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U.S. DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PRISON LEGAL NEWS,
a Washington State Corporation,
and ROLLIN WRIGHT,

Plaintiffs,

CASE NO. CV-N-00-0373-HDM-RAM

v.

JACKIE CRAWFORD in her official
capacity, JOHN SLANSKY, in his
official and individual capacities,
ROBERT BAYER, in his
official and individual capacities,
DOES I-XXV, Defendant RED
AND WHITE CORPORATIONS
I-X, and BLACK AND BLUE STATE
and/or MUNICIPAL ENTITIES I-X,

Defendants.

**FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND DAMAGES**

Plaintiffs bring this action, pursuant to 42 USC §1983, to enjoin the Nevada
Department of Prisons (NDOP) from censoring, in violation of the First Amendment, the

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1 receipt of the journal PRISON LEGAL NEWS by NDOP prisoners in the State of
2 Nevada. Plaintiffs also bring this action to have NDOP's ban on "inmate publications"
3 as embodied in AD 41-95 declared unconstitutional on its face and as applied. Plaintiffs
4 also seek declaratory and permanent injunctive relief pursuant to 28 U.S.C. §2201(a)
5 prohibiting the Nevada Department of Prisons from engaging in further censorship of
6 Prison Legal News, as well as damages.

7 **JURISDICTION**

8 1. This action is brought pursuant to 42 U.S.C. §§1983 and 1988, as well as
9 the First and Fourteenth Amendments of the United States Constitution. Jurisdiction is
10 founded on 28 U.S.C. §1331 and §1343 and the aforementioned statutory and
11 constitutional provisions. This Court has jurisdiction to grant the declaratory relief
12 requested pursuant to 28 U.S.C. §2201 and FRCP 57.

13 **VENUE**

14 2. Venue lies properly in this Court pursuant to 28 U.S.C. §1391(b).

15 **PARTIES**

16 3. Plaintiff ROLLIN WRIGHT, is and at all times pertinent hereto was the
17 publisher of the publication known as the PRISON LEGAL NEWS.

18 4. Plaintiff PRISON LEGAL NEWS ("PLN"), is and at all times relevant
19 hereto was a 501(c)(3) non-profit corporation with offices in Seattle, Washington. PLN
20 publishes PRISON LEGAL NEWS, a monthly journal of corrections, news and analysis.
21 PLN has over 3,500 subscribers in the United States and abroad, including prisoners,
22 attorneys, and judges.

23 5. Defendant JACKIE CRAWFORD is the director of the Nevada
24 Department of Prisons ("NDOP"), a State agency under the auspices of the Department
25 of Motor Vehicles and Public Safety, (DMV/PS) which manages the correctional
26 facilities within the State of Nevada. She is ultimately responsible for the promulgation
27 and enforcement of NDOP policies and procedures. Ms. CRAWFORD is sued in her
28 official capacity for prospective injunctive relief.

1 6. Defendant JOHN SLANSKY is the Assistant Director of NDOP and is the
2 person who first, it appears, ordered the censorship of the PRISON LEGAL NEWS. At
3 all times relevant hereto, Defendant SLANSKY was acting under the color of state
4 authority and within the course and scope of his employment with the State of Nevada,
5 NDOP, and DMV/PS. Mr. SLANSKY is sued in his official capacity for prospective
6 injunctive relief, as well as in his individual capacity.

7 7. Defendant ROBERT BAYER is the former Director of NDOP. Mr.
8 BAYER is sued in both his official and individual capacities.

