

Randal E. Ellis c-65764  
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Original

FILED

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United States District Court  
Eastern District of California

CLERK U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
DEPUTY CLERK

Randal E. Ellis,  
Plaintiff,  
vs,  
Steven Coimbra Jr. et al.  
Defendants.

Case No. CV-F-02-5646-AWI-SMS-PC  
Plaintiff's Supplement to the  
Opposition to Defendant's Motion  
for Summary Judgment.

To the Honorable Sandra M. Snyder, United States Magistrate Judge,  
Plaintiff Randal E. Ellis submits his supplement to his opposition  
to defendant's motion for Summary Judgment filed on 11/1/09, and thanks  
the court for its patience in allowing Plaintiff to finalize his opposition.  
The court is familiar with the background of the case so I will  
proceed.

(PC) Ellis v. Coimbra, et al

Doc. 151 Att. 1

Standard of Review

- 1) The "some evidence" standard of Superintendent v. Hill, 472 U.S. 445, is not applicable where a plaintiff is alleging his due process rights were violated when defendant's failed to give notice of what documents were being considered in the decision process.
- 2) In this case Plaintiff was retained in the security housing unit based on information that he was not charged with or was ever found to have violated any existing law, rule or regulation.
- 3) When a fact finder failed to reasonably conclude that a preponderance of the evidence supported a finding of current unlawful criminal gang activity as defined by CCCR 3000 and 3023 gang activity.

1) PER the court's 12/15/08 order, Plaintiff was granted a five page extension, allowing his Supplement to total 15 pages. See Doc 1245.

45 THE SOME EVIDENCE STANDARD IN SUPERINTENDENT V. MILES SUPRA. ADDRESSED ONLY A STANDARD OF JUDICIAL REVIEW BY THE COURTS AND NOT A STANDARD OF PROOF. IT CAN'T BE SOME EVIDENCE IF THE EVIDENCE IS FALSE.

55 WHAT DEGREE OF PROCESS PLAINTIFF WOULD DUE MUST BE DETERMINED BY THE COURT PER A THREE PART TEST: 1) THE PRIVATE INTEREST AFFECTED 2) THE RISK OF AN ERRONEOUS DEPRIVATION OF SUCH AN INTEREST AND 3) THE GOVERNMENT INTEREST. SEE CROTHERS V. ELDRIDGE 424 U.S. 319, 335 THIS VIEW IS ALSO SUPPORTED BY THE HOLDINGS IN WOOLF V. MCDONNELL 418 U.S. 529, 556 AND SANDLIN V. CONNER 515 U.S. 472 (1995)

65 THE COURT MUST NOT ALLOW DEFENDANT TO RELY ON THE "SOME EVIDENCE" STANDARD WHEN A PETITIONER ALLEGES THE FACT FINDER FAILED TO GIVE ADVANCE NOTICE OF WHAT EVIDENCE IS BEING CONSIDERED.

75 THE COURT HAS SAID THAT PLAINTIFF FOCUSES HEAVILY ON THE PRESENTATION OF OTHER EXPLANATIONS FOR THE MATERIAL AND FOR THE ASSOCIATION WITH OTHER INMATES LET. ORDER 3/22/08 Pg. 25.

85 PLAINTIFF IS SIMPLY ASKING THE COURT TO REMEMBER THAT THE EVIDENCE ADDUCED BY DREW MUST ALSO BE RELIABLE EVIDENCE CATO V. RUSHEN 824 F.2d 703, 705 (9th Cir. 1987). AND FALSE EVIDENCE IS NOT RELIABLE EVIDENCE.

95 AS AN INITIAL MATTER, IF PLAINTIFF WAS COMMITTING A VIOLATION BY BEING HOUSED WITH ALEXANDER, QUONBERG, COLEMAN, WILKINSON, AND JACKSON, THEN SURELY PRISON OFFICIALS WOULD NOT HAVE HOUSED HIM IN THE SAME HOUSING POD WITH THEM.

105 THE COURT CANNOT NOW PREVENT DREW TO CLAIM THAT THIS HOUSING ASSIGNMENT IS RELIABLE EVIDENCE OF HIS ASSOCIATING WITH GANG MEMBERS.

115 DREW REFUSED TO PROVIDE A COPY OF THE HOUSING LOG, FOR OBVIOUS REASONS. BUT A COPY OF THE CONFIDENTIAL MEMORANDUM AUTHORED BY DREW CONFIRMS THESE HOUSING ASSIGNMENTS LISTING: PLAINTIFF AND JACKSON ASSIGNED TO UNIT D6-000 III. QUONBERG AND WILKINSON D6-109 COLEMAN D6-112. THIS IS NOT RELIABLE EVIDENCE. PLAINTIFF HAS ABSOLUTELY NO CONTROL WHERE HE LIVES IN PRISON OR WITH WHOM. EXHIBIT 14'S PLAINTIFF'S OPPOSITIONS.

125 PLAINTIFF'S ACTIVITIES DID NOT VIOLATE ANY LAW OR PRISON RULES NOR HAS HE BEEN FOUND GUILTY OR CHARGED WITH ANY VIOLATION OF CCR TITLE 15, SEC. 3315, 3023, 3000. THERE IS A GENUINE DISPUTE AS TO WHETHER DEFENDANT'S CLAIM IN LIGHT OF THE CSR ACTION EX-J-Y.O.P.P'S CONSTITUTE ANY EVIDENCE AT ALL.

135 THE COURT MUST REGARD AS TRUE THE OPPOSING PARTY'S EVIDENCE IF SUPPORTED BY AFFIDAVIT OR OTHER EVIDENTIARY MATERIAL. THE COURT MUST DRAW ALL REASONABLE INFERENCES IN FAVOR OF THE PARTY AGAINST WHOM SUMMARY JUDGMENT IS SOUGHT. MAZSUSBITA V. ZENITH'S 475 U.S. 587 CITEL CORP V. HARTFORD'S 952 F.2D 155B (9TH CIR 1991).

140 A DISTRICT COURT MAY NOT ORDER SUMMARY JUDGMENT WHERE THERE IS A GENUINE ISSUE OF MATERIAL FACT. CADUCKES V. S.H. KRESS CO.'S 398 U.S. 144, 157, OR WHERE THE EVIDENCE OF THE MOVING PARTY IS OBVIOUSLY FALSE.

### ~ DUE PROCESS ~

150 PRISONERS ARE ENTITLED TO MINIMAL PROCEDURAL PROTECTIONS SET FORTH IN TOUSSIGNT V. MCCARTHY'S 801 F.2D 1180, 1100-01 (9TH CIR 1986) NAMELY ADEQUATE NOTICE, AN OPPORTUNITY TO BE HEARD, AND PERIODIC REVIEW. BRUCE V. GOST'S 361 F.3D 1283, 1287 (9TH CIR 2003).

160 A LIBERTY INTEREST MAY ARISE FROM THE DUE PROCESS CLAUSE ITSELF OR FROM STATE LAW. WILKINSON V. AUSTIN'S 545 U.S. 209, 221; THE 15th C.C.R. CREATES A LIBERTY INTEREST IN NOT BEING ARBITRARILY SUBJECTED TO ADMINISTRATIVE SEGREGATION. TOUSSIGNT V. MCCARTHY'S 801 F.2D 1180, 1100-01 (9TH CIR 1986).

170 IN THIS CASE, THE COURT HAS RECOGNIZED THAT PLAINTIFF'S VALIDATION IS NOT AT ISSUE. SEE CT. ORDER 3127108 PG 5 LINES 1-2. A VALIDATION CAME FORTH THE DUE PROCESS PROTECTIONS OUTLINED IN TOUSSIGNT V. MCCARTHY'S SUPRA, AND FOR A COURT REVIEWING THAT VALIDATION ONLY TO DETERMINE IF "SOME EVIDENCE" SUPPORTS ITS DETERMINATION. SUPERINTENDENT V. HILL 1472 U.S. 445

180 SINCE THIS CASE IS NOT DEALING WITH A VALIDATION, THEN WHAT PROCESS WAS DUE? THE COURT HAS CHARACTERIZED DREW'S ACTIONS AS A PERIODIC REVIEW. THE COURT SAYS, "THE POST DEPRIVATION REVIEW DID NOT HAVE THE EFFECT OF BESTOWING UPON PLAINTIFF ALL THE PROTECTIONS HE WAS DUE AT THE TIME HE WAS ORIGINALLY VALIDATED." CT. ORDER 3127108 PG 5 LINES 1-6.

190 THE COURT SAYS, "PLAINTIFF WAS DUE EVEN LESS PROCESS DURING THE SUBSEQUENT REVIEW OF HIS CONFINEMENT BY DEPENDENT DREW."

200 THE COURT IS ASKED TO LOOK AT THE NATURE OF A "PERIODIC REVIEW" AS MANDATED IN TOUSSIGNT V. MCCARTHY'S 801 F.2D 1180-01 (9TH CIR 1986) IN TOUSSIGNT, SUPRA, THE 9TH CIR HELD THAT REVIEW OF SEGREGATION

should be reviewed more frequently than annually.  
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215 Currently CDCR reviews the decision to segregate a prisoner every 180 days. See CCR: Title 15 Sec. 3341.5 (a)(1). It is this review that the court is describing as a post-deprivation review, that does not bestow upon the prisoner all the protections they had at the time of the original validation CCR: Title 15, Sec. 3341.5 (c)(3).

225 Thus the review conducted by Defendant Drew occurred within a six year period and not frequent enough to qualify as a periodic review, this review would reverse plaintiff absent evidence of current active gang activity. CCR: Title 15 Sec. 3023.3000

235 Therefore, Plaintiff was entitled to the full protections of the due process clause, as mandated in Cwojck v. McDonnell, 418 U.S. 529, 556. Because such a review seeks to use new information that had nothing to do with the original validation, and its consequences are punitive essentially punishing a prisoner without actually having to prove the prisoner violated any rules.

245 Plaintiff was punished without due process, he was not given adequate notice of what Drew was to rely on see Cex-I - P. OPPS in fact defendant's vague 12B-B comes more as a recommendation that was treated more like a decision. It never mentions what we now know was used. A NEWS PAPER, MANILLA ENVELOPE, AND A SID. CEX-I - P. OPPS.

255 Defendant in his motion at pg. 3 lines 11-16 contends that plaintiff received notice when the committee referred his case for an initial review.

265 Deb's confidential memo c.m.s. is the best evidence to contradict this material fact. Deb states he informed Plaintiff that he found no source items in his file to indicate that he was an active associate of the B.G.F. see CCM.1 Pg 1. Deb's Drew goes on to state that he informed Plaintiff that this was -- the first phase of the review CCM.1 Pg 1.

275 Since there were no source items at the initial stage of the review there was no notice of anything to rely on, nor was there anything for Plaintiff to be heard about.

28S HOWEVER, ONCE DEF'D DREW SEARCHED PLAINTIFF'S CELL, DUE PROCESS REQUIRED THAT HE BE GIVEN NOTICE OF THE SOURCE ITEMS. DEF'D INTENDED TO USE TO RETAIN HIM IN THE CELLS, AND AT MINIMUM GIVE HIM AN OPPORTUNITY TO BE HEARD ABOUT THOSE ITEMS. Cloutier v. McCarthy, 501 F.2d 1000-01, 49th Cir 1986 & CCR Title 15, Sec. 3370.03 AND SAID NOTICE MUST BE GIVEN AT LEAST 24 HOURS IN ADVANCE. CCR Title 15, Sec. 3370.03. Cwork v. McDowell 418 U.S. 529, 556.

29S PLAINTIFF WAS ENTITLED TO ADEQUATE NOTICE, HE WAS ENTITLED TO AN OPPORTUNITY TO DEFEND HIMSELF AGAINST THESE DAMNING ALLEGATIONS. THAT WAS NEW AND HAD NOTHING TO DO WITH THE ORIGINAL VIOLATION.

30S IN Caylor v. Rodriguez, 238 F.3d 188 6th Cir 2001 S. THE 2ND CIR. HELD THAT THE EFFECT OF THE NOTICE SHOULD BE TO COMPEL THE CHARGING OFFICER TO BE SUFFICIENTLY SPECIFIC AS TO THE MISCONDUCT WITH WHICH THE PRISONER IS CHARGED, TO INFORM THE PRISONER OF WHAT HE IS ACCUSED OF DOING, SO THAT HE CAN PREPARE A DEFENSE TO THOSE CHARGES, AND NOT BE MADE TO EXPLAIN AWAY VAGUE CHARGES SET OUT IN A MISBEHAVIOR REPORT. McKinnon v. Patterson 568 F.2d 930, 940, N. 11 (2nd Cir 1997).

31S THE COURTS NOR DEF'D CANNOT CLAIM THAT THIS WAS JUST A PERIODIC REVIEW TO WHICH HE WAS ENTITLED TO EVEN LESS DUE PROCESS. THE DEF'D IS NOT ENTITLED TO SUMMARY JUDGMENT ON PLAINTIFF'S DUE PROCESS CLAIMS.

~ THE SO-CALLED EVIDENCE ~

32S DEF'D DREW HAD THE FOLLOWING ITEMS TO BE GANG ACTIVITY, 1 TWO SAN FRANCISCO BAYVIEW NEWS PAPERS THAT BELONGED TO INMATE FOSTER. 2S ONE MANILLA ENVELOPE WITH INMATE DEWBERRY'S NAME ON IT. 3S ONE BIO/MANUSCRIPT BY THE PLAINTIFF.

33S DREW NEVER LISTED THESE ITEMS TO PLAINTIFF UNTIL THIS LITIGATION, THIS SO-CALLED EVIDENCE IS UNRELIABLE AND AT BEST EXAGGERATED REASONS BY DREW IN AN ATTEMPT TO JUSTIFY HIS CONDUCT. THIS EVIDENCE MUST HAVE SOME INDICIA OF RELIABILITY. Cate v. Rushell 524 F.2d 703, 705 9th Cir 1987.

34S THE EVIDENCE DREW PROFFERS (DEF'D. MO. FOR. SUMM. JUD. Pg. 6 & 3-6 S. IS NOT RELIABLE EVIDENCE, BECAUSE IT DOES NOT AMOUNT TO ANY EVIDENCE AT ALL

of "gang activity" per CCR Title 15, Sec. 3023, 3000. Drew now contends that the mere possession of a newspaper that belongs to another prisoner is evidence of not gang activity, but of a continuing association see, LEX-185-ROG 28 ¶ 1-22 & SUPP. OPP'S. FALSE EVIDENCE IS NOT SOME EVIDENCE.

35. Drew attempts to further mislead the court, by stating that members and associates are required to stay in contact with other members and associates of the gang, and in his experience someone who is not associating with specific gang wouldnt be in possession of material that belonged to other validated gang members or associates LEX-185-ROG 28 ¶ 1-22 & SUPP. OPP'S

36. THE DEF'S CONFIDENTIAL MEMO ALREADY ESTABLISHES THAT ALL THESE PRISONERS WERE HOUSED IN THE SAME HOUSING UNIT AND POD AND CELL. HE INTRODUCES NO EVIDENCE AT ALL THAT PLAINTIFF KEPT IN TOUCH WITH ANYONE, HE OFFERS NOTHING EXCEPT AN ACCUSATION OF WHAT THE GANG IS REQUIRED TO DO.

37. DREW SAYS THAT IN HIS EXPERIENCE AN INMATE WHO POSSESSES MATERIALS BELONGING TO VALIDATED MEMBERS / ASSOCIATES OF A GANG IS IN FACT ASSOCIATING WITH THE GANG LEX-185-ROG 28 ¶ 1-21 & SUPP. OPP'S.

38. IT IS THESE EXAGGERATED RESPONSES THAT LEAD PLAINTIFF TO SEEK A COPY OF THE DO SHU LOG BOOK IN POD 5 AND A PICTURE OF THE BUILDING UNIT, SO THE COURT WOULD BE FAMILIAR WITH HOUSING LOCATIONS, AS DEF'S ATTEMPTS TO PAINT A PICTURE OF PLAINTIFF COMMUNICATING WITH OTHER PARTS OF THE PRISON, THIS REQUEST WAS MADE SO THE COURT COULD EVALUATE THE RELIABILITY OF THE DEFENDANT'S EVIDENCE. (POD SET TWO ROOMS)

39. THE COURT DENIED THIS REQUEST CT. ORDER 3/2/06 HOWEVER EXAMINING DREW'S CORP. REPORT CCRS OF 1/2/00 HE PROVIDES A LISTING OF CELL LOCATIONS WHERE EACH PRISONER WAS HOUSED IS DEWBERRY 06-109 2S WILLIAMSON 06-109 3S ELLIS 06-111 JACKSON 06-111 5S COLEMAN 06-112 CC.R. Pg 2 S.

40. THESE WERE HOUSING ASSIGNMENTS MANDATED BY THE CCR (PERSONNEL) SEE LEX-H- P. OPP'S TO WHICH PLAINTIFF HAS NO CONTROL OVER. HOWEVER SUCH AN ASSIGNMENT DOES NOT BE USED AS RELIABLE EVIDENCE OF GANG ACTIVITY (Cato v. Rushen) 824 F.2d 703, 705 (9th Cir. 1987).

41. WARDEN AYERS, HAS SPECIFICALLY STATED THAT ONLY ASSOCIATION WITH A GANG IS NOT IN QUESTION, BUT RATHER IS ONE ACTIVE WITHIN THE GANG SEE, LEX-185 P. OPP'S. THIS REQUIRES A FINDING OF CURRENT ACTIVE GANG ACTIVITY THAT DREW DOES NOT MAKE OR OFFER ANY EVIDENCE OF AT ALL.

42) PRISONER RICKY GRAY PROVIDES AN AFFIDAVIT WHICH STATES IN FACT THAT DEB'D DREW ALSO REVIEWED HIS CASE IN 2000, AND ATTEMPTED TO CLASSIFY ADDRESS HE HAD IN A PHONE BOOK. AS A CONTINUING ASSOCIATION, PROMOTING WARDEN AFRERS TO HOLD THAT ASSOCIATION IS NOT THE ISSUE. THIS GRAY WAS RELEASED TO THE GENERAL POPULATION BY THE ORS. CEXCS SUPP. OPP. 11-16 S.

43) GRAY ALSO STATES THAT JAMES FOSTER WAS RELEASED TO THE G.P. AS W.E.C. CEXCS SUPP. OPP. 17-21 S. JAMES FOSTER IS THE PRISONER WHOM DEB'D MET IN HIS CERS AS THE VALIDATED ASSOCIATE WHOM OWNED THE NEWSPAPERS CCR. 19 2 S.

44) IN THE FIRST INSTANCE, IF IT WERE TRUE THAT MERE POSSESSION OF THESE NEWSPAPERS, QUALIFIED AS EVIDENCE OF CONTINUED ASSOCIATION [WHICH IS NOT THE STANDARD PER WARDEN AFRERS], THEN SURELY MR. FOSTER WOULD NOT HAVE BEEN RELEASED TO THE G.P.

45) THE AFFIDAVITS OF JACKSON CEXCS SUPP. OPP. AND COLEMAN CEXCS SUPP. OPP. ALSO TESTIFY THAT FOSTER WAS RELEASED TO THE G.P. IN ADDITION, A PRISONER CLASS IN ABSP-SHU SUBMITS A DECLARATION COMBINING AT LEAST 113 YEARS OF SHU CONFINEMENT, TESTIFYING THAT NEVER EVER IN THEIR EXPERIENCE HAS SHARING BOOKS OR NEWSPAPERS BEEN CONSIDERED GANG ACTIVITY CEXCS SUPP. OPP.

46) DREW HAS PROVIDED AN EXAGGERATED RESPONSE IN ORDER TO PROFFER EVIDENCE TO JUSTIFY HIS MISCONDUCTS AND AS SUCH IT CONTAINS NO INDICES OF RELIABILITY CATO V. RUSHEN 824 F.2D 703, 705 (9th Cir 1987) TURNER V. SABLEY 5428 U.S. 78. IT CANT BE SOME EVIDENCE IF THE EVIDENCE IS FALSE.

47) DREW IS NOT ENTITLED TO SUMMARY JUDGMENT, AND THE SOME EVIDENCE STANDARD IS INAPPLICABLE HERE. BUT EVEN IF IT IS NOT DREW HAS FAILED TO PRODUCE ANY EVIDENCE AT ALL THAT PLAINTIFF WAS INVOLVED IN GANG ACTIVITY. F.R. CIV. P. 56(c)(3).

Retaliation

48) PLAINTIFF CONTENDS THAT DREW RETALIATED AGAINST HIM BY PUNISHING HIM FOR WRITING A BIOGRAPHY FOR THE PRISON ART SHOW, (COMPLAINT Pg. 19, 20)

49) 2d CALVES V. GOMEZ 108 F.3D 269 (9th Cir 1997) the 9th Cir. HELD THAT THE SOME EVIDENCE STANDARD OF BID DID NOT APPLY TO RETALIATION CLAIMS 108 F.3D AT 269. THE SOME EVIDENCE STANDARD APPLIES ONLY TO DUE PROCESS CLAIMS ATTACKING THE RESULT OF A DISCIPLINARY BOARD'S PROCEEDING, NOT THE CORRECTIONAL OFFICERS RETALIATORY ACCUSATION 2d.

50) Plaintiff asked the specific question in Rog. 30 "what about Plaintiff's writing is considered gang activity." The court declined to require Det'd to answer Oct. order 3/27/03 Doc. 84, 85, 88.

51) The court goes on to state it is arguably quite clearly evidence of gang affiliation / sympathy / activity. Oct. order 3/27/03 pg. 7 116-13.

52) Obviously this does nothing in terms of providing plaintiff notice of what he was to defend against Toussaint 801 F.2d 1000-1001 (9th Cir. 1986), the courts assessment is also not a reasonable reading of that document.

53) Because of the courts order, Plaintiff is left to speculate if what parts of his writings drew the reprisals from the Det'd. Det'd obviously seized upon the paragraph that states "arrived at San Quentin." etc.

54) Defendant was asked specifically what fear did Plaintiff arrive at San Quentin (Rog. 31 EXCB) Supp. Opp. pg. 3 118-21. After being compelled to answer, Drew admits Plaintiff arrived at S.Q. on 8/3/83. EXCB Rog 31 pg. 3 114-19.

55) If Det'd is attempting to equate the other prisoners names on the document to some sort of gang activity, that assertion must fail too, because the document was not illegal, and in Procunier v. Martinez 416 U.S. 346 (1974) the Supreme Court specifically held: "that a prisoner has a constitutional right to use the mail as a medium".

56) Therefore Plaintiff did nothing wrong adding his admittes names to the documents, as evidenced by Drew returning the document to Plaintiff.

57) An inactive review occurs when there has been no documented gang activity for a period of six (6) years. CCR. 337B(c) on 1/19/00 that S.Q. experience was 18 yrs old.

58) In his confidential report Drew makes clear that he took issue with the S.Q. rumors and the names of the other prisoners on the document. (C.R. 1).

59) This document contains nothing that would give rise to "gang activity" as defined by CCR 3023.3000 and for the court to characterize it the way it has, is to say a prisoner is not allowed to assess political views and beliefs of his own (New York Times v. Sullivan) 376 U.S. 254 1960 see (Carrison v. Louisiana) 379 U.S. 66.

60) If such a document were indeed indicative of gang activity, then the CSR would have never removed Plaintiff from PGSD - SHU for the

61) DREW EX-REPORT WAS REVIEWED BY CSR D. FELIX ON 4/16/00 AND FE 1/2 STILL MADE THIS DETERMINATION. PLAINTIFF REMAINED IN CONFINEMENT FOR 13 YRS. UNTIL HE FILED THIS ACTION ALLEGING THE ABOVE, THEN HE WAS WITHOUT EXPLANATION RETURNED TO PERSP - THE POSSIBILITY OF RETALIATION.

62) PLAINTIFF SHOULD HAVE BEEN AND WAS ENTITLED TO BE RELEASED TO THE GENERAL POPULATION FOR THERE WAS NO DOCUMENTATION OF CONGO PARTICIPATION.  
CEX DTS P. OPP S.

63) DREW IS NOT ENTITLED TO SUMMARY JUDGMENT ON PLAINTIFF'S RETALIATION CLAIMS, AS THE RETALIATION IS ONGOING. F.R.C.V.P. 56(c)(3) DECIDED TO SPECIFICALLY AFFECT PEROLE.

Equal Protection

64) THE COURT HAS WARNED THAT TO AVOID SUMMARY JUDGMENT, PLAINTIFF MUST PRODUCE EVIDENCE THAT WOULD PERMIT A TRIER OF FACT TO CONCLUDE BY THE PREDOMINANCE OF THE EVIDENCE THAT DEF'D'S DECISION WAS RACIALLY MOTIVATED  
CERRANO V. FRANDER 345 U.S. F.3D 1071, 1082 (9th Cir 2003).

65) IN THIS CASE, DEF'D'S BOSS LT. C.H. WISE AND C/O GIBSON REMOVED LEGITIMATE DOCUMENTS FROM THE OUTGOING MAIL OF PLAINTIFF'S CELL, CLYDE JACKSON  
CEX-D-SUPP. OPP S.

66) ON NOVEMBER 18, 2000, JACKSON WAS MAILING A DOCUMENT TO THE CENTER FOR AFRICAN AND AFRICAN-AMERICAN HISTORY AND CULTURE CEX-D-SUPP. OPP S. THIS MATERIAL ALSO HAD PLAINTIFF'S NAME AND THE NAMES OF THE OTHER FOUR C4'S PRISONERS HOUSED IN THE POD TOGETHER, ARIEZED TO IT.

67) THE LT. CONCOCKED A PLOT WITH C/O GIBSON TO FALSIFY STATE THAT THIS MATERIAL WAS BEING MAILED INTO JACKSON ON 1/19/00 CEX-D-SUPP. OPP. C.H. WISE 128 BS

68) THE LT. SAYS THE DOCUMENT IS "RACIALLY TAINTED" AND GOES ON TO DESCRIBE HIS VIEW OF THIS DOCUMENT CEX-D-SUPP. OPP S. DREW CONFIRMS THAT THE DOCUMENT WAS BEING MAILED OUT CEX-D-SUPP. OPP. 128-87. DREWS.

69) THIS DOCUMENT ESTABLISHES THAT DEF'D AND HIS BOSS AS EARLY AS 1/18/00 SOUGHT TO TARGET THE FOUR C4'S PRISONERS LISTED ON THE DOCUMENT, BECAUSE THEY DECIDED TO COMPLAIN OR CRITICIZE THEIR PRISON.

70) WHILE DREW CLAIMS TO HAVE FIRST ENCOUNTERED PLAINTIFF ON 1/19/00 THIS EVIDENCE SHOWS THE CONTRARY. IT EQUALLY SHOWS THAT DREW FOLLOWED HIS BOSSES

used to the letter of the claims the four C4 inmates are in a position of Authority, and that they are communicating / associating with each other.

715 It is this reason that Drew attempts to draw a gang connotation to the biographies, newspapers and manila envelope. Not withstanding the fact that no other prisoner has ever been held to be a gang member. For reading another prisoners newspapers, not even the owner of the SUPER CEX-E-SUPP. - OPP. PRISONER DEC 1.

725 Jackson did appeal the 128-B CEX-D-SUPP. OPP. APPEAL (this same racial attitude was taken by gang lt. Crandall CEX-D-SUPP. OPP. 1st LEVEL APPEAL.) The 128-B was ordered modified by warden Joe McGrath at the 2nd level finding L.T. wise in error CEX-D-SUPP. OPP. 2nd LEVEL RE 1.

735 However almost 1 yr later unbeknownst to Jackson an amended response was stuck in his file by A. K. Scribner reversing the previous grant of Jackson's appeal to have the wise 128-B removed CEX-D-SUPP. OPP. AMENDED RESPONSE 1.

745 THE RESPONSE is interesting in that it claims that "PRISON GANGS ARE by definition racially motivated and those affiliated with them are prone to outburst of racial and prejudice statements and writings, specifically against PRISON administration and staff."

755 IT IS REMARKABLE that this would be written down to justify L.T. wise's inappropriate views and remarks; this was obviously supported by dep'd Drew. From the manner in which he concluded his investigation.

765 THE Amended Response goes on to state that the intent of the 128-B was to document CORRESPONDENCE between the four inmates and demonstrate the prejudice racial views addressed by the author of the letter. CEX-D-SUPP. OPP. Amend. RE: pg 2 1.

775 THIS is factually untrue. Because nothing in what Jackson wrote was racist or prejudice at all. In fact when it was reviewed by warden Joe McGrath at the second level, the material was found to be: "not racially tainted information." but simply copies of material from the Conrad V. Gomez's case, which is public information contained in the law library and is accessible to all inmates see CEX-D-SUPP. OPP. 2nd LEVEL REVIEW 1.

785 IT IS obvious that the dep'd took a race-based short cut and assumed that anything having to do with African-American culture could be

75 THIS EVIDENCE ESTABLISHES BY THE PREponderANCE OF THE EVIDENCE THAT DREW'S ACTIONS WERE MOTIVATED BY HIS AND THE GANG UNITS BELIEF THAT THE DOCUMENTS WERE RACIALLY TAINTED.

80 NO REGULATION AUTHORIZES PRISON OFFICIALS TO MAKE SUCH VALUE JUDGMENTS, IN FACT THEY ARE CAUTIONED NOT TO (CCX-TITLE 15, SEC. 3135 CBS).

81 HERE THEY CHOSE TO ATTEMPT TO HIDE BEHIND THE GANG PROCEDURES CLAIMING THE FOUR US PRISONERS WERE COMMUNICATING / ASSOCIATING WITH EACH OTHER IRRESPECTLESS OF THE FACT THAT THEY WERE HOUSED TOGETHER (EX-G-SUPP. OPPS).

82 DREW ADMITS THAT PRISONERS CAN TALK TO EACH OTHER WHEN THEY ARE HOUSED TOGETHER. (EX-K-P. OPP. P. 213 (SETTLES P. 2 (SETTLES P. 2)).

83 EVIDENCE OF THE MOVING PARTY MUST BE BELIEVED (ANDERSON'S 477 U.S. AT 255. AND COURTS MUST DRAW ALL REASONABLE INFERENCES FROM THE FACTS IN FAVOR OF THE NON-MOVING PARTY. (MATSUSHITA'S 475 U.S. AT 587).

84 ALIBI HAS ESTABLISHED FROM THE DATES, TIMES CIRCUMSTANCES AND EVENTS THAT DREW'S ACTIONS WERE MOTIVATED BY RACE, AND A OVERALL VIEW / BELIEF FORMED BY PEOPLE IN THE GANG UNIT. DREW IS NOT ENTITLED TO SUMMARY JUDGMENT. F.R.C.V.P. 56C3C3

### ~ FIRST AMENDMENT CLAIM ~

85 THERE IS NO IRON CURTAIN DRAWN BETWEEN THE CONSTITUTION AND THE PRISONS OF THIS NATION (PREUDNER V. MARTINEZ'S 416 U.S. 396 (1974) (TOUSSIGNT V. MCCARTHY) 801 F.2d 1080-1100-01 (9th Cir 1986).

86 ALEXANDER WROTE A HAND WRITTEN COPY OF A NEWSPAPER ARTICLE WRITTEN BY ANTHONY D. PRINCE FOR THE PEOPLES TRIBUNE ON 1/22/96. (EX CF) SUPP. OPP. ALEXANDER DEC'S. THE ARTICLE BY MR PRINCE. (EX-I-SUPP. OPP. S. WAS SIMPLY RE-WRITTEN AS WAS MOST OF WHATS CONTAINED IN THE WRITINGS, OTHER ARTICLES REWRITTEN. SO THE COURTS CHARACTERIZATION OF THE WRITINGS WAS HIGHLY UNREASONABLE AND PARTIAL. IT SEEMS THAT NOT REQUIRING DREW TO ANSWER THE QUESTION TAINTS THE ENTIRE PROCESS. BECAUSE AGAIN THE WRITINGS WERE PERFECTLY LEGAL. AND DREW SHOULD HAVE BEEN REQUIRED TO STATE THE CONTRARY. BUT OF COURSE WOULD BE TO UNWITTINGLY THERE

Proven the lack of notice.

87S IT DIDN'T MATTER TO DREW THAT PLAINTIFF'S G.O. EXPERIENCE WAS OVER 18 YRS. OLD WHEN HE DID HIS REVIEW, BECAUSE THE GANG UNIT HAD ALREADY DECIDED TO TARGET PLAINTIFF FOR THE 11000 WRITINGS BY JACKSON  
EX-D-SUPP. OPPS.

88S DREW TOOK LEGITIMATE FIRST AMENDMENT MATERIAL AND SOUGHT TO SILENCE PLAINTIFF AND ANOTHER PRISONER WHO SOUGHT TO COMPLAIN ABOUT THEIR CONDITIONS OF CONFINEMENT, BY LABELING SUCH GANG ACTIVITY.

89S LIKE HIS BOSS, LT. WISE DREW SOUGHT TO ADVANCE A THEORY THAT THE FOUR'S PRISONERS WERE CORRESPONDING WITH EACH OTHER AND HAD PLACED THEMSELVES IN A POSITION OF AUTHORITY WITHIN THE BGF.

90S THEY COMPLETELY OVERLOOK THE FACT THAT THE PRISON OFFICIALS HOUSED ALL THESE PRISONERS IN THE SAME POD. PER THEIR POLICY. SEE LEX-H P. OPPS EXA 105 & (G/F) SUPP. OPPS (CR. BY DEF'D DREW S.

91S TO BE HELD TO BE CORRESPONDING WITH PRISONERS THAT IS OBVIOUSLY NOT TRUE. ILLUSTRATES THE RETALIATORY NATURE OF THE DEF'D'S TOWARDS ANYTHING STRIKEN-AMERICAS.

92S IT IS OBVIOUS THAT THE GANG UNIT WAS UPSET AT THESE WRITINGS LEX-D-SUPP. OPPS G. WISE 12B @, WHERE THIS LT. CONCEIVED A PLOT TO HIDE THE FACT THAT THEY CONFISCATED JACKSON'S OUTGOING MAIL, LABELED IT RACIALLY TAINTED. ALL BECAUSE IT DARED TO SEEK TO COMMUNICATE WITH THE PUBLIC, AND/OR SHED LIGHT ON THEIR CONDITIONS.

93S PRISONERS CANNOT BE PUNISHED FOR EXPRESSING VIEWS THAT UNDULY COMPLAIN OR MAGNIFY GRIEVANCES. EXPRESSIONS OF INFLAMMATORY POLITICAL RACIAL, RELIGIOUS OR OTHER NEWS AND MATTER DEEMED INFLAMMATORY OR OTHERWISE INAPPROPRIATE PROVINCER V. MARTINEZ 416 U.S. 396 (1974).

94S THE COURT IS NOT BEING ASKED TO RE-WEIGH THE EVIDENCE OR ASSESS CREDIBILITY; THE COURT IS BEING ASKED TO APPLY FED. R. CIV. P. 56(C)(1) AND THE RULES OF SUMMARY JUDGMENT, TO ASSESS IF THE EVIDENCE IS RELIABLE; ACCORDING TO WHAT DEF'D SAYS IT IS. FALSE EVIDENCE IS NO EVIDENCE.

95S THE DEF'D'S HAVE GONE TO GREAT LENGTHS TO COVER UP THEIR DELIBERATE FALSIFICATION OF EVIDENCE SOLELY FOR THE PURPOSE OF SILENCING PRISONERS FROM COMPLAINING ABOUT THEIR CONFINEMENT.

965 THE EVIDENCE: AFFIDAVITS, DECLARATIONS and reasonable inferences that must be drawn demonstrates that Drew is not entitled to Summary Judgment. Fed. R. Civ. P. 56(c)(2)(C).

~ Qualified Immunity ~

975 THE defense of qualified immunity protects government officials from liability for civil damages, insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. "Charlton v. Fitzgerald" 457 U.S. 800, 118 (1982). In "Caucier v. Katz" 533 U.S. 194 (2001), the Supreme Court set forth a two-pronged test to determine whether qualified immunity exist.

985 THE court is familiar with the law so Plaintiff will proceed. In "Bruce v. Glet" 351 F.3d 1283, 1287 (9th Cir 2003), the 9th Cir. held: If in fact the Def'ds abused the validation procedures to silence Bruce and punish him because he filed grievances, they cannot claim that Bruce's validation served a legitimate penological purpose.

995 Drew's actions were in furtherance of a scheme by his boss Lt. G.W. Wise in the gang unit; they were as the evidence shows obtained by these four (4) Black inmates complaining about their confinement to P.B.S.P. - GDU to their outside supporters. (EX-D-SUPP. OPP. G. WISE 128-B).

1005 They removed perfectly legal outgoing documents being mailed out by Jackson (EX-D-SUPP. OPP) and decided to term them "racially tainted," and falsely state they were being mailed in. (EX-D-SUPP. OPP. WISE, 128-B).

1015 Jackson mailed the documents on 11/18/00. Drew was perfectly aware of the 11/18/00 mailings when he conducted his review on 11/19/00, he chose to play along with the scheme to bring the four (4) prisoners on the document as on gang charges, by first accusing each of communicating with each other; then placing themselves in a position of authority within the BGF, and falsely stating the four (4) prisoners were corresponding with each other.

1028 It is these outlandish attacks that prompted the Supreme Court to rule in PROCUNIER V. MARTINEZ SUPRA that a prisoner has a constitutional right to use the mail as a medium, there was nothing illegal in none of the writings nothing.

1031 There is not one line word or sentence stating these four prisoners speak for the BGF. In fact the four complain that they are only validated as BGF for expressing political beliefs that prison officials seek to silence.

1041 Drew was perfectly aware of the law when he confronted this situation which is why he went to great lengths to hide his conduct under the veil of confidentiality and not listing what it was he relied upon and trying to make a gang connection out of legitimate 1st amend. activity.

1051 THE law in all aspects was well established in this regard. see. WOLFF V. MCDONNELL 418 U.S. 529 (1974) PROCUNIER V. MARTINEZ 416 U.S. 396 (1974) SCOTT V. RUBEN 524 F.2d 703, 705 (9th Cir 1987) TAUBSANT V. MCCARTHY 801 F.2d 1080, 1100-01 (9th Cir 1986) TURNER V. SUTHER 428 U.S. 78 (1987) CCR Title 15 Sec. 3341.5, 3135 (b).

1061 Lt. WISE knew what the law was, which is why he tried to pretend that the documents were being mailed into the prison LET-D-SUPP. OPP. WISE 128B / DREW 128B.

1071 Drew cannot claim he acted reasonable, because his motivation was to silence Plaintiff and the other prisoners from speaking out about the treatment they received in prison. These actions do not advance a legitimate policy unrelated to the suppression of expression.

1081 Although earlier required courts to address the questions in the particular sequence, courts now have discretion to decide which prong to address first, in light of the particular circumstances of each case. PEARSON V. CALLAHAN 129 S.Ct. 808, 813 (2009)

1091 Drew argues that his conduct was motivated by the desire to stop gang activity.

110) As the court reminded Plaintiff, that state regulations do not establish the existence or scope of a federal constitutional right, and existing case law would suggest that compliance with state regulations such as the broad ones here which allows for any expression offensive to personal officials to be attributed to gang activity (EX-D-SUPP. OPP. AMEND RESPONSE) would not shield a prison official from liability for constitutional violations see generally, Collins v. Lockyer 568 F.3d 1063, 1070 (9th Cir 2009) (CDCR operations manual describing duties that, if performed would have avoided the alleged wrong to Plaintiff, were irrelevant to qualified immunity inquiry because they did not establish a federal constitutional right, California Attorneys for Criminal Justice v. Butts 195 F.3d 1039, 1049-50 (9th Cir 2000)

111) Drew must not be permitted to shield himself behind the gang validation procedures because those procedures were spelled out in Toussaint v. McCarthy 401 F.2d 1080, 1100-01 (9th Cir 1968) this was no gang validation.

112) Drew is not entitled to qualified immunity, as the facts, evidence, affidavits, declarations and reasonable inferences that must be drawn, demonstrates, his motion must be denied in its entirety.

~ Conclusion ~

113) The substantial deference accorded prison officials, however, does not relieve federal courts from their duty to ensure that prison officials actions are not exaggerated responses to prison concerns. (Salaam v. Lockhart 405 F.3d 1165, 1171 (5th Cir 1990) "this is especially true in the first amendment area, where prison officials may attempt to eliminate unflattering or unwelcome opinions and apply their own personal prejudices and opinions..." Procunier v. Martinez 416 U.S. 396 overruled in part by Abbott 490 U.S. 401 overruled test used on Womack MSD see also Lackmeat's writers protect v. Regland 481 U.S. 221 (S. 3 dissenting). ("all government, displays an enduring tendency to silence or to facilitate silencing those voices it disapproves").

I declare under penalty of perjury that the foregoing is true and correct, based on my personal knowledge.

Dated: 6/28/10

Respectfully Submitted  
Daniel C. Miller  
Plaintiff in pro per

EXHIBIT A

Plaintiff's Declaration

11 I. Randall L. Ellis, declare as follows: I am the Plaintiff in this action and I submit this declaration in support of my allegations in the complaint that 1) my due process rights were violated, 2) my first amendment rights were violated, 3) my equal protection rights were violated. see Complaint pp. 16-21.

25 ON NOVEMBER 19, 2007, DEF'D MOVED FOR SUMMARY JUDGMENT. PLAINTIFF SUBMITS THIS DECLARATION IN SUPPORT OF HIS OPPOSITION TO DEF'D'S MO. FOR SUMM. JUDG. AND HIS SUPPLEMENT TO THE OPPOSITION FILED ON JANUARY 16, 2008, AND TO THAT END PLAINTIFF SUBMITS THE FOLLOWING EXHIBITS OBTAINED IN DISCOVERY.

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3) PLAINTIFF WAS VALIDATED AS AN ASSOCIATE OF THE BOP ON 4/10/90. THIS VALIDATION DOES NOT CONTAIN AT LEAST 3) INDEPENDENT SOURCE ITEMS, NOR WAS PLAINTIFF PERMITTED TO AIR HIS VIEWS TO THE DECISION MAKER. PLAINTIFF HAVE BEEN IN PRISON SINCE THE AGE OF 16. ROUGHLY 30 YRS. NOW.

5) PLAINTIFF DENIES BEING A MEMBER OR ASSOCIATE OF ANY GANG, PRISON OR OTHER WISE, AND TO THE EXTENT THAT I HAVE BEEN ACCUSED OF ASSOCIATING WITH VALIDATED GANG MEMBERS IT IS AS A RESULT OF MY HOUSING STATUS IN THE SHU.

6) I HAVE BEEN IN SHU SINCE JUNE 17, 1989. I HAVE BEEN REQUIRED TO ACCEPT A NUMBER OF HOUSING ASSIGNMENTS AND YARD ASSIGNMENTS LEX-H-A OPP. S. THIS IS SOMETHING I HAVE NO CONTROL OVER.

7) ON 11/19/00 I WAS REVIEWED BY DEF'D DREW. I WAS TOLD THAT MY FILE CONTAINED NO DOCUMENTED INFORMATION THAT WOULD INDICATE THAT I WAS A ACTIVE ASSOCIATE OF THE BGF. WITHIN THE LAST SIX YRS C.R. 141 S.

7) I WAS NOT AWARE THAT MY STUDY OF AFRIKAN-AMERICAN AND AMERICAN HISTORY WOULD SOMEHOW BE TERMED AS EVIDENCE OF GANG ACTIVITY, AND THAT MY ACCEPTING THE HOUSING ASSIGNMENTS THAT I WAS REQUIRED TO DO PER INSTITUTIONAL AND COCR POLICY WOULD BE USED AS EVIDENCE OF GANG ASSOCIATION.

8) I WAS NEVER INFORMED THAT STUDYING HISTORY, OR WRITING MY VIEWS ABOUT THAT HISTORY WOULD BE OR COULD BE USED AS EVIDENCE OF GANG ACTIVITY AND/OR ASSOCIATION.

9) HOWEVER I WAS INFORMED THAT REFUSING SUCH HOUSING ASSIGNMENTS WOULD BE GROUNDS FOR DISCIPLINARY ACTION AND FOR LOSS OF PRIVILEGES AND PERSONAL PROPERTY LEX-H-A OPP. S.

10) THIS ACTION ARISES FROM A CONCERTED EFFORT BY THE GANG UNIT TO TARGET BLACK PRISONERS FOR ATTEMPTING TO ACCESS THEIR COMMUNITIES AND SOCIETY IN GENERAL; TO TELL THEIR STORIES OF LIFE INSIDE THE PLACE THAT HAS BEEN SUBBED FOR THE "WORST OF THE WORST."

11) TO THIS END PRISON OFFICIALS HAVE TAKEN THE APPROACH THAT BECAUSE A VALIDATED PRISONER WRITES SOMETHING, ANYTHING, IT IS PROMOTING GANG ACTIVITY. THIS APPROACH IS TAKEN FOR NO OTHER PURPOSE THEN TO SILENCE PRISONERS WHO DARE TO SPEAK OUT.

12) THIS APPROACH IS SO OUT OF CONTROL THAT IN A RECENT CASE A DISTRICT COURT JUDGE TOLD THIS GANG UNIT THAT DEFENDANTS TAKE

A very EXPANSIVE view of what might "promote" a prison gangs implicit activities and apply it with gusto, while the first amendment requires a more nuanced approach. (HARRISON v. I.G.P. NO. C 07-3824 SICRS.)

13) an 11800 prison officials in the gang unit removed legitimate material that was being mailed to the center for African and African-American studies by my client Clyde Jackson (EX-D-SUPP. OPP.) This material was perfectly legitimate.

14) However the gang unit concocted a plot to target Jackson, Ellis, Williams and Coleman, for engaging in such writing and allowing our names to be added to the document.

15) These officials falsely claimed that the mail was being sent into Jackson. (EX-D-SUPP. OPP. & G. WISE 12B-B) They do not document from where or from whom as the regulations require, they then falsely claim that the entire mailing is racially tainted. Id. and says that the four prisoners associating with each other and are claiming the purpose of the stu is to deny them etc.

16) The tone of the 12B-B by G. A. Wise, demonstrated that he was offended by these writings and decided to label them racially tainted and gang activity. (EX-D-SUPP. OPP. WISE 12B-B) when he was proven to be in error by his boss, Capt. Williams and directed to remove the 12B-B, Wise refused again falsely claiming the 12B-B was to document the correspondence between the four US inmates and the racial attitude of the author of the letter.

17) This is not true these four prisoners were not corresponding with each other they were housed together (cont. report of Drew) the writings were not racist in the first (EX-D-SUPP. OPP.) and by claiming that he wise wanted to document the racial attitudes of the author of the letter and claiming that prison gangs are prone to make such statements, wise unwittingly admits that Jackson was mailing the documents. out

18) Based on the 11800 mailings it is clear that the 11900 review by Det'd had already been tainted, when he searched my client he was already aware of the 11800 mailings. This is born out by his conduct during and after the search. And the nature of the wise 12B-B.

19) Det'd. used the writings in my cell to be indicative of gang membership. LEX-I-P. OPP. DREW 1288. HE NEVER PROVIDED ANY NOTICE OF JUST WHAT IT WAS IN THOSE WRITINGS THAT WAS INDICATIVE OF GANG ACTIVITY/MEMBERSHIP.

