

2004 WL 1920713

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United States District Court,  
W.D. Wisconsin.

Nathaniel Allen LINDELL, Plaintiff,  
v.

Matthew J. FRANK, Secretary of the Wisconsin  
Department of Corrections, Jon E. Litscher,  
former Secretary of the Wisconsin Department of  
Corrections; Cindy O'Donnell, Deputy Secretary to  
Litscher; John Ray, Corrections Complaint  
Examiner ("C.C.E."); Gerald Berge, Warden at  
Supermax Correctional Institution; Peter  
Huibregtse, Deputy Warden of Supermax;  
Lieutenant Julie Biggar, a Lt. at Supermax; Ellen  
Ray, I.C.E.; Sgt. Jantzen; C.O. Wetter; C.O. S.  
Grondin; C.O. Mueller; C.O. Clark, all guards at  
Supermax; John Sharpe, Manager Foxtrot Unit at  
Supermax; Sgt. Boyelson, Defendants.

No. 02-C-21-C. | Aug. 23, 2004.

#### Attorneys and Law Firms

Nathaniel Lindell, pro se.

Corey F. Finkelmeyer, Assistant Attorney General,  
Madison, WI, for Defendants.

#### Opinion

### ORDER

CRABB, J.

\*1 In *Lindell v. Frank*, Nos. 03-2651 & 03-2765 (7th Cir. July 19, 2004), the Court of Appeals for the Seventh Circuit directed this court to 1) reopen this case as to plaintiff Lindell's claim against defendants Ellen Ray, Peter Huibregtse, John Ray, Cindy O'Donnell, C.O. Mueller and Sgt. Boyelson for arbitrarily confiscating picture postcards from his cell in violation of the First Amendment; and 2) modify the injunction ordered by this court concerning photocopies of clippings by narrowing its scope.

The original order enjoined defendants "from enforcing the publisher's only rule to the extent that it prohibits inmates from receiving any newspaper and magazine clippings and photocopies in the mail from any source other than the publisher or a recognized commercial source." *Lindell v. Frank*, 02-C-21-C (W.D.Wis. May 5,

2003). The injunction did not prohibit defendants from crafting rules or regulations limiting the quantity of such materials that inmates may receive in incoming correspondence. The court of appeals held that the injunction is too broad because it applies to inmates other than plaintiff and because "it could be read to prevent the prison from banning *any* photocopies rather than just photocopies of clippings from published sources, or from imposing reasonable restrictions on the form and number of clippings." *Lindell*, Nos. 03-2651 & 03-2765, slip op. at 9.

Pursuant to the mandate by the Court of Appeals, IT IS ORDERED that

1. Case No. 02-C-21-C is reopened;

2. Plaintiff Nathaniel Allen Lindell's request for leave to proceed on his claim against defendants Ellen Ray, Peter Huibregtse, John Ray, Cindy O'Donnell, C.O. Mueller and Sgt. Boyelson for arbitrarily confiscating picture postcards from his cell in violation of the First Amendment is GRANTED;

3. Defendants are ENJOINED from enforcing their publisher's only rule to the extent that it prohibits plaintiff Lindell from receiving a reasonable number of photocopies of clippings that are from published sources and in a reasonable format;

4. Defendant Boyelson is the only defendant related to this claim that was not served with plaintiff's complaint when the lawsuit was originally filed. Therefore, a copy of the complaint and this order will be sent to the Attorney General pursuant to an informal service agreement between the Attorney General and this court;

5. For the remainder of this lawsuit, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer that will be representing the defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits that do not show on the court's copy that plaintiff has sent a copy to defendant or to defendant's attorney;

6. Plaintiff should keep a copy of all documents for his own files. If he is unable to use a photocopy machine, he may send out identical handwritten or typed copies of his documents.

\*2 7. Defendants may have 20 days from the date of this order in which to file a responsive pleading to the complaint.

**Lindell v. Frank, Not Reported in F.Supp.2d (2004)**

8. Plaintiff is reminded that in accordance with § 1915(b)(2), he owes the court the remaining unpaid balance of his filing fee, \$149.00, which will be collected as soon as funds become available.