

FREE SPEECH PRIMER FOR PRISON MAILROOM EMPLOYEES

The First Amendment to the U.S. Constitution protects free speech. Regulations that permit the government or its employees to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment; Reagan v. Time, Inc., 468 U.S. 641, 648-49, 104 Sct 3262 (1984). "[T]he fact that society may find speech offensive is not sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection." Hustler Magazine, Inc. v. Falwell, 495 US 45, 46, 108 Sct 876, 882. The government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable, U.S. v. Eichman, 496 US 310, 319, 110 Sct 2404 (1990). "[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content." Police Dept. of Chicago v. Mosley, 408 US 92, 95, 92 Sct 2286, 2290 (1972).

Whether or not you agree or the prison agrees with a particular view— whether religious, social, or political --I am entitled to voice those views and publish them without government interference. If you discriminate against my views, your actions are unlawful.

Further, prisoners retain free speech rights. Thought control, by means of prohibiting beliefs, would not only be undesirable but impossible, Jones v. North Carolina Prisoners Labor Union, 433 US 119, 97 Sct 2532 (1977). Fact of confinement and needs of the penal institution impose rational limitations on prisoner free speech rights, Pell v. Procunier, 417 US 817, 822, 94 Sct 2800, 2804 (1974), but those restrictions must have a "valid, rational connection" to "legitimate penological interests" not related to the content of ideas, Turner v. Safley, 482 US 78, 107 Sct 2245 (1987). Regulations and practices of withholding printed materials to prisoners can only be justified when the practice "furthers an important or substantial government interest unrelated to the suppression of expression," Turner, supra. This means you cannot legally suppress the expression of ideas like Anarchism. The government's

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interest in excluding materials must be a legitimate and neutral one, applied in a neutral fashion, without regard to the content of expression, Pell v. Procunier, 417 US 828, 94 Sct 2807; Bell v. Wolfish, 441 US 551, 99 Sct 1880. Prisoners retain those rights that are not inconsistent with legitimate penological objectives of the corrections system, Pell, supra. Prison walls do not serve to form a barrier separating prisoners from the protections of the constitution, Turner, supra. Core political speech is most-zealously guarded and there is a public interest "in having free and unhindered debate on matters of public importance-- the core value of the Free Speech Clause of the First Amendment." Pickering v. Board of Education, 391 US 563, 573, 88 Sct 1731 (1968). Thus, exclusion of printed material on the basis of its political perspective, such as Anarchism, amounts to free speech retaliation and discrimination, which is illegal, Abu-Jamal v. Price, 154 F3d 128 (3rd Cir., 1998); X v. Blatter, 175 F3d 378 (6th Cir., 1999).

If you exclude printed material for an unlawful basis, such as expression of Anarchist beliefs, or if you simply conjure up a false pretext for its exclusion, you have broken the law. The prisoner recipient of this mail has cause for bringing a civil rights action against you and has cause for gaining punitive damages-- which means money. I too have cause for a federal action against you, as you will be violating my constitutional guarantees as well. You and everyone who permits this action, from your supervisor to the director of the prison system, may be named in those civil actions, and you may also be subject to termination from your employment. Because this primer is included in this mailing, you will not be able to claim you did not know your actions were illegal.

For these reasons, I ask that you conform to federal law and refrain from unlawful discrimination against the enclosed materials, permitting mail service of this literature that objectively meets all legitimate criteria set forth in prison regulations.

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