

Memorandum

Date: November 3, 2016

02B-120

To:

California Health Care Facility

FIRST LEVEL APPEAL RESPONSE

LOG NO.: CHCF-C-16-03674

ISSUE: This is the First Level Response (FLR) to appeal log# CHCF-C-16-03674.

It is the appellant's position that:

In September 2016 the publication Under Lock and Key was sent to me by an approved vendor. I have been receiving this publication for 15 years while incarcerated in CDCR. This is the first time this publication has been rejected. The U.S. Constitution's First Amendment and Penal Code 2601(c) give prisoners the right to receive publications. It is alleged that this publication poses some type of security risk. If you were to read through the publication you will learn that it contains no nudity, it does not incite violence, no gambling, does not show how to make weapons, sabotage computers or electronics, no maps, nor can it be perceived by normal logical reasoning that this publication threatens the institution's security. This publication is not on the disapproved list.

The appellant requests that the following action is taken:

- A full investigation into the allegations.
- The Division of Adult Institutions be addressed as pursuant to procedure CCR Title 15 3035 (d).
- To receive the publication that was confiscated from me.
- The reason the publication was disallowed.
- An interview at every level of this appeal in person.

REGULATIONS: The rules governing this issue are:

CCR 3133 Processing of Publications

CCR 3084.1 Right to Appeal

INTERVIEWED BY: J. Covello, Office Services Supervisor I, at the First Level Response (FLR).

On November 3, 2016, pursuant to CCR 3084.7(e) due to quarantine a telephone interview was conducted with the appellant at the FLR by J. Covello, Office Services Supervisor I. A review of the Disability and Effective Communication System (DECS) indicated the appellant's TABE score is: 0. The appellant's DPP code is: DPW. The appellant's DDP code is: NDD. The appellant is a participant in the MHSDS at the level of care: EOP.

Due to the appellant's case factors, effective communication was achieved by speaking slowly and clearly reading the appellant's appeal concerns as annotated within the appeal and having the appellant periodically repeat back in his own words what was stated to the appellant throughout the interview.

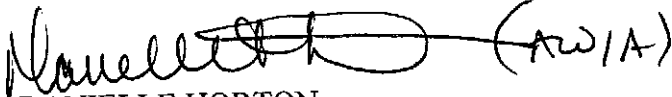
During the interview, the appellant was given the opportunity to provide additional information and/or to clarify the issues under review. The appellant thoroughly explained his appeal issues but provided no new evidence, documentation, or information that would support his appeal.

RESPONSE: The Under Lock and Key, July/August 2016, Number 51 issue violates CCR, Title 15, Section 3006 (c)(5), as the reason for disallowance. Per a memorandum from the Office of Policy Standardization, a review of submitted documents determined that Under Lock and Key, July/August 2016, Number 51 issue, the cover page contains material that inspires inmates to disrupt the order of the facility by participating in a prisoner work stoppage and shall not be delivered to the inmate(s), as is violates Departmental policy.

DECISION: The appeal is **DENIED** for the following:

The Under Lock and Key, July/August 2016, Number 51 issue violates CCR, Title 15, Section 3006 (c)(5), which states in part "inmates shall not possess or have under their control any matter which contains or concerns, plans to disrupt the order, or breach the security, of any facility".

The appellant is advised that this issue may be submitted to the Second Level of Review, if desired, by completing Section "D" of the CDCR Form 602 and submitting the appeal with the supporting documents to the CHCF Appeals Office.


DANIELLE HORTON
Associate Warden (A)
Central Services