


Henry M. Mitchell Jr.,
aka Henry Hayes, #V16058
California State Prison-COR
P.O. Box 3461
Corcoran, CA 93212-3461

In Propria Persona

FILED

MAR 9 2012

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY M. MITCHELL JR.,
aka HENRY HAYES,

Plaintiff,

vs

CONNIE GIPSON; R. BOLEN;
M. SEIFERT; D. LEON;
A. GUTIERREZ; R. JUAREZ;
S. JOHNSON; K.J. ALLEN;
D. POSTON; MATTHEW CATE;
UNITED STATES POSTAL SERVICE,

Defendants.

No. 2:12CV0614 JFM (PC)

COMPLAINT BY A PRISONER
UNDER THE CIVIL RIGHTS
ACT, 42 U.S.C. §1983

(PC-G) Mitchell v. Gipson et al

Doc. 10 Att. 1

I. EXHAUSTION OF ADMINISTRATIVE REMEDIES

- A. Place of confinement: California State Prison-Corcoran.
- B. There is a grievance procedure at this institution.
- C. The facts in this complaint were presented for review through the grievance procedures.
- D. The Appeal Log Number Assigned was: #CSPC-2-11-02098.
 1. First Level Review: Submitted - August 25, 2011
Appeal Decision: Denied - October 4, 2011
 2. Second Level Review: Submitted - October 6, 2011
Appeal Decision: Denied - October 31, 2011
 3. Third Level Review: Submitted - November 30, 2011
Appeal Decision: Denied - February 16, 2012
- E. The third level is the highest level of appeal available.

II. PARTIES

1. Plaintiff:

Henry M. Mitchell Jr.,
aka Henry Hayes, #V16058
California State Prison-COR
P.O. Box 3461
Corcoran, CA 93212-3461

2. Defendants:

- a. Connie Gipson, Warden, California State Prison-COR
- b. R. Bolen, Mailroom Staff, California State Prison-COR
- c. M. Seifert, Captain, California State Prison-COR
- d. D. Leon, Associate Warden, California State Prison-COR
- e. A. Gutierrez, OSSI, California State Prison-COR
- f. R. Juarez, Lieutenant, California State Prison-COR
- g. S. Johnson, Chief Deputy Warden, California State Prison-COR
- h. K.J. Allen, Appeals Examiner, Department of Corrections and Rehabilitation
- i. D. Foston, Chief Office of Appeals, Department of Corrections and Rehabilitation
- j. Matthew Cate, Secretary, Department of Corrections and Rehabilitation
- k. United States Postal Service, a federal government §501(a) Corporation

III. STATEMENT OF CLAIM

On August 23, 2011, Defendant R. Bolen, sent Plaintiff, CDCR Form 1819 (Rev. 6/98) - Notification of Disapproval - Mail/Package/Publications of Incoming Mail/Package. The seizure of the incoming mail/package was based upon the disapproval criteria: "Incoming mail exceeding 16 ounces per CCR Title 15 §3134(a)(11)." The authority to disallow based on the cited disapproval criteria was done by Defendant M. Seifert.

1 On August 25, 2011, Plaintiff filed Inmate/Parolee Appeal
2 Form CDCR 602 (Rev. 08/98). Plaintiff explained the issue on
3 the First Level that, "On 8-23-11, an incoming mail/package was
4 disapproved due to the mail/package exceeding 16 ounces in total
5 weight, per CCR Title 15 §3134(a)(11), the statute cited is not
6 and has no relation to a restriction on the weight of an incoming
7 mail/package item. 15 CCR §3134(a) states, First-Class mail can
8 have the following items enclosed, including but not limited
9 to: Subdivision (11) is restrictive only to a mail/package that
10 has more than Forty postage stamps, or a Photo album enclosed
11 within it. The mailroom is reading the statute too broadly beyond
12 its meaning. The statute gives direction for how many stamps are
13 needed to satisfy an outgoing first-class letter sent out by an
14 inmate. The items for enclosure can weight more than 16 ounces.

15 On September 20, 2011, Plaintiff was interviewed by Defendant
16 A. Gutierrez, who ask Plaintiff if he had any additional issues
17 concerning the appeal. Plaintiff requested any written Memorandums,
18 or Mailroom Policies that gave the CDCR any jurisdiction to have
19 regulations over the weight of incoming mail from the U.S. Postal
20 Service, and stated that Plaintiff believed that Title 15, 3134(a)
21 (11) had no relation to the weight of my package.

