



United States Court of Appeals
for the Ninth Circuit
125 South Grand Avenue
Pasadena, California 91105

Raymond C. Fisher
United States Circuit Judge

Telephone: (626) 229-7110
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October 29, 2009

Todd Darrow Irby
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244

Re: *Van Scott v. Moore*, No. 2:08-cv-2006-RCF: Prisoner Mail

Dear Deputy Attorney General Irby:

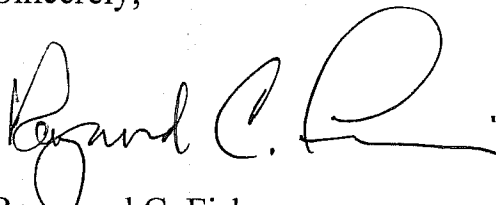
Thank you for your letter concerning the circumstances under which this Court's July 10, 2009 order was not delivered to Mr. Van Scott. I understand your letter to state that the California Department of Corrections and Rehabilitation maintains a policy that legal mail will be returned to the Court marked as undeliverable if an inmate is in a hospital at the time that mail arrives at a prison. I am troubled by this practice.

My concerns are twofold. First, if the institution knows an inmate's location, I do not understand why the institution would not deliver the inmate's legal mail. Why is legal mail not delivered to an inmate in the hospital? If safety concerns prevent the delivery of mail to the hospital, why is mail not held until the inmate returns to his cell? Second, when legal mail is returned to the Court labeled "undeliverable," it hampers the judicial process. Why would the specific reason the mail could not be delivered not be specified to the Court? Absent such notice, the Court is unaware if an inmate has been transferred or released or even if the inmate has died. The result is unnecessary waste of judicial resources, expense and delay.

I ask that you raise these concerns with appropriate CDCR officials concerning the nature and scope of the policy. Moreover, I ask that you consider what steps can be taken to remedy the problems created by this policy. Given the serious backlog

of prisoner cases in the Eastern District, perhaps we can eliminate at least this one cause of delay.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond C. Fisher". The signature is fluid and cursive, with a large initial "R" and "F".

Raymond C. Fisher
United States Circuit Judge

CC: Carlton Van Scott