

## NEWS RELEASE

Human Rights Defense Center  
*For Immediate Release*

June 6, 2019



### **Federal Court Finds Southwest Virginia Regional Jail Improperly Censored Books, Magazines Sent to Prisoners**

Abingdon, VA – Yesterday, in a 42-page order, U.S. District Court Judge James P. Jones held the Southwest Virginia Regional Jail Authority had violated the rights of a non-profit organization that mailed books and magazines to prisoners. The court found that the publications provided “valuable and time-sensitive legal, health-related, and educational information to inmates.”

In March 2018, the Human Rights Defense Center, which advocates for criminal justice reform and publishes and distributes books and two monthly print publications, *Prison Legal News* and *Criminal Legal News*, filed suit against the Southwest Virginia Regional Jail Authority and its superintendent, Stephen Clear. The complaint said jail staff had “refused to deliver hundreds of HRDC’s mailings to incarcerated persons, directly violating HRDC’s First Amendment right to free speech and communication,” and failed to provide notice of such censorship.

Specifically, since September 2016 the Jail Authority had censored at least 146 issues of *Prison Legal News* and 44 copies of a book distributed by HRDC titled *Prisoners’ Guerrilla Handbook to Correspondence Programs in the United States and Canada*, as well as annual reports, letters, informational brochures and court opinions mailed to prisoners.

The complaint further stated: “Without the ability to send its publications to incarcerated persons at the Jail Authority’s facilities via mail, HRDC has no alternative means of exercising its right to communicate with these persons. Further, persons incarcerated in the Jail Authority’s facilities have no alternative means of acquiring the type of information that HRDC is attempting to communicate – information regarding their legal and civil rights and access to education while incarcerated.”

The district court granted HRDC’s motion for a preliminary injunction in July 2018.

In his June 5, 2019 ruling on cross-motions for summary judgment, Judge Jones noted that each of the four facilities operated by the Jail Authority “has a book room where donated books are stored. Prisoners are not permitted to visit the book rooms, and they are not given a list of the books contained in the book rooms. They can, however, request to borrow up to two books at a time every two weeks.” Further, prisoners “may order books from publishers or retailers through a preapproval process. Orders are approved only for books that the Jail Authority deems to be religious, legal, or educational. There is no written list of criteria for determining whether a book falls into one of these categories.”

Magazines are also prohibited and prisoners cannot have subscriptions to newspapers.

Judge Jones rejected the Jail Authority’s arguments that allowing prisoners to receive HRDC’s publications and books would pose a security risk because the accumulation of reading material could create a fire hazard, or that the staples used to bind magazines could be used to “fashion tattooing guns, weapons, and tampering devices.”

“HRDC has met its burden of demonstrating that the Jail Authority’s book ban and preapproval process leaves open no alternative means for HRDC to exercise its right communicate with prisoners,” Judge Jones stated. With respect to magazines sent to prisoners, he added the Jail Authority’s “complete ban of magazines is not rationally related” to its security risk arguments related to staples and fire hazards.

Lastly, the court found that HRDC’s due process rights had been violated because the Jail Authority did not provide adequate notice of its censorship of HRDC’s publications and books, including the specific reasons for such censorship. Judge Jones held that Superintendent Clear was entitled to qualified immunity on HRDC’s First Amendment claim, but because he “was personally involved in the deprivation of HRDC’s due process rights,” he was not entitled to qualified immunity as to that claim.

“The Court’s ruling underscores the importance of reading material inside a jail or prison,” said Sabarish Neelakanta, HRDC’s General Counsel and Litigation Director. “Denying access to books and magazines does nothing to advance any purported security interest, and directly undermines the free speech rights of prisoners and their correspondents,” he added.

The case remains pending a jury trial on damages, and a separate hearing will be held concerning the scope and form of permanent injunctive relief. HRDC is also seeking declaratory relief, plus attorneys’ fees and costs.

HRDC is represented by attorneys Thomas S. Chapman, Thomas G. Hentoff and Sean M. Douglass with the Washington, D.C. law firm of Williams & Connolly LLP; by Bruce E.H. Johnson with Davis Wright Tremaine LLP; and by HRDC general counsel Sabarish Neelakanta and staff attorneys Dan Marshall and Masimba Mutamba.

The case is *Human Rights Defense Center v. Southwest Virginia Regional Jail Authority*, U.S.D.C. (W.D. Vir.), Case No. 1:18-cv-00013-JPJ-PMS. The ruling is posted [here](#).

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The Human Rights Defense Center, founded in 1990 and based in Lake Worth, Florida, is a non-profit organization dedicated to protecting human rights in U.S. detention facilities. In addition to advocating on behalf prisoners and publishing books and magazines concerning the criminal justice system, HRDC engages in state and federal court litigation on prisoner rights issues, including wrongful death, public records, class actions and Section 1983 civil rights cases.

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