



**PELICAN BAY STATE PRISON
SECOND LEVEL REVIEW**

DATE: **AUG 02 2012**

Inmate: [REDACTED]
Pelican Bay State Prison
Security Housing Unit
Facility [REDACTED]

RE: WARDEN'S LEVEL DECISION
APPEAL LOG NO. PBSP-D-12-02003

APPEAL: **PARTIALLY GRANTED**
ISSUE: MAIL

This matter was reviewed by G. D. Lewis, Warden at Pelican Bay State Prison (PBSP). Correctional Sergeant J. Pieren concluded the Second Level Appeal Review on July 31, 2012.

All submitted documentation and supporting arguments have been considered, including the interview conducted at the Second Level of Review. Additionally, a thorough investigation was conducted into the claim presented by the inmate and the documentation evaluated in accordance with PBSP's institutional procedures and the California Department of Corrections and Rehabilitation (CDCR) policies.

ISSUES

Inmate [REDACTED] states his copy of the Maoist International Movement (MIM), Under Lock and Key, mailing dated May/June 2012 was confiscated. [REDACTED] states the reasons given for the confiscation was the mailing contained a letter authored by another inmate addressing other inmates. [REDACTED] stated the mailing doesn't contain gang activity, but rather promotes peace among prisoners.

[REDACTED] is requesting for the Secretary of CDCR be notified of the mail stop. [REDACTED] also requests for an unbiased investigation be conducted into the mail being stopped.

The First Level of the Appeal was bypassed.

EFFECTIVE COMMUNICATION

Sergeant J. Pieren interviewed [REDACTED] at the Second Level of Review on July 19, 2012. [REDACTED] has a TABE score of 12.9, and has no documentation indicating the need of any reasonable accommodation for effective communication. During the interview, [REDACTED] was articulate in describing his understanding of this Appeal; therefore, effective communication was established and not an issue. During the course of this interview, [REDACTED] related essentially the same information he provided in his written Appeal.

FINDINGS

I

Sergeant Pieren reviewed the stopped piece of mail on July 31, 2012. This mailing was dated May/June 2012, and contains eight double-sided pages of computer-generated writings. Included are writings from numerous inmates in different prisons in both California and other States. The writings also contained information regarding the organized hunger strikes in 2011 and 2012 in an Administrative Segregation Unit (ASU) located within a California institution, as well as similar disturbances reported from inmates in other institutions throughout the United States.

Also within this mailing is an article dated March 2012, reportedly from an inmate housed at Corcoran State Prison. The article is titled, "*Retaliation for Hunger Strike and New Protest Ideas*," and contains plans that could disrupt the order of any institution. For this reason, the exact information contained within this article will not be quoted so as not to assist in its dissemination.

II

Many of the contributors identify themselves as inmates in various prisons and report on activities occurring in their respective locations; this is considered inmate-to-inmate correspondences.

Many prison inmates are committed to and promote the activities of inmate terrorist groups sometimes known as prison gangs, and sometimes known as disruptive groups. These groups are large, continuing criminal enterprises dedicated to increasing the power of that group by extortion, intimidation, and their abilities to cause a mass disruption of operations inside the prisons walls. It is not possible to promote a conspiracy without contact between conspiracy members. This means an effective way to control these conspiracies is isolating conspiracy members from contact with other conspiracy members. To allow inmates to receive this particular mailing would, in effect, be assisting in the promotion of the conspiracy to cause other mass disruptions of prison programs.

One of the purposes of housing gang members and associates in the SHU is to monitor and intercept their illicit communications that may threaten the safety and security of the public and this and/or other institutions throughout the State. This is one of those communications. It contains writings and information gathered by one person, who types up the newsletter and distributes it to persons who subscribe to it. This is considered third-party mail.

III

The California Code of Regulations (CCR), Title 15, Section 3139, Correspondence Between Inmates, Parolees, and Probationer's, states in part; "*Inmates shall obtain written authorization from the Warden or their designee at less that Correctional Captain/Facility Captain, to correspond with any of the following: (1) Inmates under the jurisdiction of any county, state or federal, juvenile or adult correctional agency. (b) Inmates may initiate requests to correspond with the above by contacting their Correctional Counselor I (CCI). Inmates may be allowed to correspond with the persons described in subsections 3139 (a)(1) through (4) provided those persons meet the criteria of approval of no known gang affiliation, or involvement with a known terrorist group or racketeering enterprise.*"

The PBSP Department Operation Manual (DOM) Addendum, Section 54010, Attachment #32, unauthorized items via regular mail, states: *Third party letters, reproduced material from magazines, publications, or material which cannot be readily traced to a correspondent/sender.*

The CCR, Title 15, Section 3006, Contraband, states: *Inmates may possess only the personal property, materials, supplies, items, commodities and substances, up to the maximum amount, received or obtained from authorized sources, as permitted in these regulations. Possession of contraband as defined in section 3000 may result in disciplinary action. (c) 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. (5) Plans to disrupt the order, or breach the security, of any facility.*

DETERMINATION OF ISSUE

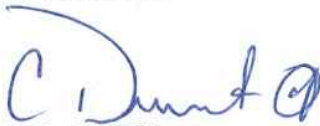
Based upon a review of this information, this mailing were appropriately confiscated and accurately documented by the IGI. The IGI continues to conduct investigations into the scope of all inmates' activity and illicit communications. As such, this letter is part of ongoing investigations and will be retained by the IGI for the purpose of these investigations.

ARCE's request for the Secretary of the CDCR be notified of this mail stop is **DENIED**. [REDACTED] has the opportunity to continue this Appeal at the Directors level of Review. [REDACTED] request for an unbiased investigation to be conducted is **GRANTED**. The outcome of this investigation can be found in the Findings section of this Appeal.

Based upon the above review and findings cited by the Second Level Reviewer, this Appeal is **PARTIALLY GRANTED** at the Second Level of Review.

MODIFICATION ORDER

No modification of this decision or action is required.



G. D. LEWIS
Warden