22 On October 4, 2011, Plaintiff received Denial of Appeal
23 Notification from Defendant D. Leon with a copy of §3134 of Title
24 15 from page 73 of unknown edition, and copy of Attachment A
25 (Rev. 9/08) Effective Communication Determination For Formal
26 Level CDC 602 Inmate/Parolee Appeal.

1 On October 6, 2011, Plaintiff submitted CDCR 602 for a
2 Second Level review from dissatisfaction with the First Level
3 response, stating, "15 CCR §3136 - Disapproval of Inmate Mail is
4 based on criteria established under 15 CCR Section 3006 Contraband
5 and Section 3135 Disturbing or Offensive Correspondence. The
6 disapproval of mail exceeding a weight limit is not contained
7 within those statute codes to permit the denial of my mail
8 privileges."

9 On October 31, 2011, Defendant R. Juarez, signed off on the
10 CDCR 602 as interviewer, when no interview ever took place, by
11 face to face contact, or telephone. "The Decision: Your appeal is
12 Denied at the Second Level. Denied is your request to have this
13 appeal immediately granted and your mail/package promptly delivered
14 to you, as it is clearly violates California Code of Regulations
15 Title 15, 3134. (a)(11), General Mail Regulations. Per California
16 Code of Regulations Title 15, 3136, the mailroom at CSP-Corcoran
17 has made proper notification to you with the 1819 you attached to
18 your appeal and therefore are working within the policy and
19 procedure." The Second Level Response also noted in the Problem
20 Description: "The total weight of the incoming mail was 36 ounces
21 which is 20 ounces over the 16 ounce limit." Defendant S. Johnson,
22 signed off on the Second Level Response.

23 On November 30, 2011, Plaintiff forwarded the CDCR 602 for
24 the Chief, Inmate Appeals Branch for Third Level review for
25 dissatisfaction of the First and Second Level responses. Plaintiff,
26 noted to the Third Level that, "The prohibition of incoming general
27
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1 mail based on the 'weight limit for first-class mail is 13 ounces,
2 and for standard mail is 16 ounces' is unlawful censorship of
3 United States Mail. The regulation is an interference with
4 federal postal transmission, the unlawful restriction of
5 interstate commerce, nor has the U.S. Postal Service granted
6 jurisdiction to the CDCR to control first-class or standard rate
7 mail based on incoming weight or postage class. The incoming mail
8 package materials are not prohibitive as contraband, or disturbing/
9 offensive correspondence as codified in 15 CCR §§3006; 3135. The
10 prohibitive regulation is a consequential restriction of the
11 First and Fourteenth Amendment rights of those who are not
12 prisoners, and creates an impermissible legislative mandate not
13 within California's jurisdiction to censorship of U.S. Mail based
14 on weight or postage class. The materials are legal case citations
15 that were to be used in my instant litigation for my criminal
16 appeal, which unlawful detention of mail based on weight and
17 postage class also violates my right to due process and my access
18 to legal materials.

19 On February 16, 2012, the third level decision: Appeal is
20 denied by Defendants K.J. Allen and D. Foston, who concluded the
21 following findings. Upon review of the documentation submitted,
22 it is determined that the appellant's allegations have been
23 reviewed and properly evaluated by administrative staff at COR.
24 The appeal appellant has failed to provide a compelling argument
25 to warrant a modification of the decision reached by the institution.
26 An appeal inquiry was conducted by appropriate supervisory staff,
27 and the appeal was reviewed by the institution's Chief Deputy
28 Warden.

1 Pursuant to CDCR rules the appellant's mail was appropriately
2 disallowed based upon the excess weight.

3 The appellant is unacquainted with institutional security
4 needs and his claim that there are no potential risks/complications
5 with inmates receiving unrestricted weight in mail packages is
6 misguided. The Director has the authority and responsibility to
7 establish rules which regulate institutional programs and
8 activities in a manner that ensures the safety of inmates, staff
9 and the public. The appellant is responsible to abide by all
10 departmental rules and regulations. Upon review of the documentation
11 submitted, it is determined that the appellant's arguments are
12 without merit. Relief at the Third Level of Review is unwarranted.

13 Defendants Connie Gipson and Matthew Kate are the designated
14 authorities responsible to discharge CDCR rules and regulations
15 burdens fundamental rights are reasonably related to legitimate
16 penological objectives, or whether it represents an exaggerated
17 response to those concerns. The third level review cited CCR
18 sections 3001, 3084.1, 3130, 3147, 3270, 3380 and CDC Operations
19 Manual, Section 54010.4 as the basis for the decision. An ordered
20 no changes or modifications are required by the institution.

21 Defendant, United States Postal Service failed to provide
22 oversight for this type of complaint that is within its
23 jurisdiction to regulate incoming mail class and postage for any
24 such violation under the detention of mail for temporary periods,
25 and the forfeiture, seizure or confiscation of property carried
26 through its mail facilities and post offices.

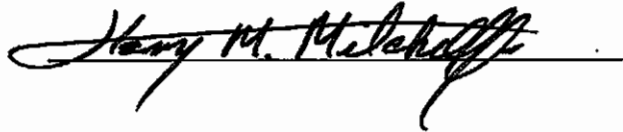
27 IV. RELIEF REQUESTED

28 Plaintiff seeks the following relief:

- 1 1. Injunctive and declaratory relief;
- 2 2. reimbursement of court cost and fees;
- 3 3. general damages of \$ 12,500.00 per defendant;
- 4 4. punitive damages of \$25,000.00 per defendant; and
- 5 5. any other relief the court feels appropriate.

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

9 Signed this 6th day of March, 2012

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STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
OFFICE OF APPEALS
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

THIRD LEVEL APPEAL DECISION

FEB 16 2012

Date:

In re: Henry Hayes, V16058
California State Prison, Corcoran
P.O. Box 8800
Corcoran, CA 93212-8800

TLR Case No.: 1107005

Local Log No.: COR-11-02098

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner K. J. Allen. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that mailroom staff at Corcoran State Prison (COR) have incorrectly disapproved his receipt of incoming mail. The appellant contends that there are no departmental rules or regulations that restrict the weight of enclosures in mail. The appellant states that the items eligible, as described in the California Code of Regulations, Title 15, Section (CCR) 3134, for enclosure with incoming mail can weigh more than 16 ounces. The appellant requests the immediate granting of his appeal with the prompt delivery of the disallowed mail/package to him.

II SECOND LEVEL'S DECISION: The reviewer found that the staff are following institutional and departmental rules and regulations. The reviewer notes that pursuant to the CCR 3134(a)(1), the maximum weight for a First-Class letter is 13 ounces and for Standard mail is 16 ounces. The reviewer notes that in accordance with departmental regulations the appellant was provided a CDC Form 1819 pursuant to the CCR 3136, which identified the fact that the appellant's mail exceeded 16 ounces. It was noted that the appellant's incoming mail weighed 36 ounces.

Based upon the conducted inquiry, the appeal was denied at the Second Level of Review.

III THIRD LEVEL DECISION: Appeal is denied.

A. FINDINGS: Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and properly evaluated by administrative staff at COR. The appeal appellant has failed to provide a compelling argument to warrant a modification of the decision reached by the institution. An appeal inquiry was conducted by appropriate supervisory staff, and the appeal was reviewed by the institution's Chief Deputy Warden. Pursuant to CDCR rules the appellant's mail was appropriately disallowed based upon the excess weight.

The appellant is unacquainted with institutional security needs and his claim that there are no potential risks/complications with inmates receiving unrestricted weight in mail packages is misguided. The Director has the authority and responsibility to establish rules which regulate institutional programs and activities in a manner that ensures the safety of inmates, staff and the public. The appellant is responsible to abide by all departmental rules and regulations. Upon review of the documentation submitted, it is determined that the appellant's arguments are without merit. Relief at the Third Level of Review is unwarranted.

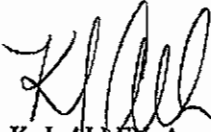
B. BASIS FOR THE DECISION:

CCR: 3001, 3084.1, 3130, 3134, 3147, 3270, 3380
CDC Operations Manual, Section: 54010.4

C. ORDER: No changes or modifications are required by the Institution.

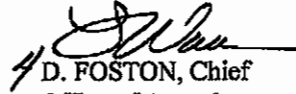
HENRY HAYES, V16058
CASE NO. 1107005
PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.



