

**Handout 8**  
*Reading Responses*

For each of the two case excerpts you read, analyze the court’s use of the RFRA test by completing the chart below. For each prong of the test, answer whether the court determined “yes” or “no” and provide examples of the court’s reasoning. Consider: what reasoning, if any, would have persuaded the court to reach the *opposite* conclusions?

**The Eagle Feather Case**

**The Prison Diet Case**

Substantial burden?	Substantial burden?
Compelling interest?	Compelling interest?
Least Restrictive Means?	Least Restrictive Means?

**Handout 8: Answer Key**

**The Eagle Feather Case**

**The Prison Diet Case**

<p>Substantial burden? <i>YES</i> <i>The court reasoned that the plaintiff was a practicing member of his religion, his religion required the use of eagle feathers in worship, and eagle feathers are considered sacred in many Native American religious traditions.</i></p>	<p>Substantial burden? <i>YES</i> <i>The court considers the lack of other meal plans that would allow the plaintiff to exercise his sincerely held religious beliefs. Because the deferral of his application meant that the plaintiff was forced to eat food that was not prepared according to his religious dietary needs, he was forced to violate his religious liberty.</i></p>
<p>Compelling interest? <i>YES</i> <i>The court looked to decisions by other circuit courts of appeal and the Supreme Court to make this determination. It reasoned that “protecting bald eagles qualifies as a compelling interest because of its status as our national symbol, regardless of whether the eagle still qualifies as an endangered species. Furthermore, the Supreme Court has suggested that protecting migratory birds in general might qualify as a compelling interest.”</i></p>	<p>Compelling interest? <i>NO</i> <i>First the court recognizes the government interest in regulating which inmates receive the Kosher diet. However, the court also acknowledges the lack of evidence provided by the defendant in support of compelling government interest. This lack of supporting evidence influenced the court’s determination that no compelling government interest was at stake.</i></p>
<p>Least Restrictive Means? <i>NO</i> <i>The court affirms that mere speculation is not sufficient in proving whether means used are the least restrictive. The court considered the government’s first assertion that broadening access to eagle feathers would increase poaching as mere conjecture and quickly dismissed it. The court notes that the government provided no evidence of any alternative means of achieving its stated objective.</i></p>	<p>Least Restrictive Means? <i>NO</i> <i>The court did not need to consider whether the means used were the least restrictive because it determined that no compelling government interest existed.</i>  <i>Still, the court suggested that “evidence of the Diet's current costs versus other menus, the deferral policy's impact on VDOC's budget, or the impact on prison security” may have aided its analysis in weighing whether the means used were the least restrictive method of achieving a government interest.</i></p>

Unit 6: Lesson 2  
Religious Freedom

What reasoning, if any, do you think would have led the court to reach the *opposite* conclusions (Eagle Feather)?

*Substantial burden - If the plaintiff was not a practicing member of the religion, or if the use of eagle feathers were not necessary to the practice of his religion, the court may have determined that no substantial burden was imposed by the denial of access to eagle feathers.*

*Compelling government interest - The court relied on precedent from other circuits and suggestions from the Supreme Court to reach its conclusion that protection of eagles is a compelling government interest; were there no related precedent on this issue, the court may not have found a compelling government interest.*

*Least restrictive method - Had the defendant provided concrete evidence regarding the likelihood of an increase in poaching and more significant challenges to law enforcement as a result of broadening eagle feather access, the court may have been more persuaded to find the methods used were the least restrictive available. Additionally, the government could have provided information suggesting that other means were more burdensome than its current policy.*

What reasoning, if any, do you think would have led the court to reach the opposite conclusions? (Prison Diet)?

*Substantial burden - Were other meal plans available which afforded the plaintiff an opportunity to eat according to his religious beliefs, the court may have determined that the burden imposed by the application deferral was not substantial.*

*Compelling government interest - The court noted that the defendant made only a “bald assertion” regarding the necessity of deferring the plaintiff’s application. In the court’s own language, her argument could have been bolstered by “evidence in the instant matter of the Diet’s food, supplies, preparation, or serving costs. . . . the prison’s ability to afford any extra expense of Diet meals without first inquiring into the sincerity of an applicant’s religious beliefs.”*

*Least restrictive method - Had the defendant provided more evidence that her actions served a compelling government interest, the court would have more fully considered whether the decision to defer the plaintiff’s application was the least restrictive method of doing so. Additionally, evidence of cost-benefit assessment and effects on the prison’s budget may have been persuasive.*