20) ASPECTS OF THOSE WRITINGS WERE COPIED FROM BOOKS AND OTHER NEWS SOURCES. SPECIFICALLY THE ART THAT IS ENTITLED "THE FIRST CASUALTY OF WAR IS THE TRUTH" LEX-E-P. OPP. IS A HANDWRITTEN COPY OF THE 1/26/96 ARTICLE BY ANTHONY D. PRINCE FOR THE PEOPLES TRIBUNE.

21) AFTER SOME INVESTIGATION I WAS FORTUNATE ENOUGH TO LEARN THAT MR. PRINCE IS AN ATTORNEY. HE PROVIDED ME WITH A COPY OF THE ARTICLE IN QUESTION LEX-I-SUPP. OPP. FOR THE COURT'S INFORMATION.

22) DREW ALSO USES A COPY OF A MANILA ENVELOPE WITH THE NAME OF R.N. DEWBERRY ON IT AS EVIDENCE THAT I WAS SOMEHOW ASSOCIATING WITH VALIDATED GANG MEMBERS, BECAUSE I POSSESSED THE ENVELOPE. SEE C.C.R. DET'D DREW Pg 1, 2 S.

23) MYSELF AND DEWBERRY WERE CELLIES FOR OVER 3 YRS. SEE LEX-H-SUPP. OPP Pg 2 S. I RECEIVED MR. DEWBERRY'S AFFIDAVIT w/ EXHIBITS ON 10/15/00 FROM THE LEGAL OFFICER. IT WAS GIVEN TO ME IN AN ENVELOPE WITH DEWBERRY'S NAME AND ADDRESS ON IT LEX-I-SUPP. OPP S.

24) DREW WENT TO SUCH UNUSUAL LENGTHS TO ESTABLISH A GANG CONNECTION USING MATERIAL THAT IS NEVER USED IN REVIEWS TO RETAIN A PRISONER IN THE SBU. I.E. NEWSPAPERS, BOOKS, ENVELOPES, PERSONAL SIGNATURES ETC. THE FACT THAT IT WAS DONE HERE SHOWS THAT G.H. WISE INFLUENCED DREW BASED ON THE 1/18/00 WRITINGS OF MR. JACKSON, AND BASED ON THE CONTENT OF THOSE WRITINGS, DREW SOUGHT TO USE PERFECTLY LEGITIMATE MATERIAL THAT IS NOT GANG ACTIVITY, IN ORDER TO SAY THAT I WAS ASSOCIATING WITH VALIDATED GANG MEMBERS.

25) TO THIS THEY HAD TO IGNORE THAT THESE FOUR (4) PRISONERS WERE HOUSED IN THE EXACT SAME POD AND IN SOME CASES CELLS, PER THE HOUSING POLICY LEX-H-P. OPP, C.R. OF DET'D DREW pg 1 S AND LEX-E, D-F-G AND H, SUPP. OPP S THIS DETAIL WAS SIGNIFICANT TO DREW, BECAUSE HE SOUGHT TO PUNISH ME FOR WRITING WHAT HE NOW IDENTIFIES AS THE SON QUENTIN EXPERIENCED. C.C.R. OF DREW S. WHICH HE (DREW) OBVIOUSLY WAS OFFENDED BY. SEE.

265 I now wonder if had I wrote about my corcoran experience forced into good fights for the amusement of the guards, which this court is familiar with, would this too be used as a pretext to keep Plaintiff in the SAU, because it might perhaps offend them!

278 when wise was asked to remove his false 12B-B, he refused. Justifying his refusal with further false allegations claiming that the prisoners were corresponding with each other.

285 drew was complicit in this plot. as he attempts to draw the same conclusions as the wise 12B-B, based on their own personal prejudices and value judgments and in doing so he abused the gang validation procedures to silence me.

287 THE MANILA ENVELOPE CONTAINED TWO SAN FRANCISCO Bayview NEWSPAPERS that belonged according to Def's conf. report pg 2 to James Foster, every Affidavit / Declaration submitted herein reveals that James Foster was housed in D6-212 on 1/19/00, even more revealing is the affidavit of prisoner Ricky Gray (EX-C-SUPP-OPP). MR. GRAY says that he and James Foster was released to the general population in 2000, I too witnessed Mr. Foster's release.

291 THEREFORE if it were true that mere possession of Mr. Foster's newspapers is evidence of a continued association, then surely my possession of his newspapers would have been enough to deny his release as well. because according to Drew "possessing material from other validated gang members is in his opinion's one is in fact associating with gang members."

30 THE FACT that I was transferred to Corcoran SAU on 8/16/00 for the "lack of documentation for gang participation and positive behavior." If the CSR is compelling evidence that Drew's review was tainted, as his confidential report was reviewed by the CSR, E.C.R. of Drew (EX-D-P-OPP), in fact it wasn't until I raised this very issue, was I returned to P.B.S.P. - SAU on 4/3/08. the actions of these defendants have fostered a culture of retaliation against Plaintiff and other Black prisoners, their

31) I submit that I believe I have a constitutional right to write and tell my story as I see it, and as I've experienced it, without fear of Government reprisal, or prison officials abusing the gang validation procedures in order to intimidate me into silence about what I perceive.

32) I assert that I have a absolute right to talk about it - the writings the OIG used in this case violate the first amendment there is absolutely nothing in these documents that is consistent with the COA's definition of gang activity. CCCR, article 15, sec. 3023, 3000 and certainly not any illegal activities.

33) If the court actually looks at the writings, it will see that all that they advocate is for the public to hear with the establishment of Support and Defense Committees to bring to the public attention the policies under which men are being held. This is the core - stone of first amendment activity.

34) Plaintiff has a right to enter the free exchange of ideas, irrespective of his status as a prisoner. Prison officials have taken the approach that a validated prisoner does not have such a right. There is no law that supports this approach.

35) THE EVIDENCE shows that I was never given any notice of what Drew exactly used in his findings. This was not a search to validate me as a gang member. This was a search for new evidence of active gang involvement; therefore I was entitled to be charged with some sort of wrong doing, and afforded some due process protection.

36) THE EVIDENCE will show that Drew as well as the gang unit was motivated by race, and that they chose to use the gang validation procedures to silence prisoners from communicating with the public.

37) THE EVIDENCE ALSO shows that the charge of the four C4 prisoners communicating/associating with each other is a false charge exaggerated in order to justify their actions.

38) Drew is not entitled to summary judgment or qualified immunity and it's about time a court looks into this ongoing

And Cont'd Artistic

395 THE "SOME EVIDENCE" STANDARD UNDER SUPERINTENDENT V. HILL (1985) 472 U.S. 445 IS NOT APPLICABLE WHERE A PLAINTIFF IS ALLEGING HIS DUE-PROCESS WAS VIOLATED WHEN DEFENDANT'S FACT FINDER, I.E. SGT LEE II FAILED TO GIVE NOTICE OF WHAT DOCUMENTS WERE BEING CONSIDERED IN THE DECISION PROCESS.

405 SGT LEE II ERRONEOUS FINDINGS FAILED TO MEET STATE EVIDENTIARY STANDARDS BASED UPON "A PROPONDERANCE OF THE EVIDENCE."

415 IN OTHER WORDS WHEN A PLAINTIFF ALLEGES THAT THE FACT FINDER FAILED TO REASONABLY CONCLUDE THAT A PROPONDERANCE OF THE EVIDENCE PURSUANT TO CALIFORNIA EVIDENCE CODE 115, SUPPORTED THE FINDING OF CURRENT UNLAWFUL CRIMINAL GANG ACTIVITY AS DEFINED UNDER THE COR. TITLE 15, SEC. 3023, 3000 GANG ACTIVITY.

425 THE "SOME EVIDENCE" STANDARD OF SUPERINTENDENT V. HILL, SUPRA ADDRESSED ONLY A STANDARD OF JUDICIAL REVIEW BY THE COURTS AND NOT A STANDARD OF PROOF. WHETHER A STANDARD OF PROOF SATISFIES DUE PROCESS REQUIRES A THREE PART TEST: 1) THE PRIVATE INTEREST AFFECTED 2) THE RISK OF AN ERRONEOUS DEPRIVATION OF SUCH AN INTEREST AND 3) THE GOVERNMENT INTEREST.

435 THE IBI LEE II ARE INTERWINING VALIDATION WITH INACTIVE REVIEW; THEY ARE SEPARATE COMPONENTS AND IBI LEE II ARE DELIBERATELY AND ERRONEOUSLY USING THE VALIDATION FINDINGS TO DENY INACTIVE STATUS. FOR EXAMPLE: 1) INACTIVE REVIEW DOES NOT INVOLVE THE ISSUE OF WHETHER PLAINTIFF IS A VALIDATED MEMBER OR ASSOCIATE. BECAUSE PLAINTIFF HAVE ALREADY BEEN VALIDATED. AND SUCH HAS NEVER BEEN DONE.

445 THE ONLY ISSUE A FACT FINDER MUST DETERMINE BEFORE AN INACTIVE REVIEW IS WHETHER OR NOT A PLAINTIFF HAS ENGAGED IN ANY CURRENT CRIMINAL GANG ACTIVITY WITHIN SIX YEARS AS DEFINED UNDER 3023 AND 3000.

455 THE SIX YEAR INACTIVE REVIEW HAS ABSOLUTELY NOTHING TO DO WITH VALIDATION. ONCE A PRISONER HAS BEEN VALIDATED IT REMAINS FOR LIFE IN CDCR. HOWEVER, A VALIDATED PRISONER IS ELIGIBLE FOR A SIX YEAR INACTIVE REVIEW AND WILL BE GRANTED INACTIVE STATUS

1) SEE LIRA V. COTE W.L. 727979 (2010) EXPLAINING CDC PROCEDURE.

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SHU Release as long as there is no documentation to show he has engaged in any unlawful current criminal gang activity within a six year period.

46. The retaliation complained of in this action is ongoing. These documents, Plaintiff's personal writings have no business being in my file. So that prison officials can apply their own personal prejudices to them, and continue reading out piece-meal punishment.

I declare under penalty of perjury that the foregoing is true and correct. Based on my personal knowledge.

Dated: 6/28/10

Respectfully Submitted  
Randall G. Ellis  
Plaintiff in Pro Per

EXHIBIT A

11 I, Randal L. Ellis, declare as follows: I am the Plaintiff in this action and I submit this declaration in support of my allegations in the complaint that 1) my due process rights were violated, 2) my first amendment rights were violated, 3) my equal protection rights were violated. See (Complaint ¶¶ 16-21).

2) ON NOVEMBER 19, 2007, DEF'D MOVED FOR SUMMARY JUDGMENT. PLAINTIFF SUBMITS THIS DECLARATION IN SUPPORT OF HIS OPPOSITION TO DEF'D'S MO. FOR SUMM. JUDG. AND HIS SUPPLEMENT TO THE OPPOSITION FILED ON JANUARY 16, 2008, AND TO THAT END PLAINTIFF SUBMITS THE FOLLOWING EXHIBITS OBTAINED IN DISCOVERY.  
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14) However the gang unit concocted a plot to target Jackson, Ellis, Williams and Coleman, for engaging in such writing by allowing our names to be added to the document.

15) These officials falsely claimed that the mail was being sent into Jackson. EX-D-SUPP. OPP. & WISE 128-B. They do not document from where or from whom as the regulations require, they then falsely claim that the entire mailing is racially tainted. Id. and says that the four prisoners associating with each other and are claiming the purpose of the stu is to demoralize them etc.

16) The tone of the 128-B by G.D. Wise demonstrated that he was offended by these writings and decided to label them "racially tainted and gang activity" EX-D-SUPP. OPP. WISE 128-B. When he was proven to be in error by his boss, Capt. Williams and directed to remove the 128-B, Wise refused again falsely claiming the 128-B was to document the correspondence between the four US inmates and the racial attitude of the author of the letter.

17) This is not true these four prisoners were not corresponding with each other they were housed together. Capt. Report of Drew the writings were not racist in the least EX-D-SUPP. OPP. and by claiming that he wise wanted to document the racial attitudes of the authors of the letter and claiming that prison gangs are prone to make such statements, wise unwittingly admits that Jackson was mailing the documents. out  
18) Based on the 11/16/00 mailings it is clear that the 11/19/00 review by DEF had already been tainted, when he searched my client he was already aware of the 11/16/00 mailings. This is born out by his conduct during and after the search. And the nature of the wise 128-B.

19) Det'd Drew held the writings in my cell to be indicative of gang membership CEX-I - P. OPP. Drew 122B's. He NEVER PROVIDED any notice of just what it was in those writings that was indicative of gang activity/membership.

20) Aspects of those writings were copied from books and other news sources. Specifically the part that is entitled "the first casualty of war is the truth" CEX-E - P. OPP's. is a handwritten copy of the 1/26/96 article by Anthony D. Prince for the Peoples Tribune.

21) After some investigation I was fortunate enough to learn that Mr. Prince is an attorney. He provided me with a copy of the article in question CEX-I - SUPP. OPP's for the courts information.

22) Drew also uses a copy of a Manila envelope with the name of R.N. Dewberry on it as evidence that I was somehow associating with validated gang members. Because I possessed the envelope. See C.R. Det'd Drew pg 1, 2's.

23) myself and Dewberry were cellies for over 3 yrs. See CEX-H - SUPP. OPP pg 2's. I received Mr. Dewberry's affidavit w/exhibits on 10/15/00 from the legal officer. It was given to me in an envelope with Dewberry's name and address on it CEX-I - SUPP. OPP's.

24) Drew went to such unusual lengths to establish a gang connection using material that is NEVER used in reviews to retain a prisoner in the SHU. I.E. newspapers, books, envelopes, personal suggestions etc. The fact that it was done here shows that G.H. wise influenced Drew based on the 1/16/00 writings of Mr. Jackson, and based on the content of those writings. Drew sought to use perfectly legitimate material that is not gang activity, in order to say that I was associating with validated gang members.

25) To this they had to ignore that these four (4) prisoners were housed in the exact same pod and in some cases cells. Per the housing policy CEX-H - P. OPP, C.R. of Det'd Drew pg 1's and CEX-E, D-F-G and H. SUPP. OPP's this detail was significant to Drew. Because he sought to punish me for writing what he now identifies as the son Quentin experienced. C.R. of Drew's, which he (Drew) obviously was offended by. See.

26 I now wonder if had I wrote about my "CORCORAN EXPERIENCE" forced into yard fights for the amusement of the guards, which this Court is familiar with, would this too be used as a pretext to keep Plaintiff in the SAU. because it might perhaps offend them!

27 When wise was asked to remove his fake 12B-B, he refused. Justifying his refusal with further false allegations claiming that the prisoners were corresponding with each other.

28 Drew was complicit in this plot. As he attempts to draw the same conclusions as the wise 12B-B. based on his own personal prejudices and value judgments and in doing so he abused the gang validation procedures to silence me.

29 The Manila envelope contained two San Francisco Bay View newspapers that belonged according to Def'd conf. report pg 25 to James Foster. Every affidavit / Declaration submitted herein reveals that James Foster was housed in D6-212 on 1/19/00. Even more revealing is the affidavit of prisoner Ricky Gray (EX-C-SUPP-OPP). Mr. Gray says that he and James Foster was released to the general population in 2000. I, too witnessed Mr. Foster's release.

30 Therefore if it were true that mere possession of Mr. Foster's newspapers is evidence of a continued association, then surely my possession of his newspapers would have been enough to deny his release as well. because according to Drew "possessing material from other validated gang members is in his opinion, one is in fact associating with gang members."

31 The fact that I was transferred to Corcoran SAU on 8/16/00 for the lack of documentation for gang participation and positive behavior. If the CSR is compelling evidence that Drew's review was tainted, as his confidential report was reviewed by the CSR, C.C.R. of Drew (EX-J-P-OPP). In fact it wasn't until I raised this very issue, was I returned to P.B.S.P. - SAU. on 4/13/08. The actions of these defendants have fostered a culture of retaliation against Plaintiff and other Black prisoners, their

318 I submit that I believe I have a constitutional right to write and tell my story as I see it, and as I've experienced it, without fear of Government reprisal, or prison officials abusing the gang validation procedures in order to intimidate me into silence about what I perceive.

328 I assert that I have a absolute right to talk about it - the writings the D.E.'s used in this case violates the first Amendment there is absolutely nothing in these documents that is consistent with the CCR's definition of gang activity. CCR, title 15, sec. 3023, 3002 and certainly not any illegal activity.

338 If the court actually looks at the writings, it will see that all that they advocate is for the public to hear with the establishment of of Support and Defense Committees to bring to the public attention the policies under which men are being held. This is the core of First Amendment activity.

348 Plaintiff has a right to enter the free exchange of ideas, irrespective of his status as a prisoner. Prison officials have taken the approach that a validated prisoner does not have such a right. There is no law that supports this approach.

358 The evidence shows that I was never given any notice of what Drew exactly used in his findings. This was not a search to validate me as a gang member. This was a search for new evidence of active gang involvement; therefore I was entitled to be charged with some sort of wrong doing, and afforded some due process protection.

368 The evidence will show that Drew as well as the gang unit was motivated by race, and that they chose to use the gang validation procedures to silence prisoners from communicating with the public.

378 The evidence also shows that the charge of the four C48 prisoners communicating/associating with each other is a false charge exaggerated in order to justify their actions.

388 Drew is not entitled to Summary Judgment or Qualified Immunity and it's about time a court looks into this ongoing

AND CONTINUED REITERATION

395 THE "COME EVIDENCE" standard under Superintendent v. Hill 1985 472 U.S. 445 is NOT applicable where a Plaintiff is alleging his due-process was violated when defendant's fact finder, i.e. IBI/LEIU failed to give notice of what documents were being considered in the decision process.

405 IBI/LEIU ERRONEOUS findings failed to meet state evidentiary standards based upon "A PROPONDERANCE OF THE EVIDENCE."

415 IN OTHER WORDS when a Plaintiff alleges that the fact finder failed to reasonably conclude that A PROPONDERANCE OF THE EVIDENCE PURSUANT to CALIFORNIA EVIDENCE CODE 115 supported the finding of current unlawful criminal gang activity AS DEFINED UNDER THE COR. CODE 15, SEC. 3023, 3000 GANG ACTIVITY.

425 THE "COME EVIDENCE" standard of Superintendent v. Hill, SUPRA addressed ONLY a standard of Judicial review of the courts and NOT a standard of proof, whether a standard of proof satisfies due process requires a three part test: 1) IS THE PRIVATE INTEREST AFFECTED 2) THE RISK OF AN ERRONEOUS DEPRIVATION OF SUCH AN INTEREST AND 3) THE GOVERNMENT INTEREST.

435 THE IBI/LEIU ARE INTERWINING VALIDATION WITH INACTIVE REVIEWS; THEY ARE SEPARATE COMPONENTS and IBI/LEIU ARE DELIBERATELY AND ERRONEOUSLY USING THE VALIDATION FINDINGS to deny INACTIVE STATUS. FOR EXAMPLE: INACTIVE REVIEW DOES NOT INVOLVE THE ISSUE OF WHETHER PLAINTIFF IS A VALIDATED MEMBER OR ASSOCIATE. BECAUSE PLAINTIFF HAVE ALREADY BEEN VALIDATED, AND SUCH HAS NEVER BEEN UNDONE.

445 THE ONLY ISSUE A FACT-FINDER MUST DETERMINE BEFORE AN INACTIVE REVIEW IS WHETHER OR NOT A PLAINTIFF HAS ENGAGED IN ANY CURRENT CRIMINAL GANG ACTIVITY WITHIN SIX YEARS AS DEFINED UNDER 3023 AND 3000.

455 THE SIX YEAR INACTIVE REVIEW HAS ABSOLUTELY NOTHING TO DO WITH VALIDATION. ONCE A PRISONER HAS BEEN VALIDATED IT REMAINS FOR LIFE IN CDCR. HOWEVER A VALIDATED PRISONER IS ELIGIBLE FOR A SIX YEAR INACTIVE REVIEW AND WILL BE GRANTED INACTIVE STATUS

1) SEE GIRA V. COTE W.L. 727979 (2010) EXPLAINING CDC PROCEDURE.

the release. As long as there is no document to show he has engaged in any unlawful current criminal gang activity within a six year period.

46. The retaliation complained of in this action is ongoing. These documents, Plaintiff's personal writings have no business being in my file, so that prison officials can apply their own personal prejudices to them, and continue reading out piece-meal punishment.

I declare under penalty of perjury that the foregoing is true and correct, based on my personal knowledge.

Dated: 6/28/10

Respectfully Submitted  
Randall de Ellis  
Plaintiff in Prob. Par.

EXHIBIT B

1 EDMUND G. BROWN JR.  
 Attorney General of the State of California  
 2 DAVID S. CHANEY  
 Chief Assistant Attorney General  
 3 FRANCES T. GRUNDER  
 Senior Assistant Attorney General  
 4 ALVIN GITTISRIBOONGUL  
 Supervising Deputy Attorney General  
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 7 Sacramento, CA 94244-2550  
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9 Attorneys for Defendant Drew

10  
 11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 13 FRESNO DIVISION  
 14

15 **RANDALL ELLIS,**

16 Plaintiff,

17 v.

18 **STEVEN CAMBRA, et al.;**

19 Defendants.  
 20

1:02-cv-5646-AWI-SMS (PC)

**DEFENDANT DREW'S  
 AMENDED RESPONSE TO  
 PLAINTIFF'S FIRST SET OF  
 INTERROGATORIES**

21  
 22 **PROPOUNDING PARTY: PLAINTIFF RANDALL ELLIS**

23 **RESPONDING PARTY: DEFENDANT T. DREW**

24 **SET NUMBER: ONE**

25 ///

26 ///

27 ///

28 ///

1                   **DEFENDANT DREW'S AMENDED RESPONSE TO PLAINTIFF'S**  
2                   **FIRST SET OF INTERROGATORIES**

3                   INTERROGATORY NO. 28:

4                   **"What about a newspaper that belongs to another prisoner in the possession of**  
5                   **Plaintiff is Gang activity?"**

6                   RESPONSE TO INTERROGATORY NO. 28:

7                   Defendant objects to this interrogatory as vague and ambiguous, improperly  
8                   hypothetical, calls for conjecture and speculation, and is not reasonably calculated to lead to the  
9                   discovery of admissible evidence.

10                  AMENDED RESPONSE TO INTERROGATORY NO. 28:

11                  There is nothing significant in the fact that Plaintiff was found to have newspapers in  
12                  his cell because possession of a newspaper is not evidence of gang activity. The significance is  
13                  that the newspapers belonged to other validated BGF members/associates. Anything belonging  
14                  to a validated BGF member/associate found in Plaintiff's possession would be considered  
15                  evidence of his continuing gang affiliation. The item could have been an item of clothing, a  
16                  drinking glass, food, etc., if it could be verified that the item was given to Plaintiff by a validated  
17                  BGF member/associate. Members and associates of prison gangs are required to stay in contact  
18                  with other members/associates of the gang. In my experience an inmate who is not associated  
19                  with specific gang would not be in possession of any materials that belonged to a validated gang  
20                  member/associate. Also, in my experience, an inmate who possesses materials belonging to  
21                  validated members/associates of a prison gang, is in fact, associating with the gang.

22                  INTERROGATORY NO. 29:

23                  **"What about a manila envelope in the possession of Plaintiff that belongs to**  
24                  **another prisoner is Gang activity?"**

25                  RESPONSE TO INTERROGATORY NO. 29:

26                  Defendant objects to this interrogatory as vague and ambiguous, improperly  
27                  hypothetical, calls for conjecture and speculation, and is not reasonably calculated to lead to the  
28                  discovery of admissible evidence.

1 AMENDED RESPONSE TO INTERROGATORY NO. 29:

2 As indicated in my previous response, there is nothing significant in Plaintiff's  
3 possession of a manila envelope. The significant information is that the envelope had the name  
4 and CDCR number of a validated BGF inmate. If Plaintiff was not associated with a specific  
5 gang he would not be in possession of any materials that belonged to a validated gang  
6 member/associate.

7 INTERROGATORY NO. 31

8 **"What year did Plaintiff serve at San Quentin State Prison?"**

9 RESPONSE TO INTERROGATORY NO. 31:

10 Defendant objects to this interrogatory as vague and ambiguous as to "what year did  
11 Plaintiff serve," and misleading if Plaintiff was incarcerated at San Quentin State Prison for a  
12 multi-year period, and calls for information which is equally available to Plaintiff. Without  
13 waiving objections, I do not recall.

14 AMENDED RESPONSE TO INTERROGATORY NO. 31:

15 See Attachment 1, a copy of Plaintiff's CDCR form KMHQ, which Plaintiff could  
16 have accessed by requesting a review of his central file through institutional procedures. This  
17 document indicates that Plaintiff was transferred to San Quentin, from the Reception Center on  
18 August 3, 1983, transferred to Folsom from San Quentin on January 11, 1984, and was  
19 transferred back to San Quentin on March 12, 1984.

20 INTERROGATORY NO. 33:

21 **"Was any of the material you relied upon banned at the time from entering the  
22 prison for security reasons?"**

23 RESPONSE TO INTERROGATORY NO. 33:

24 Defendant objects to this interrogatory as vague and ambiguous as to the phrase  
25 "material you relied upon banned at the time," requesting information not within Defendant's  
26 personal knowledge, possession, custody or control, not relevant to this lawsuit, and not  
27 reasonably calculated to lead to the discovery of admissible evidence.

28 ///

1. AMENDED RESPONSE TO INTERROGATORY NO. 33:

2           The San Francisco Bay View Newspaper was not an item that was banned from  
3 entering the prison for security reasons. Plaintiff could have personally subscribed to this  
4 newspaper, or a friend or family member could have paid for a subscription for him. As  
5 indicated above, the only significance to the newspapers is that they belonged to other validated  
6 BGF inmates.

7           Dated: *April 27, 2008*

8                           Respectfully submitted,

9                           EDMUND G. BROWN JR.  
10                          Attorney General of the State of California

11                          DAVID S. CHANEY  
12                          Chief Assistant Attorney General

13                          FRANCES T. GRUNDER  
14                          Senior Assistant Attorney General

15                          ALVIN GITTISRIBOONGUL  
16                          Supervising Deputy Attorney General

17                          *Constance L. Picciano*

18                          CONSTANCE L. PICCIANO  
19                          Deputy Attorney General  
20                          Attorneys for Defendants

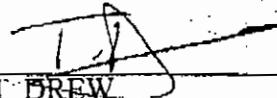
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**VERIFICATION**

I declare under penalty of perjury under the laws of the United States of America that Defendant Drew's Amended Response to Plaintiff's first Set of Interrogatories is true and correct to the best of my information and belief.

Executed this 22 day of April, 2008 at 0700, California.

  
\_\_\_\_\_  
T. DREW



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OFFENDER BASED INFORMATION SYSTEM  
MOVEMENT HISTORY of C68764 - ELLIS, RANDALL, EUGENE

11/23/2004  
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Report Date: 12/18/2003

11/12/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
11/05/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
08/21/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
08/07/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
07/09/1985	TEMP RELEASE	TO HOSP	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
06/19/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
06/10/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY
06/05/1985	TEMP RELEASE	TO OTC	FROM SQ	CUSTODY: CDC/MAR	RET SAME DAY

07/16/1984 CHANGED UNIT NEW UNIT: SHU OLD UNIT: MCH

Enter--PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11---PF12---  
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EXHIBIT C

# Affidavit of Ricky Gray

1 I RICKY GRAY, A PRISONER CURRENTLY CONFINED AT  
2 CORCORAN STATE PRISON, IN THE SECURITY HOUSING  
3 UNIT SHU, WRITE THIS AFFIDAVIT IN SUPPORT OF THE  
4 CIVIL RIGHTS COMPLAINT FILED BY PLAINTIFF ELLIS  
5 ALLEGING THAT HIS CONTINUED RETENTION IN THE SECUR-  
6 ITY HOUSING UNIT "SHU" VIOLATES HIS DUE PROCESS  
7 RIGHT, UNDER THE FIRST AMENDMENT, AS HIS EQUAL  
8 PROTECTION RIGHTS

9 TO THIS END, IF CALLED TO TESTIFY, I WILL GIVE  
10 DIRECT TESTIMONY TO THE FOLLOWING FACT

11 THAT ON DEC 2000, I WAS RELEASED TO THE  
12 GENERAL PRISON POPULATION "G.P" ON INACTIVE  
13 STATUS BY THE DEPARTMENT REVIEW BOARD "DRB"  
14 THE DRB FOUND THAT MY POSSESSION OF OTHER  
15 PRISONERS NAMES IN AN OLD PHONE BOOK, WAS NOT  
16 EVIDENCE THAT I WAS INVOLVED IN GANG ACTIVITY  
17 I WILL FURTHER TESTIFY TO THE FACT THAT IN JANUARY  
18 2000, I PERSONALLY KNEW THAT PRISONER JAMES  
19 FOSTER WAS ALSO RELEASED TO THE G.P, AS WE WERE  
20 BOTH IN THE SAME INSTITUTION, THESE FACTS ARE  
21 BASED ON MY PERSONAL KNOWLEDGE.

22  
23  
24 I DECLARE UNDER THE PENALTY OF PERJURY, THAT  
25 THE ABOVE IS TRUE AS CORRECT TO THE BEST  
26 OF MY KNOWLEDGE

27 DATED 6-29-08

28 Ricky Gray  
Signature

EXHIBIT D

AFFIDAVIT

1.

1) I, CLYDE JACKSON, WRITE THIS AFFIDAVIT IN SUPPORT OF PLAINTIFF RANDALL ELLIS CIVIL SUIT COMPLAINT, ALLEGING A VIOLATION OF HIS FOURTEENTH, FIRST, AND EQUAL PROTECTION RIGHTS. AND IF CALLED TO TESTIFY, I WILL TESTIFY TO THE FOLLOWING:

2) I WAS ELLIS CELLMATE ON 1-19-00. HE AND I WERE HOUSED IN D6 CELL #111. I WAS PRESENT WHEN DEFENDANT T. DREW LEIU INVESTIGATOR CAME AND SEARCHED OUR CELL, WHERE UPON I WAS PLACED IN THE UNIT HOLDING CELL BY THE FLOOR OFFICER, AND ELLIS WAS TAKEN DOWN THE HALL TO BE INTERVIEWED BY DEFENDANT T. DREW.

3) WHILE ELLIS AND I WERE SEPARATED FOR ABOUT 45 MINUTES, HE WAS RETURNED TO THE OPPOSITE HOLDING CELL SOME 45 MINUTES LATER.

4) DEFENDANT T. DREW RETURNED ABOUT 20 OR 25 MINUTES AFTER ELLIS AND I EXITED OUR CELL TO CONDUCT THE SEARCH.

5) PRIOR TO ELLIS RETURN, I OBSERVED A LT. WISE STANDING IN THE SECTION DOOR. OFFICER T. DREW WAS SHOWING HIM WHAT APPEARED TO BE PAMPHLETS AND OTHER PAPERS. LT. WISE TOOK THE PAPERS AND PLACED THEM ON THE DESK. OFFICER T. DREW JOINED HIM AND THEY HAD A BRIEF DISCUSSION AND I OVERHEARD THE LT. TELLING T. DREW: "THIS IS THE KIND OF RACIALLY TAINTED CRAP THAT MUST BE NIPPED IN THE BUD OR ALL OF THESE S.O.B.'S WILL BE WRITING OR READING THIS BLACK CRAP."

6) ABOUT 3 MINUTES LATER T. DREW WALKED OVER TO THE HOLDING CAGE WHERE ELLIS WAS, HOLDING THE PAMPHLETS AND SOME PAPERS AND INFORMED ELLIS THAT HE WAS GOING TO MAKE SOME COPIES OF THE PAMPHLETS AND GET THEM BACK TO HIM.

7) I HEARD ELLIS INQUIRE AS TO WHAT WAS IT THAT T. DREW WAS REFERRING TO, T. DREW RESPONDED "SOME PAPERS THAT THE LT. AND I BELIEVE ARE RACIALLY TAINTED AND THAT THEY WERE GOING

2.

TO LOOK INTO IT MORE DEEPLY AS WELL AS SOME OTHER MATERIAL.

8) I HEARD ELLIS SAY: "THAT'S BLACK HISTORY/CULTURAL MATERIAL AND IT SHOULDN'T BE A PART OF THIS PROCESS." AT THAT POINT T. DREW BECAME VERY IRRITATED AND ANGRY AND TOLD ELLIS: "LIKE I SAID, WE BELIEVE THIS CRAP IS RACIALLY TAINTED AND YOU DON'T HAVE ANY BUSINESS READING OR WRITING THIS CRAP, I'LL MAKE A COPY AND GET IT BACK TO YOU, SUBSEQUENTLY, HE WALKED OFF."

9) FURTHER, ON 1/19/00 LT. WISE AND OFFICER GIBSON CLAIMED TO HAVE REMOVED MATERIAL THAT WAS BEING MAILED IN TO ME FROM AN OUTSIDE CORRESPONDENCE, THE LT. SUBSEQUENTLY WENT ON TO DESCRIBE HIS PERSONAL VIEWS PERTAINING TO THE INCOMING MAIL.

10) THE LT. STATED THAT THE ENTIRE MAILING WAS "RACIALLY TAINTED" BECAUSE WE WERE COMPLAINING THAT: "BLACK INMATES ARE BEING HELD IN THE S.H.U. SIMPLY BECAUSE THEY ARE BLACK AND FURTHER ALLEGES THAT THEIR CIVIL RIGHTS ARE BEING VIOLATED PURPOSELY ON A DAILY BASIS..." (SEE CDC-128-B CHRONO) IN LT. WISE'S VIEW IT DEMONSTRATES EVIDENCE OF GANG ACTIVITY BY ASSOCIATING WITH EACH OTHER, THE FOUR SO NAMED PRISONERS ON THE CHRONO TO FURTHER THEIR RACIALLY TAINTED VIEWS.

11) LT. WISE DOES NOT STATE WHERE THE MAILING WAS COMING FROM. IN FACT, THIS PARTICULAR MAILING WAS DOCUMENTS NOT SIMPLY JUST A LETTER AS LT. WISE SUGGEST, THIS MAILING WAS BEING SENT TO: CENTER FOR AFRICAN HISTORY AND CULTURE. THE FALSE PRETENSE GIVEN AS AN INCOMING MAIL WAS IN FACT OUT-GOING MAIL I SENT OUT SUPPOSEDLY 1-18-00, THEREBY, IT NEVER LEFT THE INSTITUTION AND I WAS NEVER NOTIFIED OF MAIL CONFISCATION. (SEE 128-B DATE I SENT IT OUT 1-18-00 + 1-19-00 THE FOLLOWING DAY OF CONFISCATION. ALSO SEE COPY OF THE LETTER THAT WAS LATER PROVIDED TO ME DURING MY APPEAL.) ALL THIS MATERIAL WAS TAKEN BY THE GANG UNIT. THIS VERY LETTER I BELIEVE IS THE CORE ISSUE OF THIS CASE.

3.

12) ON 9-3-08 I RECEIVED THE MATERIAL AT ISSUE FROM THE CCI MR. BARNTS UPON MY REQUEST. THESE DOCUMENTS OBTAINED FROM MY CENTRAL FILE CONSIST OF THE ENTIRETY OF MY APPEAL PROCESS CONTESTING THE MATERIAL AT ISSUE AS GANG RELATED ACTIVITY. IT WAS LATER PROVEN THAT LT. WISE'S ASSERTION OF "RACIALLY TAINTED MATERIAL" WAS INCORRECT AS EXPRESSED BY CAPTAIN WILLIAMS AT WARDENS LEVEL REVIEW. (SEE APPEAL AT WARDENS LEVEL REVIEW DATED: 10-17-00)

A. THE LETTER CONSIST OF PAGES 1-2 DESCRIBING OUR CONFINEMENT.

B. REFERENCED MATERIAL CONSIST OF 3-17 PAGES, DESCRIBING CONDITIONS WITH INCLUDED ARTICLES ABOUT THE PRISON INDUSTRIAL COMPLEX COPIED FROM DOCUMENTED NEWSPAPER ARTICLES, WEBSITES QUOTES FROM THE MADRID V. GOMEZ CASE (889 F. SUPP. 1146)

13) MR. JAMES FOSTER WAS HOUSED IN THIS SAME ENVIRONMENT D6-212 AND WAS LATER RELEASED TO THE GENERAL POPULATION IN EARLY 2000.

14) I BELIEVE THAT THE 1<sup>ST</sup> AMENDMENT HAS BEEN TRAMPLED ON BY THE ACTIONS TAKEN BY OFFICIALS HERE AT P.B.S.P. AND THEIR BLATANT ATTEMPTS TO MAKE PERFECTLY CLEAR THEIR SUBTLE PREJUDICES IN CURBING LEGITIMATE ACTIVITY INTO GANG ACTIVITY TO FURTHER SILENCE PRISONERS SIMPLY BECAUSE IT OFFENDS THEM.

15) THIS MATERIAL AS STATED EARLIER AND NOTED ON HEADING OF THE LETTER WAS BEING MAILED TO: THE CENTER FOR AFRICAN AND AFRICAN-AMERICAN HISTORY AND CULTURE ON 1-18-00 WELL WITHIN MY 1<sup>ST</sup> AMENDMENT RIGHTS. FURTHER MORE C/O GIBSON AND LT. WISE REMOVED THIS MAILING FROM OUTGOING MAIL AND UNDERTOOK A DELIBERATE ACT OF INFRINGING UPON THE 1<sup>ST</sup> AMENDMENT RIGHTS IN A RACIALLY DISCRIMINATORY MANNER, BY FIRST MAKING IT APPEAR THAT IT WAS INCOMING MAIL AS STATED ON THE 128-B CHRONO. I WAS NOT EVEN AWARE THAT THIS DOCUMENT 128-B EXISTED UNTIL I RECEIVED A CDC 128-B WRITTEN BY L.E.I.U./J.G.I. T.DREW WHO WAS THE OFFICER

4. WHO SEARCHED ELLIS AND MY CELL. IT CLEARLY STATED THAT IT WAS OUTGOING MAIL CONTRARY TO LT. WISE'S 128-B WHICH STATED THE OPPOSITE. (SEE 128-B BY T. DREW DATED: 2-11-2000)

IF CALLED TO TESTIFY, I CAN COMPLETELY AND COMPETENTLY TESTIFY TO THE ABOVE BASED ON MY PERSONAL KNOWLEDGE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT, BASED ON MY PERSONAL KNOWLEDGE.

DATED: 9-14-08

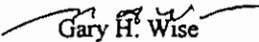
Clyde Jackson

NAME: JACKSON, Clyde

CDC#: C-33559

PBSP

On Wednesday, January 19, 2000, I received from Correctional Officer B. Gibson, an incoming manila envelope addressed to Inmate Clyde JACKSON, C-33559. Upon inspection of the mailing, I found several handwritten pages of material which were racially oriented concerning alleged mistreatment of the Black inmates housed in the Security Housing Unit at Pelican Bay State Prison. The material informs the reader(s) that the sole purpose of housing Black inmates in the SHU is to demean them and break their spirits and beliefs. This entire mailing is racially tainted toward how Black inmates are being held in the SHU simply because they are Black and further alleges that their Civil Rights are purposely violated daily, only because of their color. The mailing indicates that there are four Black inmates who make up a group called the "Think Tank Coordinators," who have authority to make decisions for the Blacks in SHU. The four inmates listed are all validated Black Guerrilla Family (BGF) prison gang members/associates. The persons are as follows; Clyde J. JACKSON, C-33559; Randall ELLIS, C-68764; Charles W. COLEMAN, C-60680; and Jimmy R. WILLIAMSON, D-34288. This information establishes that the four BGF members/associates are communicating/associating with each other and continue to promote their racially tainted beliefs that Blacks are being segregated solely because they are Black and not that they are promoting racial tension and violence amongst the Black inmate population as well as supporters of their views on the streets of the community.

  
Gary H. Wise  
Correctional Lieutenant  
Institutional Gang Investigator  
Pelican Bay State Prison

Date: January 20, 2000

GANG UNIT REVIEW

CDC-128-B

NAME: Jackson, Clyde

CDC: C33559

CDC 128-B (REV. 4/74)

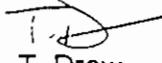
2 On Thursday, February 3, 2000, an investigation was initiated in reference to inmate Jackson, Clyde, C33559, aka  
3 "Abasi", per the California Code of Regulations, section 3378 (d) (e), regarding his In-Active gang status. Jackson  
4 as validated on 12/23/1985 as a member of the Black Guerrilla Family (BGF) prison gang. The last source item  
5 used in the validation indicating gang activity is 07/10/1989. The source items used to validate Jackson are over  
6 six (6) years old. Therefore, per the California Code of Regulations, 3378 (d) (e), Jackson meets the criteria for  
7 review of the In-Active Status. An investigation into the following areas was conducted:

8 1.) (Central File) On 02/03/2000, T. Drew (This writer) conducted a central file review, into Jackson's In-Active  
9 Gang status. I reviewed the central file of Jackson, and found the following source item which indicated recent  
10 activity with the Black Guerrilla Family (BGF) prison gang. They are as follows:

11 1.) A CDC-128B chrono dated 01/20/2000, authored by G. H. Wise. Staff intercepted an outgoing  
12 correspondence from Jackson. Upon review of the contents of the correspondence, staff found several  
13 handwritten pages of material which was racially orientated concerning alleged mistreatment of the Black  
14 inmates housed in the Security Housing Unit (SHU) at Pelican Bay State Prison. The material also places  
15 Jackson in position of authority with four (4) other validated members of the Black Guerrilla Family (BGF)  
16 prison gang. This information establishes that the four-(4) BGF members and associates are  
17 communicating and associating with each other and continue to promote their racially tainted beliefs.

18 Based on the above information and documentation, this material is indicative to membership to the Black  
19 Guerrilla Family (BGF) prison gang.

20 Pursuant to the California Code of Regulations, section 3378 (d) (e), this investigator recommends that inmate  
21 Jackson, Clyde, aka "Abasi", status as a validated member of the Black Guerrilla Family (BGF) prison  
22 gang remain unchanged. At Jackson's request, he will be eligible for review of his In-Active Gang status on  
23 01/20/2006.

24.   
T. Drew  
Correctional Officer  
Institution Gang Investigator  
In-Active Gang Task Force

25. (Pelican Bay State Prison)  
26. DATE: 02/11/2000

Gang Information / IGI Review / In-Active Status

CDC 128-B

DSA

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**  
602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. PBSP 2. D-00-01505 ② 128-B

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>JACKSON</u>	<u>C33559</u>		<u>D6/111</u>

A. Describe Problem: AFRIKAN/BLACK PRISONERS CONFINED IN CDC RETAINS THE FIRST AMENDMENT CONSTITUTIONAL RIGHT TO FREELY EXPRESS THEIR MORALS, VALUES, ATTITUDE & VIEWS WITHOUT FEAR OF PUNISHMENT, DISCRIMINATION, REPRISAL &/OR RETALIATION. (1st Amend. U.S. Const.; 15 CCR 533004(C), 3135(A))

ON JAN. 19<sup>th</sup> 20<sup>th</sup> 2000 two white pbSP guards B. Gibson & G. Wise deliberately elected to targete APPELLANT & (3) OTHER PRISONERS WITH FALSE ACCUSATIONS OF VIOLABLE CDC REGULATIONS OF ALLEGED "GANG ACTIVITY"; COMMUNICATING/ASSOCIATING TO "PROMOTE THEIR RACIALLY TAINTED BELIEFS" (See attached CDC

128-B, dated 1/20/00) 15 C.C.R. 3004(C) PROHIBITS THESE GUARDS FROM DISCRIMINATING AGAINST ANY AFRIKAN/BLACK PRISONERS CONFINED IN CDC, CAUSE OF THEIR RACE, NATIONALITY & POLITICAL BELIEFS.

AND 15 C.C.R. 3135(B) PROHIBITS GUARDS GIBSON & WISE FROM "DISALLOWING OR DELAYING" APPELLANT'S MAIL, BY PASSING THEIR VALUE JUDGMENTS ON APPELLANT, HIS COMMUNITY & PEOPLE'S MORAL VALUES, ATTITUDES, VERACITY OR CHOICE OF WORDS ALLEGEDLY CONTAINED IN THE INCOMING MAIL. (ATTACHED CDC 128-B)

FINALLY, APPELLANT'S MAIL DO NOT VIOLATE ANY CDC MAIL REGULATIONS SET FORTH UNDER DIR. 3006(C) (See attached Page \*1)

If you need more space, attach one additional sheet

B. Action Requested: 1) That the alleged "incoming Manila Envelope" Mail Referred to in Gibson & Wise's CDC 128-B (attached) be issued to Appellant & a copy attached here to, as Factual Material supporting this Complaint; and 2) That the attached CDC 128-B be rescinded and guards Gibson/Wise & Lieu be prohibited from using it to Retain Appellant indeterminately in SHU.

Inmate/Parolee Signature: Clyde Jackson Date Submitted: 5-13-00

C. INFORMAL LEVEL (Date Received: 5/31/00)

Staff Response: THE MAIL IS PROMOTING RACIAL VIOLENCE AND IS THEREFORE DENIED AT THE INSTITUTION PER CCR TITLE 15. IT ALSO CONSTITUTES COMMUNICATION ASSOCIATED WITH CDC VIOLATED BGF MEMBERS/ASSOCIATES & IS THEREFORE UTILIZED TO SHOW YOUR CONTINUED GANG ACTIVITY/ASSOCIATION. YOUR APPEAL IS DENIED.

Staff Signature: W. Wise Lt. G. N. WISE Date Returned to Inmate: 5/31/00

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

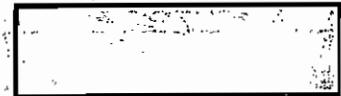
I REITERATE MY EARLIER POINT, P.B.S.P. OFFICIALS HAVE BLATANTLY VIOLATED THE RULES AS LISTED & CONTINUE TO EXHIBIT ARROGRANCE WHICH CLOUDS THEIR OBJECTIVE REASONING. IT IS APPARENT THAT THEY HAVE NOT PROPERLY READ THE CCR TITLE 15 AS LISTED ABOVE TO THEIR BLATANT DISREGARD FOR APPELLANT'S MAIL THROUGH THEIR OWN PERSONAL TAINTED VIEWS.

Inmate Signature: Clyde Jackson Date Submitted: 6-5-00

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E Inmate Claim

CDC Appeal Number:

5/10#5  
5/19/00  
5/25/00 S/D IGI  
10/1/00  
SEP 9 2000  
2nd Appeal



First Level:  Granted  P. Granted  Denied  Other  
REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 6-8-00 Due Date: 7-21-00  
Interviewed by: [Signature]

See attached

Staff Signature: [Signature] Title: LT IOT Date Completed: 7-18-00  
Division Head Approved: [Signature] Returned:  
Signature: [Signature] Title: AW Date to Inmate: AUG 18 2000

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

CDC OFFICIALS ARE ADOPTANT IN SUPPORTING THIS ERRONEOUS <sup>POSITION</sup> MISLABELING ME IN LEADERSHIP POSITION W/ DOCUMENTATION TO PROVE THIS ACCUSATION? I HAVE NOT ESPOUSED RACIALLY TINTED VIEWS, MY LETTER OF INTENT WAS COMMUNITY BASED ATTEMPTING TO SOLICIT COMMUNITY SUPPORT FOR PERSONAL ENDEAVORS. LT. CRANDALL SHOULD REVIEWED THE LETTER BEFORE SHE ASSUMED JUDGMENT.

Signature: Clyde Jackson Date Submitted: 8-30-00

Second Level:  Granted  P. Granted  Denied  Other  
REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 9/11/00 Due Date: 10/10/00  
 See Attached Letter

Signature: [Signature] Date Completed: 10-4-00  
Warden/Superintendent Signature: [Signature] Date Returned to Inmate: OCT 19 2000

H. If dissatisfied; add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

THIS PARTIALLY BEING GRANTED DOES NOT SATISFY SIMPLY BECAUSE AS MY ARGUMENT STATED BECAUSE CDC OFFICIALS INITIALLY ERRORED IN CONFISCATING MY MAIL. I REITERATE MY PREVIOUS POINT BECAUSE THIS IS AN ONGOING PROCESS WITH CDC OFFICIALS & CORREC OFF. G. WISE WAS INSTRUCTED TO REWRITE THE 128-B BECAUSE OF THEIR ERROR BUT HAS NOT TO THIS DAY DID SO. I HAVE APPRISED HIM OF THE CONTENTS OF THE ORDER OF THE WARDEN, HE SHOULD HAVE RECEIVED NOTIFICATION AS WELL. SEE SROND LEVEL REVIEW!

Signature: Clyde Jackson Date Submitted: 10-29-00

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:  Granted  P. Granted  Denied  Other  
See Attached Letter  
Date: \_\_\_\_\_

ATTACHMENT # 1  
(DO NOT REMOVE)

(CONTINUATION FROM ORIGINAL CDC 602, H.A. "PROBLEM") and D.R. 3136; nor do said Mail violate any CDC Rule under 3023 constituting "Gang Activity Behavioral Conduct!"

Accordingly, guards Gibson & Wise are using their biased value judgments of Afrikan/Black SHU Prisoners they know to have been labeled "BGF" as a premise to inappropriately create falsified "gang information" documentation (via CDC 128-B Chronos) through racist & intentional misrepresentation of these Afrikan/Black prisoners expressed views to their Afrikan/Black Communities. The objective is for pbsp igi & CDC Lieu to have a self-created paper trail of so-called "documented Gang Activity" to warrant future retention of this class of BGF-labeled Afrikan/Black prisoners indeterminate in SHU, unless they censor their Political Beliefs, Expressions & views concerning their Afrikan/Black People, whether they be confined in CDC, labeled BGF or out there in Society-at-large. These are methods & practices of "Institutional Racism" that pbsp/CDC is continuing to employ against this particular Group of Afrikan prisoners, it has labeled & classified arbitrarily, to justify retention on indeterminate SHU status (via unjust/unsubstantiated assertions of Gang Activity behavioral conduct, which contravenes DR 5000/3023)

DATED: 5-13-00

SIGNATURE: Clyde Jackson  
C-33559

S U P P L E M E N T P A G E

**RE:** PELICAN BAY STATE PRISON  
Appeal Log No. PBSP-D-00-01505  
First Level Reviewer's Response

Inmate: Clyde JACKSON, C-33559

**APPEAL DECISION:**

**DENIED**

**APPEAL ISSUE:** (Modified)

You stated in your appeal and interview that Correctional Officer B. Gibson, and Correctional Lieutenant G. Wise deliberately targeted you and three other inmates with false accusations regarding gang activity. You believe that this action is racially motivated because you are Black. You request that the incoming manila envelope be attached to this appeal. You also request that the attached CDC 128B be rescinded, and that Officer Gibson and Lieutenant Wise be prohibited from using this document to retain you in the Security Housing Unit (SHU).

**APPEAL RESPONSE:**

You were interviewed on July 18, 2000, by Lieutenant D. R. Crandall regarding this appeal. You restated the facts as you have written them in this appeal during this interview. Upon review of the CDC 128B written by Lieutenant Wise, and a copy of the letter being sent in, it is clear that you were in fact associating with other Black Guerrilla Family (BGF) prison gang members regarding racial issues. It is also clear that you have a leadership position that is racially motivated. It is also clear that Lieutenant Wise was documenting the mail that he reviewed that identifies you and three other validated BGF associates as assuming a leadership position over the other Black inmates housed in the SHU at Pelican Bay State Prison. This letter is not confidential to you and a copy is contained in the Miscellaneous Section of your Central File. I did not see a copy of the envelope upon my review. However, this fact does not alter the letters contents.

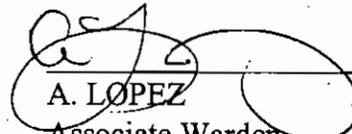
The CDC 128B will not be removed from your Central File and the use of this document will be determined by a Classification Committee, and not Lieutenant Wise or Officer Gibson.

SUPPLEMENT, PAGE 2  
Inmate Clyde JACKSON, C-33559  
Appeal Log No. PBSP-D-00-01505

Based upon the above, your appeal is **DENIED** at the First Level of Review.

  
D. R. CRANDALL  
Correctional Lieutenant  
Institutional Gang Investigations

7-18-20  
Date

  
A. LOPEZ  
Associate Warden  
Central Services

PELICAN BAY STATE PRISON

SECOND LEVEL REVIEW

DATE: OCT 17 2000

Inmate Jackson, C-33559  
Pelican Bay State Prison  
Facility D, Security Housing Unit  
Building 6, Cell 111

RE: WARDEN'S LEVEL DECISION  
APPEAL LOG NO. 00-01505

APPEAL: PARTIAL GRANT  
ISSUE: CDC 128-B

This matter was reviewed on behalf of JOE MCGRATH, Warden (A), at Pelican Bay State Prison (PBSP), by Appeals Coordinator M. Johnston, Correctional Counselor II (CC II). Correctional Lieutenant (Lt.) D. R. Crandall interviewed the inmate on July 18, 2000.

**ISSUES**

Whether or not the CDC 128-B should be removed from the inmate's Central File (C-File).

**FINDINGS**

**I**

The inmate contends the CDC 128-B, dated January 20, 2000, by Lt. G. H. Wise, should be removed from his Central File. The inmate alleges the 128-B is motivated by a racial bias held by the officer who found the letter and the Lieutenant who wrote the 128-B. The inmate is requesting the removal of the 128-B from all of his records and that it not used in retaining him in the Security Housing Unit (SHU).

**II**

The First Level of Review takes the position the letter that was confiscated clearly identifies the inmate as associating with other Black Guerrilla Family (BGF), and he was identified as assuming a leadership role over other Black inmates housed in PBSP SHU.

**III**

The California Department of Correction's Operations Manual (DOM), Chapter 7000, Section 72010.7.2, clearly explains the proper use of the CDC 128-B.

#### DETERMINATION OF ISSUE

All submitted documentation and supporting arguments have been considered. Additionally, a thorough review has been conducted into the claim presented by the inmate and evaluated in accordance with PBSP's institutional procedures and departmental policies.

The Second Level of Review reveals the CDC 128-B is not written accurately. On October 5, 2000, Captain L. Williams reviewed the letters that were confiscated by Officer Gibson. After completion of the review, the Captain determined the letter did not contain "racially tainted" information, but simply copy of material from the Madrid Vs Gomez case. This is public information contained in the Law Library and is accessible to all inmates.

The information contained in the letter did identify four inmates communicating/associating with each other and requires documentation. Therefore, the 128-B will be rewritten to include only this information and be reissued to the inmate. The original 128-B, dated January 20, 2000, will be pulled from the inmate's C-File and destroyed. This portion of the inmate's Appeal is Granted.

The inmate's allegations that "White" staff was racially motivated in confiscating the inmate's mail and in writing the 128-B is not supported. The letters were confiscated after they were found during a routine search of non-legal mail. This portion of the inmate's Appeal is Denied.

Since the letter is contained in the Miscellaneous Section of your C-File, it is not confidential and is attached. The envelope containing the letter is no longer available, as it was destroyed. The 128-B will be rewritten and will replace the original 128-B in the inmate's C-File. Classification Committee will determine how the information is used in determining the inmate's housing status.

Based on the above review, the inmate's Appeal is PARTIALLY GRANTED.

SUPPLEMENT PAGE 3  
JACKSON, C-33559  
APPEAL LOG # 00-01505

**MODIFICATION ORDER**

A modification of this decision or action taken is required.

The Associate Warden (AW) of Central Services will ensure that Lt. Wise shall rewrite and reissue a new 128-B. The old 128-B, dated January 20, 2000, will be pulled from the inmate's C-File.



JOE MCGRATH,  
Warden (A)  
Pelican Bay State Prison

MJ-14100400

PELICAN BAY STATE PRISON
SECOND LEVEL REVIEW

DATE: JUL 06 2001

AMMENDED RESPONSE

Inmate Jackson, C-33559  
Pelican Bay State Prison  
Facility D, Security Housing Unit  
Building 6, Cell 111

**C-FILE**

RE: WARDEN'S LEVEL DECISION  
APPEAL LOG NO. 00-01505

APPEAL: DENIED  
ISSUE: CDC 128-B

This matter was reviewed on behalf of JOE MCGRATH, Warden, at Pelican Bay State Prison (PBSP), by Appeals Coordinator M. J. Nimrod, Correctional Counselor II (CC II). Correctional Lieutenant (Lt.) D. R. Crandall interviewed the inmate on July 18, 2000.

**ISSUES**

Whether or not the CDC 128-B should be removed from the inmate's Central File (C-File).

**FINDINGS**

**I**

The inmate contends the CDC 128-B, dated January 20, 2000, by Lt. G. H. Wise, should be removed from his Central File. The inmate alleges the 128-B is motivated by a racial bias held by the officer who found the letter and the Lieutenant who wrote the 128-B. The inmate is requesting the removal of the 128-B from all of his records and that it not used in retaining him in the Security Housing Unit (SHU).

**II**

The First Level of Review takes the position the letter that was confiscated clearly identifies the inmate as associating with other Black Guerrilla Family (BGF), and he was identified as assuming a leadership role over other Black inmates housed in PBSP SHU.

**III**

The California Department of Correction's Operations Manual (DOM), Chapter 7000, Section 72010.7.2, clearly explains the proper use of the CDC 128-B.

SUPPLEMENT PAGE 2  
JACKSON, C-33559  
APPEAL LOG # 00-01505

DETERMINATION OF ISSUE

All submitted documentation and supporting arguments have been considered. Additionally, a thorough review has been conducted into the claim presented by the inmate and evaluated in accordance with PBSP's institutional procedures and departmental policies.

The Second Level of Review reveals the response concerning the 128-B authored by Lt. Wise was in fact accurate concerning the racial overtones of the correspondence that was reviewed. The original observations by the reviewer took into account the understanding that prison gangs are by definition racially motivated and those affiliated with the gang are prone to outbursts of racial and prejudice statements and writings, especially against prison administration or staff. Initial review determined the 128-B was prepared to document the gang activity, and the racial observations were not relevant. However, clarification from the author, Lt. Wise, indicates the intent of the 128-B was to document correspondence between the four inmates and demonstrate the prejudice racial views addressed by the author of the letter. Only several months later was the 128-B determined to have a bearing in the gang status of the inmates involved and used to determine current gang status. With these new facts, the current finding is to deny the inmate's request for removal of the 128-B, as it is within the staff's scope of duties to document such observations in the format of a 128-B.

Based on the above review, the inmate's Appeal is DENIED.



JOE MCGRATH  
Warden  
Pelican Bay State Prison

MJ-14100400

ENCLOSED ITEMS:

1) PAGE 1-1/2 YELLOW 8 1/2 x 14 PAPER

RE: STATE OF DENIAL / OR CODE OF SILENCE !!

TO: CENTER FOR AFRICAN & AFRICAN AMERICAN HISTORY & CULTURE  
762 FULSON STREET  
SAN FRANCISCO, CA 94102

FR: CLYDE JACKSON C-33554  
DG/C-1114  
P.O. BOX 7500  
CRESCENT CITY, 95532-7500

RE: REQUEST INFO  
DATE: 1-18-2000

THIS IS # 1 OF THE 602  
APPEAL LOG NO. PBSP-D-00-01505  
ENCLOSED.

My name is Abasi Yanda & I am writing to inquire if you can assist me to learn when, where & how I can contribute to the enclosed community problem solving discussions if humanly possible?

(1) I just recently read an August 1999 issue of the S.F. Bayview Re: an article titled "Free forum on the prison industrial complex & people of color" by a featured writer James Herndon that was scheduled to be held at your community center on Saturday sept 11, 1999

(2) during the three to six month prior to the event I was not aware of any of the cited persons or organizations seeking to maintain with our captive african community here an effort to identify discuss & seek to prepare a series of essays or position papers on the described subject matter & no one here that I communicate with was aware of the same case factors?

(3) In addition, I began to circulate an inquiry to a number of africans here in an effort to determine if any named person or organization was in communication with our captive community here for the same mutual communication & collective community educational goals, again with no positive results.

(4) as such, in general, I am writing you & the staff of your center to advise you or rather apprise you that I have been continuously held captive in this stated maximum security prisons from 1981 - 2000 particularly here in Pelican

2.

Bay state prison in the security housing unit from 1990-2000 this date.

I have been active in education & freedom struggles of our people throughout my unfortunate ordeal of modern day Babylon style captivity which has helped prepare me to both speak & share a critical analysis on many of the internal complexities & contradictions of the present industrial complex.

(5) In particular, per enclosed item (1) during the past 10 years there has been a combined "state of denial & a code of silence" being imposed to prevent our black community's let alone from branding about the politically sanctioned, genocidal, black Holocaust that has been & continues to be carried out against our captive african community here. A number of my hundred spirits & myself have been working to prepare a series of collective educational / re-education materials in an effort to help our black community at home to become more aware of the calculated, wicked & devastating conditions that are being imposed against our lives & future.

(6) Therefore, I would appreciate it a great deal if you & your staff would review the contents of enclosed item (1) also I want you to know that I am both interested in communicating with members of our community about these important matters & I am available to help further discuss, plan & submit additional educational materials on the current state of affairs at this particular neo-slave breaking camp.

I can be reached via the cited address on the envelope. Anyway, that's all for now, let me close, trusting you & your progressive surroundings remain steadfast. Take care & may the spirits of our ancestors continue to guide & protect you. Hope to hear from you when convenient.

Respectfully

Bro. Abasi

3.

question (1): can you identify/or explain? If a Code of Silence? Exists within the California Department of corrections (CDC)?

Answer (1): yes. Per a current PRSP-SHU, educational website. Quote:

"... our website contains the full text of Madrid v. Gomez case (889 F. Supp. 1146) which describes the horrific conditions in the SHU. In Madrid, Chief Judge Henderson of the Northern District Court found that Pelican Bay had engaged in systematic acts of brutality against its inmates including placing naked inmates in cages outdoors in inclement weather, deliberately burning the skin off of a mentally ill prisoner, and assaulting inmates in their cells. The court found that these abuses were perpetuated, "... By A Code of Silence, among the staff at Pelican Bay, and by the extreme isolation of the inmates at the prison..." \* 1.

Question (2): can you identify/or explain? The Three primary groups, of CDC employees? Whom are engaged in an un-lawful Code of Silence. Regarding systematic civil, criminal, and Human Rights violations, at PRSP-SHU?

Answer (2): yes. Group one can be identified, as prison custody Employees. Their contrived Motto/ and Branch of silent acquiescence. To all

4.

acts of civil wrong-doing. Can be summed up as;  
"... we, shall See No Evil !!!" ||

Group Two, can be identified, as medical Dept.  
Employees. Their contrived motto/and Branch of  
Silent acquiescence. To all acts of criminal  
assaults, set-ups, Terror, coercion, un-justified  
shootings, Divide/and Conquer strategies, and  
Deeply ingrained wrong-doing. Can be summed  
up as;  
"... we, shall Hear, No Evil !!!" ||

Group Three, can be identified, as Religious Service  
Employees. Their contrived motto/and Branch of  
Silent acquiescence. To all acts of Religious  
P. secution/and Human Rights violations. Can be  
summed up as;  
"... we, shall, Speak of, No Evil !!!" ||

Question (3): can you identify/or explain ? How  
many years, has the PBSF-STHU? Been open, and in  
full operation? As an Experimental Torture  
chamber. of politically sanctioned, Human  
Destruction?

Answer (3): Yes. From December 1989, thru December  
1999. A period of Ten (10.) years. of Life Destroying,  
mass-media Lies, cover-ups, Political Propaganda,  
Genocide/and Population control, and Silent  
opposition/or veiled acquiescence. To the  
Insidious spread, of Neo-fascism.

Question (4): During the above, ten year period?  
Has the "code of Silence?" By the Branch of  
"we shall, See No Evil Employees?" served to

No. in Time, winter 1997.

Crescent City's Colonial Master:

By: Christian Parenti:

Prison Activist List — In 1964, a Tsunami swept through Crescent City, CA, and completely destroyed its downtown. Nine people died and the city near ~~the~~ the Oregon border seemed like it would never recover.

Twenty-five years later, the California Department of Corrections rolled in and, with little opposition, built the sprawling \$277.5 million dollar Pelican Bay State Prison, one of the country's newest and meanest prisons. Half the inmates are deemed incorrigible and locked in their cells for 23 hours every day.

The prison is now the biggest employer in Crescent City and all of Del Norte County — and some say the city's new Colonial Master.

The prison's political and economic clout is partly due to Crescent City's extreme isolation and poverty. Only 4 of the area's <sup>17</sup> saw mills were in operation when the prison arrived; commercial salmon fishing, formerly a mainstay of the local economy, was dead, and 164 businesses had gone under during the 1980's. By the time the CDC came scouting for a new prison site, unemployment had topped 20 percent. Del Norte County, with Crescent City at its heart, was in a terminal economic torpor, and the prison seemed its only hope.

It's a familiar scenario. From Bowling Green, Miss., to rural Florida, economically battered small towns all over the country are rolling over for new prisons. The prison industry is so booming that prisoners accounted for five percent of all new rural residents between 1980 and 1990, according to the National Criminal Justice Commission.

"...were a penal colony, plain and simple," says John Levy, ~~of~~ Crescent City lawyer who defends Pelican

Bay prisoners. This is California's Siberia...!!

Most people in Del Norte County are just happy to have jobs. Pelican Bay employs 1,500 people with an annual pay roll of \$50 million dollars and a budget of more than \$96 million dollars. Among the indirect benefits to Del Norte is a contract for hauling away the prisons garbage that's worth \$130,000 a year—big money in the States poorest county.

Almost 6,000 people have moved to Del Norte since the prison was built, in creating the county's population to 28,000 (including the 4,000 prisoners). Housing starts have doubled, as has the value of local Real Estate. The building boom attracted a huge Ace hardware store and a 90,000 square foot K-mart, and an equally mammoth Safeway.

"... In 1986 the county collected \$73 million dollars in sales tax, and last year it was \$142 million dollars, county access of Jerry Cochran says..."

Local government is also saving money having Low security level one prisoners do public works jobs. Between January 1990, and December 1995, Pelican Bay inmates worked almost 150,000 hours repairing everything from school grounds to public buildings. Had the free prison labor been billed at the meager sum of \$7.00 dollars an hour, it would have cost the county more than \$766,000 dollars.

"... crescent city has sold its soul to the Devil, says C/PF investigator and former prisoner, Louis Talamantez. The city got a few jobs, but that's about it. Meanwhile, the whole lockdown economy feeds off prisoners... many of whom will never see the world again..."

systematically obstruct, all servants and reporters?  
 at the public print, radio, T.V., internet, and other  
 alternative mass-media networks. From learning  
 the True Nature and premeditated Civil Rights  
 violations? Here, in California, PBSP-STU?

Answer (4.): Yes  No

Question (E): During the above Ten year period?  
 Has the "Code of Silence?" by the Branch of  
 "We shall Hear No Evil Employees?" served to  
 systematically obstruct, all American based,  
 Progressive Peace and Justice workers? For a  
 True Democratic Social order? From learning  
 the True conditions and calculated acts of  
 criminal minded conspiracy, co-conspiracy,  
 complicity in conspiracy, and daily  
 wrongdoing. Here, in California, PBSP-STU?

Answer (5.): Yes  No

Question (E): During the above Ten year period?  
 Has the "Code of Silence?" by the Branch of  
 "We shall Speak of No Evil Employees?" served to  
 systematically obstruct, all American based  
 Spiritual, Faith, or Religious workers? For the  
 traditional cause, of Divine Truth, Justice,  
 Freedom, and The Victory of Good (God). over  
 the Evil Forces, of Rapacious Greed, Tyranny,  
 Economic Exploitation, and Absolute Injustice?  
 From learning about the True campaign of daily  
 psychological Torture and the Genocidal  
 conditions of Indeterminate Domestic Exile.  
 Here, in California, PBSP-STU?

Answer (6): Yes  No

Question (7): Can you identify/or explain? under what Divinely instructed, historical, moral, and Religious Traditional Volumes of Books? was the newly Born Thirteen (13.) Tribe System of Self-Reparations? And Land-based, Domestic Colonial Nation, called America founded?

Answer (7): yes. upon review, of the primordial volumes, of both oral/and written history Books. of the Ancient Hebrew-Israelites. Compared to, the greatly Later-Day historical writings of the American Founding Fathers.

America, as a Living Seed/and proto-Type of Divinely instructed Truths, Liberty, Justice, and Democracy for all. was to be founded upon, the eternal Foundation-Stones, of Ancient Sacred/and Sacred Wisdom. As Revealed, under the Judeo-Christian Tradition? And the authorized

~~King James English-Language Translation of the Sacred Hebrew Holy scriptures.~~

And Behold: Question: Can you identify/or explain? Is there, a particular Quote, of sacred scripture and Divine Law-codes? which specifically prohibits the code of silence; calculated acts of human rights violations; and a daily Regime of Absolute Injustice. Which is being perpetuated here in California's PBSP-SHU?

And Behold: Answer: yes. See St. Matthew ch. 25-31-46.

State of California.

current status: Domestic Exile.

Captive  
territory (1-)  
Domestic Exile.

resident city -  
Petaluma Bay  
State Prison.

Captive  
territory (2-)  
Northern  
California.  
City of Oakland.  
San Quentin  
State Prison.

Captive  
Territory (1.)  
Southern  
California.  
De-Facto Apartheid,  
Segregation.  
Los Angeles County  
State Prison.

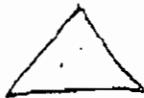


Current status: Domestic Exile.

//... study The Evidence Series... //

y: Minister, Baba Yafiu Iyapo - I.

(1) See, No Evil.  
Prison custody Employees.



(2) Hear No Evil.  
Medical Dept.  
Employees.

(3) Speaks No Evil.  
Religious Service  
Employees.

//... state of Denial ???  
or code of Silence ??? //

December 1989 - December 1999.

u.s. Government, Domestic Colonial, War  
strategies.

To insidiously,  
propagandize,  
persecute,  
murder,  
Kidnap,  
Framer-Up,  
imprison,  
and otherwise neutralize...

our next generation, of Natural New African,  
youth Leaders, organizers, Rebels, and  
related perceived threats. To Domestic  
Colonial Security..."

... And from 1959 to 1997; I learned the  
meaning, of Neo-Fascism/ and a Second,  
Genocidal, Black Holocaust. when our  
New African, Indeterminate SHU-class.  
was pretextually accused, of thought  
crimes!!

Judged Guilty, of Harboring, a  
Dangerous mind!!

And then transported, to the Pelican Bay  
State Prison, Super maximum Security  
Facility. As a Politically Sanctioned,  
White Supremacist Bastion, of  
Indeterminate Domestic Exile.

which was conspired/and designed,  
over Thirty years ago. As a calculated,  
un-Human Torture Chambers. which seeks  
to identify; separate; isolate; and

13.

attempt to Destroy. All Sources of  
Nationalist Political Dissent. . . ||

And Behold: The members of our captive  
gathering. Began to slowly understand. Why it is  
imperative, to organize a new campaign. of  
Anti-Fascist, Anti-Imperialist, and Grass  
Roots Political Re-Education.

