

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

JASON COOK, :  
Plaintiff, :

v. :  
:

ASHBEL T. WALL, individually and in his :  
official capacity as director of the Rhode :  
Island Department of Corrections; :

STEPHEN BOYD, individually and in his :  
official capacity as a warden at the Rhode :  
Island Department of Corrections; :

MICHELE AUGER, individually and in her :  
official capacity as a deputy warden at the :  
Rhode Island Department of Corrections; :

KIRK KASZYK, individually and in his :  
official capacity as a deputy warden at the :  
Rhode Island Department of Corrections; :

THOMAS IZZO, individually and in his :  
official capacity as a correctional officer at :  
the Rhode Island Department of Corrections; :

JOSEPH JANKOWSKI, individually and in :  
his official capacity as a correctional officer at :  
the Rhode Island Department of Corrections; :

“JOHN DOE” NAKHLIS, individually and :  
in his official capacity as a correctional officer :  
at the Rhode Island Department of :

Corrections; “JOHN DOE” MEUNIER, :  
individually and in his official capacity as a :  
correctional officer at the Rhode Island :

Department of Corrections; “JOHN DOE” :  
FREEMAN, individually and in his official :  
capacity as a correctional officer at the Rhode :

Island Department of Corrections; “JOHN :  
DOE” LAWSON, individually and in his :  
official capacity as a correctional officer at :

the Rhode Island Department of Corrections; :  
RHODE ISLAND DEPARTMENT OF :  
CORRECTIONS :

Defendants. :

C.A. No. 09-

CA 09 169

**COMPLAINT FOR  
DECLARATORY JUDGMENT,  
INJUNCTIVE RELIEF,  
AND DAMAGES**

**I. PRELIMINARY STATEMENT**

This is an action for declaratory and mandatory injunctive relief and for compensatory and punitive damages to redress deprivation, under color of law, of rights, privileges and immunities secured to the Plaintiff, Jason Cook, by the First, Fifth, Eighth and Fourteenth Amendments of the United States Constitution and by Article I, Sections 2 and 21 of the Rhode Island Constitution. In support of his Complaint against Defendants, Plaintiff states as follows:

**II. JURISDICTION**

1. Jurisdiction of this Honorable Court is proper under 28 U.S.C. §§1331, 1343, 1367, 2201, 2202 and 42 U.S.C. §§1983, 1988.

2. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2) in that a substantial part of the events or omissions giving rise to this claim occurred within the judicial district of Rhode Island.

**III. PARTIES**

3. Plaintiff Jason Cook ("Cook") is now and at all times pertinent hereto has been a resident and citizen of the State of Rhode Island and of the United States. Cook is now and at all times pertinent hereto has been incarcerated at the John J. Moran facility at the Rhode Island Department of Corrections since January 2006.

4. Defendant Ashbel T. Wall ("Wall") is a citizen and resident of the State of Rhode Island and of the United States. Wall, who is sued herein individually and in his official capacity, is now and at all times pertinent hereto has been the Director of the Rhode Island Department of Corrections where Plaintiff Cook has been detained. As Director,

Wall is statutorily responsible for the management, administration and supervision of the Rhode Island prison system, pursuant to R.I. Gen. Laws § 42-56-10 *et. seq.* As such, he is the supervising authority and commanding officer of the Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson and was responsible for the training and conduct of said Defendants. Wall was also responsible by law for enforcing the regulations of the Rhode Island Department of Corrections and for insuring that correctional officers obey the laws of the State of Rhode Island and of the United States. Wall had actual knowledge of violations of Mr. Cook's constitutional rights and knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and implemented policies or customs allowing or encouraging these unlawful acts.

5. Defendant Stephen Boyd ("Boyd"), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Boyd, who is sued herein individually and in his official capacity, is now and at all times pertinent hereto has been the Warden of a medium security facility at the Rhode Island Department of Corrections where Plaintiff Cook has been detained. As Warden, Boyd is statutorily responsible for the management, administration and supervision of the medium security facility which has housed Plaintiff Cook pursuant to R.I. Gen. Laws § 42-56-1 *et. seq.* As such, he is the supervising authority and commanding officer of the Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson and was responsible for the training and conduct of said Defendants. Boyd was also responsible by law for enforcing the regulations of the Rhode Island Department of Corrections and for insuring that correctional officers obey the laws of the State of Rhode Island and of the United States. He had actual knowledge of violations of Mr. Cook's constitutional rights and knew of the practices that

led to them. He did not act to stop or curb them. He created, maintained, and implemented policies or customs allowing or encouraging these unlawful acts.

6. Defendant Michele Auger (“Auger”), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Auger, who is sued herein individually and in her official capacity, is now and at all times pertinent hereto has been the Deputy Warden of a medium security facility at the Rhode Island Department of Corrections where Plaintiff Cook has been detained. As Deputy Warden, Auger is statutorily responsible for the management, administration and supervision of the medium security facility which has housed Plaintiff Cook. As such, she is a supervising authority and commanding officer of the Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson and was responsible for the training and conduct of said Defendants. Auger was also responsible by law for enforcing the regulations of the Rhode Island Department of Corrections and for insuring that correctional officers obey the laws of the State of Rhode Island and of the United States. She had actual knowledge of violations of Mr. Cook’s constitutional rights and knew of the practices that led to them. She did not act to stop or curb them. She created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

7. Defendant Kirk Kaszyk (“Kaszyk”), upon information and belief, is a citizen and resident of the State of Rhode Island and of the United States. Kaszyk, who is sued herein individually and in his official capacity, is now and at all times pertinent hereto has been the Deputy Warden of a medium security facility at the Rhode Island Department of Corrections where Plaintiff Cook has been detained. As Deputy Warden, Kaszyk is statutorily responsible for the management, administration and supervision of the medium security facility which has housed Plaintiff Cook. As such, he is a supervising authority and

commanding officer of the Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson and was responsible for the training and conduct of said Defendants. Kaszyk was also responsible by law for enforcing the regulations of the Rhode Island Department of Corrections and for insuring that correctional officers obey the laws of the State of Rhode Island and of the United States. He had actual knowledge of violations of Mr. Cook's constitutional rights and knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

8. Defendant Joseph Jankowski ("Jankowski"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

9. Defendant Thomas Izzo ("Izzo"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them.

He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

10. Defendant "John Doe" Nakhlis ("Nakhlis"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

11. Defendant "John Doe" Meunier ("Meunier"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

12. Defendant "John Doe" Freeman ("Freeman"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant

Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

13. Defendant "John Doe" Lawson ("Lawson"), upon information and belief, is a citizen and resident of the State of Rhode Island. He is and was at all times relevant hereto a correctional officer in the Rhode Island Department of Corrections in the State of Rhode Island acting in such capacity as the agent, servant and employee of Defendant Department of Corrections. He is sued herein individually and in his official capacity. He violated Mr. Cook's constitutional rights, had actual knowledge of violations of Mr. Cook's constitutional rights and/or knew of the practices that led to them. He did not act to stop or curb them. He created, maintained, and/or implemented policies or customs allowing or encouraging these unlawful acts.

14. Defendant Rhode Island Department of Corrections ("RIDOC") is a department established to provide for the custody, care, discipline, training, treatment, and study of persons committed to state correctional institutions pursuant to R.I. Gen. Laws § 42-56-1 *et. seq.* At all relevant times hereto, the RIDOC employed defendants Wall, Boyd, Auger, Kaszyk, Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson. At all times mentioned herein, the RIDOC was duly organized and existing under the laws of the State of Rhode Island and of the United States.

15. At all times complained of herein, defendants Wall, Boyd, Auger, Kaszyk, Izzo, Nakhlis, Meunier, Jankowski, Freeman, Lawson and the RIDOC were acting under color of State law.

16. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, the defendants were and are officials of the State of Rhode Island and/or correctional officers for the RIDOC. In doing the things herein described, each of the above named defendants acted within the course and scope of said employment, and each was the agent, servant and employee of each of their co-defendants. As such, the acts are imputed to the defendant RIDOC and defendants Wall, Boyd, Auger and Kaszyk. In addition, the individual defendants' conduct as further described in this Complaint, executes or implements an official policy of the RIDOC. Said policy can be found in regulations, laws, policy statements, rules or decisions officially adopted by state actors, or in a pattern or persistent practice sufficiently known to and approved by the RIDOC and defendants Wall, Boyd, Auger and Kaszyk to constitute a custom and policy.

#### **IV. FACTS**

17. On October 22, 2007, Jason Cook issues a public statement published in the *Providence Journal* criticizing a newly implemented Department of Corrections policy that limited publications available to inmates: DOC Policy 24.01-5. See Article attached as **Exhibit 1**.

18. Shortly thereafter, Cook is fired from his kitchen job by Correctional Officer Izzo under the pretext that Cook was caught on a video camera stealing state property.

19. On October 30, 2007, Lt. Meunier conducts a disciplinary hearing and finds Cook guilty, without viewing the videotape, but nonetheless tells Cook that he would review the video. The disciplinary report lists Cook's sanctions as "reprimand," not loss of employment. On November 7, 2007, Lt. Meunier tells Cook that the video tape showed that Cook had done nothing wrong. Immediately, Cook appeals Meunier's guilty finding the same day to Deputy Warden Auger. After waiting several weeks and not receiving a



response from Auger, Cook resubmits his appeal on or about December 8, 2007. See Report and Letters attached as **Exhibit 2**.

20. On January 15, 2008, Cook writes a letter to Deputy Warden Auger and Warden Boyd asking about the status of his appeal. On January 25, 2008, Warden Boyd sends a memo to Cook stating that Cook was found not guilty and thus there was no basis for his appeal. See Letter and Memo attached as **Exhibit 3**.

21. On February 7, 2008, Cook sends a letter to Director Ashbel T. Wall asking for damages for his wrongful termination: lost wages and lost goodtime. On February 9, 2008, Director Wall denies Cook's request. See Letters attached as **Exhibit 4**.

22. On February 20, 2008, the Rhode Island affiliate of the American Civil Liberties Union intervenes on Cook's behalf in the dispute over inmate mail and writes the Department of Corrections to halt the new policy. See Letter attached as **Exhibit 5**.

23. Shortly thereafter, during a module wide shakedown, Correctional Officers Lawson and Nakhlis violently direct and/or conduct a search of Cook's cell and destroy his personal property, including his food items. See Grievance attached as **Exhibit 6**.

24. Cook and his mother, Rita Connell, complain to the Department of Corrections Office of Inspections about the violent search and damaged property.

25. The Chief Investigator tells Cook to inform other inmates in his module with similar complaints regarding the search to direct complaints to him.

26. On or about March 3, 2008, in conformance with the Chief Investigator's stated desire, Cook posts a notice on an inmate bulletin board informing other inmates that any complaints they might have regarding the violent search should be directed to the Investigator.

27. On or about March 4, 2008, Correctional Officer Lawson removes Cook's posting and disciplines Cook for "engaging in or encouraging a group demonstration and/or activities." Cook is strip searched and taken to segregation. Cook is booked two days later, on or about March 6, 2008. See Report attached as **Exhibit 7**.

28. Subsequently, a disciplinary board hearing with Lt. Jankowski is repeatedly postponed on or about March 7, 2008, March 11, 2008 and March 14, 2008. Cook writes appeals to both Warden Boyd and Lt. Jankowski protesting his condition. After two weeks of enduring segregation, Cook finally has a hearing, on or about March 18, 2008, where he is unable to present and/or question witnesses and Lt. Jankowski fails to present any material evidence against Cook. After Cook is found guilty and sanctioned with 30 days in segregation, the loss of 30 days of goodtime and the recommendation to be downgraded to the more restrictive maximum security facility, Lt. Jankowski turns off the tape recorder and says that 'this is what happens when you get the ACLU involved in our business.' See Reports attached as **Exhibit 8**. See Appeals attached as **Exhibit 9**.

29. Thereafter Cook appeals Jankowski's finding to Warden Boyd, who subsequently denies Cook's appeal on or about March 24, 2008. See Warden's Review attached as **Exhibit 10**.

30. In a letter dated April 7, 2008, the RI ACLU writes to Warden Boyd and requests that all copies and/or recording of Cook's disciplinary hearings be retained. Shortly thereafter, in a memo dated April 11, 2008, the Department of Corrections rescinds the change in gift policy that Cook and the RI ACLU publicly criticized. See Letter and Memo attached as **Exhibit 11**.

31. On or about May 30, 2008, Cook is once again strip searched and thrown into segregation under the pretext that a letter he wrote to the Parole Board was threatening.

A June 5, 2008 report from the Special Investigation Unit promises that a Classification Board will convene to address Cook's status in segregation. No Board is convened and Cook stays in segregation for 18 days. See Letter and Report attached as **Exhibit 12**.

32. On or about June 17, 2008, Cook sends a grievance to Warden Boyd protesting his placement in segregation and Boyd responds to Cook with a memo stating that Cook was put into segregation pending an investigation. On this day, Cook is released from segregation. See Memo and Grievances attached as **Exhibit 13**.

33. On or about September 8, 2008, Cook sends a letter to Director Wall protesting the lack of a response to his grievances. See Letter attached as **Exhibit 14**.