9 8. The true identities of Defendant DOES I-XXV, Defendant RED AND
10 WHITE CORPORATIONS I-X, and BLACK AND BLUE STATE and/or MUNICIPAL
11 ENTITIES I-X, are currently unknown to Plaintiffs, who therefore sue said Defendants
12 by such fictitious names. Plaintiffs, based upon knowledge and information, reasonably
13 believe and therefore allege that each of the Defendants designated herein as DOES I-
14 XXV, RED AND WHITE CORPORATIONS I-X, and BLACK AND BLUE STATE
15 and/or MUNICIPAL ENTITIES I-X, may be responsible in some manner for events and
16 happenings herein referred to; that Plaintiffs will ask leave to amend this Complaint to
17 insert the true name(s) of said Defendant(s) when the same have been ascertained by
18 Plaintiffs together with appropriate allegations and to join such Defendant(s) as and
19 when it (they) become known in this action in their true capacities.

20 9. Plaintiffs have been forced to incur reasonable attorney's fees and costs
21 in pursuit of this action, including, but not necessarily limited to, those contemplated by
22 42 USC §1988.

23 **ADMINISTRATIVE REMEDIES**

24 10. Plaintiffs PLN and ROLLIN WRIGHT have no standing with the NDOP,
25 and therefore have no other adequate remedy at law other than the relief requested
26 herein.

27 //

FIRST CLAIM FOR RELIEF

42 USC §1983

Violation Of Publisher's First And Fourteenth Amendment Rights

Plaintiffs hereby incorporate by reference all allegations contained in all numbered paragraphs of this Complaint as if set forth fully here.

11. Plaintiff, ROLLIN WRIGHT, is the Publisher of Plaintiff PRISON LEGAL NEWS, a 501(c)(3) non-profit corporation, originally organized under the laws of the State of Washington in 1991. The purpose of the organization as stated in PLN's Articles of Incorporation, Article 3, Part 6 is: "to educate prisoners and the public about the destructive nature of racism, sexism, and the economic and social costs of prison to society."

12. Beginning in approximately September of 1999, Defendants, and each of them, and DOES I-XXV, have refused to allow delivery of any mail from PLN, including but not limited to, the journal PRISON LEGAL NEWS, to one or more of the prisoners under the control of the NDOP, under the "inmate correspondence" and "inmate publication" policies adopted at various prisons and institutions throughout the State of Nevada, including but not necessarily limited to, the Southern Desert Correctional Center (SDCC), Ely State Prison (ESP), and Northern Nevada Correctional Center (NNCC). This censorship and refusal to allow delivery of publications is occurring even though Defendants or persons who report to Defendants have previously approved these subscriptions to PLN, which Defendants now refuse to deliver.

13. Issues of PLN that have been confiscated and/or discarded rather than delivered to their prisoner subscribers, include political speech, which is entitled to the highest protection under the Constitution of the United States.

14. Defendants' refusal to allow delivery of PRISON LEGAL NEWS constitutes a violation of the First Amendment rights of Plaintiffs PLN and ROLLIN WRIGHT, as made applicable to the State of Nevada through the Fourteenth Amendment to the United States Constitution.

1 15. PRISON LEGAL NEWS is protected political speech and violates no
2 prison policies nor regulations other than the alleged “inmate publication” policies and
3 regulations at issue. Defendant SLANSKY has refused to deliver or allow delivery of
4 copies of PRISON LEGAL NEWS to prisoners in NDOP correctional facilities who had
5 subscribed to this publication, solely on the grounds that these publications are “inmate
6 publications”, pursuant to “AD 41-95”. Defendants’ refusal to deliver or allow delivery
7 of PRISON LEGAL NEWS to prisoners who have subscribed to these publications
8 constitutes a violation of the First Amendment rights of Plaintiffs ROLLIN WRIGHT,
9 and PLN, as made applicable to the State of Nevada through the Fourteenth Amendment
10 to the United States Constitution. Defendants’ blanket ban on “inmate publications” is
11 so vague and overbroad that it could prohibit NDOP prisoners from receiving Martin
12 Luther King, Jr.’s “Letter From the Birmingham Jail,” the prison writings of world
13 leaders such as Mahatma Gandhi, Nelson Mandela, and Vaclav Havel, and the works of
14 numerous Nobel Prize winners. This vagueness and over breadth invites arbitrary and
15 discriminatory enforcement. In fact, defendants’ ban on “inmate publications” is
16 enforced not according to any objective standards, but according to the personal
17 prejudices of individual NDOP officials. For these reasons, the ban is substantially
18 overbroad and impermissibly vague in violation of the First and Fourteenth
19 Amendments.

