

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

DIRECTOR'S LEVEL APPEAL DECISION

JUL 12 2011

Date:

In re:

[REDACTED]
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

PELICAN BAY STATE PRISON
SECURITY HOUSING UNIT
[REDACTED]

IAB Case No.: 1020001

Local Log No.: PBSP-11-00752

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 staff at Pelican Bay State Prison (PBSP) unjustly denied him the ability to receive his mail. The appellant states that the Maoist International Ministry of Prisons is not a banned publication, and should not have been denied. The appellant requests that his mail be issued to him.

II SECOND LEVEL'S DECISION: The reviewer found that an appeal inquiry was conducted pursuant to CDCR policy. The reviewer notes that pursuant to the California Code of Regulations, Title 15, Section (CCR) 3006, inmates shall not possess or have under their control any matter that contains or concerns material that is reasonably deemed to be a threat to legitimate penological interests. The reviewer found that the publication received by the appellant, which was a Maoist International Movement publication, was identified as a threat to the safety and security of all State institutions by Director Kernan within a memorandum dated December 13, 2006.

The reviewer concluded that these publications are restricted from possession by inmates incarcerated within the CDCR, and as such, restrictions are not a violation of the appellant's rights. Therefore, the appeal was denied at the Second Level of Review.

III DIRECTOR'S LEVEL DECISION: Appeal is granted in part.

A. FINDINGS: Following thorough analysis at the Director's Level of Review, the appeals examiner has determined that the appellant's allegations have merit. While Maoist International Movement publications were previously disallowed based upon the direction of CDCR administration staff, the publications are currently not listed on the Centralized List of Disapproved Publications. Thus, a blanket denial on all such publications is inappropriate, and the institution must process the appellant's mail in accordance with applicable departmental rules/regulations.

As with all publications, the appellant's mailing must be reviewed and evaluated on a case-by-case basis in accordance with all departmental regulations. Unless this specific Maoist International Movement publication is considered contraband, as noted within the CCR 3006, the publication shall be issued to the appellant and/or allowed to be ordered and received.

B. BASIS FOR THE DECISION:

CCR: 3001, 3006, 3130, 3131, 3134, 3136, 3137, 3147, 3270, 3271, 3380

C. ORDER: The PBSP shall ensure that staff are no longer utilizing the December 13, 2006, Director Kernan memorandum concerning unauthorized publications to disallow incoming inmate mail. The appellant's mail from Maoist International Ministry must be evaluated on a case-by-case basis in accordance with departmental regulations.

This issue was discussed with the office of the chief deputy warden.

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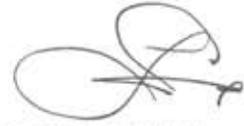
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This decision exhausts the administrative remedy available to the appellant within CDCR.



K. J. ALLEN, Appeals Examiner
Inmate Appeals Branch

cc: Warden, PBSP
Appeals Coordinator, PBSP



D. FOSTON, Chief
Inmate Appeals Branch