

Memorandum

Date : November 22, 2016

To :
California Health Care Facility

Subject: **SECOND LEVEL APPEAL RESPONSE**
LOG NO.: CHCF- C-16-03674

ISSUE:

It is the appellant's position that:

1. The appellant states they have the right to peaceful protest due to the first amendment which is being violated. Mere work stoppage is not a breach of security that he is well within the right to peaceful protest. It is his position that, he had never considered protesting something that was already common knowledge in the media. He would like staff to read issue 51 to him because no threat has been proven.

The appellant requests:

- 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: Lieutenant C. Barroga

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.

Effective communication was established by using simple English, speaking slowly, loudly, and clearly. The appellant was able reiterate his appeal issue regarding the inappropriate cancellation of his previous appeal. The appellant was given the opportunity to provide additional information and/or to clarify the issue(s) under review. The appellant thoroughly explained his appeal issues but provided no new evidence, documentation, or information that would support his appeal.

FIRST LEVEL DECISION: FLR was **DENIED**.

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 it violates Departmental policy.

DECISION: Second Level Review **PARTIALLY GRANTED.**

RESPONSE: During the interview appellant disagreed his magazine was denied solely based on headquarters memorandum. It was reiterated to the appellant that his appeal is denied based on Departmental Memorandum dated October 6, 2016. The memorandum clearly states that DAI has determined this publication entitled "Under lock and Key," July/ August 2016 number 51 issue violates CCR, Title 15, section 3006, contraband. Appellants request for interview in person at this level was granted.

MODIFICATION ORDER: None

The appellant is advised that this issue may be submitted for a Third Level of Review, if desired, by completing section "F" of the CDCR form 602 and mailing the appeal to the Chief of the Office of Appeals at the address listed on the back of the CDCR form 602.



MICHAEL MARTEL
Warden (A)
California Health Care Facility