For our children, For ourselves:

Each one must Teach one:

our Freedom Begins,  
with A state of mind:

set our captive's Free:

I Remain,  
Minister, Baba Yafu Iyapo-I.  
Isaiah 61:1.

current status: Domestic Exile.

14.

Current Status: Domestic Exile.

For our children, For ourselves:

Each one, must Teach one:

"... Study The Evidence Series..."

"The Need For Political Re-Education";

When the first guest speaker arose. To read her essay. of how police Death Squads. Are utilized as premeditated tools. of Terror, murder, and violent subjugation. By all unjust. Plutocracies, oligarchys, and Tyrannys.

many members of our community gathering, initially believed. That such a Traumatic Series of Human Afflictions. were from the foreign pages, of Argentina, Peru, Chile, or some other once Dictatorially Ruled, South American Republic.

When the second guest speaker came forward. To present his analysis. of how Nationalist dissident groups. Became the calculated Targets. of once-secret, Political Persecution, Repression, Kidnap, and Disappearance campaigns.

many members of our educational gatherings, initially believed. That such a grievous history, of political police activity; un-restrained abuses of power, were from the distant pages, of Guatemala, Nicaragua, El Salvador, or some other, once Tyrannical, Central American Country.

And when the Third guest Speaker. Began to read her expose. of how young Revolutionary workers, Speakers, organizers, Leaders, and

15.

ardent Believers. In the universal cause of Democratic Truths, Freedom, and Self-Determination. Became the once-secret Targets, of a mortal conspiracy's. To hunt down; falsely arrest; and sentence hundreds of Political Dissidents, to the Living Death status. of being Banished, to the Desolate Gulags, Stalags, Siberias, and other Politically Sanctioned Bastions. of Indeterminate Domestic Exile.

many members of our Political gathering, initially Believed. That such a Flagrant History, of International Human Rights Violations. Could have only occurred, during the Darkest/and most un-Democratic years. of the Communist, Russian Empire.

But, then came an underground message. and a crudely drawn map. which became one of the Keys. to clarify, all of this evening's, Collective Learning Experiences.;

"...my name is Yafey Iyapo-I. I am a New African man, by Birthright, culture, National cause, and personal commitment. And from 1956 to 1975; I learned the meaning, of organized white Supremacy/and local ~~Police~~ <sup>Police</sup> Death Squads. While growing up in the captive Territories/and De-Facto Segregation, of Southern California..."

"...From 1975 to 1987; I learned the meaning, of Institutionalized Racism/and Political Persecution. After I was Targeted; Tracked down; and then, ... Disappeared..."  
During the once-secret, but now Revealed.

Current Status: Domestic Exile.

For our children, For ourselves:  
Each one, must Teach one:

"... Study The Evidence Series..."

"The Need For Political Re-Education";

When the first guest speaker arose. To read her essay. of how Police Death Squads. are utilized as premeditated tools. of Terror, murder, and violent subjugation. By all unjust Plutocracies, oligarchys, and Tyrannys. many members of our community gathering, initially believed. That such a traumatic series of human afflictions. were from the foreign pages, of Argentina, Peru, Chile, or some other once historically ruled, South American Republic.

When the second guest speaker came forward. To present his analysis. of how Nationalist Dissident groups. became the calculated targets. of once-secret, Political Persecution; Repression; Kidnap; and disappearance campaigns. many members of our educational gatherings, initially believed. That such a grisious history, of Political Police activity; un-restrained abuses of Power. were from the distant pages, of Guatemala, Nicaragua, El Salvador, or some other, once Tyrannical, Central American Country.

And when the Third guest speaker began to share her expose. of how young Revolutionary thinkers, speakers, organizers, Leaders, and

17.

I Ramdān,  
yours in Eternal Faith:  
And Divine Service:

Minister, Baba Yafeu Iyapo - I.  
Isaiah 61:1.

Current status: Domestic Exile.  
December 1989 - December 1999.

Footnote: 1) See, Civil Rights Attorneys open virtual  
site to Expose Abuses At Pelican Bay State Prison.  
<http://www.surf.com/w12210>. It can be accessed via  
the website at:

<http://www.surf.com/graham>  
[www.358Hayes.com/](http://www.358Hayes.com/)

Please send your cards, letters, or any questions  
you may have to the following NARN collective.

Think Tank Coordinators:

Sondai D. Kamdiba	Ghā-is muntaqim
S/N, R. Ellis, C-68764	S/N, C. Glemay, C-60680
DB-11, P.O. Box 7500	DB-11Z, P.O. Box 7500
Crescent City, CA 95532	Crescent City, CA 95532

Abasi Ganda	Baridi Yero
S/N, C. Jackson Jr, C-33559	S/N, J.X. Williamsun, D-34288
DB-11, P.O. Box 7500	DB-109, P.O. Box 7500
Crescent City, CA 95532	Crescent City, CA 95532

**EXHIBIT E**

~ PRISONER DECLARATION ~

we the undersigned PRISONERS submit this collectively signed declaration in support of Plaintiff's 42 U.S.C. 1983 Civil Rights claim that C.I.F.U. investigators T. DREW violated the First Amendment when he punished Plaintiff ELLIS, for reading NEWSPAPERS and MAGAZINES that belonged to other PRISONERS housed in the same housing pod.

our collective declaration will attest to the fact that PRISONERS of many different RACES and ethnic backgrounds routinely share books, NEWSPAPERS and magazines with each other, and such have never been written up or considered even in the remotest way as some form of gang activity and/or ASSOCIATION.

IN prison Bay PRISONERS ARE confined to a small section called a pod consisting of CBS cells, for decades PRISONERS only form of social interaction is with these B. MEN, my signature attests to the fact that, never in my 5th confinement has my possession of newspapers, books or magazines belonging to other PRISONERS ever been considered gang activity or association.

I Declare under penalty of perjury that the foregoing is true and correct, based on my personal knowledge.

NAME	ID.#	RACE	YRS. OF SERV.	POD
Randall Ellis	C-68264	blk.	24 yrs.	206
Manuel Garate	C75553	Mex.	18 yrs.	205
Jimmy [unclear]	F37563	Mex.	10 yrs	D2-208
Alfred [unclear]	D#61000	MEX	21 yrs	D2 105
Walter [unclear]	#63677	MEX	12 yrs	D2-106
James [unclear]	J-21514	white	14 yrs	D2-107
Richard Miley	D-29634	white	14 yrs.	D2-108

AFFIDAVIT

I, CHARLES WESLEY COLEMAN, C-60680, DECLARES AS FOLLOWS:

1) I AM A PELICAN BAY STATE PRISON, SECURITY HOUSING UNIT, INTERMEDIATE, PRISONER WHO WAS HOUSED, IN JANUARY 2000 IN BUILDING D6, POD C, CELL 112.

2) MR. ELLIS AND I HAD BEEN ASSIGNED OCCUPANCY IN CELL D6-112, APPROXIMATELY, THROUGH 1997-1998, PER CDCR'S HOUSING ASSIGNMENT ACTION.

3) AMONG THE PRISONERS LIVING IN C-POD THERE WAS A MR. JAMES FOSTER, WHO WAS HOUSED IN CELL # D6-212, DIRECTLY ABOVE CELL # D6-112, UP TO THE TIME HE WAS TRANSFERRED TO FACILITATE HIS GENERAL POPULATION PLACEMENT, IN THE YEAR 2000.

4) THE SOCIAL SETTING WITHIN THE SECTOR - C-POD - WAS ONE IN WHICH PRISONERS COMPORTED THEMSELVES WITH COMPLIANCE WITH ALL LAWFUL EXPECTATIONS. OUR BEHAVIOR WAS CONSISTENTLY WITHIN THE ACCEPTED LAWFUL STANDARDS WHICH MANIFEST ALIGNMENT - I.E., WITHOUT VIOLATIONS - OF PRISON RULES AND REGULATIONS. I, PERSONALLY, ELECTED TO PARTICIPATE IN PRACTICES THE FIRST AMENDMENT GUARANTEES. AS BINDING PROVISIONS RELATIVE TO SOCIO-POLITICAL

II

CONVENTIONS, RELIGIOUS OBSERVATIONS, CULTURAL EXPRESSIONS, ETC., AS THESE INTERACTIONS WERE OF NON-COMPULSORY NATURE AND A SOCIAL INTERCOURSE REFLECTIVE OF NORMS, POLITICAL LEADINGS, SOCIAL CONVENTIONS AND RELIGIOUS DOCTRINES SUBSCRIBED TO BY WHOMSOEVER EMBRACING THE UNDERLYING TEXTS. ALL ACTIONS WERE UNSOCIOUS, IN THEIR SCOPE/CONTEXT, AND INFLUENCES/IMPACTS. NO WILL-COERCED NOTION/DISTORTION CAN ACCURATELY DEFINE THEM AS GANG RELATED ACTIVITY, PERIOD. THEY ARE MERELY, E.G., NEW AFRIKAN, EXPRESSIONS OF UNIFYING POLITICAL PERSUASION, OBSERVANCE OF CULTURAL NORMS AND A CONTINUITY OF MORES FOUNDED UPON THE HISTORICAL TRADITIONS THAT ARE OUR HERITAGE. FOR INSTANCE, FOR PRACTICING MUSLIMS THERE WAS OBSERVANCE OF THE ISLAMIC OBLIGATION OF RAMADAN.

5) I HAVE NO ATTACHMENT TO ANY FORM OF GANG ACTIVITY NOR DO I HAVE A MENTALITY THAT COULD MANIFEST THROUGH DEED AND ACTIONS AS A MINDSET ADVANCING PROSCRIBED ACTS/ACTIONS. I HAVE DOCUMENTS/EXHIBITS - CONSISTING OF 602 APPEALS, A LITIGATION, SUBMITTED TO THE DEL NORTE SUPERIOR COURT, THAT COURT'S RULING, ETC - ATTESTING TO FACTS, AT ISSUE, WHICH STEM FROM DIRECT EXPERIENCES IN WHICH THE DEFENDANTS HAVE CARRIED OUT RACIALLY BIAS POLICIES, IS CORRELATED WITH THE MATTER BROUGHT BEFORE THE COURT AS EVIDENCE.

6) I AM WILLING TO TESTIFY AS TO MY AFFIDAVIT, SHOULD THE MATTER BEFORE THE COURT BE SCHEDULED FOR TRIAL AND I CAN

DO SO BASED UPON MY PERSONAL KNOWLEDGE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. 5/16/08

MR. Charles W. Coleman

**EXHIBIT F**

Affidavit of Leonard N. Alexander B-72288, in support of a current legal action by R. Ellis, C-68764. Re. a prior inactive review conducted by L.F.I.U. investigator, T. Drew.

I, Leonard N. Alexander, B-72288, do declare and state the following requested issues and information:

- 1.) I am not a current party in this action.
- 2.) I am over the age of 18, and born a citizen of the U.S.
- 3.) I am at the time of this writing a captive prisoner of the state of California, and I am being held in the Security Housing Unit (SHU), of the Pelican Bay State Prison (PBSDP).

4.) During the month of January 19, 2000, I was previously housed in PBSDP D6-cell 209.

5.) For several months between 1998 and 1999, I was previously housed in PBSDP-D6-cell 111. And as a Afrikan/Black prisoner whom has been housed in SHU custody for the last 25 plus years. I have been the subject of the CDCR's authorized double cell/housing arrangement with several other similar-situated Afrikan/Black prisoners, including R. Ellis, C-68764.

6.) Per the enclosed Reference (1) titled:  
Peoples Tribune. January 23, 1996.  
Article Title: Peoples Tribune Responds as California Prisons censor Journalists.

The First casualty of war Is The Truth.

By: Anthony D. Prince, on behalf of the Editors.

Re. the above issue (5), during said period that R. Ellis and myself were double-celled together, I personally had the opportunity to receive and discuss the then newly enacted CDCR media Ban related article with prisoner Ellis.

7.) Re. above issue (5) (6), as a direct result of such living arrangement and the natural human interaction within

such mutual social setting. I personally had the opportunity to engage in a mutual selection of process - during which R. Ellis/and myself were able to agree that in response to the enclosed Reference (1.), then newly-enacted CDRK media Ban. He, I, and other similar-situated Afrikan/Black prisoners, needed to exercise our protected First Amendment Rights - to create a series of educational Letters, Pamphlets, study guides, and community outreach projects. To correspond our concerns and interests to both, (a) outside members of the media/and Journalism community, and (b) outside members of our own Afrikan/Black community.

8.) Re above issues (5.) (6.) - while I was cellies with R. Ellis, I had the opportunity to personally witness the above prisoner, and vice-versa, pursue the wholly legitimate penological interests - of using his/our daily time, energy, intellectual, and creative skills, to help prepare a series of original hand written manuscripts, and a proposed community outreach campaign. That included several of the below working titles. That we intended to mail out to be typed, make copies, and then mass distribute to a list of outside sources, Re. the above (7.) (a.) (b.);

(a) cover page title:

current status: Domestic Exile.  
study The Evidence Series.

"... state of Denial ???  
or Code of Silence ???

December 1989 thru December 1999.

By: Minister, Baba Yafeu Iyapo - I.  
S/N, L. Alexander, B-72288.

(b) part one title:

"... our struggle continues..."  
which included, an introductory address to "my sisters and

Brothers!! As well as, a handprinted copy of the enclosed  
reference(s) titled,

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Peoples Tribune. January 22, 1996.

Article Title: Peoples Tribune Responds as California  
Prisons censor Journalists.

By: R. Ellis, C-68764.

(c) part Two title:

---

!!.. state of Denial???

or code of silence???

By: minister Baba Yafeu Iyabo -I.

S/N, L-Alexander, B-72288.

(d) closing section title:

---

Please send your cards, letters, or any questions you may have  
to the following NARN collective Think Tank Coordinators:

(Note: which was followed by a list of four prisoners  
names/and prison numbers.)

and per the above (7) (a) (b), R. Ellis/and myself made a  
good faith efforts to extend our protected first  
Amendment collective problem solving endeavors, to other  
captive members of our Afrikan/Black class-based  
group of in-need lifer status prisoners. under which,  
we included the name, prison address, and general  
contact information of other similar-situated Afrikan/  
Black prisoners. whom were-are also mutually seeking  
to exercise their wholly legitimate penological interest,  
to be able to correspond our mutual concerns and  
interests with both, (a) outside members of the media/and  
Journalism communitys, and (b) outside members of our  
own Afrikan/Black communities. Each of whom, has a  
clearly established Federal/and state created Liberty  
interests, to engage in a new process of;

(1) personal correspondence.

(2) personal visits.

and (3) the fully Equal, and open exchange of four intellectual

and creative manuscripts, 10 and a 11 on our particular  
Indeterminate stay classified groups (African  
Case 1:02-cv-05646-AWI-SMS Document 148 Filed 07/12/10 Page 86 of 112  
Black Lifer status prisoners.

9.) If there is any need for me to Testify to the content  
of the enclosed Affidavit. Yes. I am available to  
attend any related Hearings/or scheduled trials in behalf  
of R. Ellis, C-68764.

10.) I hereby declare under the penalty of perjury that  
the foregoing information and statements are True and  
correct, except as to matters that are stated on my  
personal information and Beliefs. And as to those  
matters, I Believe them to be True. Signed this date,  
in the county of Del Norte, Crescent city California.

Respect Fully Submitted,

Name : Mr. Leonard N. Alexander, B-72288

Signature: Mr. Leonard N. Alexander, B-72288

Date : Tuesday, May 27, 2008.

Affidavit - author.

current contact address:

Mr. Leonard N. Alexander  
B-72288  
D3-118, P.O. Box 7500  
Crescent city, CA 95532

Peoples Tribune. January 22, 1996.

Article Title: Peoples Tribune Responds as California Prisons Censor Journalists.

The First Casualty of War Is The Truth.

By: Anthony D. Prince, on Behalf of The Editors.

!!... This Ban aims at concealing from the public the Truth about the record number of Americans behind bars - 1.5 million !!!

The audience at North Western University was shocked into a hushed silence as the horrible image of a human being - blistered and bloody from third degree Burns - came up on a large video screen. From behind the camera, a national Television news magazine covering allegations of Torture at California's Pelican Bay State Prison had captured dramatic, irrefutable evidence of an inmate deliberately aided nearly to death by correctional officers. Months later, a Federal Judge would hand down a scathing condemnation of Pelican Bay officials for widespread brutality and abuse. I was in the audience that night. As a reporter whose beat includes the prison world, this moment of outstanding, un-nerving Journalism drove home the importance of a free press in a society that prefers to hide Injustice, especially in justice behind bars. So it was the words and image of that horribly maimed inmate that I remembered when I learned that officers of the Department of Corrections had completely barred reporters from conducting in-person interviews with state inmates;

... we did this because we didn't want to have inmates becoming celebrities and heroes!! states J.P. Tremblay, assistant secretary of the department, justifying the Ban and pointing out a handful of recent

But, the Journalist community of this nation has not been fooled;

// ... prisons are public institutions, says Peter Sussman, President of the Northern Californian Branch of the largest and oldest association of reporters in the United States, "the Society of Professional Journalists."

// Especially at a time when prison issues are near the top of the public agenda - and when the state Department of Corrections has lost high-profile court suits challenging treatment of high security and mentally ill inmates - it is imperative that the media have unfettered access to the prisoners whose rights have been upheld in court... //

I would go my colleague one further: This Ban aims at concealing from the public the truth about the record number of Americans now behind bars - 1.5 million, of which 130,000 are in California, where poverty, deprivation, and Three-Strikes Laws, promise even more.

This Ban aims at shrouding in secrecy the true nature of the Prison Industrial Complex, whose grip has made the California Correctional Officers Association the most powerful political lobby in the state, costing tax payers millions. This Ban aims at subjugating the First Amendment Rights of us all to the reactionary self-interests of the prison crats and sets a dangerous precedent for all state agencies, (especially the criminal justice system), to dictate what the public will and will not be told.

It is said that "The First Casualty of War is the Truth" well, there is a war in this country, between a Ruling elite that cant feed, house, and employ millions of people and those who are being pushed to desperation and increasingly winding up behind bars. Will the first casualty of this war, be the Truth???

we urge all those who understand the significance of these Anti-Democratic, Police-state measures to hold firm. The peoples Tribune, and specifically, "Americas Lockdown," will continue to do what we have done all along: Report the side of the story that the Ruling class doesnt want you to know. we intend to join the immediate struggle to overturn californias Ban on face-to-face interviews, but, like our fellow Journalists, we will not be intimidated by it.

"...The struggle continues..."

James Randall Williamson, a39286  
Pelican Bay S P SHU d4/cell107  
P.O. Box 7500  
Crescent City, Ca 95532

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10

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RANDALL ELLIS,  
Plaintiff,  
v.  
Defendants.

CV-02-05646AWI-SMS PC  
WITNESS AFFIDAVIT  
IN Support of Plaintiffs' Claims

11 I, James Williamson hereby this sworn statement declare:  
12 1). I am a California State Prisoner currently housed at Pelican Bay S P,  
13 having arrived here in November 1990; We, PBSP SHU prisoners, have no con-  
14 trol over where and with whom prison officials assign us to their housing;  
15 2) I am familiar with the above-named plaintiff, Mr. Ellis. In Jan. 2000,  
16 CDCR-PBSP official assigned me to the same SHU Facility Housing Unit D6  
17 with Mr. Ellis, along with several other CDCR prisoners with the same Afri-  
18 Kan heritage historical, cultural, social, racial, national, etc. background; a  
19 prisoner named James Foster was also assigned to this same location in Cell D6-212  
20 in 2000 and released to the G.P.  
21 3) I remained housed in this assigned housing location "D-Facility-Unit 6  
22 for over three (3) years. During this period, our outside community re-  
23 gularly supported/invited/encouraged its imprisoned citizenry here  
24 in PBSP (including those housed in its SHU), to establish and maintain con-  
25 tact with the community (via correspondence, visitation and partici-  
26 pation in its natural human and social developmental process; (see  
27 paragraphs 4-6 below)  
28 4) While I was assigned to Unit D6, Cell 212 (and later reassigned to Cell  
209) "C" Pod, there was several occasions when our outside commu-  
nity would issue a notice for us, confined in CDCR, to collectively par-  
ticipate in a social, cultural, educational, etc. event, program, project,  
etc.; and being that Mr. Ellis, myself and others who share this  
same inherent community collective relation, we would answer  
our community call with a written innocuous article, such as the one

1 we collectively shared with our Community entitled "Domestic Exile," But  
2 CDCR Rules do not prohibit such innocuous collective Free speech/expression and  
3 natural human-social interaction;

4 5) It is not unusual for CDCR prisoners assigned to the same loca-  
5 to collectively share in the outside world/Public/Communities innocuous  
6 First Amendment exercises. I personally have and continues to do so both  
7 with CDCR prisoners in general and those who share the same Community/  
8 historical/social/cultural, etc background as myself; including having our  
9 names on collective similar-situated Class matters.

10 6) Between 1990 to Present, I personally know that we, CDCR-PBSP SHU  
11 prisoners was contacted by outside Public/Community/World entities like  
12 "Pelican Bay Information Project" (Now Called "California Prison Focus"), a Human  
13 rights org., who monitors /visits PBSP-SHU, and invited to both individually and col-  
14 lectively submit news, creative writings, art, etc. to them, who also pu-  
15 blishes their own publication named "Prison focus". In 1994, the organi-  
16 zation "Pelican Bay Support Project", a new afrikan black Community-based  
17 educational/news, etc. organization invited PBSP-SHU new afrikan black pri-  
18 soners to correspond, participate with our outside Community develop-  
19 mental efforts, both individually and collective. In 1995, the new afrikan  
20 black community educational organization "National Association of Brothers-  
21 Sisters Inside-out" ("NABSIO") reached out and contacted CDCR-imprisoned  
22 New afrikans, including here at PBSP/SHU (and across the nation) and invit-  
23 ed us to join in/enroll/participate in our outside Community's endeavor  
24 to provide literary and cultural education-news for their various programs  
25 (eg. African Studies/George Jackson University-Malcom X Books to Prisoners, Marcus  
26 Garvey Study, New Afrikan Think-tank, Criminology 101, Cutting Edge News, etc. These  
27 are just some of the Community, etc. efforts that seeks Collective participation  
28 such as submission of innocuous articles like the "Domestic Exile" one we sign-  
ed and mailed out via CDCR-PBSP mailroom; It had nothing to do with any "Gang  
activity, whatsoever;

7) The reason why the prison guards here are trying to rely on such  
innocuous Free speech/expression and human interative socialization discuss-  
ed above to be so-called "gang activity" is because at the time they accus-  
ed us of such signing the article for our outside Community (world/public) is

1 because of the then recent ruling of the Sacramento Superior Court in  
 2 the case of 'In re Steve Castillo', (98F05216, Order 6/11/99), finding that CDC  
 3 Indeterminate SHU Segregation "Debriefing" was an illegal "underground policy  
 4 and practice. A Judicial Ruling that CDC stated in its 1998-99 Rule Chan-  
 5 ge Administrative Bulletin "threatened" its current gang classification/  
 Segregation/Validation scheme; (CDC NOTICE No. 99/08, dated 8-19-99, page 2)

6 ). Immediately following the above-stated Court ruling, CDCR-PBSP  
 7 employees here started writing prisoners like Mr. Ellis, myself and  
 8 similar-situated other PBSP SHU Indeterminate Class, alleged "gang" ac-  
 9 tivity, 'association', etc. for such innocuous Free speech/expression and human  
 10 social interaction, as the "Domestic Exile" article mentioned above and the  
 11 like, which prior to the state Courts ruling had been regularly per-  
 missible Correspondence to and from our Community/outside world as non-  
 12 gang articles, literature, etc. (see paragraph no. 46 above). This include do-  
 13 cuments prepared by our Community/Public/world with our names on it.

