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SEP 12 2013

1313

Department of Corrections
Inmate Grievance Appeals

PART B - RESPONSE

INMATE	NUMBER	GRIEVANCE LOG NUMBER	CURRENT INMATE LOCATION	HOUSING LOCATION
		13-6-27898	FLORIDA STATE PRISON	

Your administrative appeal has been reviewed and evaluated. You appeal the impoundment of the following publication: UNDER LOCK AND KEY, JULY/AUGUST 2013, NO. 33.

On August 30, 2013 the Literature Review Committee reviewed the subject matter content in the publication. It was determined to contain subject matter that is inadmissible per Rule 33-501.401(3)(e)(m).

The department may prohibit admission of materials or publications if they are determined to be detrimental to the safety, security, order or rehabilitative interests of a facility or would create a risk of disorder at that facility. Chapter 33-501.401, requires that publications be reviewed and a determination made by one institution. The determination made by that institution affects all other institutions; however, as a result of an individual institution's determination, all impounded publications are reviewed and either approved or rejected by the department's literature review committee as required by rule. Therefore, the final determination is made by the department's literature review committee and not by an individual institution or warden.

Based on the above information your administrative appeal is denied.

S. Milliken

SIGNATURE AND TYPED OR PRINTED NAME
OF EMPLOYEE RESPONDING

SIGNATURE OF WARDEN, ASST. WARDEN, OR
SECRETARY'S REPRESENTATIVE

9/9/13
DATE

COPY DISTRIBUTION - INSTITUTION / FACILITY

- (2 Copies) Inmate
- (1 Copy) Inmate's File
- (1 Copy) Retained by Official Responding

COPY DISTRIBUTION - CENTRAL OFFICE

- (1 Copy) Inmate
- (1 Copy) Inmate's File - Inst./Facility
- (1 Copy) C.O. Inmate File
- (1 Copy) Retained by Official Responding

STATE OF FLORIDA
DEPARTMENT OF CORRECTIONS

REQUEST FOR ADMINISTRATIVE REMEDY OR APPEAL

RECEIVED

SEP - 4 2013

TO: Warden Assistant Warden Secretary, Florida Department of Corrections

DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCES

From: [Redacted] [Redacted] F.S.P.
Last First Middle Initial Number Institution

Part A - Inmate Grievance 13-6-27898

This appeal is regarding the decision for Impoundment of "Under Lock And Key" (NO. 33, July/August 2013) publication received by F.S.P. on 08/14/2013 and impounded on 08/15/2013. This decision was authorized by the institution under Rule 33-501.401 F.A.C., Section (3)(M) Admissible Reading Material. See DC5-101 page 2 of 2. Rule 33-501.401(3)(M) authorizes impoundment for reading material which "presents a threat to the security, good order, or discipline of the correctional system or the safety of any person". Page 2 of 2 on DC5-101 (attached) states the specific written matter, "Describes Situations for Protest of Departmental Rules" found on pages (14)(8)(9)(10)(11). According to the institutions, "Under Lock And Key" publication is permitted in all of the prisons in the U.S., which provides prisoners with legal advice, case law info, and ideals. Therefore, this publication doesn't present a threat to the security, good order, or discipline of the correctional system or the safety of any person for "Describing" situations for protest of departmental rules, which is an "expression". See, *Regan v. Time, Inc.*, 468 U.S. 641, 648-49, 104 Sct 3262 (1984). "The fact that society may find speech offensive is not sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection" see, *Hustler Magazine, Inc. v. Falwell*, 495 U.S. 45, 46, 108 Sct 876, 882. The government may not prohibit the expression of an idea simply because the institution finds the idea itself offensive or disagreeable, *U.S. v. Eichman*, 496 U.S. 310, 319, 110 Sct 2404 (1990). "Above all else, the first Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content." *Police Dept of Chicago v. Mosley*, 408 U.S. 92, 95, 92 Sct 2286, 2290 (1972). See *Procunier v. Martinez*, 416 U.S. 396, 402, 40 L. Ed 2d 224, 94 Sct 1800 (1974). "The regulation or practice in question must further an important or substantial government interest unrelated to suppression of expression is unlawful!! You have a right to receive publications of your choice unless officials can show material "not say" poses a tangible threat to security good order. Remedy Seeking: For the "Under Lock And Key" to be released to grievant.