K. J. ALLEN, Appeals Examiner
Office of Appeals

cc: Warden, COR
Appeals Coordinator, COR



D. FOSTON, Chief
Office of Appeals

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1



IAB USE ONLY

CSP-CORCORAN

Institution/Parole Region:

Log #:

Category:

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):

HAYES, HENRY

CDC Number:

V16058

Unit/Cell Number:

3A01-111U

Assignment:

RDO: TH/FR

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Disapproval of Incoming Mail Weight

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A):

On 8-23-11, an incoming mail/package was disapproved due to the mail/package exceeding 16 ounces in total weight, per CCR Title 15 3134(a)(11). The statute cited is not

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

Immediate granting of this 602 with prompt delivery of the mail/package to me.

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

CDC 1819 Form

☐ No, I have not attached any supporting documents. Reason:

Inmate/Parolee Signature:

Date Submitted: 8/25/11

☐ By placing my initials in this box, I waive my right to receive an interview.

RECEIVED
OCT 21 2011
INMATE APPEALS BRANCH
STAFF USE

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached?

☒ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section E.☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter) Date: _____☒ Accepted at the First Level of Review.

Assigned to: AW CS

Title: _____

Date Assigned: SEP 16 2011

Date Due: 10/28/11

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: 9-20-11

Interview Location: 3A Yard

Your appeal issue is: ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: A. Gutierrez

Title: OSSI

Signature: A. Gutierrez

Date completed: 9-21-11

Reviewer: D. Lee

Title: AW

Signature: D. Lee

Date received by AC: 29 AUG 2011

AC Use Only

Date mailed/delivered to appellant

OCT 04 2011

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

15 CCR §3136- Disapproval of Inmate Mail is based on criteria established under 15 CCR Section 3006 Contraband and Section 3135 Disturbing or Offensive Correspondence. The disapproval of mail exceeding a weight limit is not contained within those statute codes to permit the denial of my mail privileges.

Inmate/Parolee Signature: [Signature]

Date Submitted: 10/6/2011

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☒ No

This appeal has been:

☐ By-passed at Second Level of Review. Go to Section G.

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter)

☒ Accepted at the Second Level of Review

Assigned to: [Signature] Title: _____ Date Assigned: OCT 21 2011 Date Due: 12/7/11

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: _____

Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: [Signature] Title: LT Signature: [Signature] Date completed: 10-31-11

Reviewer: [Signature] Title: CDW(K) Signature: [Signature]

Date received by AC: OCT 19 2011

AC Use Only

Date mailed/delivered to appellant: NOV 17 2011

F. If you are dissatisfied with the Second Level response, explain reason below, attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

The prohibition of incoming general mail based on "the weight limit for first-class mail is 13 ounces, and for standard mail is 16 ounces" is an unlawful censorship of United States Mail. The regulation is an interference with federal postal transmission, the unlawful restriction of interstate commerce, nor has the U.S. Postal Service granted jurisdiction to the CDCR to control

Inmate/Parolee Signature: [Signature]

Date Submitted: 11/30/2011

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) - Date: _____

☒ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant: FEB 16 2012

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

Print Staff Name: _____ Inmate/Parolee Signature: _____ Date: _____
Signature: _____ Date: _____

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR 602-A (08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
	CSP-CORCORAN	11-2078	3
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): HAYES, HENRY	CDC Number: V16058	Unit/Cell Number: 3A01-111U	Assignment: RDO: TH/FR
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A. Continuation of CDCR 602, Section A only (Explain your issue): has no relation to a restriction on the weight of an incoming mail/package item.

15 CCR §3134(a) states, First-Class Mail can have the following items enclosed, including but not limited to: Subdivision (11) is restrictive only to a mail/package that has more than Forty postage stamps, or a Photo album enclosed within it. The mailroom is reading the statute too broadly beyond its meaning. The statute gives direction for how many stamps are needed to satisfy an outgoing first-class letter sent out by an inmate.

The items eligible for enclosure can weigh more than 16 ounces.

