

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

WILLIAM RYAN,

Plaintiff,

v.

ROGER E. WALKER, et al.,

Defendants.

04 C 4635

JUDGE RONALD A. GUZMAN

JURY TRIAL DEMANDED

FILED
JAN 11 2005

NOTICE OF FILING

TO:

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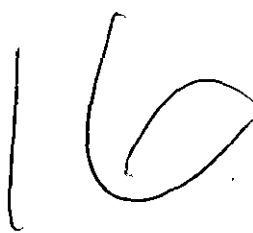
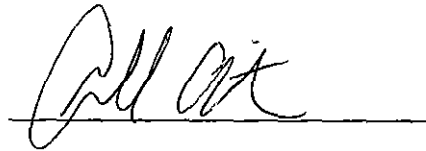
Please take notice that on January 7, 2005, I filed the attached Plaintiff's AMENDED COMPLAINT with the Clerk of the United States District Court for the Northern District of Illinois.



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CERTIFICATE OF SERVICE

I, Russell Ainsworth, an attorney, certify that on January 7, 2005, I sent by U.S. Mail a copy of the attached AMENDED COMPLAINT to the above-named counsel of record.



IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

WILLIAM RYAN,

Plaintiff,

v.

ROGER E. WALKER, KENNETH R. BRILEY,
ROBERT CATCHINGS, SERGIO MOLINA,
BARBARA HURT, ROBERT GRIFFIN,
JERRY BALDWIN, CINDY SHELLEY,
VERNETTE COVIN-RUSSELL, and TERRI
ANDERSON,

Defendants.

JUDGE RONALD A. GUZMAN
COURT

04 C 4635

JAN 11 2005

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

NOW COMES Plaintiff, BILL RYAN, by his attorneys,
UPTOWN PEOPLE'S LAW CENTER, LOEVY & LOEVY, and SONNENSCHNEIN, NATH
& ROSENTHAL LLP, and complaining of Defendants, ROGER E. WALKER,
KENNETH R. BRILEY, ROBERT CATCHINGS, SERGIO MOLINA, BARBARA HURT,
ROBERT GRIFFIN, JERRY BALDWIN, CINDY SHELLEY, VERNETTE COVIN-
RUSSELL, and TERRI ANDERSON, states as follows:

Introduction

1. This action is brought pursuant to 42 U.S.C.
Section 1983 to redress the deprivation under color of law of
Plaintiff's rights as secured by the United States Constitution.

2. Specifically, this action is brought by a
publisher who has been barred by Defendants from distributing a
quarterly newspaper entitled *Stateville Speaks* inside Stateville
Correctional Center ("Stateville").

3. As discussed more fully below, *Stateville Speaks*
is a compilation of essays, poems, and news items written by

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inmates of the prison. After the Defendants refused to publish the newspaper, Mr. Ryan raised private funds in order to cover all costs associated with printing and distributing the newspaper. For over six months, Defendants denied Mr. Ryan the right to mail his newspaper to prisoners within Stateville Correctional Center. Compounding this violation of his Constitutional rights, Defendants refused to provide Mr. Ryan with a reason for their denial or an opportunity to contest their arbitrary decision.

Jurisdiction and Venue

4. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§ 1331 and 1367.

5. Venue is proper under 28 U.S.C. § 1391(b). The events giving rise to the claims asserted herein occurred within this judicial district.

The Parties

6. Plaintiff, BILL RYAN, is a 69 year-old resident of Westchester, Illinois. Recently retired, Mr. Ryan has been a tireless advocate for children's welfare over his long career. For twenty years, Mr. Ryan worked as the director of child protective services for the Illinois Department of Children and Family Services. Most recently, Mr. Ryan served as the vice-president of child welfare for the Jane Addams Hull House.

7. In recent years, Mr. Ryan has volunteered to visit and interact with inmates of the Illinois Department of

Corrections (IDOC). He has become an advocate for prisoners and their need for constructive outlets while incarcerated.

8. Defendant ROGER E. WALKER, is the Director of the IDOC and is being sued in both his individual and official capacities. As Director, Defendant Walker oversees the IDOC's entire operations.

9. Defendant KENNETH R. BRILEY is the warden of Stateville Correctional Center and is being sued in both his individual and official capacities. As warden of Stateville, Defendant Briley is responsible for administering the operation of Stateville.

10. Defendant ROBERT CATCHINGS is the assistant warden for Stateville and is being sued in both his individual and official capacities.

11. Defendant SERGIO MOLINA is the Chief of Communications for the IDOC and is being sued in both his individual and official capacities. As Chief of Communications, Defendant Molina is the spokesperson for IDOC and is responsible for communications with the general public.

12. Defendant BARBARA HURT is the administrator for the Chicago District of the IDOC and is being sued in both her individual and official capacities. The Chicago District includes Stateville Correctional Center, located in Joliet, Illinois.

13. Defendant ROBERT GRIFFIN was the assistant warden for Stateville Correctional Center during the times that he acted

as described below and is being sued in both his individual and official capacities.

14. Defendant JERRY BALDWIN is a member of Stateville Correctional Center's publication review committee and is being sued in both his individual and official capacities.

15. Defendant CINDY SHELLEY is a member of Stateville Correctional Center's publication review committee is being sued in both her individual and official capacities.

16. Defendant VERNETTE COVIN-RUSSELL, at all times relevant, is or was a member of Stateville Correctional Center's publication review committee is being sued in both her individual and official capacities.

17. Defendant TERRI ANDERSON is a member of IDOC's central publication review committee is being sued in both her individual and official capacities.

Stateville Speaks

18. In the Summer of 2003, at the behest of several inmates, Mr. Ryan sponsored an essay contest, soliciting entries from inmates housed in the IDOC. The inmates were asked to compose an essay on the topic, "Who am I? What can I do to be better?"

19. Over thirty-five inmates submitted essays for the contest. A panel of journalists was convened to judge the entries, including Eric Zorn, a columnist for the Chicago Tribune, Cornelia Grumman, an editorial writer for the Chicago Tribune, Jeff Flock, at the time the Chicago Bureau Chief for

CNN, and Mary Mitchell, a columnist for the Chicago Sun-Times.

20. The contest was an overwhelming success. In fact, the entries were so well-written and insightful that Mr. Ryan compiled the essays into a book entitled *Lockdown Prison Heart* published in the Summer of 2004. The authors of the essays have decided to donate any profits from the sales of the book to a fund for reconciliation between victims of violent crime and the perpetrators.

21. In the Fall of 2003, encouraged by the success of the essay contest, Mr. Ryan and one of the inmates housed in Stateville, Renaldo Hudson, discussed producing and publishing a newspaper for Stateville.

22. To that end, Mr. Ryan contacted and met with Defendant Hurt about publishing a newspaper within Stateville. Mr. Ryan was confident about gaining approval because Stateville published a similar newspaper approximately ten years ago.

23. After IDOC officials raised concerns about the cost of publishing the newspaper within Stateville, Mr. Ryan agreed to provide all of the necessary supplies and equipment. CNN agreed to donate computers for the inmates to use. Eric Zorn, Cornelia Grumman, and Robert Hess, formerly with CNN, agreed to train the prospective journalists.

24. In December 2003, Mr. Ryan spoke with Ian Oliver, then the Chief of Operations for IDOC, who informed Mr. Ryan that his proposal to publish a newspaper in Stateville, to be titled *Stateville Speaks*, had been approved.

25. In January 2004, Mr. Ryan attempted to contact Ian Oliver to discuss plans to publish the newspaper, but was informed that Oliver was no longer working for IDOC. Mr. Ryan was referred to Defendant Molina instead.

26. When Mr. Ryan contacted Defendant Molina, he was informed that the IDOC had reversed course and now would not allow a newspaper to be published within Stateville. Defendant Molina stated that publishing a newspaper within IDOC would require additional resources from the prison in order to guard the three inmates responsible for producing *Stateville Speaks* while they were outside their cells working on the newspaper.

Further Attempts to Publish

27. Disappointed but undeterred by the IDOC's abrupt change in position, Mr. Ryan solicited donations from individuals to privately publish *Stateville Speaks*. By early March 2004 Mr. Ryan had printed and published the first run of *Stateville Speaks* outside the prison, consisting of some two hundred copies. For convenience, this issue of *Stateville Speaks* is referred to herein as "*Stateville Speaks*", as no other edition of this newspaper is relevant to this case.

28. The content of *Stateville Speaks* is as varied as the men who authored it. There are entries about the evils of illicit drug use (Exhibit A "From the Editor," pages 1 and 3); self-improvement and religion ("Every Tomorrow," page 5); sentencing reform ("Lifers," page 7); the advantages of rehabilitation through cognitive restructuring therapy ("Thought

Restructuring," pages 8-9); the importance of being productive while incarcerated ("Self Improvement Activities for Inmates," page 11); a poem about an inmate's sorrow for not being a part of his daughter's life ("Daddy's Sorry," page 12); a poem about remorse ("Castaway," page 4); religion ("Encouragement in the Wilderness," page 12); and social commentary on the injustice of racial discrimination and economic inequities ("The Production of a Prisoner in 8 Easy Steps," page 14), among others.

29. None of the articles contained in *Stateville Speaks* falls within any of IDOC's criteria for prohibited material. The articles are not obscene or sexually explicit; they are not written in code and do not facilitate communication between offenders; they do not describe, depict, or encourage activity that may lead to physical violence or group disruption; they do not advocate or encourage violence, hatred, or group disruption; they do not encourage or instruct in the commission of criminal activity; they do not include sexually explicit material; and they are not detrimental to security, good order, rehabilitation, or discipline and they neither facilitate criminal activity nor are they detrimental to mental health.

30. In March 2004, Mr. Ryan delivered a copy of *Stateville Speaks* to some of the individual Defendants and to the Governor of Illinois, along with a letter addressed to Defendant Briley informing him that Mr. Ryan would like to distribute the newspaper to Stateville inmates. The letter asked Defendant

Briley to review the newspaper and to contact Mr. Ryan with any and all of his concerns. See Exhibit B (letter to Defendants).

31. After waiting two to three weeks without receiving a response from any of the Defendants, Mr. Ryan mailed copies of *Stateville Speaks* to five inmates in Stateville, with the intention of mailing copies to over 100 Stateville inmates.

IDOC's Rejection

32. After mailing the copies of *Stateville Speaks* to the inmates, Mr. Ryan engaged in several phone conversations with Defendant Hurt regarding whether IDOC would permit the newspapers to be distributed at Stateville.

33. On one occasion, Defendant Hurt told Mr. Ryan that an "executive committee" or some other such group was meeting and discussing the admissibility of *Stateville Speaks*. Defendant Hurt told Mr. Ryan that the committee had decided that *Stateville Speaks* would not be allowed into Stateville. On information and belief, Defendants Walker and Molina, as well as Defendant Hurt, participated in this meeting and the decision to ban *Stateville Speaks*.

34. On March 26, 2004, Mr. Ryan received the copies of *Stateville Speaks* he mailed to inmates along with rejection slips stating that the newspapers were "unauthorized material." See Exhibit C.

35. Furthermore, on April 9, 2004, Defendant Molina sent a letter to Mr. Ryan, stating in its entirety:

I have been asked to respond to your letter to the Governor's Office regarding the leaving [sic] an inmate

newspaper at Stateville Correctional Center.

The agency's major priorities at Stateville is [sic] the safe and secure operation of managing the Level 1 maximum security facility that houses an average daily population of about 2,700 inmates.

Please know that your concerns have been heard.

See Exhibit D.

36. After receiving this letter, Mr. Ryan retained counsel to negotiate with Stateville regarding the distribution of *Stateville Speaks*. Following a meeting with counsel for the IDOC, Plaintiff's counsel received a letter dated May 7, 2004, stating that "the edition of *Stateville Speaks* would need to be referred to the Publication Review Committee. A decision from the committee would determine whether or not the publication would be allowed."

37. In August 2004, five months after Mr. Ryan was first denied the right to circulate *Stateville Speaks*, Defendants Baldwin, Covin-Russell, and Shelley disapproved the publication because it contained material "otherwise detrimental to security, good order, rehabilitation, or discipline or it might facilitate criminal activity or be detrimental to mental health."

38. This decision was affirmed by Defendant Griffin, acting at Defendant Briley's bequest.

39. On August 23, 2004, *Stateville Speaks* was forwarded to Defendant Terri Anderson, in her capacity as a member of the Illinois Department of Corrections Central Publication Review Committee.

40. Finally, in November 2004, Defendant Anderson

completed her review of *Stateville Speaks*. She banned distribution of one of *Stateville Speak's* articles (entitled "The Production of a Prison in 8 Easy Steps") as well as a portion of another article ("How to Survive a Day in Prison"). Anderson banned this content although it did not violate any of IDOC's criteria for prohibited material. Defendant Briley later approved this censorship.

41. Neither Stateville nor the IDOC has a method by which Mr. Ryan could appeal the IDOC's decision to prevent him from mailing *Stateville Speaks* to prisoners at Stateville or request a hearing on the issue.

Basis for Relief

42. All Americans, including prisoners, have a fundamental right not only to express themselves, but also to receive and consider the written expressions and opinions of others. Similarly, all Americans, including Mr. Ryan, have a fundamental right to communicate their opinions and ideas to others. Where that very basic human need entails no threat whatsoever to security or any other legitimate penological interest, it should not, and cannot, be suppressed at the callous whim of prison administrators for any length of time. The First Amendment to the United States constitution demands no less.

Count I - 42 U.S.C. § 1983

First Amendment Violation - As Applied

43. Each of the Paragraphs in this Complaint is incorporated as if restated fully herein.

44. The First Amendment to the United States Constitution guarantees Plaintiff's right to speak and publish without unreasonable government interference.

45. As stated more fully in the preceding paragraphs, Plaintiff engaged in speech protected by the First Amendment. Defendants Briley, Catchings, Griffin, Baldwin, Covin-Russell, and Shelley prohibited that speech unreasonably and without justification by preventing him from circulating *Stateville Speaks* within Stateville for nine months.

46. As the only meaningful method for Mr. Ryan to communicate with over 100 prisoners at Stateville is by mail, Mr. Ryan had no meaningful alternative to communicate with prisoners at Stateville so long as defendants were able to block the distribution of *Stateville Speaks*. Moreover, he has no other means of ever distributing the portions of the publication banned by Defendant Anderson.

47. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

48. As a result of the Defendants' unconstitutional conduct, Plaintiff has suffered damages.

WHEREFORE, Plaintiff, WILLIAM RYAN, respectfully requests that this Court enter judgment in his favor and against Defendants KENNETH R. BRILEY, ROBERT CATCHINGS, ROBERT GRIFFIN, JERRY BALDWIN, VERNETTE COVIN-RUSSELL, and CINDY SHELLEY in their individual capacities awarding compensatory damages and

attorneys' fees, along with punitive damages, and any other relief this Court deems just and appropriate.

COUNT II -- 42 U.S.C. § 1983

Unconstitutionally Overly Broad

49. Each of the Paragraphs in this Complaint is incorporated as if restated fully herein.

50. The First Amendment to the United States Constitution guarantees the right to speak and publish without unreasonable government interference.

51. The administrative code promulgated by the IDOC is unconstitutionally oppressive to free speech on its face, in that it is not content neutral, it is not narrowly tailored to serve a governmental interest, and it does not allow for ample alternative channels for expression.

52. Specifically, the administrative code includes a "catch all" provision, as follows:

A publication that may be rejected includes, but is not limited to, a publication or portion thereof that meets one of the following criteria:

...

(7) It is otherwise detrimental to security, good order, rehabilitation, or discipline or it might facilitate criminal activity or be detrimental to mental health.

20 Ill. Admin. Code § 525.230(b).

53. The criteria listed in § 525.230(b)(7) are so vague as to enable the Department to censor speech based on its content in the absence of a legitimate governmental interest. For example, the criteria does not even identify whose mental

health is to be considered when banning publications under § 525.230(b)(7). Furthermore, § 525.230(b), by the phrase "but not limited to," contemplates censorship based on any other criteria that appeals to the Department, whether constitutionally permissible or not.

54. As the only meaningful method for Mr. Ryan to communicate with over 100 prisoners at Stateville is by mail, Mr. Ryan had no meaningful alternative to communicate with prisoners at Stateville so long as defendants were able to block the distribution of *Stateville Speaks*. Moreover, he has no other means of ever distributing the article "The Production of a Prison in 8 Easy Steps" as well as the redacted portion of "How to Survive a Day in Prison" which were forever banned by Defendants.

55. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

56. As a result of the Defendants' unconstitutional conduct, and as a result of the vague and overly broad administrative code, Plaintiff has suffered irreparable harm.

WHEREFORE, Plaintiff, WILLIAM RYAN, respectfully requests that this Court enter judgment in his favor and against Defendants, ROGER E. WALKER and KENNETH R. BRILEY, in their official capacities for injunctive and declaratory relief striking 20 Ill. Admin. Code § 525.230(b) as unconstitutional and granting Plaintiff the right to distribute the banned portions of

Stateville Speaks to inmates within the Illinois Department of Corrections, along with attorney's fees, and any other relief this Court deems just and appropriate.

Count III - 42 U.S.C. § 1983

First Amendment Violation - Ongoing Harm

57. Each of the Paragraphs in this Complaint is incorporated as if restated fully herein.

58. The First Amendment to the United States Constitution guarantees Plaintiff's right to speak and publish without unreasonable government interference.

59. As stated more fully in the preceding paragraphs, Plaintiff engaged in speech protected by the First Amendment. All Defendants prohibited that speech unreasonably and without justification by banning the article "The Production of a Prison in 8 Easy Steps" as well as censoring a portion of "How to Survive a Day in Prison."

60. As the only meaningful method for Mr. Ryan to communicate with over 100 prisoners at Stateville is by mail, Mr. Ryan had no other means of ever distributing these articles.

61. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

62. As a result of the Defendants' unconstitutional conduct, Plaintiff has suffered damages.

WHEREFORE, Plaintiff, WILLIAM RYAN, respectfully

requests that this Court enter judgment in his favor and against Defendants, ROGER E. WALKER, KENNETH R. BRILEY, ROBERT CATCHINGS, SERGIO MOLINA, BARBARA HURT, ROBERT GRIFFIN, JERRY BALDWIN, CINDY SHELLEY, VERNETTE COVIN-RUSSELL, and TERRI ANDERSON, awarding compensatory damages, attorneys' fees, and punitive damages against the Defendants in their individual capacities, as well as injunctive and declaratory relief and attorney's fees against the Defendants in their official capacities granting Plaintiff the right to distribute the banned portions of *Stateville Speaks* to inmates within the Illinois Department of Corrections, and any other relief this Court deems just and appropriate.

Count IV -- 42 U.S.C. § 1983

Due Process

63. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

64. Plaintiff has a right to speak to prisoners, protected by the First Amendment to the Constitution of the United States.

65. Defendant has unreasonably deprived plaintiff of his right to speak to prisoners at Stateville Correctional Center.

66. IDOC has no system by which a member of the public, as opposed to an inmate of IDOC, may either appeal IDOC's refusal to distribute non-prohibited material or request a hearing on the issue.

67. On its face, the absence of a system by which a

member of the public can contest IDOC's interference with his or her right to communicate with prisoners at Stateville violates the due process clause of the Fourteenth Amendment to the United States Constitution.

68. Furthermore, as applied to Plaintiff, the IDOC's regulations violate Plaintiff's due process rights by not providing him with a means by which to receive a hearing or other satisfactory process on the IDOC's initial prolonged denials of his request to distribute *Stateville Speaks* within Stateville and the permanent denial of his right to distribute the article "The Production of a Prison in 8 Easy Steps," as well as a portion of the article "How to Survive a Day in Prison".

69. As a result of the violation of his constitutional rights, Plaintiff has suffered irreparable harm.

70. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

WHEREFORE, Plaintiff, WILLIAM RYAN, respectfully requests that this Court enter judgment in his favor and against Defendants, ROGER E. WALKER, KENNETH R. BRILEY, ROBERT CATCHINGS, SERGIO MOLINA, BARBARA HURT, ROBERT GRIFFIN, JERRY BALDWIN, CINDY SHELLEY, VERNETTE COVIN-RUSSELL, and TERRI ANDERSON, awarding compensatory damages, attorneys' fees, and punitive damages against the Defendants in their individual capacities, as well as injunctive and declaratory relief and attorney's fees against the Defendants in their official capacities granting Plaintiff the

right to contest the denial of his right to distribute the banned portions of *Stateville Speaks* to inmates within the Illinois Department of Corrections, and any other relief this Court deems just and appropriate.

Count V -- State Law Claim

Illinois Civil Rights Act -- 740 ILCS § 23/5(c) (2)

71. Each of the Paragraphs in this Complaint is incorporated as if restated fully herein.

72. The misconduct described above is a violation of Plaintiff's rights as secured by the Illinois Constitution.

73. Specifically, by preventing Plaintiff from circulating *Stateville Speaks* within Stateville for nine months and forever banning portions its content, Defendants violated Plaintiff's right to speak, write and publish freely under Article I, Section 4 of the Illinois Constitution.

74. Moreover, by preventing Plaintiff from mailing *Stateville Speaks* to prisoners at Stateville without providing him a method by which to lodge his grievance, the Defendants violated Plaintiff's right to apply for redress of grievances under Article I, Section 5 of the Illinois Constitution.

75. In addition, by preventing Plaintiff from mailing *Stateville Speaks* to prisoners at Stateville without providing him a method by which to lodge his grievance, the Defendants violated Plaintiff's right to a remedy and justice

under Article I, Section 12 of the Illinois Constitution.

76. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

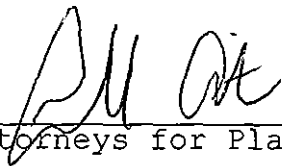
77. As a result of these deprivations of Plaintiff's rights as secured by the Illinois Constitution, Plaintiff has suffered irreparable harm, including but not limited to attorneys' fees and costs, for which the Defendants are liable.

WHEREFORE, Plaintiff, WILLIAM RYAN, respectfully requests that this Court enter judgment in his favor and against Defendants, ROGER E. WALKER, KENNETH R. BRILEY, ROBERT CATCHINGS, SERGIO MOLINA, BARBARA HURT, ROBERT GRIFFIN, JERRY BALDWIN, CINDY SHELLEY, VERNETTE COVIN-RUSSELL, and TERRI ANDERSON, awarding attorneys' fees and costs and any other relief this Court deems just and appropriate.

JURY DEMAND

Plaintiff, WILLIAM RYAN, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED,


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***See Case
File for
Exhibits***