

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRISON LEGAL NEWS

a/k/a HUMAN RIGHTS DEFENSE CENTER, a
Washington not-for-profit organization

Plaintiff,

vs.

Case No. 2:15-cv-12350

Hon. Avern Cohn

Mag. Judge Michael Hluchaniak

SHERIFF, ANTHONY M. WICKERSHAM,
individually and in his official capacity;
MICHELLE SANBORN, individually and in her
official capacity;
MACOMB COUNTY, MICHIGAN;
DOES 1-10, individually and in their official
capacities,

Defendants.

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STIPULATED INJUNCTION

1. On June 30, 2015 Plaintiff Prison Legal News, a/k/a Human Rights Defense Center (“PLN” or “Plaintiff”) filed suit in the above-captioned matter seeking injunctive and declaratory relief, damages, and attorney’s fees and costs. Plaintiff’s complaint alleges an unlawful and unconstitutional custom, practice, or policy regarding the delivery of incoming publications and correspondence to prisoners at the Macomb County Detention Facility (the “Jail”) in violation of the First and Fourteenth Amendments to the United States Constitution.

2. Specifically, Defendants have rejected publications and other correspondence pursuant to a mail policy which requires all non-privileged mail to be in the form of a postcard, restricts magazines to just twelve (12) titles, and limits books to those ordered directly from *Amazon Prime* only.

3. Plaintiff alleges that Defendants have censored Plaintiff’s: (1) informational brochure packets; (2) sample copies of its monthly journal, *Prison Legal News*; (3) 2014 annual fundraiser mailings; (4) copies of judicial decisions; (5) monthly subscription issues of *Prison Legal News*; and (6) individual softcover copies of the book, *The Habeas Citebook: Ineffective Assistance of Counsel*.

4. On July 21, 2015 Defendants filed an answer denying the allegations in Plaintiff’s complaint and raising various affirmative defenses.

5. The Parties agree that Defendants have disputed, and continue to dispute and deny liability in this case. However, in order to avoid the expense,

delay, uncertainty, and burden of litigation, the Parties agree to the entry of this stipulated injunction.

6. ACCORDINGLY, the COURT HEREBY ORDERS, ADJUDGES AND DECREES that:

- a. Defendants shall deliver all publications to prisoners directly from any Publisher. For the purposes of this injunction, the term Publisher shall mean any publisher, book store or book distributor that does mail order business. The term publication means a book, booklet, pamphlet, magazine, periodical, newsletter, newspaper, or similar document; and
- b. Defendants may censor a publication only if it is determined to be detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity. Defendants may not censor a publication solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant.
- c. Consistent with the terms hereof, Defendants shall deliver any other documents, correspondence, or other mail from Plaintiff and other Publishers and senders of mail.
- d. Defendants shall deliver:

- i. Monthly issues of *Prison Legal News*; and
 - ii. All other publications sent from Plaintiff to prisoners at the Jail.
- e. Defendants shall not have nor implement in the future, blanket bans on books, magazines, newspapers, or other publications sent directly from any Publisher to prisoners at the Jail.
- f. Defendants shall not enforce or implement a mail policy that restricts mail to or from any prisoner to postcards only.
- g. Defendants shall not enforce or implement a mail policy that restricts the contents of envelopes to any maximum number of pages;
- h. Defendants shall provide written notice and an administrative process to appeal the Jail's refusal to deliver any publication, correspondence, or other document (referred to as "objectionable material" in this paragraph) sent to a prisoner at the Jail. The written notice shall indicate which specific portion of the censored material is objectionable, which specific penological interest of the Jail is implicated by the objectionable material, and the manner in which the objectionable material implicates that penological interest.

- i. Defendants shall retain the censored objectionable material until all appeals have been exhausted or until the time for filing any appeal has expired. The administrative review process shall be an independent consideration of any appeal and a review of the objectionable material by a decision maker other than the person who originally refused to deliver the objectionable material.
- j. It is further agreed and ordered that within 30 days of the date of entry of this injunction, the Defendants will insure that their new mail policy is disseminated to all employees of the Jail and that it will be fully implemented. Defendants' counsel will furnish the Court and plaintiffs' counsel with written confirmation of the same. Defendants shall ensure that any other written materials concerning their jail mail policy are amended and conformed to comply with the terms of this injunction.
- k. Within 30 days of the date of entry of this injunction, Defendants shall post a copy of this injunction and a copy of the new mail policy in the prisoners' living areas and on their website and they shall maintain said postings for a period of 180 days.
- l. Defendants' counsel will furnish the Court and plaintiffs' counsel with written confirmation that they have complied with the terms

herein within sixty (60) days from the date of entry of this injunction.

7. The Court finds that this case concerns the First and Fourteenth Amendment rights of a publisher and is therefore not a case concerning prison conditions as defined in the Prison Litigation Reform Act of 1996. The Court further finds that the relief herein ordered is narrowly drawn, extends no further than necessary to correct the harm to PLN, and is the least intrusive means necessary to correct that harm.

8. The Parties agree that the public interest is served by the entry of this injunction, which protects the constitutional rights of publishers and other persons who correspond with prisoners by mail, and the rights of prisoners to send and receive mail.

9. The Court retains jurisdiction of this matter for the purpose of enforcement of this injunction.

DATED this 17th of June, 2016

s/Avern Cohn
Hon. Avern Cohn
United States District Court Judge

FOR MACOMB COUNTY AND THE SHERIFF'S OFFICE:

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