a fundamental tenet of the Christian faith as practiced by Universal Life Church

adherents. He also asserts that the Universal Life Church commonly refers to members by their title.¹

¶5 Shaw failed to offer sufficient proof to meet the “substantial burden” test. The burden of proving the existence of a substantial interference with the exercise of religion rests upon the adherent. *See Werner*, 49 F.3d at 1480 n.2. Here, however, nothing of record supports the assertion that legally changing one’s name, or using one’s title, is fundamental to the practice of Shaw’s religion as either a Christian or a Universal Life Church member.

¶6 In reaching the merits, we reject the DOC’s contention that the appeal should be dismissed on sovereign immunity grounds. The DOC waived any claim of sovereign immunity when it intervened in the circuit court proceeding. We also reject its contention that Shaw lacks standing because he has not suffered a direct injury. A person is aggrieved and may appeal an order that directly and injuriously affects his or her interests in some appreciable manner. *Weina v. Atlantic Mut. Ins. Co.*, 177 Wis. 2d 341, 345, 501 N.W.2d 465 (Ct. App. 1993). Shaw meets the standard under any reasonable view.

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.

¹ As a prisoner, Shaw is forbidden by rule from referring to himself by any title other than “mister.” *See* WIS. ADMIN. CODE § DOC 303.31.

