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(S.D.)-Judge Rules Prison Tobacco Ban Curbs Religious Rights

By: Chris Fankhauser Posted at: 09/20/2012 10:23 AM

SIOUX FALLS, S.D. (AP) - A federal judge has ruled that the South Dakota prison system's ban on tobacco in religious ceremonies substantially burdens Native American inmates' religious rights.

Chief Judge Karen Schreier ruled Wednesday that even if state officials had asserted a compelling governmental interest, they did not prove that the complete ban was the least restrictive means available to further that governmental interest.

Inmates Blaine Brings Plenty and Clayton Creek in their 2009 federal lawsuit against the South Dakota Department of Corrections contended the policy was discriminatory.

The state said ceremonial tobacco inside the state penitentiary was becoming increasingly abused, and the policy was not overly restrictive because it allowed other botanicals such as red willow bark to be burned.

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