

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

THIRD LEVEL APPEAL DECISION

OCT 03 2012

Date:

In re:

██████████
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

TLR Case No.: 1201968

Local Log No.: PBSP-12-02003

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner R. L. Davis, Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he disagrees with the news letter/pamphlet sent to him being disallowed. The appellant contends he received a CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications informing him of the disallowed mail. The appellant stated he was informed the mail was disallowed because it was written by a CDCR inmate and is believed to be a threat to the safety and security of the institution. The appellant requests that the Secretary of the CDCR and Attorney General's Office be notified of the appeal; an unbiased investigation; that the appeal be logged; processed and that all laws pertaining to censorship be followed.

II SECOND LEVEL'S DECISION: The reviewer found that the mail withheld from the appellant, was done so appropriately. The reviewer stated that the disallowed mail contained eight double-sided pages of computer-generated writings. Included were writings from numerous inmates in different CDCR prisons and prisons from other states that pertained to the 2011 and 2012 hunger strike in the CDCR Administrative Segregation Units and similar disturbances reported in other states. The reviewer also noted information written from a Corcoran State Prison inmate that contained plans to disrupt the order of the institution. The reviewer stated that the exact information contained within the letter would not be quoted so as not to assist in its dissemination. The reviewer stated that many inmates are committed to promoting the activities of prison gangs, terrorists and other disruptive groups. To allow inmates to receive this type of mailing would be assisting in the promotion of the conspiracy to cause other mass disruptions of prison programs. The reviewer noted that the purpose of housing gang members and associates in the Security Housing Unit is to monitor and intercept their illicit communications that may threaten the safety and security of the public; Pelican Bay State Prison (PBSP) and/or other institutions throughout the State. This writings and information documented in the news letter is an example and is also considered third party mail. The reviewer added that the contents of the mail were part of an ongoing investigation and would not be issued to the appellant. Based upon the above information, the appellant's appeal was granted in part at the Second Level of Review (SLR).

III THIRD LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Third Level of Review (TLR) evaluated the issues of the appellant's appeal and reaffirms the institution's examination and conclusions as addressed within the SLR. Based upon a review of the submitted documents, the examiner found that PBSP appropriately disallowed the mail received by the institution and intended for the appellant. The examiner notes the disapproval of the letter was approved by a Correction/Facility Captain in accordance to the California Code of Regulations, Title 15 (CCR). The examiner refers the appellant to CCR 3136(a) which states in part, "Disapproval of inmate mail that is in clear violation of CCR sections 3006 or 3135 shall be referred to staff not below the level of Correctional/Facility Captain for determination and appropriate action." The examiner also refers the appellant to CCR 3006(c)(6)(7) which states, "Except as authorized by the institution head, inmates shall not possess or have under their control any matter which contains or concerns any of the following: Plans for activities which violate the law, these regulations, or local procedures (7) Coded messages." Additionally, the examiner cites CCR 3123(a) which states, "Inmates

PELICAN BAY STATE PRISON
SECURITY HOUSING UNIT
UNIT D-7

and parolees shall not knowingly promote, further or assist any gang as defined in section 3000." The documentation and arguments presented are persuasive that the appellant has failed to support his appeal issue with sufficient evidence or facts to warrant modification of the previous levels of review. The appellant's appeal issue was appropriately addressed by the institution. No evidence of negligence by staff has been shown. No relief is warranted at the TLR.

B. BASIS FOR THE DECISION:

CCR: 3001, 3006, 3023, 3136, 3270

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

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


R. L. DAVIS, Appeals Examiner
Office of Appeals


J. D. LOZANO, Chief
Office of Appeals

cc: Warden, PBSP
Appeals Coordinator, PBSP