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14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA

16 *PRISON LEGAL NEWS,*  
17 a Washington State Corporation,  
18 and ROLLIN WRIGHT,

19 Plaintiffs,

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

20 v.

21 JACKIE CRAWFORD in her official  
22 capacity, JOHN SLANSKY, in his  
23 official and individual capacities,  
24 ROBERT BAYER, in his  
25 official and individual capacities,  
26 DOES I-XXV, Defendant RED  
27 AND WHITE CORPORATIONS  
28 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

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 **FIRST CLAIM FOR RELIEF**

2 42 USC §1983

3 **Violation Of Publisher's First And Fourteenth Amendment Rights**

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

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

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

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

25 14. Defendants' refusal to allow delivery of PRISON LEGAL NEWS  
26 constitutes a violation of the First Amendment rights of Plaintiffs PLN and ROLLIN  
27 WRIGHT, as made applicable to the State of Nevada through the Fourteenth  
28 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

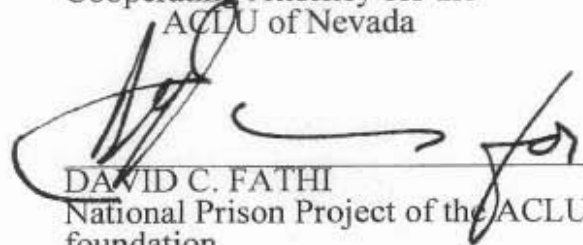
8. For such other and further relief as this Court may deem just and appropriate in the premises.

DATED: This 1<sup>ST</sup> day of August, 2000.



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CERTIFICATE OF SERVICE

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

this date I

X 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 1<sup>ST</sup> day of August, 2000.

Luann Cobb  
LUANN COBB