

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

JAMES J. KAUFMAN,

Plaintiff,

v.

MATTHEW FRANK,, *et al.*,

Defendants.

ORDER

06-C-205-C

Defendants have filed a motion for a protective order and *in camera* inspection of materials. *See* dkt. 34. Specifically, defendants want to protect from disclosure to plaintiff a set of 22 documents responsive to plaintiff's discovery requests. Defendants contend that these documents contain derogatory, inflammatory, and/or sexual content, teach or advocate violence or hatred, and present a danger to institutional security. *Id.* According to defendants, plaintiff in the past has attempted to thwart the ban on violent, inflammatory and sexually explicit publications by filing administrative complaints against institutional seizures and seeking disclosure of the "evidence" upon which the seizure was based. *See* La Cost affidavit, dkt. 35, at 2.

This court has entered similar protective orders in previous inmate cases against the DOC, and the court of appeals has upheld this practice. *See, e.g., Lindell v. McCaughtry*, 115 F.Appx. 872, 876 (7th Cir. 2004), 2004 WL 2278741 ("we agree with the district court that inmates must not be allowed to evade security restrictions by the simple expedient of filing suit and obtaining prohibited material through discovery."). I have reviewed the documents

submitted in camera (dkt. 36, under seal). I conclude that with one exception, each of these documents is derogatory, inflammatory, contains sexual content, or teaches or advocates violence or hatred, and therefore presents a danger to institutional security. At this point, denying plaintiff access to these materials will not cause actual and substantial prejudice to plaintiff's ability to litigate this lawsuit.

The exception is Exhibit 1, a photocopy of page 216 of the "Loompanics Unlimited 2003 Main Catalog," which displays four books for sale, three regarding Satanism and one regarding "autouropathy," (the practice of drinking one's own urine). However distressing and unpleasant the descriptions of these four books might be to the average reader, neither topic (at least as described in Exh. 1) appears to be unduly and obviously derogatory, inflammatory, hateful or violent. Therefore, Exh. 1 is not entitled to protection from discovery or *in camera* submission.

Every other exhibit in the defendants' *in camera* submission shall be withheld from plaintiff. Here are brief descriptions:

Exh. 2: Loompanics' description of books about the recreational use of controlled substances.

Exh. 3: Loompanics' description of books about nudism and sex with minors.

Exh. 4 Loompanics' description of books about fighting techniques.

Exh. 5 Loompanics' description of books about the recreational use of controlled substances.

Exh. 6 Loompanics' description of books about fighting techniques.

Exhs. 7-11: Pages from a book entitled “Strange, Outlandish, Crude & Sometimes Funny Jokes” by Dean Livelsberger; all of the “jokes” fit into one or more of these categories: derogatory, inflammatory, sexually explicit or degrading, violent and hateful.

Exhs. 12-14: The cover and several pages from a sexually explicit book titled “Taboo” by “Kathleen Lawless.”

Exhs. 15-16: Two pages of sexually explicit jokes and cartoons.

Exh. 17: The cover of “RFD” magazine, Issue No. 119; the titles of the articles listed on the cover suggest political content, but the cover presents a sexually explicit cartoon.

Exh. 18: A sexual bondage photograph from the RFD magazine at p. 37.

Exh. 19: Page 23 of RFD magazine, advertising T-shirts with political, sexual and pro-drug messages.

Exh. 20: A sexually explicit photograph, perhaps from RFD magazine.

Exhs. 21-22: Printouts of two subscription solicitation pages from the website of “qvMagazine” which announces itself to be “The Nation’s Largest and Most Respected Gay Latino Magazine” and which touts, with a photograph, “The Hottest Guyz . . .”

Therefore, defendants’ motion is GRANTED IN PART and DENIED IN PART in the manner stated above.

Entered this 7th day of December, 2006.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge