

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

HEATHER ANN THOMPSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:18-cv-3230
)	
JOHN R. BALDWIN, in his official and)	
individual capacities, MICHAEL MELVIN, in)	JURY TRIAL DEMANDED
his individual capacity, TERI KENNEDY, in)	
her individual capacity, DAVID MEREDITH,)	
in his individual capacity, and EMILY)	
RUSKIN, in her individual capacity,)	
)	
Defendants.)	

SECOND AMENDED COMPLAINT

Plaintiff Heather Ann Thompson submits this Second Amended Complaint against Defendants John R. Baldwin, Michael Melvin, Teri Kennedy, David Meredith, and Emily Ruskin (collectively, “Defendants”). Defendants have violated Plaintiff’s due process and free speech rights by arbitrarily censoring her Pulitzer Prize-winning, non-fiction book, and forbidding it from being distributed in some, but not all, prisons in this State.

Introduction

1. Thompson brings this action to enjoin Defendants’ improper censorship of her Pulitzer Prize-winning book, *Blood in the Water*. Thompson sent copies of the book to three prisoners in the custody of the Illinois Department of Corrections. At least one was rejected and returned with no explanation; two were delivered to the recipients.

2. Defendants have adopted and implemented mail policies and practices prohibiting the delivery of written speech from Thompson while failing to provide due process in the form of notice of, and an opportunity to challenge, that censorship. Defendants’ actions violate

Thompson's rights under the First and Fourteenth Amendments to the U.S. Constitution.

Thompson thus brings this action pursuant to 42 U.S.C. § 1983 seeking injunctive and declaratory relief and damages in an amount to be proven at trial.

Jurisdiction and Venue

3. This action arises under the First and Fourteenth Amendments of the U.S. Constitution and is brought pursuant to 42 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities guaranteed to Thompson by the laws of the United States.

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. This Court has jurisdiction over claims seeking declaratory, injunctive, and monetary relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

5. Venue is proper in this district under 28 U.S.C. § 1391(b). On information and belief, Defendants John R. Baldwin, Michael Melvin, Terri Kennedy, David Meredith, and Emily Ruskin reside within this judicial district, and many of the events giving rise to the claims asserted in this Second Amended Complaint occurred in this district.

Parties

6. Plaintiff Heather Ann Thompson is a professor and historian at the University of Michigan. In 2016, Thompson authored *Blood in the Water*, a non-fiction book about the Attica Prison uprising in 1971. Thompson has also written extensively on the history of policing, mass incarceration, and the criminal justice system for *The New York Times*, *Newsweek*, *Time*, *The Washington Post*, *Rolling Stone*, *The Atlantic*, and other mass market publications, in addition to academic publications in her field.

7. Defendant John R. Baldwin was, at all relevant times, either the Director or the Acting Director of the Illinois Department of Corrections, the agency that manages state prisons in Illinois. Baldwin has ultimate responsibility for the promulgation and implementation of Department of Corrections policies, procedures, and practices. He is being sued in his official and individual capacities for damages, and for injunctive and declaratory relief. At all relevant times, Baldwin acted under color of state law.

8. Defendant Michael Melvin was, at all relevant times prior to April 1, 2018, the warden of Pontiac Correctional Center, a prison under the control of the Department of Corrections. Melvin had responsibility for the execution of policies, procedures, and practices at the Pontiac Correctional Center, including the approval of censorship decisions. Melvin is being sued in his individual capacity for damages. At all relevant times, Melvin acted under color of state law. Defendant Teri Kennedy is, and at all relevant times after March 31, 2018 was, the warden of Pontiac Correctional Center, a prison under the control of the Department of Corrections. Kennedy has responsibility for the execution of policies, procedures, and practices at the Pontiac Correctional Center, including the approval of censorship decisions. Kennedy is being sued in her individual capacity for damages. At all relevant times, Kennedy acted under color of state law.

9. Defendant David Meredith is, and on information and belief at all relevant times was, a publication review officer at Pontiac Correctional Center, a prison under the control of the Department of Corrections. According to Defendants, Meredith “reviewed the book and determined it met the criteria for disapproval.” On information and belief, Meredith was also personally involved in the adoption or implementation of the mail policies and practices at the Pontiac Correctional Center, or was responsible for hiring, screening, training, retaining,

supervising, disciplining, counseling, or controlling the staff members who interpret and implement those policies and practices. Meredith is being sued in his individual capacity for damages. At all relevant times, Meredith acted under color of state law.

