

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

MATTHEW J. FRANK, Secretary of the Wisconsin Department of Corrections, JON E. LITSCHER, former Secretary of the Wisconsin Department of Corrections; CINDY O'DONNELL, Deputy Secretary to Litscher; JOHN RAY, Corrections Complaint Examiner ("C.C.E."); GERALD BERGE, Warden at Supermax Correctional Institution; PETER HUIBREGTSE, Deputy Warden of Supermax; LIEUTENANT JULIE BIGGAR, a Lt. at Supermax; ELLEN RAY, I.C.E.; SGT. JANTZEN; C.O. WETTER; C.O. S. GRONDIN; C.O. MUELLER; C.O. CLARK, all guards at Supermax; JOHN SHARPE, Manager Foxtrot Unit at Supermax; SGT. BOYELSON,

Defendants.

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ORDER

02-C-21-C

In Lindell v. Frank, Nos. 03-2651 & 03-2765 (7th Cir. July 19, 2004), the Court of Appeals for the Seventh Circuit directed this court to 1) reopen this case as to plaintiff Lindell's claim against defendants Ellen Ray, Peter Huibregtse, John Ray, Cindy O'Donnell,

C.O. Mueller and Sgt. Boyelson for arbitrarily confiscating picture postcards from his cell in violation of the First Amendment; and 2) modify the injunction ordered by this court concerning photocopies of clippings by narrowing its scope.

The original order enjoined defendants “from enforcing the publisher’s only rule to the extent that it prohibits inmates from receiving any newspaper and magazine clippings and photocopies in the mail from any source other than the publisher or a recognized commercial source.” Lindell v. Frank, 02-C-21-C (W.D. Wis. May 5, 2003). The injunction did not prohibit defendants from crafting rules or regulations limiting the quantity of such materials that inmates may receive in incoming correspondence. The court of appeals held that the injunction is too broad because it applies to inmates other than plaintiff and because “it could be read to prevent the prison from banning *any* photocopies rather than just photocopies of clippings from published sources, or from imposing reasonable restrictions on the form and number of clippings.” Lindell, Nos. 03-2651 & 03-2765, slip op. at 9.

Pursuant to the mandate by the Court of Appeals, IT IS ORDERED that

1. Case No. 02-C-21-C is reopened;
2. Plaintiff Nathaniel Allen Lindell’s request for leave to proceed on his claim against defendants Ellen Ray, Peter Huibregtse, John Ray, Cindy O’Donnell, C.O. Mueller and Sgt. Boyelson for arbitrarily confiscating picture postcards from his cell in violation of the First Amendment is GRANTED;

3. Defendants are ENJOINED from enforcing their publisher's only rule to the extent that it prohibits plaintiff Lindell from receiving a reasonable number of photocopies of clippings that are from published sources and in a reasonable format;

4. Defendant Boyelson is the only defendant related to this claim that was not served with plaintiff's complaint when the lawsuit was originally filed. Therefore, a copy of the complaint and this order will be sent to the Attorney General pursuant to an informal service agreement between the Attorney General and this court;

5. For the remainder of this lawsuit, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer that will be representing the defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits that do not show on the court's copy that plaintiff has sent a copy to defendant or to defendant's attorney;

6. Plaintiff should keep a copy of all documents for his own files. If he is unable to use a photocopy machine, he may send out identical handwritten or typed copies of his documents.

7. Defendants may have 20 days from the date of this order in which to file a responsive pleading to the complaint.

8. Plaintiff is reminded that in accordance with § 1915(b)(2), he owes the court the remaining unpaid balance of his filing fee, \$149.00, which will be collected as soon as funds

become available.

Entered this 23rd day of August, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge