

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PRISON LEGAL NEWS and	*	NUMBER: 09-7515
HUMAN RIGHTS DEFENSE CENTER,	*	
Plaintiffs	*	SECTION: A
VERSUS	*	
	*	JUDGE: Jay C. Zainey
JACK A. STEPHENS, Sheriff, St. Bernard	*	
Parish, DAVID MOWERS, Warden, St.	*	MAG. SECTION: 1
Bernard Parish Prison, CHARLES BURAS,	*	
Captain, St. Bernard Parish Prison,	*	MAGISTRATE: Sally Shushan
JOHN DOE 1, Mailroom Supervisor, St.	*	
Bernard Parish Prison and JOHN DOE 2,	*	
Mailroom Employee, St. Bernard Parish	*	
Prison	*	
Defendants	*	

CONSENT JUDGMENT FOR INJUNCTIVE RELIEF ONLY

IT IS HEREBY STIPULATED by and between the undersigned counsel for plaintiffs and defendants, as follows:

1. On Dec. 3, 2009, plaintiffs filed suit in the above-captioned matter seeking injunctive and declaratory relief, damages, attorneys fees and costs, against the named defendants. The Complaint alleged an unlawful policy, practice and custom regarding failure to deliver incoming publications addressed to prisoners who were held at the St. Bernard Parish prison, in violation of the 1st and 14th Amendments to the U.S. Constitution and 42 USC 1983. The Complaint also alleged violations of due process of the law due to the failure to give notice and an opportunity to respond, to the plaintiff

publishers and distributors whose publications were denied access to their subscribers.

2. On Dec. 9, 2009 defendants filed an Answer raising various defenses and denying the allegations of plaintiffs' Complaint for lack of sufficient knowledge and/or information to justify belief. On Jan. 12, 2010 plaintiffs filed a Motion for Preliminary Injunction, with attached Memorandum and Exhibits. On January 19, 2010 the Court issued a Minute Entry noting that the parties were working to resolve the issue amicably and referred the parties to Magistrate Shushan for scheduling of a settlement conference.

3. The parties, with the assistance and oversight of the U.S. District Court Judge and Magistrate, have engaged in on-going negotiations in an attempt to amicably resolve this matter. The defendants deny liability. However, in order to put an end to this phase of the litigation and to avoid unnecessary expense and the uncertainties of future litigation regarding the plaintiffs' request for injunctive relief, the parties have agreed to the following terms and conditions: (1) The defendants have distributed to plaintiffs' subscribers at the St. Bernard Parish Prison, past issues and the current issue (Feb. 2010) of plaintiffs' monthly publication, Prison Legal News, along with copies of Protecting Your Health and Safety, a prisoner self-help guide distributed by plaintiffs. (2) The defendants have agreed to adopt and implement a new written policy and procedure, which the parties agree is constitutional, regarding "Incoming Publications" for prisoners at the St. Bernard Parish Prison, attached hereto as Exhibit A and incorporated herein. This policy and procedure will be in effect regarding all future incoming publications to prisoners in custody of the St. Bernard Parish Sheriff's Office, including but not limited to those published and distributed by plaintiffs.

4. The parties agree, and the Court so orders, that defendant Sheriff Jack Stephens, his agents, assigns, employees, deputies and successors, will establish, implement and enforce the policy and procedure set forth in Exhibit A, incorporated herein.

5. It is further agreed and ordered, that within 30 days of the date of entry of this Consent Judgment, the defendant Sheriff Jack Stephens will insure that this new policy and procedure is disseminated to all employees of the St. Bernard Parish jail as well as all persons in custody at the jail and will be fully implemented. Defendants' counsel will furnish the Court and plaintiffs' counsel with written confirmation of same.

6. The parties to this Consent Judgment agree that the provisions herein fully and fairly accommodate the interests of the parties hereto regarding the issue of injunctive relief only in this matter, that the Court should adopt and approve this agreement as a Consent Judgment, and that this Consent Judgment is a full and final judgment between the parties with regard to permanent injunctive relief only.