Inmate/Parolee Signature: [Signature] Date Submitted: 8/25/11

INMATE APPEALS BRANCH

RECEIVED
DEC 3 2011

ESN
FFA
TS

OCT 21 2011

SEP 16 2011

B. Continuation of CDCR 602, Section B only (Action requested):

Inmate/Parolee Signature:

Date Submitted:

D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response):

Inmate/Parolee Signature: _____

Date Submitted: _____

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response): first-class or standard rate mail based on incoming weight or postage class. The incoming mail package materials are not prohibitive as contraband, or disturbing/offensive correspondence as codified in 15 CCR §§3006; 3135. The prohibitive regulation is a consequential restriction of the first and fourteenth Amendment rights of those who are not prisoners, and creates an impermissible legislative mandate not within California's jurisdiction to censorship of U.S. Mail based on weight or postage class. The materials are legal case citations that were to be used in my instant litigation for my criminal appeal, which unlawful detention of mail based on weight and postage class also violates my right to due process and my access to legal materials.

Inmate/Parolee Signature: 

Date Submitted: 11/30/2011

DIVISION OF ADULT INSTITUTIONS
CALIFORNIA STATE PRISON - CORCORAN
P. O. Box 8800
Corcoran, California 93212



September 21, 2011

Inmate Hayes, V16058
California State Prison-Corcoran

FIRST LEVEL APPEAL RESPONSE
LOG NO. CSPC 2-11-02098
Issue: Mail

DECISION: Denied

APPEAL ISSUE: You stated that the weight restrictions have no relation to Title 15, 3134 (a) (11).

ACTIONS REQUESTED: You stated immediate granting of this 602 with prompt delivery of the package to you.

EFFECTIVE COMMUNICATION: A review of the Disability & Effective Communication System (DECS) reveals you have a Test of Adult Basic Education (TABE) score of 12.9. There are no disabilities or issues requiring equally and effective communication.

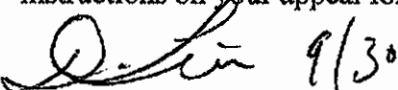
INTERVIEW: On September 21, 2011, you were interviewed regarding your appeal. During the interview, you reiterated your original complaint. You stated you believed that Title 15, 3134 (a) (11) had no relation to the weight of your package.

APPEAL RESPONSE: Considering the information gathered in this interview, a review of your appeal and attachments, I have concluded that the mailroom at CSP-Corcoran is operating within policy. Per Title 15, 3134 (a) (11);

Forty postage stamps, if there is a rate change, then forty stamps at the old and 40 stamps at the amount needed to equal the new rate. No personalized postage stamps will be allowed. The weight limit for First-class Mail is 13 ounces, and for Standard mail is 16 ounces. Photo albums can be obtained by the inmate from the canteen and the Vendor Package Program. Any unacceptable mail shall be immediately returned to the sender with the envelope annotated "Unauthorized mail, Return to Sender". Inmates shall be noticed pursuant to section 3136.

CONCLUSION: This appeal is **Denied** at this level of review. Your request for you to receive your package is **denied**. Per Title 15, 3134 (a) (11) *The weight limit for First-class Mail is 13 ounces, and for Standard mail is 16 ounces.*

If you are dissatisfied with this decision, you may appeal to the Second Level by the following the instructions on your appeal form.


D. Leon

Associate Warden-Central Services
California State Prison-Corcoran

DIVISION OF ADULT INSTITUTIONS

CALIFORNIA STATE PRISON - CORCORAN

P.O. Box 8800
Corcoran, CA 93212



October 31, 2011

Inmate Hayes V16058
Corcoran State Prison

SECOND LEVEL APPEAL RESPONSE- Log # CSPC-2-11-02098
ISSUE: Mail

DECISION: Denied

EFFECTIVE COMMUNICATION: A review of the Disability and Effective Communication System (DECS) reveals that you have a Test of Adult Basic Education (TABE) score of 11.8. Therefore you do not require special accommodations to achieve equal and effective communication.

PROBLEM DESCRIPTION: You contend you have received an 1819 Notification of Disapproval form dated August 23, 2011, from staff member R. Bolen Mail/Package for exceeding 16 ounces in total weight. The total weight of the incoming mail was 36 ounces which is 20 ounces over the 16 ounce limit.

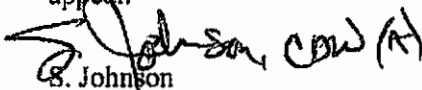
ACTION REQUESTED: You request immediate granting of this 602 with prompt delivery of the mail/package to you.

APPEAL RESPONSE: Staff interviewed you at the First Level Review (FLR). You provided no further evidence or documentation to support your claims beyond the information provided at the previous levels of review. Your appeal was reviewed and it was determined staff afforded you with an appropriate response at the FLR. The FLR indicates your appeal is **Denied**, the mail/package in question exceeds 16 ounces and therefore is in direct violation of California Code of Regulations Title 15, 3134. (a)(11), General Mail Regulations, which states in part:

- The weight limit for First-Class Mail is 13 ounces, and for Standard Mail is 16 ounces.

DECISION: Your appeal is **Denied** at the Second Level. **Denied** is your request to have this appeal immediately granted and your mail/package promptly delivered to you, as it clearly violates California Code of Regulations Title 15, 3134. (a)(11), General Mail Regulations. Per California Code of Regulations Title 15, 3136, the mailroom at CSP-Corcoran has made proper notification to you with the 1819 you attached to your appeal and therefore are working within policy and procedure.

If you are dissatisfied with this decision, you may appeal to the next level by following the instructions on your appeal.


S. Johnson
Chief Deputy Warden-(A) Operations
California State Prison-Corcoran
RJ

8-23-11

STATE OF CALIFORNIA
CDC 151b (Rev. 6/98)

DEPARTMENT OF CORRECTIONS

NOTIFICATION OF DISAPPROVAL - MAIL/PACKAGES/PUBLICATIONS

INMATE'S NAME

HAYES

3A01-111

CDC NUMBER

V-16058

MAIL / PACKAGES SECTION (Complete for mail or package cases only)

☒ INCOMING MAIL/PACKAGE☐ OUTGOING MAIL/PACKAGE

LIST ITEM(S) WHICH MEET DISAPPROVAL CRITERIA

INCOMING MAIL EXCEEDING 16 OUNCES

DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION

PER CCR TITLE 15 3134 (a)(II)

DISPOSITION		SENDER INFORMATION	
<input type="checkbox"/>	HELD PENDING INVESTIGATION/APPEAL	FIRST NAME D. MITCHELL	MI LAST NAME
<input type="checkbox"/>	RETURNED TO SENDER (At Inmate's Expense) (Date)	ADDRESS (NUMBER AND STREET) P.O. Box 3692	
<input type="checkbox"/>	DESTROYED	CITY MONTEBELLO, CA	STATE 90640
* (INMATE HAS FIFTEEN (15) DAYS, AFTER NOTIFICATION OF DISAPPROVAL HAS BEEN FORWARDED, TO LET STAFF KNOW THE CHOICE OF DISPOSAL, OTHERWISE MATERIAL WILL BE DESTROYED).		ZIP CODE	
		I ACKNOWLEDGE RECEIPT OF THIS NOTIFICATION: (INMATE'S SIGNATURE)	
		DATE SIGNED	

AUTHORITY TO DISALLOW (Must be completed in all cases)


PRINTED NAME OF WARDEN'S DESIGNEE R. BOLEN	SIGNATURE OF WARDEN'S DESIGNEE 	DATE SIGNED 8-23-11	DATE FORWARDED TO INMATE 8-23-11
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PUBLICATIONS SECTION (Complete for publication cases only)

TITLE OF PUBLICATION (Include issue/date)	PUBLISHER	PAGE(S) WHICH MEET DISAPPROVAL CRITERIA
DESCRIPTION OF MATERIAL THAT MEETS DISAPPROVAL CRITERIA, INCLUDE CCR, TITLE 15 SECTION		

DISPOSITION		DESIGNEE INFORMATION	
<input type="checkbox"/>	HELD PENDING INVESTIGATION/APPEAL	FIRST NAME	MI LAST NAME
<input type="checkbox"/>	DESTROYED	ADDRESS (NUMBER AND STREET)	
<input type="checkbox"/>	RETURNED TO OUTSIDE DESIGNEE AT INMATE'S EXPENSE (Date)	CITY	STATE ZIP CODE
** (INMATE HAS FIFTEEN (15) DAYS, AFTER NOTIFICATION OF DISAPPROVAL HAS BEEN FORWARDED, TO LET STAFF KNOW THE CHOICE OF DISPOSAL, OTHERWISE MATERIAL WILL BE DESTROYED).		I ACKNOWLEDGE RECEIPT OF THIS NOTIFICATION: (INMATE'S SIGNATURE)	
		DATE SIGNED	

