

2012 WL 1075852

Only the Westlaw citation is currently available.
United States District Court,
E.D. California.

PRISON LEGAL NEWS, a project of the Human
Rights Defense Center, Plaintiff,

v.

COUNTY OF SACRAMENTO; Scott R. Jones,
individually and in his capacity as Sheriff of the
County of Sacramento; Does 1–20, in their
individual and official capacities, Defendants.

No. 2:11–CV–00907 JAM–DAD. | March 8, 2012.

Attorneys and Law Firms

Blake Thompson, Sanford Jay Rosen, Ernest Galvan,
Kenneth M. Walczak, Rosen, Bien & Galvan LLP, San
Francisco, CA, Lance T. Weber, Phv, Brattleboro, VT, for
Plaintiff.

John A. Lavra, Amanda Lynn Butts, Longyear, Odea &
Lavra, LLP, Sacramento, CA, for Defendants.

Opinion

ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

JOHN A. MENDEZ, District Judge.

*1 On March 7, 2012 at 9:30 a.m. this matter came on
regularly for a hearing in Courtroom 6, Fourteenth Floor,
of this Court, the Honorable John A. Mendez presiding.
Having considered the parties’ pleadings, the arguments
of counsel, and the entire record in this case, and good
cause existing therefor,

THE COURT HEREBY FINDS AND ORDERS:

Plaintiff Prison Legal News (“PLN”) has demonstrated a
likelihood of success on the merits of its First
Amendment claim. Defendants’ policies and practices
including refusing to deliver PLN publications and
mailings to prisoners because they contained staples
and/or a mailing label are not supported by a legitimate

penological interest and do not leave open alternative
means for PLN to exercise its First Amendment rights.
Furthermore, allowing PLN to be delivered to prisoners in
the Sacramento County’s jails would have very limited
impact on guards and other inmates, and there are
obvious, easy alternatives to Defendants’ bans on PLN’s
staples and mailing labels. In short, Defendants’ policies
are an exaggerated response to any security concerns
posed by PLN.

Plaintiff has demonstrated that it will suffer irreparable
harm in the absence of preliminary injunctive relief and
the balance of hardships tips in Plaintiff’s favor. The loss
of First Amendment freedoms, for even minimal periods
of time, constitutes irreparable injury. Here, Defendants
have infringed on Plaintiff’s established rights to send
publications to prisoners. The grant of a preliminary
injunction will not cause irreparable harm to the
Defendants. The balance of equities therefore tips in
Plaintiff’s favor.

Finally, the preliminary injunction set forth below is in
the public interest. Defendants’ policies operated as a *de
facto* ban on PLN publications. Protecting the
constitutional rights of PLN promotes the public interest.

The preliminary injunction set forth below is narrowly
drawn, extends no further than necessary to correct the
harm to PLN the Court finds requires preliminary relief,
and is the least intrusive means necessary to correct that
harm.

In these circumstances, waiver of the bond requirement is
appropriate because Plaintiff is a small non-profit
organization with limited resources.

ORDER

1. It is HEREBY ORDERED that Plaintiff’s Motion for
Preliminary Injunction is granted.

2. DEFINITIONS:

(a) As used herein, STAPLES shall mean the type of
light-duty small wire fasteners commonly used to attach a
few sheets of paper, and used by the Plaintiff to bind the
sheets of its monthly publication.

(b) As used herein, MAIL LABELS shall mean the type of self-adhesive sticker used by PLN to affix an address to an item of printed matter.

3. IT IS FURTHER ORDERED that Defendants County of Sacramento (the "County") and Scott R. Jones, and their successors, officers, agents, servants, employees, and attorneys, and all others in active concert or participation with them (hereinafter referred to collectively as "Defendants"), shall not refuse to deliver PLN publications or mailings to prisoners at the county's jails on the ground that these publications or mailings contain STAPLES, PROVIDED that Defendants may comply by removing the STAPLES.

*2 4. IT IS FURTHER ORDERED that Defendants shall not refuse to deliver materials sent to prisoners from PLN because of MAILING LABELS, PROVIDED that Defendants may comply by removing the MAILING

LABELS.

5. IT IS FURTHER ORDERED that Defendants shall provide adequate written notice and an administrative appeal process to PLN when Defendants refuse to deliver PLN publications or mailings to prisoners at the County's jails.

6. IT IS FURTHER ORDERED that the bond requirement is waived.

7. No person who has notice of this injunction shall fail to comply with it, nor shall any person subvert the injunction by any sham, indirection or other artifice.

IT IS SO ORDERED.