

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
Pensacola Division

LOUIS REYNOLDS and JEFFERY  
MILLER;

Plaintiffs,

No. 3:10-cv-355

v.

WENDELL HALL, in his official  
capacity as Sheriff for Santa Rosa  
County, Florida,

Defendant.

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**COMPLAINT**

Plaintiffs LOUIS REYNOLDS and JEFFERY MILLER sue Defendant  
WENDELL HALL (“Hall”) in his official capacity as Sheriff for Santa Rosa  
County, Florida, and allege as follows:

**INTRODUCTION**

1. Plaintiffs challenge Sheriff Hall’s recently instituted policy and practice (“Postcard-Only Mail Policy”) that forbids inmates of the Santa Rosa County, Florida, Jail (“Jail”) from sending letters enclosed in envelopes to their parents, children, spouses, friends, other loved ones, or correspondents. Instead, Jail inmates must write all of their correspondences in a postcard format except for privileged/legal mail. This new policy impermissibly restricts inmates’ ability to

exercise their rights to communicate with correspondents outside the jail and these correspondents' right to receive these inmates' communications and expressions, in violation of the First and Fourteenth Amendments to the United States Constitution.

### JURISDICTION AND VENUE

2. Plaintiffs bring this action pursuant 42 U.S.C. §1983 for violations of civil rights under the First and Fourteenth Amendments to the United States Constitution.

3. This Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1343(a)(3) (civil rights).

4. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §1391(b) and N.D. Fla. Loc. R. 3.1. Defendant Hall resides in this district and division and the unlawful practices that give rise to the claims herein occurred within this district and division.

### PARTIES

5. Plaintiff **Louis Reynolds** ("Reynolds") is a Jail inmate. He has remained in the Jail as an inmate since May 21, 2010. As set forth in the "General

Allegations” section, Reynolds has been, and continues to be, adversely affected by the Postcard-Only Mail Policy.

6. Plaintiff **Jeffery Miller** (“Miller”) is a friend of Plaintiff Reynolds. Miller lives in Illinois and has not visited because of the long distance and cost. As set forth in the “General Allegation” section, Reynolds has been, and continues to be, adversely affected by the Postcard-Only Mail Policy.

7. Defendant Sheriff **Wendell Hall** is now, and at all material times has been, the Sheriff of Santa Rosa County, Florida. As Santa Rosa County Sheriff, he is charged with the care and custody of inmates at the Santa Rosa County Jail. He exercises overall responsibility for the policies and practices of the Jail, including the Postcard-Only Mail Policy. Plaintiffs sue Hall in his official capacity for injunctive and declaratory relief and attorneys fees and costs.

8. Defendant Hall at all times relevant hereto was acting and continues to act under color of law.

9. Jail correction officers, deputies, their supervisors, working in the Jail are agents and employees of Sheriff Hall.

### **GENERAL ALLEGATIONS**

10. Effective July 26, 2010, Sheriff Hall instituted a policy that required all outgoing mail, except legal or privileged mail, sent by an Jail inmate to be in a postcard form (hereinafter “Postcard Only Mail Policy”). Only mail to or from the courts, attorneys, government officials or agencies, and news media is considered legal or privileged (hereinafter collectively “privileged”). Mail from Reynolds to Miller is not privileged.

11. Prior the implementation of the Postcard-Only Mail Policy, Reynolds wrote multi-page letters several times a week to both his son and Miller, among other persons. He often included drawings he had made. In some of these letters, Reynolds would discuss sensitive issues including his health, details and directions for his property and finances, religion, and advice to his son.

12. However, now Reynolds may no longer send these letters and drawings. Now, his son, Miller, and other correspondents may no longer receive these letters and drawings. Though Reynolds would like to continue to discuss sensitive and personal topics with correspondents, he no longer includes this information in his mailed messages on postcards because they may be easily read by a host of people. Reynolds’s son lives with the son’s maternal grandmother, who may now read the messages Reynolds writes on postcards. Reynolds wants to be able to write his son messages without the grandmother reading them, but

because of the Postcard-Only Mail Policy he cannot do that. Instead, Reynolds now sends no drawings and the messages in his mail are shorter.

13. Reynolds must now express all of his thoughts and messages in an abbreviated and incomplete form as there is insufficient room on the postcard to fully develop and communicate his thoughts and ideas.

14. Reynolds's son lives in Ohio and other correspondents live in Illinois. Because his son and friends lack financial resources, they are unable to pay for telephone collect calls from Reynolds. Accordingly, mail correspondence is the only practical way for him to stay in contact with them.

15. Reynolds is in the custody and under the control of Defendant Sheriff Hall. As a Jail inmate, he remains subject to the policies, practices, and customs of Defendant Sheriff Hall.

16. As a result of Sheriff Hall's Postcard-Only Mail Policy, Miller no longer receives letters and drawings from Reynolds, who is in the Jail. Instead, he can receive only truncated messages on postcards. Absent Sheriff Hall's Postcard-Only Mail Policy, Reynolds would send Miller letters and drawings that Miller would like to receive.

17. Before Sheriff Hall instituted the Postcard Only Mail Policy, Jail inmates freely sent mail in a letter form that consisted of one or more sheets of paper enclosed in an envelope to correspondents outside the jail.

18. Now, Sheriff Hall and those acting under his authority will not transmit to the correspondent outside the jail non-privileged outgoing mail that does not conform to the Postcard Only Mail Policy.

19. The Postcard Only Mail Policy prohibits inmates from sending any non-legal mail unless it is on a postcard received from Jail officials or one purchased from the USPS.

20. The Postcard-Only Mail Policy prohibits drawings or unnecessary marking on all non-privileged mail.

21. This policy is reflected in the written Outgoing Mail Procedure (Standard Operating Procedure No. 15.48), revised on August 14, 2010, attached as Exhibit 1.

