

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRISON LEGAL NEWS, a project of
the Human Rights Defense Center,
Plaintiff,

v

Case No. 11-cv-13460
Hon.

**LIVINGSTON COUNTY SHERIFF
BOB BEZOTTE**, individually and
officially, and **LIVINGSTON COUNTY**,
Defendants.

***COMPLAINT FOR DAMAGES, DECLARATORY RELIEF,
INJUNCTIVE RELIEF AND JURY DEMAND***

Plaintiff, by its attorneys, Thomas M. Loeb, Lance T. Weber and Brian J. Prain,
complains against the above-named Defendants and in support states as follows:

Preliminary Statement

1. This is an action brought by plaintiff Prison Legal News, a project of the Human Rights Defense Center, for damages caused by Defendants' censorship of its mail and restrictions on its access to prisoners at the Livingston County Jail.
2. Defendants have adopted and implemented written mail policies and practices that unconstitutionally restrict correspondence to prisoners via postcards only, and that prohibit delivery to prisoners of books, magazines and any other publications that have not been printed on postcards.

3. Defendants' policies and practices do not provide constitutionally adequate due process protections to senders of mail, such as notice of the government's decision to censor mail and an opportunity to challenge the censorship.
4. Defendants have interfered with Plaintiff's right of access to prisoners by refusing to allow counsel for Plaintiff to send legal mail to or otherwise communicate with prisoners in Defendants' custody.
5. Plaintiff's First Amendment rights to Freedom of Speech, Freedom of the Press and Freedom of Association and its right to Due Process of Law have been violated by Defendants' actions. Plaintiff seeks a declaration that the Defendants' mail policy of postcards only violates the First and Fourteenth Amendments of the United States Constitution.

Jurisdiction and Venue

6. This court has jurisdiction over these claims pursuant to 28 U.S.C. §1331.
7. Venue is properly laid in this court pursuant to 28 U.S.C. §1391(b) as the Defendants reside in and the claim arose in the Eastern District of Michigan.

Plaintiff and Defendants

8. That at all times relevant to this complaint, Plaintiff Prison Legal News (PLN) is a project of the Human Rights Defense Center (HRDC), a Washington non-profit corporation.
9. For the past 21 years, the core of plaintiff's mission has been public education, advocacy and outreach in support of the rights of prisoners and in furtherance of

basic human rights. Plaintiff maintains a website, operates an email list, publishes and distributes books about the criminal justice system and legal issues affecting prisoners, and publishes and distributes a monthly journal of corrections news and analysis, *Prison Legal News*, to prisoners, lawyers, courts, libraries, and the public throughout the country. Prisoners, their family, friends and advocates are among the intended beneficiaries of PLN's activities.

10. Defendant Livingston County is an organized municipal corporation existing under the laws of the State of Michigan.
11. Defendant Bob Bezotte is currently the Sheriff of Livingston County and is sued in his individual and official capacities. At all times relevant, he has acted under color of state law.
12. As Sheriff, he is responsible for the operations of the Livingston County Jail. Specifically, he is the policy maker for the Livingston County Jail with respect to its mail policy and its policy of refusing attorneys employed by Plaintiff to communicate with prisoners in Defendants' custody.

Facts

13. PLN engages in core protected speech and expressive conduct on matters of public concern.
14. PLN publishes and distributes *Prison Legal News*, a monthly journal of corrections news and analysis about prisoner rights, court rulings, management of prison facilities and prison conditions. PLN publishes and distributes dozens

of books about the criminal justice system and legal issues affecting prisoners and pre-trial detainees.

15. PLN has over 7,000 subscribers throughout the United States and abroad, including prisoners, pre-trial detainees, attorneys, journalists, public libraries, judges, and other members of the public.
16. Defendants have written, instituted and implemented the following mail policy at the Livingston County Jail:

MAIL - Inmates are permitted to write to any person outside of our Jail facility. Incoming Inmate correspondence must be addressed as follows:

*Inmate Name, Resident
Livingston County Jail
150 S. Highlander Way
Howell, MI 48843*

- Incoming mail must reflect sender's name and address.
 - Correspondence from attorneys, as well as court and public officials may be opened in the presence of an inmate.
 - Mail must be sent via US Postal Service.
 - Items NOT allowed: postage stamps, envelopes, blank stationary, jewelry, food, books, magazines, sexually explicit pictures, cash, personal or company check.
 - All mail, except bona-fide legal mail, will be by standard post cards. This is both incoming and outgoing mail.
 - Incoming mail deemed inappropriate may be placed in the inmate's property locker.
17. Pursuant to this policy Defendants have improperly and illegally censored Plaintiff's publications, books, brochures and other correspondence sent to inmates at the Livingston County Jail, including legal mail.
 18. In January, April and June 2011 PLN sent a sample copy of *Prison Legal News* in a

manila envelope via First Class mail, a new copy of the soft back book *Protecting Your Health & Safety* via Media Mail, and three (3) single-page, double-sided informational brochures in a standard #10 sized envelope via First Class Mail to more than 50 individual prisoners at the Livingston County Jail. All items were addressed to specific, individual inmates and bore a return address of:

Prison Legal News
PO Box 2420
W. Brattleboro, VT 05303

19. Beginning in February 2011 and monthly thereafter, PLN has sent current issues of *Prison Legal News* directly from its printer addressed individually to certain select individual prisoners in Defendants' custody.
20. Although this mail was been sent to certain inmates at the Livingston County Jail via the U.S. Postal Service, no response was received from any prisoner.
21. All mail from PLN was censored by Defendants instead of being delivered to the prisoner addressees.
22. In-house counsel for HRDC wrote letters on PLN's behalf conspicuously marked "Legal Mail" addressed to prisoners who were the intended recipients of PLN's mail but no response was received from any prisoner. All legal mail sent from counsel on PLN's behalf was censored by Defendants.
23. Outside counsel for PLN attempted to communicate with certain prisoners in Defendants' custody by visiting them at the Jail during regular business hours and Defendants refused to allow PLN's counsel to speak with inmates in their custody.
24. Defendants provided PLN no notice of their intent to censor PLN's mail nor did Defendants provide to PLN an opportunity to appeal their censorship decision.

25. Defendants' practice, policy or custom, as set forth more fully above with respect to its mail policies, was the moving force that deprived Plaintiff of its rights, privileges, or immunities secured under the Constitution and laws of the United States and 42 U.S.C. §1983 including:
- a. Plaintiff's right to freedom of the press, as protected by the First Amendment of the United States Constitution;
 - b. Plaintiff's right to freedom of speech, as protected by the First Amendment of the United States Constitution;
 - c. Plaintiff's right to freedom of association, as protected by the First Amendment of the United States Constitution;
 - d. Plaintiff's right to be free of government censorship, as protected by the First Amendment of the United States Constitution;
 - e. Plaintiff's right to due process of law, as protected by the Fourteenth Amendment of the United States Constitution.

THEREFORE, for all above reasons, plaintiff requests that this Court declare that Defendants' policies, practices, and customs violate the Constitution as set forth more fully throughout this Complaint; grant to plaintiff a preliminary and permanent injunction preventing Defendants from continuing to violate the Constitution; award plaintiff compensatory damages in whatever amount the jury may determine; award plaintiff nominal damages in whatever amount the jury may determine; award plaintiff punitive damages against Defendant Bob Bezotte only, individually, in whatever amount the jury may determine; award costs and actual attorney fees pursuant to 42

U.S.C. §1988; award plaintiff pre-judgment and post-judgment interest; and grant such other relief as the Court may deem just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL.

Dated: August 9, 2011

Respectfully submitted,

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