AUTHORITY TO DISALLOW (Must be completed in all cases)

FACILITY CAPTAIN'S PRINTED NAME M. Sert	FACILITY CAPTAIN'S SIGNATURE 	DATE SIGNED 8-23-11	DATE FORWARDED TO INMATE 8-23-11
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DISTRIBUTION:
ORIGINAL - MAILROOM

* ALL APPEALS REGARDING MAIL/PACKAGES SHALL BE REFERRED TO THE WARDEN'S DESIGNATED STAFF

**EFFECTIVE COMMUNICATION DETERMINATION FOR FORMAL LEVEL
CDC 602 INMATE/PAROLEE APPEAL**

Inmate Hayes CDC# V 16058 Appeal Log# 2-11-02098

- ☒ Test of Adult Basic Education (TABE) above 4.0 (provide RGPL 11.8 / verify source if other than RGPL _____)
- ☐ Test of Adult Basic Education (TABE) below 4.0 (provide RGPL _____)
- ☐ Learning Disability (LD)
- ☐ Non-English speaking

* All first level responses must indicate whether inmate does or does not require effective communication. If RGPL is 4.0 or below, first level responder must also identify how Effective Communication was established within response.

A. Gutierrez
Staff Signature

6551
Title

9-20-11
Date

A. Gutierrez
Print Name

TITLE 15

DEPARTMENT OF CORRECTIONS AND REHABILITATION

§ 3134

entirety by designated staff. All non-confidential inmate mail that is "returned to sender" shall be opened and inspected before being returned to the inmate.

(4) Facilities shall not require incoming books, magazines or newspapers to have an institution pre-approved "vendor approved" label affixed to the packaging. A departmentally approved vendor is any publisher, book store, or book distributor, that does mail order business. Books, periodicals or other publications that are mailed from a religious organization shall be considered as coming from an authorized vendor.

(c) Confidential Mail with Inmate Trust Account Withdrawals. Inmate confidential mail submitted with a CDC Form 193, Inmate Trust Withdrawal (Rev. 1/88), to pay for filing fees or other costs may be left unsealed so that the voucher (check) can be enclosed after the trust account withdrawal has been processed. Inmates who do not wish to forward this type of mail unsealed should attach a stamped, appropriately addressed envelope to the confidential mail so the check can be enclosed and forwarded in the extra envelope.

(d) Undelivered Mail. All undelivered letters and packages returned to a facility by the post office shall be opened and inspected before being returned to the inmate. This inspection is to determine if the content originated with the inmate sender identified on the letter or package, and to prevent the transmission of contraband, material, substances, and property that an inmate is not authorized to possess in the correctional facility. The inspection of returned mail includes regular mail and letters that were mailed as confidential correspondence. In the case of returned confidential correspondence, the envelope shall be opened in the presence of the inmate. It shall be examined and read to the degree necessary to determine if it was sent by the inmate and opened or tampered with before its return to the facility. Upon completion of this examination, the returned correspondence shall be given to the inmate. Any contraband found in the returned correspondence shall be confiscated and processed, and appropriate disciplinary action taken.

(e) Unmailed Correspondence. If any First-Class Mail is not accepted for mailing, or is accepted for mailing but is not properly mailed, the inmate shall be notified in writing of the reason for refusal to accept or to promptly mail the item(s). When the delay in mailing exceeds 5 business days, the notice shall be sent and include the disposition of such mail. Unless retention of such mail is required in administrative, legal, or disciplinary proceedings against the inmate or other persons, it shall be promptly mailed or returned to the inmate.

(f) Forwarding Mail. Mail received for an inmate who has been transferred from the facility where the mail is received shall be immediately forwarded to the facility or agency that has current custody of the inmate. Mail addressed to an inmate who has been transferred or released shall not be returned to the sender as "Addressee Unknown" unless the individual has been discharged from CDCR. First-Class Mail and Periodicals addressed to an inmate who has been transferred within the CDCR shall have a label affixed with the current address and shall be forwarded via the USPS. For inmates who have paroled, the affixed label shall state "Paroled Region #____", and shall show that Parole Regions' address. Standard Mail with a "Mailer Endorsement" that was appropriately addressed, but is undeliverable because the inmate is no longer housed at the facility, shall be returned to the USPS for processing. Mailroom staff shall affix a label to the Standard Mail piece showing the correct address before returning it to the USPS for processing. For inmates who have paroled, the label affixed to the Standard Mail piece shall state "Paroled Region #____" and shall show that Parole Regions' address. The Mailer Endorsement will appear either near the address block or below the return address in the top left corner of the mail piece. A Mailer Endorsement may read "Address Service Requested", or

