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## Court says atheist was wrongly jailed over religious rehab

by Kimberly Winston by Religion News Service

**San Francisco** — An atheist parolee should be compensated by California after the state returned him to prison for refusing to participate in a religiously-oriented rehabilitation program, a federal court ruled Aug. 23.

A three-judge panel of the U.S. 9th Circuit Court of Appeals unanimously ruled that a lower court judge erred when he denied Barry A. Hazle Jr., a drug offender and an atheist, a new trial after a jury awarded him no damages.

In a move that could have wider implications, the appeals court also ordered a Sacramento district judge to consider preventing state officials from requiring parolees attend rehabilitation programs that are focused on God or a "higher power."

Hazle was serving time for methamphetamine possession in 2007 when, as a condition of his parole, he was required to participate in a 12-step program that recognizes a higher power. Hazle, a lifelong atheist and member of several secular humanist groups, informed his parole officer that he did not want to participate in the program and would prefer a secular-based program.

According to court documents, the parole officer informed Hazle the state offered no secular treatment alternatives. When Hazle entered the program but continued to object, he was arrested for violating his parole and returned to a state prison for an additional 100 days.

Secular Organizations for Sobriety, a 12-step program with no emphasis on God or a higher power, runs multiple programs in California, but had none near Hazle's home in Northern California during that period.

Hazle sued, alleging his First Amendment rights had been violated. The district court agreed, citing well-established rulings supporting Hazle's claim, but allowed to stand a jury's conclusion that he deserved no compensation.

Friday's ruling requires Hazle be awarded a new trial for damages and compensation.

"The jury's verdict, which awarded Hazle no compensatory damages at all for his loss of liberty, cannot be upheld," Judge Stephen Reinhardt wrote in the court's opinion.

"The jury simply was not entitled to refuse to award any damages for Hazle's undisputable -- and undisputed -- loss of liberty, and its verdict to the contrary must be rejected."

The case now returns to the district court in Sacramento.

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