7. All remaining claims are specifically reserved by plaintiffs and denied by defendants. The Magistrate is ordered to schedule a settlement conference with the parties in an effort to explore possible amicable resolution of the remaining issues of damages, declaratory relief and reasonable attorneys fees and costs.

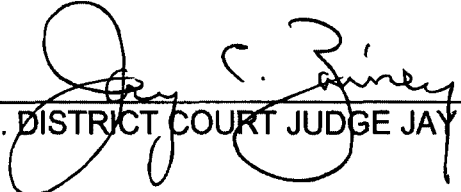
8. This Court retains jurisdiction of this action in order to enforce the terms of this Consent Judgment, to determine reasonable attorneys fees and costs and the remaining issues relating to plaintiffs' claims for damages and declaratory relief, to resolve any disputes regarding the implementation and enforcement of this Consent Judgment and all other issues of this lawsuit not otherwise covered by this Consent

Judgment.

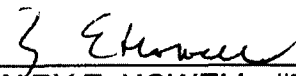
WHEREFORE, having fully read and considered the provisions set forth above, plaintiffs and defendants having stipulated and agreed to the above terms and conditions, and the Court having approved the entry of this Consent Judgment, IT IS SO ORDERED.

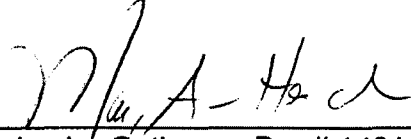
Hello This is a Test

New Orleans, Louisiana this 17th day of May, 2010.


U.S. DISTRICT COURT JUDGE JAY C. ZAINEY

AGREED TO BY:


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SHERIFF JACK A. STEPHENS
ST. BERNARD PARISH SHERIFF'S OFFICE (SBSO)

INCOMING PUBLICATIONS POLICY

1. Purpose and Scope

Except when precluded by law, the St. Bernard Parish Sheriff's Office permits an inmate to subscribe to or to receive publications without prior approval and has established procedures to determine if an incoming publication is detrimental to the security, discipline, or good order of the institution or if it might facilitate criminal activity. The term publication, as used in this subpart, means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

2. Program Objectives. The expected results of this program are:

- a. Inmates will be permitted to receive and retain publications which do not threaten security, good order, or discipline of the institution or that may facilitate criminal activity, or are otherwise prohibited by law.
- b. Publications determined detrimental to the security, good order, or discipline of the institution or that may facilitate criminal activity, or are otherwise prohibited by law, will be excluded from SBSO facilities.
- c. A safer environment for staff and inmates will be provided by strengthening procedures designed to prevent the introduction of contraband.

3. Standards Referenced

- a. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-5D-01
- b. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4432
- c. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-5D-04
- d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: 1-ABC-5D-04
- e. U.S. Department of Justice, Federal Bureau of Prisons.

4. **Application.** Procedures in this Incoming Publication Policy apply to all correctional facilities under the jurisdiction and control of the St. Bernard Parish Sheriff's Office.
5. **Procedures**
 - a. At all St. Bernard Parish Sheriff's Office institutions, an inmate may receive soft-cover publications (for example, paperback books, magazines, and other similar items) only from the publisher, a distributor, a book club, or a bookstore.
 - b. The Warden may make an exception to the provisions of paragraph 5(a) if the publication is no longer available from the publisher, a distributor, book club or bookstore or is only available in hard-cover. An inmate requesting an exception to paragraph 5(a) shall provide the Warden with written documentation that the publication is no longer available from these sources or is only available in hard-cover. The Warden shall review all requests for exceptions within 10 days and make reasonable accommodations to make the requested publication available to the inmate. Any response to a request for exceptions shall be documented, in writing, and provided to the requesting inmate within 10 days. The inmate may appeal the Warden's response to the Sheriff using the jail's administrative review procedures.
 - c. The Warden may reject a publication only if it is determined detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity. The Warden may not reject a publication solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant. Publications which may be rejected by a Warden include but are not limited to publications which meet one of the following criteria:
 - (1) It depicts or describes procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
 - (2) It depicts, encourages, or describes methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of St. Bernard Parish Sheriff's Office institutions;
 - (3) It depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs;
 - (4) It is written in code;

- (5) It depicts, describes or encourages activities which may lead to the use of physical violence or group disruption;
- (6) It encourages or instructs in the commission of criminal activity.
- (7) It is sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity.