"Forwarding Service Requested", or "Change Service Requested", or "Return Service Requested". Staff may dispose of any Standard Mail piece that does not have a Mailer Endorsement, and is undeliverable because the inmate is not currently housed at the institution. Daily newspapers that are delivered by courier will not be forwarded nor will they be held for an inmate who is temporarily away from the facility for longer than 72 hours. Exceptions will be made when the absence results from the inmate's participation in facility approved activities such as a community release program, firefighting or other disaster control assignments. Newspapers that are delivered by the USPS will have a forwarding address affixed and shall be returned to the USPS for processing.

(g) Forwarding Confidential Correspondence. All confidential correspondence for inmates that must be forwarded will be done on a daily basis. If delivery of confidential correspondence from the courts is impeded because the addressee's name and CDCR number do not conform to each other, the mailroom will contact the Litigation Coordinator who will telephone the court to clarify the identification of the addressee in order to expedite delivery of confidential correspondence. Staff will document their efforts to identify the addressee when confidential correspondence from the courts cannot be delivered.

(h) Temporary Absence. Mail shall be held for an inmate who is temporarily away from the facility when the inmate's return is anticipated within one week.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; *Procunier v. Martinez*, 416 U.S. 396; and *Bell v. Wolfish*, 99 S. Ct 1861.

HISTORY:

1. Repealer of former section 3133 and renumbering of former section 3147 to new section 3133, including amendment of section heading and repealer and new section, filed 7-17-2008; operative 7-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 29).

3134. General Mail Regulations.

(a) First-Class Mail can have the following items enclosed, including but not limited to:

(1) Photographs, with the exception of photographs with attached backing, framed photographs that cannot be searched, Polaroid's, negatives, and slides.

(2) Calendars.

(3) Blank greeting cards (No 3-dimensional attachments or stamps).

(4) Postage embossed envelopes, up to forty.

(5) Blank envelopes.

(6) Writing paper/tablets (white or yellow lined only—no cotton paper).

(7) Typing paper (no cotton paper).

(8) Legal paper, to include colored paper required by court rules (no cotton paper).

(9) Children's drawings.

(10) Newspaper clippings, Internet downloaded articles, photocopies of clippings/articles, or electronic mail (e-mail). Prior to issuance they shall be reviewed to ensure that they comply with sections 3006 and 3135.

(11) Forty postage stamps. If there is a rate change, then forty stamps at the old rate, and 40 stamps at the amount needed to equal the new rate. No personalized postage stamps will be allowed. The weight limit for First-Class Mail is 13 ounces, and for Standard Mail is 16 ounces. Photo albums can be obtained by the inmate from the canteen and the Vendor Package Program. Any unacceptable mail shall be immediately returned to the sender with the envelope annotated "Unauthorized Mail, Return to Sender". Inmates shall be noticed pursuant to section 3136.

(b) Metered Envelopes. Metered reply envelopes sent in with correspondence must adhere to the following conditions:

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE HAYES, V16058
Current Housing: 3A0100000000111U

Date: September 16, 2011

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: CSPC-2-11-02098

ASSIGNED STAFF REVIEWER: AW CENT SVCS
APPEAL ISSUE: MAIL
DUE DATE: 10/28/2011

Inmate HAYES, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

Appeals Coordinator
Correctional Counselor II
CSP-Corcoran

*2nd Level sent 10/6/2011

~~3A02-2012~~

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE HAYES, V16058
Current Housing: 03A001-111100TU

Date: October 21, 2011

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: CSPC-2-11-02098

ASSIGNED STAFF REVIEWER: AW CENT SVCS
APPEAL ISSUE: MAIL
DUE DATE: 12/07/2011

Inmate HAYES, this acts as a notice to you that your appeal has been sent to the above staff for SECOND level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for THIRD level review. Third level appeals are to be mailed directly to:

Chief of Inmate Appeals
Department of Corrections
P. O. Box 942883
Sacramento, CA 94283-0001

Appeals Coordinator
Correctional Counselor II
CSP-Corcoran