



PELICAN BAY STATE PRISON  
SECOND LEVEL REVIEW

DATE: OCT 25 2012

Inmate [REDACTED]  
Pelican Bay State Prison  
Facility D, Security Housing Unit  
Building 3, Cell 222

RE: WARDEN'S LEVEL DECISION  
APPEAL LOG NO. PBSP-D-12-02868

APPEAL: DENIED  
ISSUE: MAIL

This matter was reviewed by G. D. Lewis, Warden, at Pelican Bay State Prison (PBSP). On September 17, 2012, Office Service Supervisor I, C. Williams conducted the interview of the inmate at the First Level of Review.

ISSUES

The inmate contends on August 13, 2012, he received a California Department of Corrections and Rehabilitation (CDCR) 1819 Notification of Disapproval-Mail/Package/Publication Form from the mailroom disallowing an incoming newsletter that supposedly calls for solidarity and threatens the security of the institution. The inmate claims the denial of this newsletter is in violation of his 1<sup>st</sup> amendment rights.

The inmate is requesting to be issued the disallowed MIM Newsletter.

EFFECTIVE COMMUNICATION

The interview for this appeal was completed at the First Level of review. The attached Appeals Effective Communication Form contains information relative to accommodations that may have been utilized to ensure effective communication following a review of the Disability Effective Communication System.

FINDINGS

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The inmate was dissatisfied with the First Level of Appeal, reiterating his claim that the Newsletter does not violate any policy and he has a constitutional right to be able to read this type of material.

DETERMINATION OF ISSUE

The California Code of Regulations, Title 15, Section 3006 (c), states in part, *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. (6) Plans for activities which violate the law, these regulations, or local procedures.*

The California Code of Regulations, Title 15, Section 3136, Disapproval of Inmate Mail, states, "(a) 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. Disapproval of inmate mail that is not in clear violation of CCR sections 3006 or 3135 shall be referred to the Warden, but not lower than the Chief Deputy Warden, for determination and appropriate action. When incoming or outgoing mail/packages/publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications (Rev. 06/98) of the reason, disposition, name of official disallowing the mail/package/publication, and the name of the official to whom an appeal can be directed."

PBSP DOM Supplement, Chapter 50000, Subchapter 54000, Section 54010.14, states, in part, "Mail found to be unauthorized or to contain unauthorized items specifically prohibited in the OP of this institution will not be issued to the inmate. Mail found to meet the criteria in the CCR, Title 15, Section 3006, will be presented to a Correctional/Facility Captain or to the PRC, for a decision as to its acceptability or denial. If denied, designated staff at, or above, the staff level of a Correctional/Facility Captain, will authorize a CDCR 1819, or a CDCR 128B."

A thorough review was conducted at the First Level of Review. The inmate was informed his Newsletter in question calls for all prisoners to engage in a solidarity demonstration, and embark on a work stoppage. Per the CCR, Title 15, Section 3006 (c) (5), informs inmates that they are not allowed material which instructs inmate/prisoners to disrupt the daily operations of institutions. The Warden has the responsibility of establishing and implementing safety and security procedures for the safe operation of the institution. Safety and security procedures are not determined by the opinions of inmates. Therefore, based upon this information, the inmate's request to be issued the disallowed MIM Newsletter is **DENIED**, as the newsletter is in violation of the CCR, Title 15, Section 3006 (c) (5).(6).

Therefore, based upon the aforementioned, this appeal is **DENIED** at the Second Level of Review.

#### MODIFICATION ORDER

No modification of this decision or action is required.

  
G. D. LEWIS  
Warden

MST Date: 10/23/12