20 16. Plaintiffs are entitled to a declaration that all regulations and/or
21 instructions, administrative directives, institutional procedures or policies on which
22 Defendants base their refusal to deliver or allow delivery of PRISON LEGAL NEWS
23 to prisoners who have a subscription, solely because Defendants characterize these
24 publications as “inmate publications”, are unconstitutional as applied, in violation of the
25 First Amendment and the Fourteenth Amendment, by and through 42 U.S.C. §1983.
26 Plaintiffs are entitled to a declaration that defendants’ blanket ban on “inmate
27 publications” is unconstitutional on its face and as applied, because it is substantially
28 overbroad and impermissibly vague in violation of plaintiffs’ rights under the First and

1 Fourteenth Amendments.

2 17. Plaintiffs are entitled to an entry of an injunction prohibiting Defendants
3 from refusing to process and deliver, or allow delivery of, PRISON LEGAL NEWS to
4 prisoners who have a subscription solely on the grounds that these publications constitute
5 “inmate publications”. Plaintiffs are entitled to an injunction permanently enjoining
6 enforcement of defendants’ blanket ban on “inmate publications.”

7 18. As a proximate and direct result of Defendants’ actions, Plaintiffs have
8 suffered damages in an amount to be more fully enumerated at trial.

9 WHEREFORE, Plaintiffs pray relief as is more fully enumerated below.

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14 **SECOND CLAIM FOR RELIEF**

15 42 USC §1983, Fourteenth Amendment

16 Procedural Due Process Violations

17 Plaintiffs hereby incorporate by reference all allegations contained in all
18 numbered paragraphs of this Complaint as if set forth fully here.

19 19. Since approximately September of 1999, Defendants have denied Plaintiffs
20 their right to due process under the Fourteenth Amendment to the United States
21 Constitution by failing to provide Plaintiffs notice and an opportunity to be heard when
22 mail they have sent to Nevada prisoners, including but not limited to, the journal
23 PRISON LEGAL NEWS, is censored.

24 20. Defendants’ actions, as described above, also constitute a violation of
25 Plaintiffs’ civil rights under 42 USC §1983.

26 21. The Plaintiffs are entitled to a declaration that Defendants have violated
27 the Fourteenth Amendment to the United States Constitution and 42 USC §1983 by
28 refusing to notify them when publications they have mailed to prisoners have been

1 confiscated and/or discarded rather than delivered to the subscribing prisoners.

2 22. The Plaintiffs are also entitled to an injunction prohibiting Defendants
3 from enacting and enforcing policies, procedures, administrative directives, etc., to
4 confiscate and/or discard publications without notification to the publisher that such
5 publications have been confiscated and/or discarded rather than delivered.

6 23. As a proximate and direct result of Defendants' actions, Plaintiffs have
7 suffered damages in an amount to be more fully enumerated at trial.

8 WHEREFORE, Plaintiffs pray relief as is more fully enumerated below.

9 **THIRD CLAIM FOR RELIEF**

10 **Injunctive Relief**

11 Plaintiffs hereby incorporate by reference all allegations contained in all
12 numbered paragraphs of this Complaint as if set forth fully here.

13 //

14 24. Plaintiffs respectfully request that this Court issue a permanent injunction
15 enjoining Defendants, and each of them, from interfering with or refusing the delivery
16 of PLN publications and other mail or subscription information from PLN within the
17 NDOP system, anywhere within the State of Nevada. Plaintiffs ask this Court to issue
18 a permanent injunction enjoining defendants from enforcing their blanket ban on "inmate
19 publications."

20 WHEREFORE, Plaintiffs pray relief as is more fully enumerated below.

21 **FOURTH CLAIM FOR RELIEF**

22 **Declaratory Relief**

23 Plaintiffs hereby incorporate by reference all allegations contained in all
24 numbered paragraphs of this Complaint as if set forth fully here.

25 25. Plaintiffs request a declaratory judgment establishing that the policies and
26 procedures of censorship which result in Defendants not delivering or refusing to allow
27 delivery to prisoners of PRISON LEGAL NEWS and other mail from PLN are in
28 violation of Plaintiffs' First and Fourteenth Amendment rights under the Constitution of

1 the United States. Plaintiffs request a declaration that defendants' blanket ban on
2 "inmate publications" is unconstitutional on its face and as applied, because it is
3 substantially overbroad and impermissibly vague in violation of plaintiffs' rights under
4 the First and Fourteenth Amendments.

5 WHEREFORE, Plaintiffs pray relief as is more fully enumerated below.

6 **FIFTH CAUSE OF ACTION**

7 **Punitive Damages**

8 26. Plaintiffs hereby incorporate by reference all allegations contained in all
9 numbered paragraphs of this Complaint as if set forth fully here.

10 27. Plaintiffs allege that the individual Defendants acted with deliberate
11 indifference or reckless disregard for Plaintiffs' clearly established constitutional rights,
12 and have violated Plaintiffs' clearly established constitutional rights, and these actions
13 taken by the individual Defendants were the direct and proximate cause of the damages
14 suffered by Plaintiffs, and therefore, punitive damages should be awarded to punish them
15 for their misconduct, and to deter similar misconduct by similarly situated defendants in
16 the future. The amount of these punitive damage should be determined at trial.

17 WHEREFORE, Plaintiffs pray relief as is more fully enumerated below.

18 //

19 **PRAYER**

20 WHEREFORE, Plaintiffs pray judgment against the Defendants, and each of
21 them, as follows:

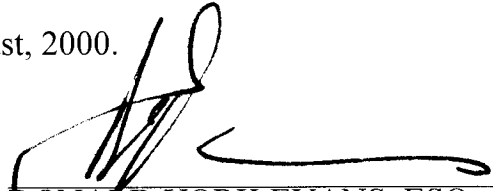
- 22 1. For general damages in an amount to be more precisely determined at trial;
- 23 2. For special damages in an amount to be more precisely determined at trial;
- 24 3. For punitive damages in an amount to be more precisely determined at
25 trial;
- 26 4. For a preliminary and permanent injunction as described herein;
- 27 5. For declaratory relief as specifically requested herein;
- 28 6. For attorney's fees and costs of suit necessarily incurred herein;

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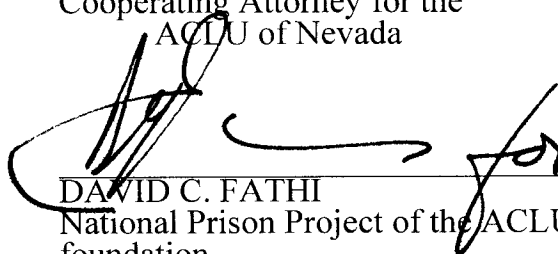
7. For leave to amend this Complaint should additional facts become known to Plaintiffs; and

8. For such other and further relief as this Court may deem just and appropriate in the premises.

DATED: This 1ST day of August, 2000.


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CERTIFICATE OF SERVICE

I certify that I am an employee of DONALD YORK EVANS, ESQ., and that on

this date I

deposited for mailing, via U.S. mail

caused to be delivered, via Reno-Carson Messenger Service

delivered via facsimile machine

personally delivered

a true and correct copy of the foregoing document, addressed to:

Craig Skau, Esq.
Assistant Solicitor General
100 N. Carson Street
Carson City, NV 89701-4717

DATED this 1ST, day of August, 2000.

Luann Cobb
LUANN COBB