34. Two days later, Cook is subjected to a strip search and his cell is searched by Correctional Officers Freeman and Lawson and his property is destroyed. The Officers look through Cook's legal materials and Cook is asked by the Officers if he has communicated further with any *Providence Journal* reporters. Shortly thereafter, Cook is yet again strip searched and thrown into segregation, where he will ultimately stay for 4 more days. He sends a letter and a grievance directly to Warden Boyd, who fails to respond. See Grievance and Letter attached as **Exhibit 15**.

35. Each and all of Cook's detailed grievances and appeals against the punitive measures of being placed in segregation, losing his job, losing his wages and losing his goodtime have been denied and his administrative remedies have been exhausted.

**V. COUNT I**

**42 U.S.C. § 1983**

**FIRST AND FOURTEENTH AMENDMENT VIOLATIONS**  
**DEFENDANTS RIDOC, WALL, BOYD, AUGER, KASZYK, IZZO,**  
**NAKHLIS, MEUNIER, JANKOWSKI, FREEMAN AND LAWSON**

36. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 35 as if incorporated and reiterated herein.

37. At all times relevant herein, each of the State Defendants was acting under color of state law by exercising power made possible because the State Defendants were clothed with the authority of state law.

38. The actions of State Defendants Wall, Boyd, Auger, Kaszyk, Meunier and Izzo in retaliating against Cook for publicly criticizing policy changes at the Rhode Island Department of Corrections by booking, disciplining and terminating his employment violated Cook's First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

39. The actions of State Defendants Lawson and Nakhlis in retaliating against Cook for publicly criticizing policy changes at the Rhode Island Department of Corrections by violently searching his cell and destroying his property violated Cook's First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

40. The actions of State Defendants Lawson, Jankowski, Wall, Boyd, Auger and Kaszyk in booking, disciplining and locking Cook up in segregation on or about March 4, 2008 in retaliation for Cook's public comments, his affiliation with the RI ACLU and for Cook's posting of a notice on a bulletin board violated Cook's First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

41. The actions of State Defendants Lawson, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about May 30, 2008 in retaliation for his public comments and for writing a letter of protest to the Parole Board violated First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

42. The actions of State Defendants Freeman and Lawson in strip searching Cook's person and searching his cell in retaliation for his public comments and to learn whether Cook had communicated with a Providence Journal reporter violated Cook's First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

43. The actions of State Defendants Lawson, Freeman, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about September 11, 2008 in retaliation for Cook's public comments violated Cook's First and Fourteenth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

44. The actions of State Defendants Wall, Boyd, Auger, Izzo, Nakhlis, Meunier, Jankowski, Freeman and Izzo violated 42 U.S.C. §1983 by depriving Jason Cook of his rights under the First and Fourteenth Amendments to the United States Constitution.

45. As a direct and proximate result of the actions by each of the Defendants, Wall, Boyd, Auger, Izzo, Nakhlis, Meunier, Jankowski, Freeman and Izzo, Jason Cook lost his job, his wages, goodtime and his liberty.

46. The detentions, prosecutions, searchings and multiple charges brought against the Plaintiff were not brought in good faith, but rather, were brought by the defendant Wall and those acting in concert with him in bad faith to harass the Plaintiff and interfere with his right to freedom of speech to speak out about conditions at the RIDOC in derogation of rights secured to the Plaintiff by the First and Fourteenth Amendments to the United States Constitution.

47. The defendant Wall's bad faith is made manifest not only by the repeated detentions and multiple charges and actions taken against the Plaintiff, but also by

declarations of officers acting under his direction and control of their determination to prevent the Plaintiff from expressing his opinions and disseminating information about his cause in any way to members of the general public.

48. The actions of the defendants in the detentions, prosecutions, destruction of property, unlawful searches, and charging the Plaintiff with multiple violations of RIDOC rules, policies or regulations cause Plaintiff to suffer irreparable harm because the defendants' conduct has penalized and threatened to penalize the Plaintiff when he is engaging in activities that are protected by the First and Fourteenth Amendments to the United States Constitution.

49. Plaintiff has no adequate remedy at law to redress the irreparable injury which defendants have caused and continue to cause him.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

a. Declare the actions of the defendants to be unconstitutional and in derogation of the First and Fourteenth Amendment rights of the Plaintiff in that the defendants acted arbitrarily, capriciously and without permissible guidelines thereby denying to Plaintiff the right to free speech as guaranteed by the First and Fourteenth Amendments to the United States Constitution;

b. Declare that the administrative and penal actions under which defendants have restricted Plaintiff's activities are violations of Plaintiff's right to free speech as guaranteed to all citizens pursuant to the First and Fourteenth Amendments to the United States Constitution;

c. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees and agents from prohibiting or in any way interfering with Plaintiff's right to free speech to newspapers, the public, the parole board or his

association with any organization such as the RI ACLU by the issuance of a permanent injunction;

d. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from bringing any further disciplinary actions against the Plaintiff as it pertains to speech by the issuance of a permanent injunction;

e. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from continuing to prosecute Plaintiff for those charges set forth herein by issuance of a permanent injunction;

f. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;

g. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;

h. Award Plaintiff reasonable attorneys' fees, expert fees and court costs under 42 U.S.C. §1988 for the prosecution of his 42 U.S.C. §1983 claims;

i. Award Plaintiff reasonable attorneys' fees and court costs pursuant to federal and state law;

j. Award Plaintiff legal interest and costs; and

k. Award such other and further relief as this Honorable Court deems right and just.

**VI. COUNT II**  
**42 U.S.C. § 1983**  
**FIFTH AND FOURTEENTH AMENDMENT VIOLATIONS**  
**DEFENDANTS RIDOC, WALL, BOYD, AUGER, KASZYK, IZZO,**

**MEUNIER, JANKOWSKI, FREEMAN AND LAWSON**

50. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 49 as if incorporated and reiterated herein.

51. At all times relevant herein, each of the State Defendants was acting under color of state law by exercising power made possible because the State Defendants were clothed with the authority of state law.

52. The actions of State Defendants Wall, Boyd, Auger, Kaszyk, Meunier and Izzo in terminating the Plaintiff from his employment without the procedural due process guaranteed under the United States Constitution and the *Morris* rules violated Cook's due process rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

53. The actions of State Defendants Lawson, Jankowski, Auger, Kaszyk, Wall and Boyd in booking, disciplining and locking Cook up in segregation on or about March 4, 2008 without substantial evidence violated Cook's due process rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

54. The actions of State Defendants Lawson, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about May 30, 2008 without substantial evidence violated Cook's due process rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

55. The actions of State Defendants Freeman, Lawson, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about September 11, 2008 without substantial evidence violated Cook's due process rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.



56. The actions of State Defendants Wall, Boyd, Auger, Kaszyk, Izzo, Meunier, Freeman, Jankowski and Lawson violated 42 U.S.C. §1983 by depriving Jason Cook of his rights under the Fifth and Fourteenth Amendments to the United States Constitution.

57. As a direct and proximate result of the actions by each of the Defendants, Wall, Boyd, Auger, Kaszyk, Izzo, Meunier, Freeman, Jankowski and Lawson, Jason Cook lost his job, his wages, goodtime and his liberty.

58. The detentions, prosecutions, searchings and multiple charges brought against the Plaintiff were not brought in good faith, but rather, were brought by the defendant Wall and those acting in concert with him in bad faith to harass the Plaintiff and interfere with his right to due process as secured to the Plaintiff by the Fifth and Fourteenth Amendments to the United States Constitution.

59. The actions of the defendants in the detentions, prosecutions, destruction of property, unlawful searches, and charging the Plaintiff with multiple violations of RIDOC rules, policies or regulations cause Plaintiff to suffer irreparable harm because the defendants' conduct has penalized and threatened to penalize the Plaintiff in violation of his due process rights as protected by the Fifth and Fourteenth Amendments to the United States Constitution.

60. Plaintiff has no adequate remedy at law to redress the irreparable injury which defendants have caused and continue to cause him.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

a. Declare the actions of the defendants to be unconstitutional and in derogation of the Fifth and Fourteenth Amendment rights of the Plaintiff in that the defendants acted arbitrarily, capriciously and without permissible guidelines thereby denying

to Plaintiff the right to procedural and substantive due process as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;

b. Declare that the administrative and penal actions under which defendants have restricted Plaintiff's liberties are violations of Plaintiff's procedural and substantive due process rights as guaranteed to all citizens pursuant to the Fifth and Fourteenth Amendments to the United States Constitution;

c. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees and agents from prohibiting or in any way interfering with Plaintiff's procedural and substantive due process rights by the issuance of a permanent injunction;

d. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from continuing to prosecute Plaintiff for those charges set forth herein by issuance of a permanent injunction;

e. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;

f. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;

g. Award Plaintiff reasonable attorneys' fees, expert fees and court costs under 42 U.S.C. §1988 for the prosecution of his 42 U.S.C. §1983 claims;

h. Award Plaintiff reasonable attorneys' fees and court costs pursuant to federal and state law;

i. Award Plaintiff legal interest and costs; and

j. Award such other and further relief as this Honorable Court deems right and just.