14 ). The Same action taken against Mr. Ellis happened to me person-  
 15 ally in 2001 when I became eligible for restoration of my credit earning  
 16 less restrictive housing program change. After six years disciplinary-free  
 17 with no serious misconduct rules /criminal violation evidence existing in my  
 18 prison file, the se IGI guards wrote up a report suddenly accusing me  
 19 of gang activity for my name being on a 2000 innocuous community  
 20 support correspondence with Mr. Ellis. (A document classified "confidential" to  
 21 prevent me from accessing and effectively proving my innocence.) This prac-  
 22 tice repeated itself six years later in 2007, when the Classification Committee  
 23 again found no evidence of gang activity in my prison file (marking 14 years  
 24 free of any serious misconduct report /criminal act(s)). yet the prison gang  
 25 guards (at the IGI) again claim that evidence of my involvement in gang acti-  
 26 did exist according their paperwork classified "confidential" again to keep me  
 27 reviewing its context to effectively disprove its validity and prove my innocence.

28 I declare under penalty of perjury that the foregoing is true and  
 correct, except as to those matters based upon information and be-  
 lief, which I also believe to be true. Executed this 15th day of  
 of May, 2008, at Crescent City, Ca.

*James Williamson*  
 James WILLIAMSON

**EXHIBIT G**

PELICAN BAY SHU: PRISONERS AND CONDITIONS

Court Findings of Facts: Madrid v.s Gomez, 889F.Supp.1228

The following is an excerpt from the U.S Northern District of California Court Records:

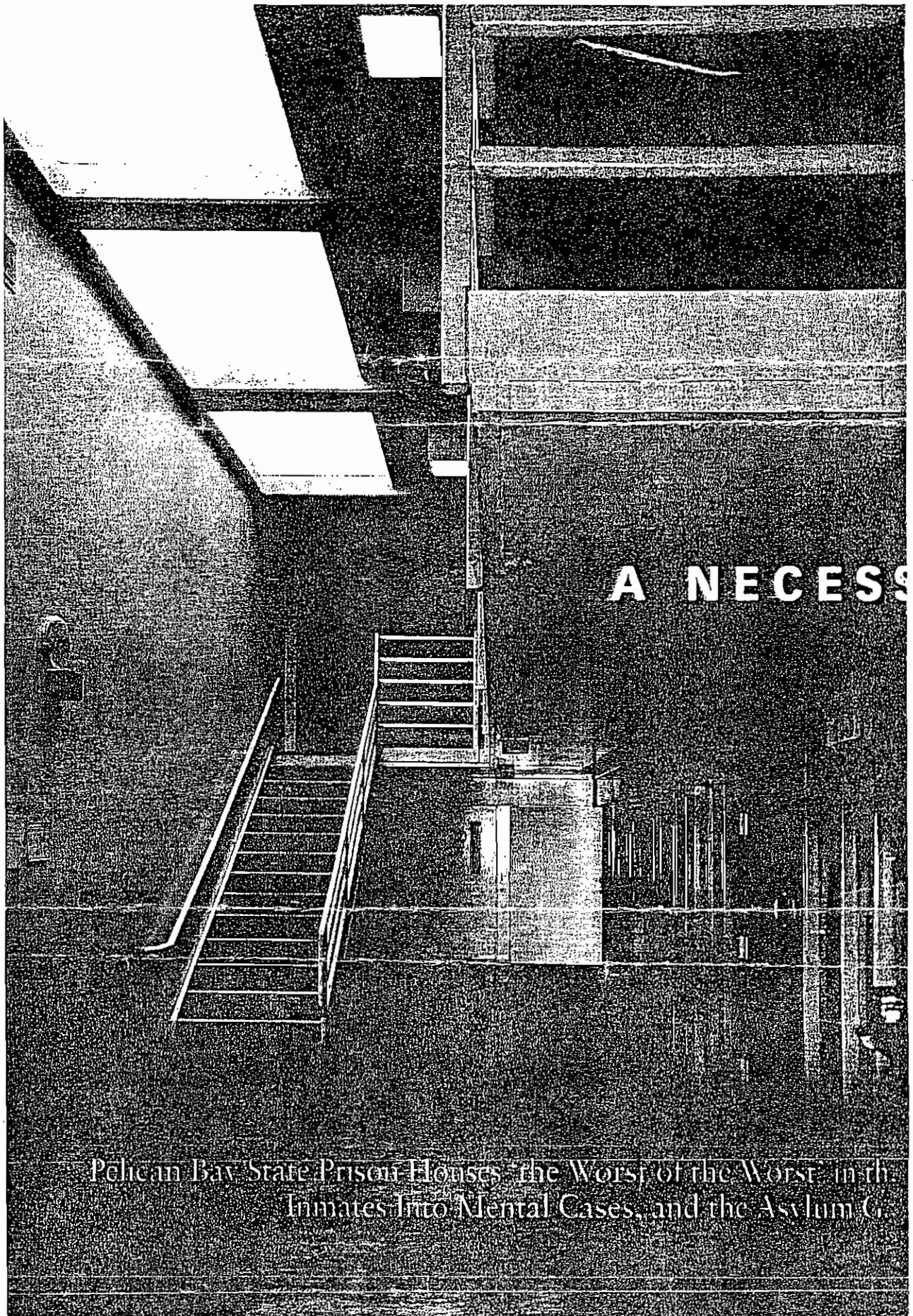
1. The SHU contains two virtually identical wings: "C" and "D", each divided into Cellblocks;
2. Each unit contains eight pods ("A-F") with eight cells in each pod. (Madrid Ruling, p1228)
3. Each pod has two short tiers with four cells on each tier.
4. Each cage is 80 square feet and contains two built in concrete slabs to sleep on And a toilet/sink.
5. The front cage/ door opening is made of heavy gage perforated metal which Significantly blocks light and vision.
6. Cage doors are controlled electronically.
7. Each pod has a skylight area in the ceiling, partially visible from inside the upper Tier cages, which allows some natural light to enter the pod area adjacent to the Cages, but primarily lights are florescent.
8. The SHU interior is designed to reduce visual stimulation: the cell blocks are Marked by a dull sameness in design and color; the cages are windowless; the Walls are white concrete. From within the cage all the that the occupants can see Through that perforated metal door is another white wall.
9. The end of each pod has a small exercise pen (size of a dog kennel) with cement Floor and walls 20 feet high and precludes any view of the outside world. (Madrid, 889F.S. 1228)
10. The exercise pen (aka, "yard") is covered partly by a metal screen and partly by a Plastic rain cover and provide access to whatever outside air that may make it Down the 20ft walls (Ibid.)
11. The exercise area's cell-like design and physical attachment to the pod makes Them more suggestive of satellite cells than areas for exercise or recreation. (Madrid, 899 F.S 1228)
12. Imprisoned persons in SHU can spend years without seeing any aspect of the Outside world, except for a small patch of sky. (Ibid.)
13. Prisoners in SHU can spend years without any aspect of human interaction, or With little opportunity for normal social contact with other people; (Id)
14. Imprisoned persons in SHU eat all meals in their cells with the food trays passed Through a narrow food port in the cell door. (Ibid.)
15. SHU prisoners are not allowed to participate in prison jobs or any other Recreation or education programs. (Madrid p: 1229)
16. No group social exercise is permitted. Prisoners in single cells exercise alone; Those in double cell status can exercise with their cellmates.
17. No recreational equipment provided. (Id.) the door to the yard is controlled Electronically.
18. Prisoners in adjoining cages can hear, but not see each other.

19. Interaction with staff is kept to a minimum. Cage doors are opened automatically by the control booth guard. Once on the tier, the prisoner must strip naked in front of the control booth. (Madrid at p. 1229)
20. Most contact between guards/ staff occurs in the routinized setting with prisoner in handcuffs and waist/ ankle chains. (Ibid.)
21. There is a pattern of guards/ using excessive force against prisoners. (Ibid.)
22. Prisoners may be escorted from their assigned pod/ unit on specific occasions, but these may be infrequent and generally provide only limited interaction.
23. Visits are conducted by telephone through a thick glass window, precluding human touch. (Madrid, 899 F. supp. at 1229-1230)
24. Due to distance from the metropolitan areas, many SHU prisoners get either few visitors or none at all. (Madrid at pp. 1229-1230)
25. Although many prisoners are double-celled, the conditions make any long-term normal relationship with cellmates impossible. (Ibid.)
26. SHU prisoners are not permitted to make phone calls.
27. SHU prisoners are allowed access to the exercise pen for 90 minutes, five times a week.
28. By any measuring stick, pelican bay SHU lies on the harsh end of the SHU isolation confinement spectrum.
29. Prisoners already suffering from mental illness are most likely to suffer a serious mental injury from continued exposure to the conditions of the SHU. (Madrid, 889 F. Supp. At 1235)
30. Certain SHU prisoners who are not mentally ill are at risk for incurring serious psychiatric problems if exposed to the SHU for any significant duration. (Madrid, 899 F. supp. at p. 1236)

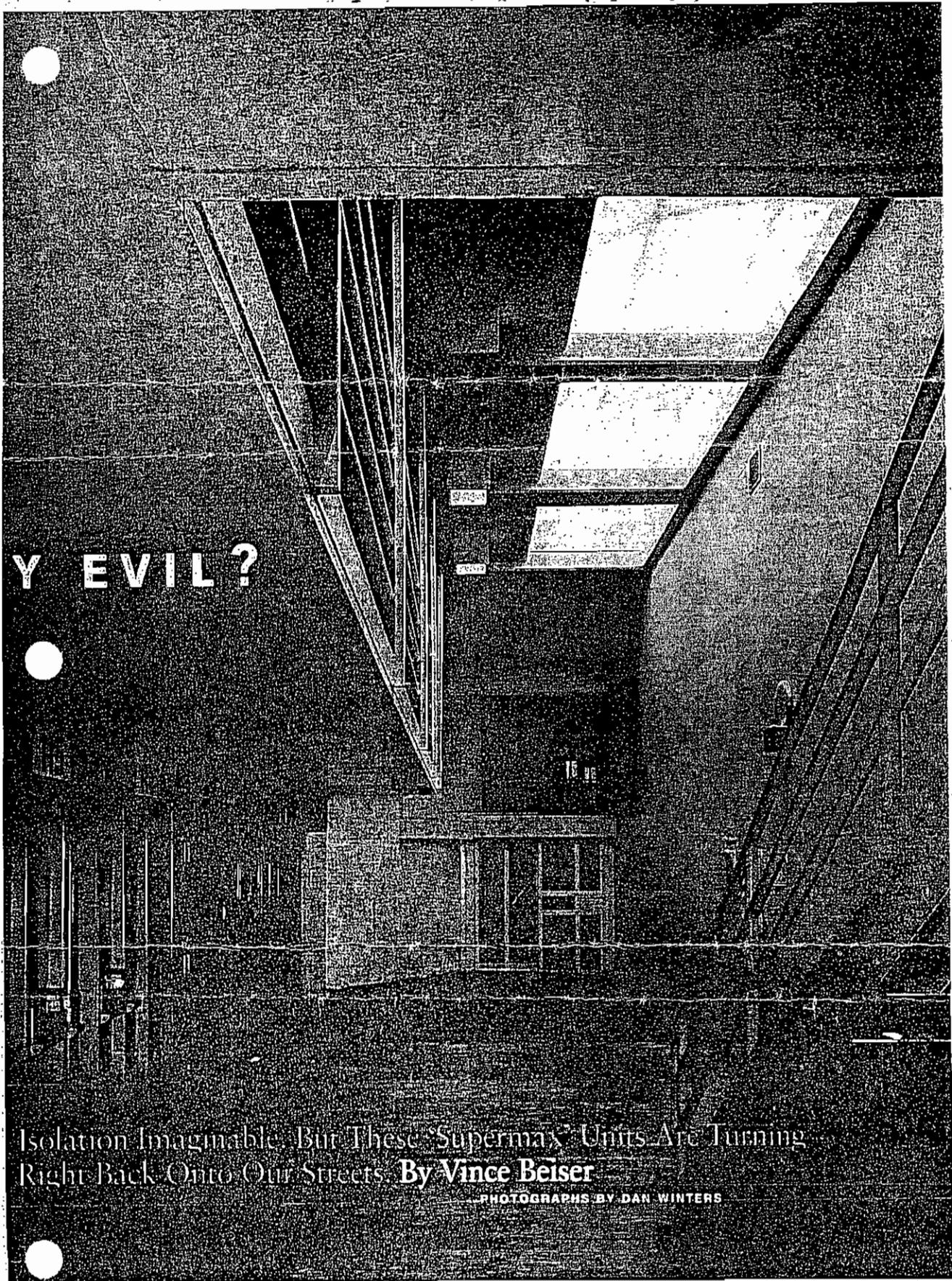
WELCOME TO EXTREME ISOLATION CONFINEMENT  
WELCOME TO PELICAN BAY SHU

(page 2 of 2)

EXHIBIT



Pelican Bay State Prison Houses "the Worst of the Worst" in the  
Inmates Into Mental Cases, and the Asylum C

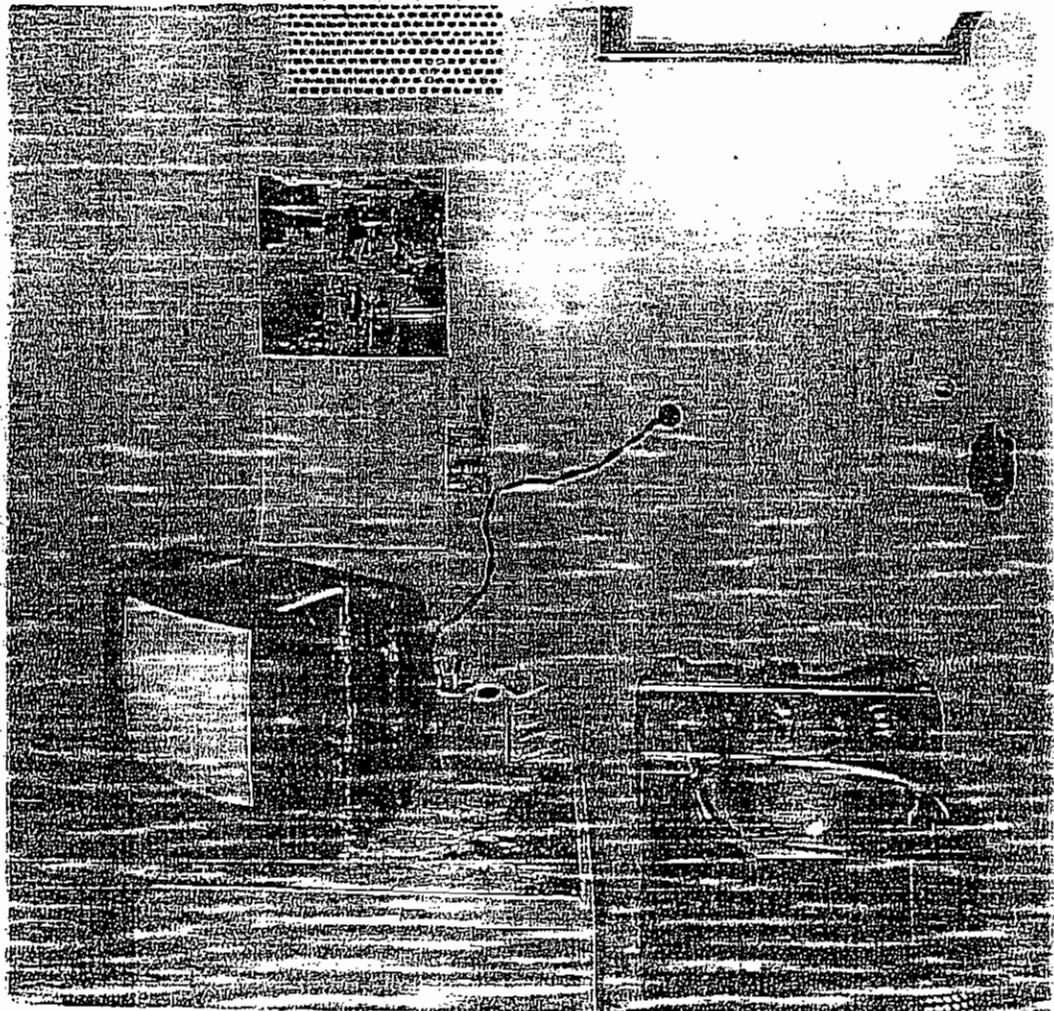
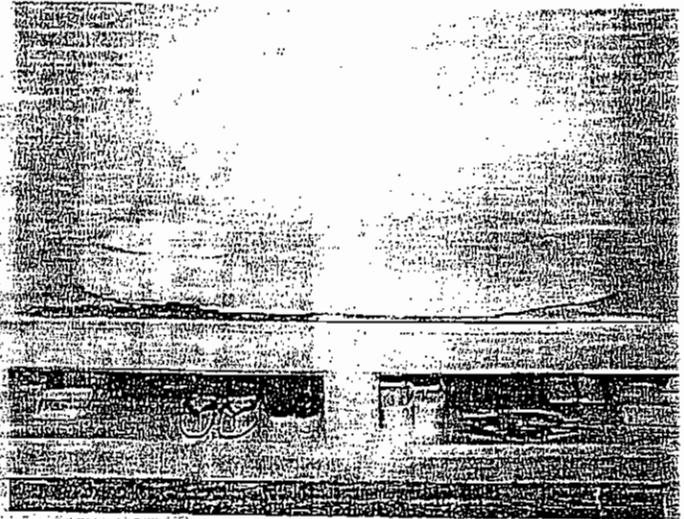


Y EVIL?

Isolation Imaginable. But These 'Supermax' Units Are Turning Right Back Onto Our Streets. **By Vince Beiser**

PHOTOGRAPHS BY DAN WINTERS

This is a picture of the section also but this one is taken from the yard door towards the front door. There are two rows of 4 cells in each section.



**I**

t's quiet in pod C5, deep inside Pelican Bay State Prison's Security Housing Unit, home to about 1,200 of California's most violent offenders. There are no sounds from outside, because there are no windows—only a skylight high overhead, through which gray daylight seeps into the bare quadrangle facing the pod's eight cells, stacked four on four. All that can be heard are a few subdued voices, and the occasional thunderous sound of a flushing toilet reverberating off the blank concrete walls.

This is not the crowded, clamorous kind of prison you see in the movies. The SHU, as it's known, is a starkly efficient place of electronically controlled doors and featureless concrete and steel. Occasionally, the monotony is punctuated by bursts of noise and violence. Sometimes inmates scream at guards, other inmates, or themselves. Sometimes there is the clangorous racket of a recalcitrant prisoner being forcibly extracted from his cell. But most of the time, nothing happens. Almost nothing is permitted to happen. That's the idea of the SHU.

If you're an inmate in a regular prison—even a maximum-security prison, which the other two wings of Pelican Bay are—most days you can play basketball in the yard or cards in the day room, work in the laundry room or dining hall and take meals with the other men on your tier.

In the SHU, there are no jobs, no activities, hardly any educational programs and barely any human contact. You are locked in your 8-by-10-foot cell almost around the clock. You can't see the other prisoners in the cells adjoining yours, nor the guards watching from a central observation booth. Most of the time, all you can see through the fingertip-sized perforations in your cell's solid steel door is the wall of the eight-cell pod, the larger cage containing your cage. Guards deliver your meals. Once a day, the remote-controlled cell door grinds open, and you get 90 minutes to spend alone in a walled-in courtyard—a place more like the bottom of a mine shaft than an exercise yard. It's an environment about as restrictive and monotonous as human minds can design—and, perhaps, as human minds can tolerate.

Pelican Bay, which sprawls over 275 acres just south of the Oregon border, in a Tolkienesque region of misty mountains and ancient redwood forests, was among the first of a wave of new prisons equipped with ultra-restrictive "supermax" lockups that have proliferated nationwide in recent years. There are as many as 20,000 inmates housed in such facilities in at least 30 states.

California has three SHUs for men in its Pelican Bay, Corcoran and Tehachapi lockups, plus one for women in Valley State Prison in Chowchilla. They house about 3,000 convicts in all. But Pelican Bay is the one with the hardest cons and the harshest conditions, the end of the line for the inmates whom correctional officials call "the worst of the worst."

Like their counterparts in other states, California corrections officials say they need SHUs to control incorrigibly violent cons in the state's vast archipelago of prisons, teeming with nearly 160,000 inmates. While no one could argue with that goal, there are significant concerns about the tactic. For starters, it's not clear to what extent SHUs are indeed reducing prison violence.

More disturbingly, there's a growing worry that supermaxes—long decried by prisoner advocates as dangerous to the mental health of inmates—may be breeding danger for the general public.

Psychiatrists, activists and some correctional officials say the intense isolation of supermaxes is producing prisoners who are uncontrollably furious and sometimes violently deranged. Most of those prisoners will one day be set free. In the past three years, in fact, nearly 1,000 California SHU inmates at the end of their sentences were moved to less-restrictive prisons for just a few weeks, and then released.

And at least 403 inmates were paroled without even that intermediate step. They were taken so tight from the solitary cells where they spent years maniacating in their cells, handed \$200 in gate money and put on a bus to rejoin the rest of us.

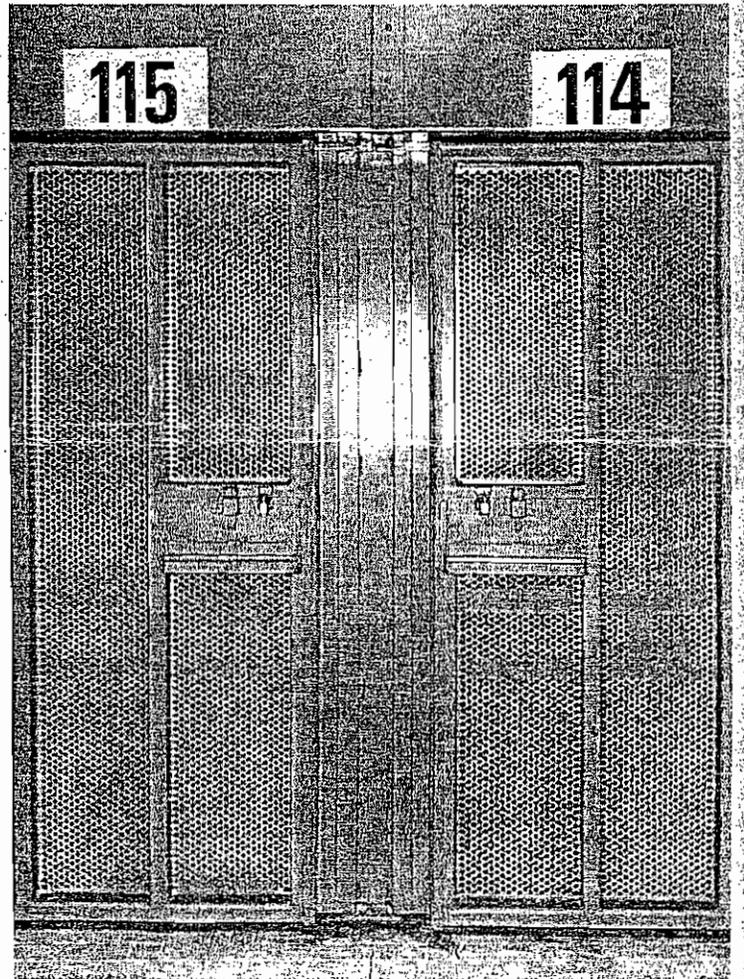
"E.C.," a Pelican Bay SHU inmate who, like most of the nearly two dozen current and former SHU prisoners interviewed for this article did not want his name published, wrote: "How does society expect a person to act once he has

been released from the SHU, in most cases after spending years back here? There are things that happen here which people out there are never aware of; these things tend to build anger and hate in some persons, and if these persons don't have anyone to talk to or complain to, that anger and hate continues to grow. If that person paroles, he's now a human time bomb waiting to release all that anger and hate, waiting to explode."