22. Jail inmates have few alternatives to mail by which to communicate with friends and family. Telephone calls from Jail inmates in the housing areas are limited to collect telephone calls, which are very expensive. Fellow inmates may easily overhear these telephone calls, which are made in a common area in a row

of telephones. Family and friends may only visit a Jail inmate during a specific two-hour time period during the week, which prevents many friends and family with a conflict during this time period from visiting at all. Friends and family who do not live near the Jail or in another state cannot easily visit Jail inmates. When family and friends can visit a Jail inmate, they speak over a telephone to each other in ways that may be overheard by other inmates or visitors. Therefore, for all these reasons, mail correspondence for many Jail inmates and their family and friends is the most feasible and private way to communicate and maintain a relationship.

23. The Postcard-Only Mail Policy impermissibly curtails the ability of Jail inmates to express themselves and their correspondents to receive the expressions inmates desire to transmit. The required use of postcards unlawfully limits the space for message, permits third parties to intercept sensitive information, and cost more to send the same message.

24. The Sheriff's Postcard-Only Mail Policy has and continues to inhibit, infringe, limit, chill, suppress, and interfere with the Plaintiffs' constitutionally-protected communications between inmates and correspondents or intended correspondents.

25. The Plaintiffs will suffer an injury as a result of the Postcard-Only Mail Policy. Sheriff Hall caused and will continue to cause this injury. The

Postcard-Only Mail Policy infringes on the U.S. Constitution's First Amendment free speech rights of Jail inmates, including Reynolds to communicate in a complete and meaningful way with and to express themselves fully to their family and friends.

26. Likewise, the Postcard-Only Mail Policy deprives the family, friends, and other correspondents, including Plaintiff Miller, of their U.S. Constitution's First Amendment free speech right to receive such communications.

27. Sheriff Hall's Postcard-Only Mail Policy has and will continue to inhibit, infringe, limit, chill, and suppress the constitutionally protected communications from Jail inmates to their correspondents.

28. Sheriff Hall has acted and threatens to continue acting under color of state law to deprive Plaintiffs of their constitutional rights. Plaintiffs face a real and immediate threat of irreparable injury as a result of these actions and threatened actions of Sheriff Hall and the existence, operation, and threat of enforcement of the Postcard-Only Mail Policy.

29. Reynolds desires to and would write non-privileged letters to family and friends, including Miller, and include sensitive information and drawings absent the Postcard-Only Mail Policy.



**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

30. Reynolds has filed formal grievances and exhausted all available administrative remedies.

**COUNT 1: SUPPRESSION OF PROTECTED SPEECH**

(Plaintiff Reynolds - 42 U.S.C. §1983)

31. Plaintiff Reynolds realleges and incorporates by reference all of the preceding paragraphs in this Complaint.

32. The Defendant has deprived, and continues to deprive, him of his rights under the First Amendment to the United States Constitution, which are secured through the Fourteenth Amendment. The Sheriff's Postcard Only Mail Policy established by Defendant is the cause in fact of the constitutional violations.

33. Absent intervention by this Court, Reynolds will suffer injury as a result of the Defendant's unconstitutional practices. Unless restrained by this Court, the Defendant will continue to enforce the Postcard Only Mail Policy. Reynolds will continue to be irreparably harmed by the Defendant's denial of his fundamental constitutional right to free speech. Reynolds has no adequate remedy at law for the denial of his fundamental constitutional rights.

34. In depriving Reynolds of these rights, Defendant acted under color of state law. This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C. §1983.

**COUNT 2: SUPPRESSION OF PROTECTED SPEECH**

(Plaintiff Miller - 42 U.S.C. §1983)

35. Plaintiff Miller realleges and incorporates by reference paragraphs 1 through 29 of this Complaint.

36. The Defendant has deprived, and continues to deprive, Miller of his rights under the First Amendment to the United States Constitution, which are secured through the Fourteenth Amendment. The Sheriff's Postcard Only Mail Policy established by Defendant is the cause in fact of the constitutional violations.

37. Absent intervention by this Court Miller would suffer injury as a result of the Defendant's unconstitutional practices. Unless restrained by this Court, the Defendant will continue to enforce the Postcard Only Mail Policy. Miller will continue to be irreparably harmed by the Defendant's denial of his fundamental constitutional right to receive speech from Jail inmates. Miller has no adequate remedy at law for the denial of his fundamental constitutional rights.

38. In depriving Miller of these rights, Defendant acted under color of state law. This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C. §1983.

**RELIEF REQUESTED**

**WHEREFORE**, Plaintiffs respectfully request the following relief:

A. An order declaring Defendant's Postcard-Only Mail Policy alleged above to be in violation of the First and Fourteenth Amendment to the U.S. Constitution;

B. An order permanently enjoining Defendant and his officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concert or privity or participation with him, from continuing their unlawful Postcard-Only Mail Policy or any other policy that limits outgoing mail to postcards, thus restoring the status quo that previously existed, including enjoining Defendant from:

1. Restricting all non-privileged outgoing mail to be in a postcard format;

2. Prohibiting categorically all “drawings or unnecessary marking” on all non-privileged mail, regardless of the message of the drawing or marking;

C. An award to Plaintiffs of reasonable attorneys’ fees and costs incurred in connection with this action from the Defendants pursuant to 42 U.S.C. §1988;

D. An order retaining the Court’s jurisdiction of this matter to enforce the terms of the Court’s orders; and

E. Such further and different relief as is just and proper or that is necessary to make the Plaintiffs whole.

Dated: September 13, 2010

**Respectfully Submitted,**

s/ Benjamin James Stevenson

**Benjamin James Stevenson** (Fla. Bar. No. 598909)

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