10. Defendant Emily Ruskin is, and on information and belief at all relevant times was, the assistant warden programs of Pontiac Correctional Center, a prison under the control of the Department of Corrections. According to Defendants, “[Meredith’s] recommendation for disapproval was reviewed by the Chief Administrative Officer’s designee, Assistant Warden Programs Emily Ruskin, who concurred.” On information and belief, Ruskin was also personally involved in the adoption or implementation of the mail policies and practices at the Pontiac Correctional Center, or was responsible for hiring, screening, training, retaining, supervising, disciplining, counseling, or controlling the staff members who interpret and implement those policies and practices. Ruskin is being sued in her individual capacity for damages. At all relevant times, Ruskin acted under color of state law.

Blood in the Water

11. In 2016, Thompson authored *Blood in the Water*, a non-fiction book about the Attica Prison uprising.

12. The book provides a thorough history and analysis of the uprising, including the lead-up to the uprising, the week-long uprising itself, its brutal end at the hands of state troopers, and the protracted legal battles that ensued. In examining its legacy, Thompson explains that the uprising provides a blueprint for improving the American prison system.

13. In writing the book, Thompson drew from more than a decade of research, including information from interviews, government records, personal correspondence, and legal documents, much of which had never before been made public.

14. The book has won high praise and numerous awards. Among the awards are the Pulitzer Prize in History (2017), the Bancroft Prize in American History and Diplomacy (2017), the Ridenhour Prize (2017), the Public Information Award from the New York Bar Association (2016), the Media for a Just Society Book Award from the National Counsel for Crime and Delinquency (2017), and the J. Willard Hurst Award in Socio-Legal History (2017). The book was also included on more than a dozen “Best of 2016” lists, including the *New York Times Most Notable Books of 2016* list, as well as similar lists published by *Kirkus*, *Publishers Weekly*, *Newsweek*, *Christian Science Monitor*, *Boston Globe*, and others.

Censorship in Illinois Prisons

15. Thompson has a strong interest in communicating with prisoners, including those who are incarcerated with the Department of Corrections, through the distribution of her book. She has visited prisons in other states to discuss the book. In one instance, she recorded a podcast at San Quentin State Prison in California, during which she discussed the book with prisoners incarcerated there.

16. The First Amendment to the U.S. Constitution protects Thompson’s right to communicate with prisoners who are incarcerated with the Department of Corrections. Regulations, policies, or practices that restrict the receipt of mail by prisoners are invalid unless they rationally relate to a legitimate penological interest.

17. The Fourteenth Amendment to the U.S. Constitution protects Thompson’s right to receive notice of, and an opportunity to challenge, restrictions on her communications with prisoners. Regulations, policies, or practices that do not provide these minimum procedural safeguards are invalid. Fourteenth Amendment rights are also violated where procedural safeguards are not followed as applied to a particular publisher.

18. Various prisons within the Illinois Department of Corrections system do not comply with the First and Fourteenth Amendments. Defendants' policies and practices have deprived, and will continue to deprive, Thompson of the right to distribute her book to prisoners, and of the right to notice of, and an opportunity to appeal, the denial of this right.

19. In February 2018, Thompson attempted to send a copy of *Blood in the Water* to Percell Dansberry, a prisoner at the Pontiac Correctional Center. Dansberry did not receive the book because it was improperly censored. A copy of the Amazon order summary and notice of delivery is attached as Exhibit A.

20. Staff at the Pontiac Correctional Center issued a censorship notice to Dansberry, but the censorship notice does not provide any sufficient basis to justify the censorship.

21. Thompson has never received any notice about Defendants' censorship of *Blood in the Water*, at Pontiac or elsewhere. She has never received any notice of an opportunity to appeal the decision to censor the book. This censorship of *Blood in the Water* and the failure of Defendants to provide adequate notice and explanation to Thompson violates her First and Fourteenth Amendment rights.

22. In contrast with the Pontiac Correctional Center, Thompson successfully sent *Blood in the Water* to prisoners at the Stateville Correctional Center and the Logan Correctional Center. In February 2018, Thompson sent the book to Joseph Sorrentino, a prisoner at Stateville, and it was delivered. In February 2019, Thompson sent the book to Jami Anderson, a prisoner at Logan, and it was delivered.

23. In adopting and implementing the censorship policies and practices described above, Defendants have knowingly violated, and continue to violate, the First and Fourteenth Amendment rights of Thompson, and Defendants have knowingly caused, and continue to cause,

serious and irreparable harm to Thompson, including suppression of a political message, loss of supporters and readers, and loss of sales. Absent intervention by this Court, Defendants will continue to improperly censor Thompson's book, and Thompson will continue to suffer the same irreparable injuries.

24. The above-described violations of Thompson's rights, as well as the irreparable and serious injuries she suffered as a result, were caused by censorship policies and practices adopted or approved by Defendant Baldwin in his capacity as head of the Illinois Department of Corrections.

25. The individual Defendants are responsible for, or personally participated in, creating and implementing these unconstitutional censorship policies, practices, and customs, and training and supervising the staff who carry them out.

26. The censorship policies, practices, and customs, as well the regulations giving rise to them, are unconstitutionally overbroad in their construction and arbitrarily applied in practice. In effect, prison officials are permitted to censor any speech with which they disagree or find offensive, and to do so in an arbitrary manner. In this case, for example, prison officials allowed Thompson's book to be delivered to prisoners incarcerated at Stateville and Logan, but refused to deliver the same book to a prisoner incarcerated at Pontiac—even though all three facilities are maximum security prisons operated by the Illinois Department of Corrections.

27. Defendants' unconstitutional policy, practices, and customs continue to violate Thompson's rights. As a result, Thompson has no adequate remedy at law.

28. Thompson is entitled to injunctive relief prohibiting Defendants from refusing to deliver, or refusing to allow delivery, of her book, *Blood in the Water*, to prisoners incarcerated with the Illinois Department of Corrections without due process of law.

29. Thompson seeks compensatory and punitive damages against the individual Defendants.

COUNT I
Violation of the First Amendment (Censorship) – 42 U.S.C. § 1983

30. Thompson incorporates by reference all of the allegations in paragraphs 1-29.

31. The acts described violate Thompson’s rights under the First Amendment to the U.S. Constitution.

32. The First Amendment to the U.S. Constitution protects Thompson’s right to communicate with prisoners incarcerated with the Illinois Department of Corrections.

33. Defendants’ actions were objectively unreasonable and were undertaken intentionally with malice, willfulness, or reckless indifference.

34. Defendants’ actions directly and proximately caused the violations of Thompson’s constitutional rights and her resulting injuries.

35. Defendants’ actions have caused, and if not enjoined will continue to cause, damage to Thompson.

36. Thompson seeks injunctive relief against Defendant John R. Baldwin in his official capacity, and nominal and compensatory damages against all individual Defendants. Thompson also seeks punitive damages against all individual Defendants in their individual capacities.

COUNT II
Violation of the Fourteenth Amendment (Due Process) – 42 U.S.C. § 1983

37. Thompson incorporates by reference all of the allegations in paragraphs 1-29.

38. The acts described above violate Thompson’s rights under the Fourteenth Amendment to the U.S. Constitution.

39. The Due Process Clause of the Fourteenth Amendment protects Thompson's right to receive notice of, and an opportunity to appeal, Defendants' decisions to censor her speech.

40. Defendants' censorship policies and practices failed to provide Thompson with adequate notice of, and an opportunity to appeal, Defendants' decision to censor her book.

41. Defendants' actions were objectively unreasonable and were undertaken intentionally with malice, willfulness, or reckless indifference.

42. Defendants' actions directly and proximately caused the violations of Thompson's constitutional rights and her resulting injuries.

43. Defendants' actions have caused, and if not enjoined will continue to cause, damage to Thompson.

44. Thompson seeks injunctive relief against Defendant John R. Baldwin in his official capacity, and nominal and compensatory damages against all individual Defendants. Thompson also seeks punitive damages against all individual Defendants in their individual capacities.

RELIEF REQUESTED

Plaintiff respectfully requests judgment against Defendants, jointly and severally, for the following:

A. A declaration that Defendants' censorship policies and practices violate the U.S. Constitution;

B. A preliminary and permanent injunction prohibiting Defendants from continuing to violate the U.S. Constitution, forbidding them from preventing the distribution of Plaintiff's book in the Illinois prison system, and providing other equitable relief;

C. An award of compensatory, punitive, and nominal damages;

- D. An award of costs and attorneys' fees arising out of this litigation; and
- E. Any other relief this Court deems appropriate.

DEMAND FOR JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Thompson demands a trial by jury in this action of all issues so triable.

Respectfully submitted,

By: /s/ Eric S. Mattson

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Attorneys for Plaintiff Heather Ann Thompson

Exhibit A

Order Details

PO# send to IL prison | Ordered on February 16, 2018 | Order# 113-7259655-7615413

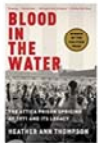
[Printable Order Summary](#)

Shipping Address	Payment Method	Order Summary
Percell Dansberry B34144 PO BOX 99 PONTIAC CORRECTIONAL FACILITY PONTIAC, IL 61764-0099 United States	 **** 7710	Item(s) Subtotal: \$13.79 Shipping & Handling: \$0.00 Total before tax: \$13.79 Estimated tax to be collected: \$1.10 Grand Total: \$14.89
▶ Transactions		
Order method	Business	

Delivered Feb 20, 2018

Your package was delivered.

Please look in your mailbox or wherever you typically get mail.

**Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy**

Thompson, Heather Ann

Sold by: Amazon.com Services, Inc.

Return window closed on Mar 22, 2018

\$13.79**Condition: New**[Buy it again](#)[Write a product review](#)