**VII. COUNT III**  
**42 U.S.C. § 1983**  
**EIGHTH AMENDMENT VIOLATION**  
**DEFENDANTS RIDOC, WALL, BOYD, AUGER, KASZYK, JANKOWSKI,**  
**FREEMAN AND LAWSON**

61. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 60 as if incorporated and reiterated herein.

62. At all times relevant herein, each of the State Defendants was acting under color of state law by exercising power made possible because the State Defendants were clothed with the authority of state law.

63. The actions of State Defendants Freeman, Lawson, Jankowski, Wall, Boyd, Auger and Kaszyk in booking, disciplining and locking Cook up in segregation on or about March 4, 2008, May 30, 2008 and September 11, 2008 without substantial evidence violated Cook's Eighth Amendment rights and displayed both deliberate indifference and a reckless disregard of Cook's constitutional rights.

64. The actions of State Defendants Freeman, Lawson, Jankowski, Wall, Boyd, Auger and Kaszyk violated 42 U.S.C. §1983 by depriving Jason Cook of his rights under the Eighth Amendment to the United States Constitution.

65. As a direct and proximate result of the actions by each of the Defendants, Freeman, Lawson, Jankowski, Wall, Boyd, Auger and Kaszyk, Jason Cook lost his job, his wages, goodtime and his liberty.

66. The multiple detentions of the Plaintiff were not brought in good faith, but rather, were brought by the defendant Wall and those acting in concert with him in bad faith to subject the Plaintiff to cruel, inhumane and unusual punishment.

67. The actions of the defendants in the Plaintiff's multiple detentions cause Plaintiff to suffer irreparable harm because the defendants' cruel and unusual punishment has penalized and threatened to penalize the Plaintiff when he is engaging in activities that are protected by the First and Fourteenth Amendments to the United States Constitution.

68. Plaintiff has no adequate remedy at law to redress the irreparable injury which defendants have caused and continue to cause him.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

- a. Declare the actions of the defendants to be unconstitutional and in derogation of the rights of the Plaintiff to be free of cruel and unusual punishment as guaranteed by the Eighth Amendment to the United States Constitution;
- b. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees and agents from sending the Plaintiff to segregation by the issuance of a permanent injunction;
- c. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from continuing to prosecute Plaintiff for those charges set forth herein by issuance of a permanent injunction;
- d. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;
- e. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;
- f. Award Plaintiff reasonable attorneys' fees, expert fees and court costs under 42 U.S.C. §1988 for the prosecution of his 42 U.S.C. §1983 claims;

- g. Award Plaintiff reasonable attorneys' fees and court costs pursuant to federal and state law;
- h. Award Plaintiff legal interest and costs; and
- i. Award such other and further relief as this Honorable Court deems right and just.

**VIII. COUNT IV**  
**42 U.S.C. § 1983 SUPERVISORY LIABILITY**  
**STATE DEFENDANTS WALL, BOYD, AUGER AND KASZYK**

69. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 68 as if incorporated and reiterated herein.

70. At all times relevant herein, each of the State Defendants was acting under color of state law by exercising power made possible because the State Defendants were clothed with the authority of state law.

71. By reason of the foregoing, State Defendants Wall, Boyd, Auger and Kaszyk, supervisory personnel of Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson, acted with reckless disregard and deliberate indifference in the hiring, screening and training of Defendant Correctional Officers Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson.

72. The failure of defendants Wall, Boyd, Auger and Kaszyk to provide adequate training, education and discipline of defendants Izzo, Nakhlis, Meunier, Jankowski, Freeman and Lawson has resulted in the denial of Plaintiff's rights, protected by the First, Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

73. As a direct and proximate result of the actions by each of the Defendants, Wall, Boyd, Auger and Kaszyk, Jason Cook lost his job, his wages, goodtime and his liberty in violation of 42 U.S.C. § 1983.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

- a. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;
- b. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;
- c. Award Plaintiff reasonable attorneys' fees, expert fees and court costs under 42 U.S.C. §1988 for the prosecution of his 42 U.S.C. §1983 claims;
- d. Award Plaintiff reasonable attorneys' fees and court costs pursuant to federal and state law;
- e. Award Plaintiff legal interest and costs; and
- f. Award such other and further relief as this Honorable Court deems right and just.

**IX. COUNT V**  
**VIOLATIONS OF ARTICLE 1 SECTIONS 2 AND 21**  
**OF THE RHODE ISLAND CONSTITUTION**  
**DEFENDANTS RIDOC, WALL, BOYD, AUGER, KASZYK, IZZO,**  
**NAKHLIS, MEUNIER, JANKOWSKI, FREEMAN AND LAWSON**

74. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 73 as if incorporated and reiterated herein.

75. The actions of State Defendants Wall, Boyd, Auger, Kaszyk, Meunier and Izzo in retaliating against Cook for publicly criticizing policy changes at the Rhode Island Department of Corrections by booking, disciplining and terminating his employment without due process violated Cook's rights under Article 1, Sections 2 and 21 of the Rhode Island Constitution.

76. The actions of State Defendants Lawson and Nakhlis in retaliating against Cook for publicly criticizing policy changes at the Rhode Island Department of Corrections by violently searching his cell and destroying his property violated Cook's rights under Article 1, Section 21 of the Rhode Island Constitution.

77. The actions of State Defendants Lawson, Jankowski, Wall, Boyd, Auger and Kaszyk in booking, disciplining and locking Cook up in segregation on or about March 4, 2008 in retaliation for Cook's public comments, his affiliation with the RI ACLU and for Cook's posting of a notice on a bulletin board without due process violated Cook's rights under Article 1, Sections 2 and 21 of the Rhode Island Constitution.

78. The actions of State Defendants Lawson, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about May 30, 2008 without due process and in retaliation for his public comments and for writing a letter of protest to the Parole Board violated Cook's rights under Article 1, Sections 2 and 21 of the Rhode Island Constitution.

79. The actions of State Defendants Freeman and Lawson in strip searching Cook's person and searching his cell in retaliation for his public comments and to learn whether Cook had communicated with a *Providence Journal* reporter violated Cook's rights under Article 1, Section 21 of the Rhode Island Constitution..

80. The actions of State Defendants Lawson, Freeman, Auger, Kaszyk, Wall and Boyd in locking Cook up in segregation on or about September 11, 2008 without due process and in retaliation for Cook's public comments violated Cook's rights under Article 1, Sections 2 and 21 of the Rhode Island Constitution.

81. As a direct and proximate result of the actions by each of the Defendants, Wall, Boyd, Auger, Izzo, Nakhlis, Meunier, Jankowski, Freeman and Izzo, Jason Cook lost his job, his wages, goodtime and his liberty.

82. The detentions, prosecutions, searchings and multiple charges brought against the Plaintiff were not brought in good faith, but rather, were brought by the defendant Wall and those acting in concert with him in bad faith to harass the Plaintiff and interfere with his right to freedom of speech to speak out about conditions at the RIDOC in derogation of rights secured to the Plaintiff by Article 1, Section 21 of the Rhode Island Constitution.

83. The defendant Wall's bad faith is made manifest not only by the repeated detentions and multiple charges and actions taken against the Plaintiff, but also by declarations of officers acting under his direction and control of their determination to prevent the Plaintiff from expressing his opinions and disseminating information about his cause in any way to members of the general public.

84. The actions of the defendants in the detentions, prosecutions, destruction of property, unlawful searches, and charging the Plaintiff with multiple violations of RIDOC rules, policies or regulations cause Plaintiff to suffer irreparable harm because the defendants' conduct has penalized and threatened to penalize the Plaintiff when he is engaging in activities that are protected by Article 1, Sections 2 and 21 of the Rhode Island Constitution.

85. Plaintiff has no adequate remedy at law to redress the irreparable injury which defendants have caused and continue to cause him.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

a. Declare the actions of the defendants to be unconstitutional and in derogation of the Plaintiff's rights under Article 1, Sections 2 and 21 of the Rhode Island Constitution in that the defendants acted arbitrarily, capriciously and without permissible



guidelines thereby denying to Plaintiff the right to free speech and due process as guaranteed by Article 1, Sections 2 and 21 of the Rhode Island Constitution;

b. Declare that the administrative and penal actions under which defendants have restricted Plaintiff's activities are violations of Plaintiff's rights to due process and free speech as guaranteed to all Rhode Island citizens pursuant to Article 1, Sections 2 and 21 of the Rhode Island Constitution;

c. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees and agents from prohibiting or in any way interfering with Plaintiff's right to due process and to free speech to newspapers, the public, the parole board or his association with any organization such as the RI ACLU by the issuance of a permanent injunction;

d. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from bringing any further disciplinary actions against the Plaintiff as it pertains to speech by the issuance of a permanent injunction;

e. Restrain and enjoin the defendants, each and every one of them, their attorneys, officers, servants, employees, agents and all person acting in concert with them from continuing to prosecute Plaintiff for those charges set forth herein by issuance of a permanent injunction;

f. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;

g. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;

- h. Award Plaintiff reasonable attorneys' fees and court costs pursuant to state law;
- i. Award Plaintiff legal interest and costs; and
- j. Award such other and further relief as this Honorable Court deems right and just.

**X. COUNT VI**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**DEFENDANTS RIDOC, WALL, BOYD, AUGER, KASZYK, IZZO,**  
**NAKHLIS, MEUNIER, JANKOWSKI, FREEMAN AND LAWSON**

86. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 85 as if incorporated and reiterated herein.

87. The Defendants' conduct of detaining, prosecuting, strip-searching and charging the Plaintiff in violation of his constitutional rights was intentional and/or in reckless disregard of the probability of causing Plaintiff emotional distress.

88. The Defendants' conduct was extreme and outrageous.

89. There is a causal connection between Defendants' conduct and the emotional distress suffered by the Plaintiff.

90. As a direct and proximate result of the intentional infliction of emotional distress by the Defendants, Plaintiff has suffered serious mental anguish.

91. The actions of the defendants in the detentions, prosecutions, destruction of property, unlawful strip searches, and charging the Plaintiff with multiple violations of RIDOC rules, policies or regulations cause Plaintiff to suffer irreparable harm.

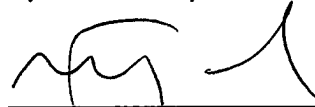
92. Plaintiff has no adequate remedy at law to redress the irreparable injury which defendants have caused and continue to cause him.

WHEREFORE, Plaintiff Jason Cook prays that this Honorable Court:

- a. Award Plaintiff all reasonable compensatory damages, including for lost wages, lost goodtime, mental anguish and emotional distress, and any other compensatory damages, for each count alleged in the Complaint;
- b. Award Plaintiff punitive damages against all Defendants for each count alleged in the Complaint;
- c. Award Plaintiff reasonable attorneys' fees, expert fees and court costs under 42 U.S.C. §1988 for the prosecution of his 42 U.S.C. §1983 claims;
- d. Award Plaintiff reasonable attorneys' fees and court costs pursuant to federal and state law;
- e. Award Plaintiff legal interest and costs; and
- f. Award such other and further relief as this Honorable Court deems right and just.

**PLAINTIFF DEMANDS A TRIAL BY JURY AND  
DESIGNATES AMATO A. DELUCA, ESQ. AS TRIAL COUNSEL**

Respectfully submitted,  
Plaintiff,  
By his Attorney,



Amato A. DeLuca (#0531)

Miriam Weizenbaum (#5182)

Michael T. Eskey (#3035)

Jennifer Azevedo (#6462)

Matthew T. Jerzyk (#7945)

**RHODE ISLAND AFFILIATE,  
AMERICAN CIVIL LIBERTIES  
UNION**

DeLuca and Weizenbaum, Ltd.

199 N. Main St.

Providence, RI 02903

(401) 453-1500

(401) 453-1501 Facsimile

Dated: April 6<sup>th</sup>, 2009

**VERIFICATION**

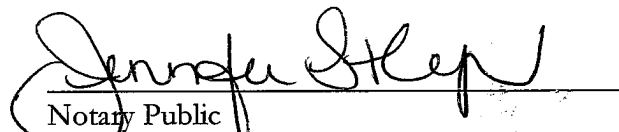
I, Jason Cook, as a person with personal knowledge of the facts which form the basis of the above-captioned action, being duly sworn, hereby state under oath that I have read the foregoing Verified Complaint and can verify that the facts set forth therein are true and accurate to the best of my knowledge, except those statements made upon information and belief, and as to such statements I believe them to be true.



Jason Cook

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

Subscribed and sworn to before me this 6<sup>th</sup> day of April, 2009.



Notary Public

Print Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**JENNIFER M. ST. CYR**  
NOTARY PUBLIC  
State of Rhode Island  
My Commission Expires  
July 23, 2009