YOU CAN HARDLY BLAME PRISON AUTHORITIES FOR FOSTERING THE IDEA OF SUPERMAXES. Prison guards are spit on, screamed at and assaulted daily. Reducing the chances of being stabbed in the neck with a sharpened toothbrush is understandably a higher priority for them than fretting over how solitary confinement might change an inmate's mood.

But America's supermaxes have been denounced as inhumane by organizations from the ACLU to the United Nations. Fistfuls of lawsuits have been filed in recent years challenging conditions in supermaxes from California to Massachusetts. Some have succeeded in forcing changes. The latest, a suit on behalf of a Pelican Bay inmate charging that long-term SHU confinement constitutes cruel and unusual punishment, is slated to go to trial in December. So far, the courts have upheld the constitutionality of supermax-style imprisonment. But just because they're legal doesn't necessarily mean they're good policy. In fact, Democratic state Sen. Gloria Romero of Los Angeles, head of the Senate's Select Committee on the California Correctional System, has launched a campaign to investigate how supermaxes are affecting prisoners—and the public.

No question the Pelican Bay SHU holds a great many extraordinarily malicious men. Most of California's top prison gang leaders are there, including such luminaries as Aryan Brotherhood shot-callers Paul "Cornfed" Schneider and Dale Breches, the original owners of the dogs that mauled a San Francisco woman to death in 2001. The day before my visit there this year, a SHU inmate who was appearing in court stabbed his own lawyer with an ice pick-like shank he apparently had hidden in what a Pelican Bay spokesman referred to as his "keister."



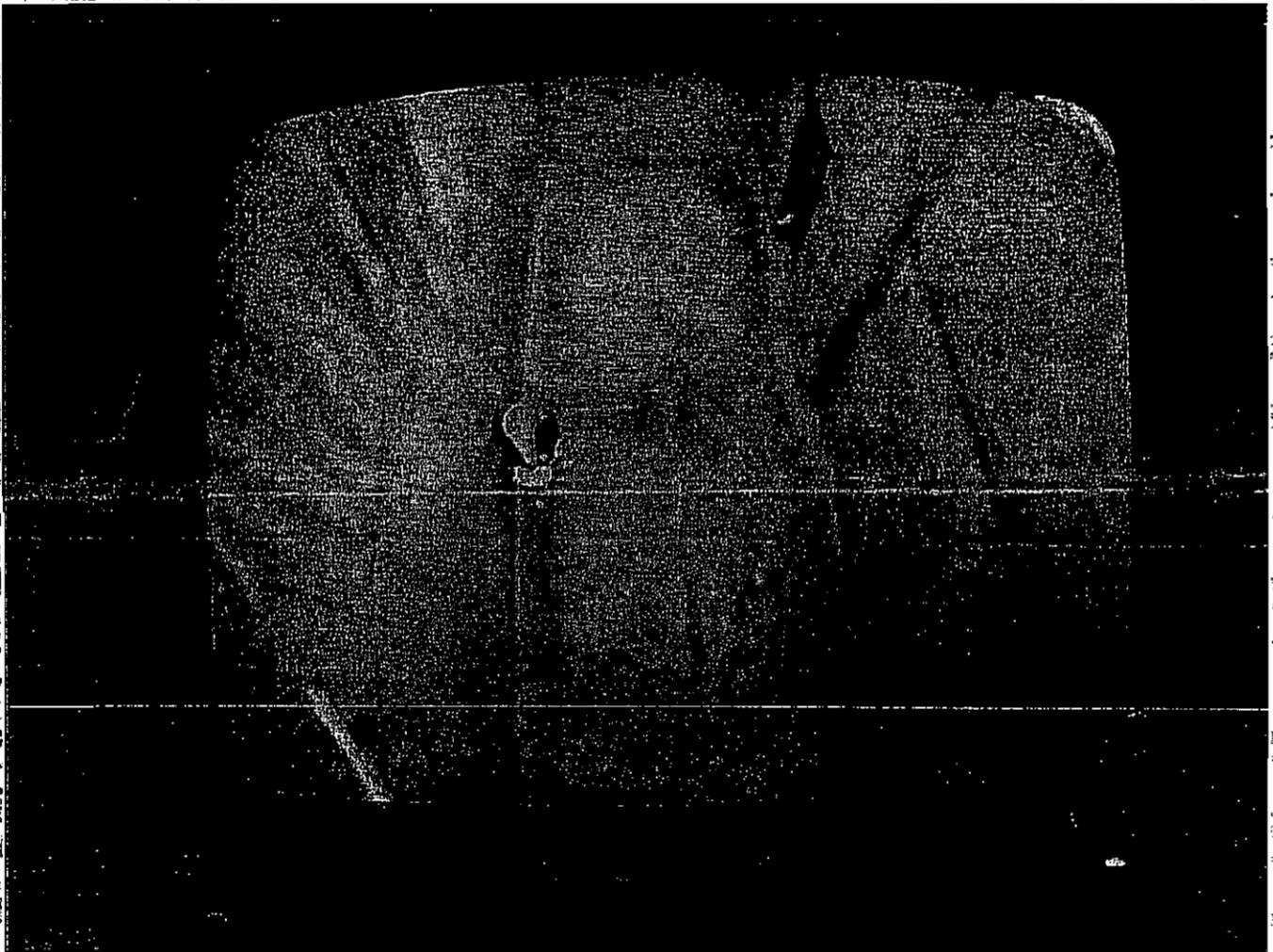
*This is the front of our cells.*

*Tom Ichniowski is a California-based freelance writer who writes often on criminal justice issues.*



Newspaper Picture

= EXHIBIT =



Inmates in the Security Housing Unit (SHU) at Pelican Bay State Prison spend 23 hours a day in their cells with only 1 hour a day to spend in the 10'X 20' cement room for exercise.

= EXHIBIT =  
(PAGE 2 OF 2)

**EXHIBIT H**

SITAWA NANTAMBU JAMAA  
S/N R. N. DEWBERRY C-35671  
PO BOX 7500 DT-1 22  
CRESCENT CITY, CALIF. 95532-7500

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

5 RANDALL E. ELLIS,  
6 PLAINTIFF,

6 VS.

7 STEVEN CAMBRA, JR., et al.,  
8 DEFENDANTS.

CASE NO. 1:02-CV-05646-AWI-SMS-PC

AFFIDAVIT - IN SUPPORT OF

THIS ACTION; AND WITNESS TO

THIS CLAIM

10 I AM SITAWA NANTAMBU JAMAA / S/N R. N. DEWBERRY C-35671,  
11 AND I SUPPORT THE ABOVE MENTION ACTION BEFORE THIS COURT.

13 I) AS A NEW AFRIKAN PRISONER ACTIVIST, EDUCATOR, AND  
14 PRACTICING STUDENT OF AFRIKAN HISTORY WORLDWIDE, TO WHICH  
15 I HAVE STUDY IN THE VARIOUS FIELDS OF: A.) NEW AFRIKAN-IDEOLOGIES,  
16 CULTURES, POLITICS, PHILOSOPHIES, ECONOMICS, AND SCIENTIFIC SOCIALISM;  
17 B.) WHITE PRIVILEGE - WHITE SUPREMACY, RACISM, INSTITUTIONALIZED  
18 RACISM, NEO-COLONIALISM, JIM CROW, AND BLACK CODE; C.) PRISON  
19 STRUGGLES (I.E. REVOLUTIONARY PRISON MOVEMENT IN CALIFORNIA,  
20 REVOLUTIONARY PRISONER ACTIVISM THROUGHOUT THE UNITED  
21 STATES; AND D.) THE STUDYING OF "THE BLACK PANTHER PARTY-  
22 ORGANIZATION, AMERICAN INDIAN MOVEMENT, BAY AREA  
23 RADICAL UNION, BLACK LIBERATION ARMY, BLACK STUDENT  
24 UNIONS, BLACK P. STONE NATION, COUNTER INTELLIGENCE PROGRAM  
25 (COINTELPRO'S, NEW AFRIKAN REVOLUTIONARY NATIONALISM LEFTIST  
26 ORGANIZATION - BLACK GUERRILLA FAMILY, REVOLUTIONARY  
27 ACTION MOVEMENT, SOUTHERN CHRISTIAN LEADERSHIP

1 CONFERENCE, STUDENT NON-VIOLENT COORDINATING COMMITTEE,  
2 REPUBLIC OF NEW AFRICA, NATION OF ISLAM, SOLEDAD BROTHERS  
3 DEFENSE COMMITTEE, FREEDOM OF INFORMATION ACT,  
4 SMITH ACT, AND I HAVE EDUCATED HUNDREDS OF PRISONERS  
5 ABOUT THE ABOVE SUBJECT MATTERS AND VARIOUS OF  
6 MENTION ORGANIZATIONS AND MANY MORE.

7  
8 2.) I AM A NEWAFRIKAN, AND I STAND ON THE  
9 SHOULDERS OF MY NEWAFRIKAN PARENTS AND MY ANCESTORS,  
10 FOR THE LIFE SACRIFICES, FROM 1619 TO THE PRESENT.  
11 (SEE EXHIBIT - A) NOTE: PLAINTIFF RESERVES THESE RIGHTS DUE TO  
12 THE VOL. OF EXHIBITS PRESENTED.

13 3.) I HAVE BEEN HELD IN CALIFORNIA CONTROL UNITS/  
14 (SHU'S) FOR THE PAST (25) YEARS, FOR MY POLITICAL  
15 AND RELIGIOUS BELIEFS, BEING THAT I WAS A POLITICAL  
16 ACTIVIST/EDUCATOR IN THE GENERAL POPULATION (G.P.)  
17 I WAS REMOVED FOR THOSE REASONS, WHICH COLONEL  
18 HAD TO CONSPIRE IN ORDER TO STOP MY ACTIVISM,  
19 THEREBY LABELLING ME A MEMBER OF THE NEWAFRIKAN  
20 REVOLUTIONARY NATIONALIST ORGANIZATION CALLED  
21 THE BLACK GUERRILLA FAMILY (B.G.F.). I HAVE  
22 NEVER CLAIM TO BE AN ASSOCIATE OR MEMBER OF THE  
23 (B.G.F.) ORGANIZATION! (SEE EXHIBIT - B) SEE NOTE \*

24  
25 4.) I HAVE A FIRST AMENDMENT RIGHT TO TEACH,  
26 AND SHOULD NOT BE PENALIZED FOR EXERCISING THOSE  
27 RIGHTS. REVIEW EXHIBIT - B PAGE (5), LINES 13 TO 28,

1 PAGE (6), LINES 1 to 19.

2  
3 5.) I WAS HOUSED IN THE SAME Pod (i.e. C-Pod)  
4 WITH PRISONER R. ELLIS C-68764 WHEN THE JAN. 19, 2000  
5 INACTIVE REVIEW WAS CONDUCTED ON HIS CASE  
6 (i.e. INACTIVE STATUS). NOW, PRIOR TO PRISONER  
7 ELLIS BEING HOUSED IN D6-CELL #111, HE WAS MY  
8 CELLMATE IN BUILDING D6-CELL #109, AND DURING  
9 THE YEARS THAT MYSELF AND PRISONER ELLIS  
10 WAS HOUSED TOGETHER, I HAD GIVEN HIM MANY  
11 OF MANILA ENVELOPES SO THAT PRISONER ELLIS  
12 CAN STORAGE HIS PERSONAL PROPERTY. NOW, BEING  
13 THAT C/O T. DREW FOUND AN MANILA ENVELOPE  
14 DO NOT CONSTITUTE THAT PRISONER ELLIS IS  
15 INVOLVED WITH THE (B.G.F.) ORGANIZATION.

16  
17 6.) NOW, FOR THE RECORD, THE MANILA ENVELOPE  
18 THAT THIS AFFIDAVIT HAVE BEEN ENCLOSED,  
19 ALSO HAVE MY NAME ON IT, AND BEFORE THIS AFFIDAVIT  
20 REACHES PRISONER ELLIS, IT HAVE TO GO THROUGH  
21 CUSTODY FIRST (i.e. ISU/IGI) AND THE  
22 SECURITY UNIT FLOOR STAFF, PRIOR TO ELLIS RECEIVING  
23 THIS LEGAL COURT DOCUMENTS.

24  
25 7.) I HAVE NO PROBLEM IN BEING A WITNESS FOR  
26 PRISONER ELLIS IN THE ABOVE MENTION ACTION.

1 8.) It is clear that PRISONER/PLAINTIFF ELLIS  
2 DUE PROCESS, FIRST AMENDMENT, AND EQUAL PROTECTION  
3 HAVE ALL BEEN VIOLATED BY PBSP-OFFICIALS, C/O T. DREW,  
4 AND CDCR HAVE ALL CONSPIRED AGAINST PLAINTIFF.  
5 THERE IS NO RULE VIOLATION THAT PRIOR CELLMATES  
6 CAN NOT SHARE MANILA ENVELOPES OR POLITICAL  
7 LITERATURE, ETC. WITH OTHER PRISONERS, AND THIS  
8 PRISONER WITNESS HAVE DONE IT HUNDREDS OF TIMES.  
9 IT IS NOT AGAINST THE LAW. CDCR/PBSP MUST  
10 CEASE THEIR CONSPIRACY AGAINST THIS PLAINTIFF,  
11 FORTHWITH. PRISONER J. FOSTER WAS HOUSED IN D6-212, EXACT  
12 SAME POD AS PLAINTIFF AND MYSELF DURING THE YEARS OF 1997-1999.

13 I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT  
14 THE FOREGOING IS TRUE AND CORRECT BASED ON MY PERSONAL  
15 KNOWLEDGE.

16  
17 DATE: 9-17-08

18  
19 /S/ Sitawa Nantambu Jamsa  
20 S/N.R. N. Dawberry  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT I**

# Cruel and unusual at Shawnee Prison

BY ANTHONY D. PRINCE

VIENNA, Illinois — Banging on steel doors, screaming and yelling, Ira Lee's cellmates joined his cries for help October 17 when a corrections officer crushed Lee's hand so severely that half of his little finger was amputated.

Lee, a People's Tribune inmate correspondent at Shawnee Correctional Facility, had only minutes before been improperly denied certain items from the prison commissary by a certain Officer Jennings. As the guard turned his attention to an adjacent cell, he allegedly slammed Lee's steel cell door while Lee's hand was still on the frame. As Lee cried out in pain, Jennings walked away and refused to summon emergency aid until Lee's cellmates began raising hell. Later, after finally receiving treatment, Lee filed a grievance charging staff misconduct as well as cruel and unusual punishment.

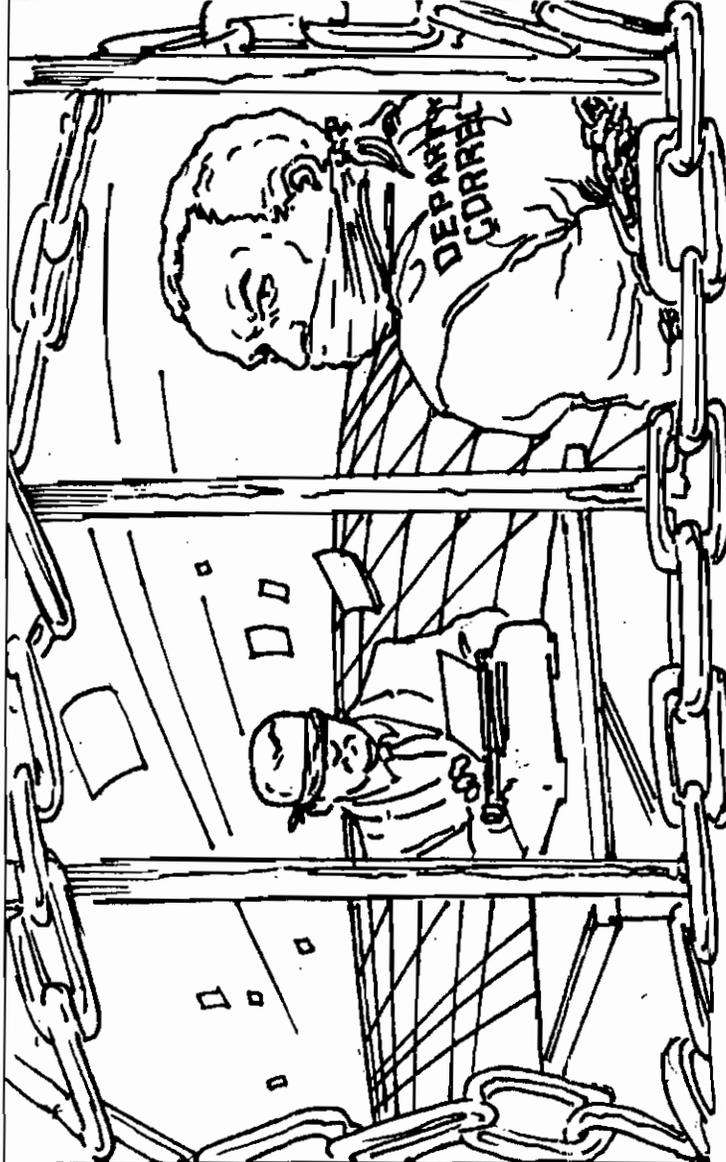
What happened to Lee was never made known to the general public, but the same Illinois criminal justice system that landed him in prison was recently in the national spotlight as Rolando Cruz, a man who spent 11 years on Death Row for a murder he didn't commit, was finally released late last year. The mountain of perjured police testimony and obvious prosecutorial misconduct involved in that case had won Cruz broad public support. The case of Ira Lee, also illegally framed and convicted (and now disfigured), is hardly known.

What happened to Ira Lee behind the thick walls of the Shawnee Correctional Facility was not a matter of life and death, as was the case with Cruz, but it left him with a permanent disability.

The cases of Ira Lee and Rolando Cruz — one in the national spotlight, the other cloaked in obscurity — occupy two points on the same scale of cruelty and unusual punishment that is the American criminal justice system.

*Note: On January 9, Ira Lee called the People's Tribune office and told us how prison authorities responded to his grievance. Lee's request for compensation was denied. His*

# American Lockdown



GRAPHIC: ANDY WILLIS

PT responds as California prisons censor journalists:

# The first casualty of war is the truth

BY ANTHONY D. PRINCE,  
ON BEHALF OF THE  
EDITORS

The audience at Northwest  
University was checked

ifornia inmates as "proof."

But the journalist community of this nation has not been fooled.

"Prisons are public institutions," says Peter Sussman,

This ban aims at  
concealing from  
the public the

GRAPHIC/ANDY WILLIS

# PT responds as California prisons censor journalists: The first casualty of war is the truth

BY ANTHONY D. PRINCE,  
ON BEHALF OF THE  
EDITORS

The audience at Northwestern University was shocked

into a hushed silence as the horrible image of a human being — blistered and bloody from third-degree burns — came up on a large video screen. From behind the camera, a national television news magazine covering allegations of torture at California's Pelican Bay State Prison had captured dramatic, irrefutable evidence of an inmate deliberately scalded nearly to death by correctional officers. Months later, a federal court judge would hand down a searing condemnation of Pelican Bay officials for widespread brutality and abuse.

I was in the audience that night. As a reporter whose beat includes the prison world, this piece of outstanding, unnerve-ing journalism drove home the significance of a free press in a country that prefers to hide in-justice, especially injustice be-

**This ban aims at concealing from the public the**

**truth about the record number of Americans behind bars — 1.5 million!**

hind bars. So it was the words and the image of that horribly maimed inmate that I remembered when I learned that officials of the California Department of Corrections had completely barred reporters from conducting in-person interviews with state prisoners.

"We did this because we didn't want to have inmates becoming celebrities and heroes," states J.P. Tremblay, assistant secretary of the department, justifying the ban and pointing to a handful of recent interviews with well-known Cali-

ifornia inmates as "proof." But the journalist community of this nation has not been fooled.

"Prisons are public institutions," says Peter Sussman, president of the Northern California branch of the largest and oldest association of reporters in the United States, the Society of Professional Journalists.

"Especially at a time when prison issues are near the top of the public agenda — and when the state Department of Corrections has lost high-profile court suits challenging treatment of high-security and mentally ill inmates — it is imperative that the media have unfettered access to the prisoners whose rights have been upheld in court."

I would go my colleague one further: This ban aims at concealing from the public the truth about the record numbers of Americans now behind bars — 1.5 million, of which 130,000 are in California where poverty, desperation and "three-strikes" laws promise even more.

leased late last year. The mountain of perjured police testimony and obvious prosecutorial misconduct involved in that case had won Cruz broad public support. The case of Ira Lee, also illegally framed and convicted (and now disfigured), is hardly known.

What happened to Ira Lee behind the thick walls of the Shawnee Correctional Facility was not a matter of life and death, as was the case with Cruz, but it left him with a permanent disability.

The cases of Ira Lee and Rolando Cruz — one in the national spotlight, the other cloaked in obscurity — occupy two points on the same scale of cruelty and unusual punishment that is the American criminal justice system.

*Note: On January 9, Ira Lee called the People's Tribune office and told us how prison authorities responded to his grievance. Lee's request for compensation was denied. His*

*request to have the officer relieved of his duties was denied. Lee is appealing the ruling to the Administration Review Board in Springfield, Illinois.*

This ban aims at shrouding in secrecy the true nature of the "prison/industrial complex" whose grip has made the California Correctional Officers' Association the most powerful political lobby in the state, costing taxpayers millions.

This ban aims at subjugating the First Amendment rights of us all to the reactionary self-interest of the prisonrats and sets a dangerous precedent for all state agencies (especially the criminal justice system) to dictate what the public will and will not be told.

It is said that "the first casualty of war is the truth." Well, there is a war in this country, between a ruling elite that can't feed, house and employ mil-

lions of people and those who are being pushed to desperation and increasingly winding up behind bars. Will the first casualty of this war be the truth?

We urge all those who understand the significance of these anti-democratic, police-state measures to hold firm. The People's Tribune, and specifically "American Lock-down," will continue to do what we have done all along: report the side of the story that the ruling class doesn't want you to know. We intend to join the immediate struggle to overturn California's ban on face-to-face inmate interviews, but, like our fellow journalists, we will not be intimidated by it.

The struggle continues.

**EXHIBIT J**

724 West 7th Street  
Chicago, IL 60620

~~ELIS D2-213~~  
STANDARD MAIL PERMIT NO. 1000 CHICAGO, IL  
POSTAGE WILL BE PAID BY ADDRESSEE  
FIRST CLASS PERMIT NO. 1000 CHICAGO, IL  
NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

Postage paid  
Chicago, IL  
"Address Service Restricted"

PROOF OF SERVICE BY MAIL

(C.C.P. Section 101(a) # 2015.5, 28 U.S.C. 1746)

I, Randall Ellis, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below named action.

My Address is: P.O. Box 7500, Crescent City, CA 95531.

On the 28 day of JUNE, in the year of 2010 I served the following documents: (set forth the exact title of documents served)

Plaintiff Supplement to the opposition to defendant's motion for summary Judgment.

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United States mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

<u>U.S. Dist. Ct. E. Dist of Cal</u>	<u>Constance L. Picciano</u>
<u>office of the Clerk</u>	<u>Deputy Attorney General</u>
<u>1130 "D" Street San Francisco</u>	<u>1300 I Street Suite 125</u>
<u>U.S. Court House Building</u>	<u>P.O. Box 944255</u>
<u>San Francisco, California 94121/2201</u>	<u>Sacramento, CA 94244-2550</u>

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 28 day of JUNE, 2010.

Signed: Randall Ellis  
(Declarant Signature)