08/28/13
DATE

[Redacted Signature]
SIGNATURE OF GRIEVANT AND D.C. #

*BY SIGNATURE, INMATE AGREES TO THE FOLLOWING # OF 30-DAY EXTENSIONS:

0 1
[Redacted]

of any person". Page 2 of 2 on DC5-101 (Attached) states the specific written matter, "Describes Situations for Protest of Departmental Rules" found on pages (14)(8)(9)(10)(11). According to the institutions. "Under Lock and Key" publication is permitted in all of the prisons in the U.S., which provides prisoners with legal advice, case law info, and ideals. Therefore, this publication doesn't present a threat to the security, good order, or discipline of the correctional system or the safety of any person for "Describing" situations for protest of departmental rules, which is an "Expression". See, *Regan v. Time, Inc.*, 468 U.S. 641, 648-49, 104 Sct 3262 (1984). "The fact that society may find speech offensive is not sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection" see, *Hustler Magazine, Inc. v. Falwell*, 495 U.S. 45, 46, 108 Sct 876, 882. The government may not prohibit the expression of an idea simply because the institution finds the idea itself offensive or disagreeable, *U.S. v. Eichman*, 496 U.S. 310, 319, 110 Sct 2404 (1990). "Above all else, the first Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content." *Police Dept of Chicago v. Mosley*, 408 U.S. 92, 95, 92 Sct 2286, 2290 (1972). See *Procunier v. Martinez*, 416 U.S. 396, 40 L. Ed 2d 224, 94 Sct 1800 (1974). "The regulation or practice in question must further an important or substantial government interest unrelated to suppression of expression is unlawful!! You have a right to receive publications of your choice unless officials can show material "not say" poses a tangible threat to security good order. Remedy Seeking: For the "Under Lock and Key" to be released to grievant.

08/28/13
DATE

[Redacted Signature Area]
SIGNATURE OF GRIEVANT AND D.C. #

*BY SIGNATURE, INMATE AGREES TO THE FOLLOWING # OF 30-DAY EXTENSIONS:

0 / 1
#

INSTRUCTIONS

This form is used for filing a formal grievance at the institution or facility level as well as for filing appeals to the Office of the Secretary in accordance with Rule 33-103, Florida Administrative Code. When an appeal is made to the Secretary, a copy of the initial response to the grievance must be attached (except as stated below).

When the inmate feels that he may be adversely affected by the submission of a grievance at the institutional level because of the sensitive nature of the grievance, or is entitled by Chapter 33-103 to file a direct grievance he may address his grievance directly to the Secretary's Office. The grievance may be sealed in the envelope by the inmate and processed postage free through routine institutional channels. The inmate must indicate a valid reason for not initially bringing his grievance to the attention of the institution. If the inmate does not provide a valid reason or if the Secretary or his designated representative feels that the reason supplied is not adequate, the grievance will be returned to the inmate for processing at the institutional level.

Receipt for Appeals Being Forwarded to Central Office

Submitted by the inmate on: 8/29/13 (Date)

Institutional Mailing Log #: 20513082905

14a (205)
M. Vickers
(Received By)

DISTRIBUTION: INSTITUTION/FACILITY
INMATE (2 Copies)
INMATE'S FILE
INSTITUTIONAL GRIEVANCE FILE

CENTRAL OFFICE
INMATE
INMATE'S FILE - INSTITUTION/FACILITY
CENTRAL OFFICE INMATE FILE
CENTRAL OFFICE GRIEVANCE FILE

Under Lock & Key
No. 33
July/August 2013