

RECEIVED
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

2000 MAR 27 P 6:36

PRISON LEGAL NEWS, INC., and
AVEN H. COTTON,

Plaintiffs,

vs.

MICHAEL HALEY, Commissioner
of the Alabama Department of Corrections,

Defendant.

)
DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Case No. 99-D-486-N

FILED
MAR 29 2000
CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

STIPULATION

1. The Plaintiffs challenge the Alabama Department of Corrections' ("DOC") policy prohibiting inmates from receiving books, magazines, or newspapers unless they have been paid for with funds from inmates' Prisoner Money on Deposit ("PMOD") accounts as violative of the First Amendment to the United States Constitution. Under the policy, inmates may not receive free publications or gift publications purchased for them by family members, friends, or charitable organizations. The plaintiffs also challenge the failure of the Defendant to provide due process guarantees to publishers whose publications are rejected as violative of the Fourteenth Amendment to the United States Constitution. Defendant Haley denies that the challenged policies violate the Constitution.

2. In order to resolve this lawsuit, the Defendant, on behalf of himself, his agents and successors, agrees to permit inmates to receive free and gift publications. The Defendant agrees to place the following language in the DOC's Administrative Regulation #303 ("AR 303"):

EOD 3/29/00

XIII. PUBLICATIONS

- A. Inmates may receive a limited number of publications -- books, magazines, newspapers, book catalogues, and government pamphlets -- so long as the publications are received directly from the publisher. Inmates may receive free and gift publications so long as they are mailed directly from the publisher and meet all other security and space limitation requirements listed below. If an inmate purchases a publication, it must be pre-paid from the inmate's Prisoners Money on Deposit Account (PMOD). Each Institutional Head will establish a specific limit on the number of publications each inmate may receive. This limit will be based upon space, security, fire, and operational considerations and on capacity and size of each institution's mail handling facility. Different institutional limits may be established for different inmates based upon custody, living space assignment, security, or maintenance of order. However, an inmate will not be allowed to receive more books, magazines and/or newspapers than he/she can safely store in a personal locker along with other authorized possessions.

3. The Defendant also agrees to provide publishers with notice and an opportunity to be heard if their publications are rejected by the DOC. The Defendant agrees to place the following language in AR 303:

- H. The Facility Warden or his/her designee shall provide the publisher written notice of a rejected publication within five (5) working days after the receipt of the publication by the mail clerk. The written notice must (1) clearly state the reason(s) for the rejection; (2) inform the publisher of its right to appeal and; (3) explain that the publisher may obtain independent review of the rejection by sending its objections to the Facility Warden or Deputy Warden within twenty (20) days of the receipt of the rejection letter. If the publisher appeals in accordance with this provision, an independent reviewer consisting of the Warden or Deputy Warden shall review the rejected publication and the reason for its exclusion and notify the publisher of his or her decision within twenty (20) days.

4. In the event of a rejected publication, the DOC will provide the publisher and the inmate a "Notification of Rejected Mail" form explaining the

reasons for the rejection of the publication and their rights to appeal the rejection. A copy of the form is attached to this Stipulation as Attachment A.

5. The Defendant agrees to explain the new provisions of AR 303 described in paragraphs 2 and 3, above, to all Wardens, correctional officers and mailroom personnel at all Alabama correctional facilities.

6. The Plaintiffs agree to waive their right to seek fees and costs incurred in pursuing this lawsuit.

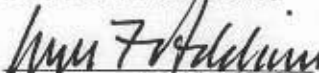
7. In light of the Defendant's agreement to the provisions outlined in this Stipulation, the parties agree that the Plaintiffs' challenge to the Defendant's publications policy should be dismissed without prejudice. In the event that the Defendant breaches this Stipulation, the Plaintiffs may reinstate their suit and/or enforce the Stipulation as a contract between the parties in State court.

Stipulated and agreed to this 27th day of March, 2000.

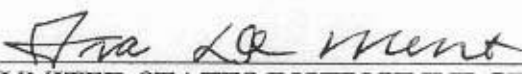
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Approved by the Court on 29th day of March, 2000.


UNITED STATES DISTRICT JUDGE

NOTIFICATION OF REJECTED MAIL

INSTITUTION: _____ DATE: _____

FROM: _____
Institutional Mail Room

TO: INMATE _____
AIS # _____ CELL/DORM _____ BED # _____

CORRESPONDENCE/PUBLICATION: _____

Date received at this institution: _____. This correspondence/publication is being returned to the sender due to the following reason(s): _____

- Inmate has the option to return mail to sender at his/her own expense within 30 days or property will be destroyed.
- Inmate has 72 hours from above date of this notice to protest this return by stating his/her reasons below and returning this form to the Mail Room. Reason(s) for protest: _____
- Publisher has 20 days from receipt of this notice to appeal this decision and obtain an independent review of this rejection by sending its objections to the warden of this facility.

Inmate Signature AIS #

Date

INMATE PROTEST DENIED

INMATE PROTEST UPHELD

PUBLISHER PROTEST DENIED

PUBLISHER PROTEST UPHELD

Printed Name/ Authorized Signature

Printed Name/ Authorized Signature

Date Returned to Sender

Date Returned to Inmate