

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

PRISON LEGAL NEWS, INC., and  
AVEN H. COTTON,

Plaintiffs,

MICHAEL HALEY, Commissioner  
of the Alabama Department of Corrections,

Defendant.

AMENDED COMPLAINT

NATURE OF THE ACTION

1. This is a civil action brought pursuant to 42 U.S.C. § 1983 to vindicate

prohibiting inmates from receiving any book, magazine or newspaper from a  
publisher unless the publication has been paid for with funds from the inmate's

to cease the Department of Corrections' policy and practice of failing to provide

Amendment rights and serve no neutral, legitimate penological purpose.

## JURISDICTION

2. This action arises under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343.

3. This Court has jurisdiction over Plaintiff's request for declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202.

## PARTIES

4. Plaintiff Prison Legal News publishes Prison Legal News ("PLN") a monthly publication that is circulated internationally. PLN reports on issues that affect prisoners and prisoners around the world. PLN is a

COURT DECISIONS, VARIATIONS, AND SETTLEMENTS THAT RELATE TO PRISONERS

5. Plaintiff Aven Cotton is an inmate at Holman Prison.

6. Defendant Michael Haley is the Commissioner of the Alabama Department of Corrections. He is responsible for the administration of all Alabama state correctional facilities and for ensuring that the prisons operate in a manner that is consistent with the United States Constitution.

## STATEMENT OF FACTS

7. Alabama Department of Corrections Administrative Regulation # 303 provides that:

Inmates may receive a limited number of publications books, magazines, newspapers, etc. (publications) as long as the publications are received directly from the publisher and pre-paid from inmate's Prisoners' Money on Deposit Account (PMOD) (Alabama Department of Corrections Administrative Regulation # 303 at 9 (1992)). Any publication that is received without proof that it was paid for with funds from the inmate's PMOD account is returned to the publisher.

are on the prisoner's Authorized Fund List. No more than eight people can be placed on the Authorized Fund List. Any money received from an individual not on an inmate's Authorized Fund List is rejected. See DOC Admin. Reg. No. 303 at 11 (1992).

"free" publications mailed by a publisher.

publications purchased for them by a third party, such as a friend or relative.

11. Administrative Regulation #303 does not contain any due process

provision for publishers whose publications have been rejected.

12. To express its appreciation for an article that inmate Gary Moore had written for PLN, Prison Legal News gave Mr. Moore a one-year free subscription to the publication. Authorities at Donaldson Correctional Facility

for with funds from Mr. Moore's PMOD account. As a direct result of the

of its publication and was not given an opportunity to contest the denial of its communication with Mr. Moore, in violation of Prison Legal News' constitutional right to procedural due process.

14. Plaintiff Aven Cotton's brother purchased a subscription for Mr. Cotton to his local hometown newspaper, The Washington County News, as a gift to the plaintiff. Authorities at Holman Prison, where Mr. Cotton is

incorporated, rejected the newspapers because it was not paid for with funds from

Mr. Cotton's PMOD account. As a direct result of the challenged policy, plaintiff

Cotton has been denied his First Amendment right to receive publications.

15. The Defendant's refusal to allow inmates to receive books, magazines,

and other publications from publishers unless they are paid for with

inmate's PMOD account is not rationally related to any neutral, legitimate

penological objective.

16. The Defendant has a policy and practice of failing to provide publishers with: 1) written notification of a rejected publication, and 2) an opportunity to contest the rejection.

17. Plaintiff Prison Legal News has no alternative means of exercising its First Amendment right to communicate with inmates who share its point of view.

18. Plaintiff Cotton has no reasonable alternative to receiving free publications or publications purchased for him by a third party.

19. The accommodation of the Plaintiff's First and Fourteenth Amendment rights by the defendant will have little or no impact on others (guards and inmates) in the prison.

20. The Defendant has acted and continues to act under color of state law.

21. The Plaintiffs do not have an adequate remedy at law.

### CAUSES OF ACTION

22. The Defendant's policy of refusing to permit inmates to receive and publishers to send books, magazines, or newspapers unless they are paid for with funds from the inmates' PMOD accounts violates the First and Fourteenth Amendments to the United States Constitution.

23. The Defendant's policy and practice of failing to notify publishers that their publications have been rejected by prison authorities and failing to afford

publishers an opportunity to contest the rejection violates the Fourteenth Amendment to the United States Constitution.

24. The violation of the Plaintiffs' rights specified above may be remedied

### PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Honorable Court grant the following relief:

1. Declare unconstitutional and unlawful the Defendant's policy of refusing to allow inmates to receive books, magazines, or newspapers directly from publishers unless they are paid for with funds from the inmates' P.M.C.D. accounts;

2. Declare unconstitutional and unlawful the Defendant's policy of failing to notify publishers in writing that their publications have been rejected and failing to afford publishers an opportunity to contest the rejection of their publication;

3. Enter a permanent injunction requiring the Defendant, his employees, and all persons acting in concert with him to cease refusing to allow inmates to receive books, magazines, or newspapers from publishers unless they are paid for with funds from the inmates' P.M.C.D. accounts;

4. Enter a permanent injunction requiring the Defendant, his agents, employees, and all persons acting in concert with him to notify publishers in writing that their publication has been rejected and afford publishers an opportunity to contest the rejection of their publication;

5. Award the Plaintiffs reasonable costs and attorneys' fees; and

6. Grant the Plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the initials 'CA' or similar, written over a horizontal line.

Catherine Smith, 058-68-1281

Rhonda Brownstein, BRN098

J. Richard Cohen, COH014

Southern Poverty Law Center

400 Washington Avenue

Post Office Box 2007

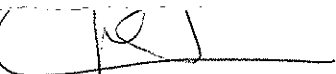
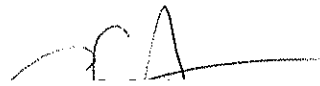
Montgomery, AL 36102-208

(334) 264-0286

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing Motion to Amend Complaint and Amended Complaint by first-class mail, postage prepaid, on the 13<sup>th</sup> day of October on the persons address listed below:

William F. Addison  
Assistant Attorney General  
Alabama Department of Corrections  
101 South Union Street  
Montgomery, AL 36130  
(334)-353-3881  
Fax (334)-353-3891



Catherine Smith  
Southern Poverty Law Center  
400 Washington Avenue

(334) 201-0200

400 Washington Avenue  
Post Office Box 2087  
Montgomery, AL 36102-2087  
(334) 261-0286