Only the Warden may reject an incoming publication. In the Warden's absence, only the Acting Warden may perform this function.

- d. The Warden may not establish an excluded list of publications. This means the Warden shall review the individual publication prior to the rejection of that publication. Rejection of several issues of a subscription publication is not sufficient reason to reject the subscription publication in its entirety.
- e. Where a publication is found unacceptable, the Warden shall promptly advise the inmate in writing of the decision and the reasons for it. The notice must contain reference to the specific article(s) or material(s) considered objectionable. The Warden shall permit the inmate an opportunity to review this material for purposes of filing an appeal under the Administrative Remedy Program (ARP) unless such review may provide the inmate with information of a nature which is deemed to pose a threat or detriment to the security, good order or discipline of the institution or to encourage or instruct in criminal activity. In questionable cases, the Warden should consult with legal staff.
- f. The Warden shall provide the publisher or sender of an unacceptable publication a copy of the rejection letter. The Warden shall advise the publisher or sender that he may obtain an independent review of the rejection by writing to the Sheriff of St. Bernard Parish within 20 days of receipt of the rejection letter.
- g. The Warden shall retain the rejected publication at the institution if the inmate indicates that he will file an appeal or until time for appeal has lapsed. If the rejection is upheld on appeal, or the inmate does not appeal the rejection, the Warden shall provide the inmate with the following options of disposing of the rejected publication:
 - (1) return to sender;
 - (2) send to person or entity designated by the inmate to receive rejected publications, or

(3) any other mutually agreeable disposition.

See notification to Inmate and Publisher/Sender of Rejected Publication (Attachment A) for a sample notification to inmate and publisher/sender.

- (i) The Warden must retain the rejected publication for 20 days from the date that the inmate and publisher/sender are sent written notification of the rejection.
 - (ii) This 20-day period is to allow the inmate and publisher/sender the opportunity to file an appeal under the Administrative Remedy Program (ARP). If the inmate or publisher/sender does not file an appeal within 20 days, the rejected publication may be disposed of as provided in Section 5(g) herein.
 - (iii) If the inmate does file an appeal, the Warden must retain the rejected publication at the institution.
 - (iv) The rejected publication or the offensive portion of it must be reviewed prior to a staff response being prepared.
 - (v) The Sheriff should not respond to an appeal of a rejected publication without first reviewing either the rejected publication or a copy of the offensive portion of it.
- h. The Warden may set reasonable limits (for fire, sanitation or housekeeping reasons) on the number or volume of publications an inmate may receive or retain in his/her quarters. Inmates will store all publications in the areas provided for personal effects. The Warden may authorize an inmate additional storage space for storage of legal materials in accordance with the St. Bernard Parish Sheriff's Office procedures on personal property of inmates.

Sheriff Jack A. Stephens,
St. Bernard Parish

ATTACHMENT "A"

NOTIFICATION TO INMATE AND PUBLISHER/SENDER OF REJECTED PUBLICATION (TO BE USED WHEN REJECTING A PUBLICATION UNDER THE SBSO INCOMING PUBLICATIONS POLICY)

Inmate Name: _____

Inmate Number: _____

Institution: _____

Re: _____ Issue: _____

The above named publication/material from [publisher/sender name] has been rejected in accordance with the St. Bernard Parish Sheriff's Office Incoming Publications Policy, which provides in part:

A publication may be rejected only if it is determined to be detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity.

The above named publication has been rejected because _____ [provide reference to the specific article(s) or material(s) considered objectionable and the reason(s) for the decision to reject].

A copy of this notification has been sent to the publisher/sender who may obtain an independent review of this rejection by writing to the Sheriff _____ (Name, Address) within twenty (20) days of the publisher/sender's receipt of that notification.

WARDEN

DATE

cc: Publisher/Sender Name and Address

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