

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
East St. Louis DIVISION  
(Write the District and Division, if any, of the  
court in which the complaint is filed.)

ROBERT K. DECKER,

(Write the full name of each plaintiff who is filing  
this complaint. If the names of all the plaintiffs  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names.)

-against-

WILLIAM BARR, ATTORNEY GENERAL,  
KATHALEEN HAWK SAWYER, DIRECTOR  
J.E. KRUEGER, REGIONAL DIRECTOR

(Write the full name of each defendant who is  
being sued. If the names of all the defendants  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names. Do not include  
addresses here.) SEE ATTACHED:

**Complaint for Violation of Civil  
Rights**

(Prisoner Complaint)

Case No. 3:19-cv-00233-JPG  
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☒ No  
(check one)

FOURTH AMENDED COMPLAINT

Pursuant to: 5 USC 500, 552,  
552a, 553, 701-706  
ADMINISTRATIVE PROCEDURE ACT  
VIOLATION

**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Robert K. Decker

All other names by which you have been known:

ID Number 51719-074

Current Institution Federal Correctional Institution

Address P.O. Box 33

Terre Haute, IN 47808

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name William Barr

Job or Title Attorney General of the United States  
(if known)

Shield Number \_\_\_\_\_

Employer United States of America

Address Washington, DC

☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name Kathaleen Hawk-Sawyer

Job or Title Director of the Federal Bureau of Prisons  
 (if known)  
 Shield Number \_\_\_\_\_  
 Employer Department of Justice  
 Address Washington, D.C.  
 \_\_\_\_\_  
☒ Individual capacity ☒ Official capacity

## Defendant No. 3

Name J.E. Krueger  
 Job or Title North Central Regional Director  
 (if known)  
 Shield Number \_\_\_\_\_  
 Employer Bureau of Prisons Regional Office  
 Address 400 State Avenue, Suite 800  
Kansas City, KS 66101  
 \_\_\_\_\_  
☒ Individual capacity ☒ Official capacity

## Defendant No. 4

Name Warden True  
 Job or Title Warden of Marion F.C.I.  
 (if known)  
 Shield Number \_\_\_\_\_  
 Employer Bureau of Prisons  
 Address P.O. Box 2000  
Marion, IL 62959  
 \_\_\_\_\_  
☒ Individual capacity ☒ Official capacity

See attached defendants addresses

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

ADDITIONAL DEFENDANT(s),

WARDEN W. TRUE,

WARDEN B. LAMMER,

K. Sireveld,

Defendant(s).

Warden Lammer

Warden of Terre Haute, F.C.I. "C.M.U."

P.O. Box 33

Terre Haute, IN 47808

☐ Individual capacity      ☒ Official capacity

Katherine Sireveld

Legal Department of Terre Haute & Marion, F.C.I.'s

Bureau of Prisons

P.O. Box 33

Terre Haute, IN 47808

☒ Individual capacity      ☒ Official capacity

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim) (Neither) A.P.A. Violation  
☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

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C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

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D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The Plaintiff, is suing under violation of the fifth and  
fourteenth amendments of the United States Constitution.  
Pursuant to Ramer, et al v. Saxbe, 522 F.2d 695, 173 U.S.  
 (See attached)

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee  
☐ Civilly committed detainee  
☐ Immigration detainee

App. D.C. 83; 1975 U.S. App. LEXIS 12058, the Federal Bureau of Prisons is in violation of 5 U.S.C. §500, §552, §552a, §553, 1 C.F.R. §5.2, 5.9 (b)(c) & Title 44 U.S.C. §1506, et seq.

[X] Convicted and sentenced federal prisoner.

Statement of Claim:

William Barr is the United States attorney general for the United States of America and over sees the Department of Justice. I had wrote to him which went unanswered in lieu of the case at bar. I had notified him that the Bureau of Prisons does not supply the "Federal Registry" to any of the Prisons in the United States since 2010. Therefore he was made aware of the problem at large. He oversees the Department of Justice which over-sees the Bureau of Prisons. Therefore making him culable at the case at bar.

Kathaleen Hawk-Sawyer is the Director of the Bureau of Prison and I had sent her a letter informing her that no prison in the United States has supplied the "Federal Registry" to any prison throughout the entire United States. Therefore making her culpable to the case at bar.

J.E. Krueger is the Northern Central Regional Director for the United States Bureau of Prisons. He was made aware of the case at bar through speaking to him personally when he made a walk through of the "C.M.U." and through correspondence that no prison in the UNited States has supplied the "Federal Registry" to any prison in the United States. Therefore making him also culpable to the case at bar.

Warden William True was the Warden when I was incarcerated at the Marion F.C.I. "C.M.U. and I had personally spoken to him about the case at bar and I had wrote a BP-8 & BP-9, therefore making him also culpable to the

case at bar.

B. Lammer is the Warden at the Terre Haute, F.C.I and I had spoken to him personally about the case at bar and I also filed a BP-8 & a BP-9, therefore making him culpable to the case at bar.

Katherine Sireveld is head of the legal department here at Terre Haute & Marion, F.C.I. and I have spoken to her personally about the case at bar and she had responded to me that it is above her pay grade therefore, making her well aware of the case at bar, therefore making her also culpable to the case at bar.

This case is about the fact that the Bureau of Prisons does not supply the "Federal Registry" to any prison/inmate throughout the entire United States of America. How is one suppose to know what laws are enacted throughout the entire United States and what laws are even considered to be enacted by Congress or the Bureau of Prisons. The Prison population is being placed into the dark by not supplying the Federal Registry.

The Plaintiff, Robert K. Decker does not seek any monetary relief against the Defendant(s). The plaintiff only seeks for the costs of suit that the Plaintiff has endured during the litigation of this case. He also seeks that the Director of the Federal Registry make available the Federal Registry to every prison in the entire United States of America, nothing more, nothing less. The Plaintiff, is being denied the access of the "Rules" that are enacted by the United States Congress and this Agency, which is blantly wrong. Therefore the Plaintiff, Robert K. Decker only seeks for an Injuction to make the Defendant(s) to supply the Federal Registry to the inmate population.

#### NATURE OF ACTION

1. This action is brought under the Administrative Procedure Act (APA) 5 U.S.C. §701-706, et seq., the first, fifth, & fourteenth Amendments of the United States Constitution and the Declaratory Judgment Act, 28 U.S.C. §2201, for Declaratory and Injunctive relief to remedy Defendant's pattern and practice of ultra vires conduct in excess of statutory authority and in deprivation of Plaintiff, Robert K. Decker's procedural and substantive due process rights and freedom of speech/freedom of the press.

2. Plaintiff, re alleges and incorporates by reference the allegations contained in Paragraph 1 through 11 of this amended complaint as if fully set forth here.

3. The Administrative Procedure Act that [a] person suffering legal wrong because an agency action or inaction, or adversely affected or aggrieved by agency inaction within the meaning of a relative statute, is entitled to judicial review thereof. 5 U.S.C. §702.

4. The (APA) further empowers the court to "hold unlawful and set aside agency inaction, finding and conclusions found to be... (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity:



[or] (C) in excess of statutory right" 5 U.S.C. § 706(2).

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5. The pattern and practice of conduct of the defendants as described above constitutes unlawful action that has caused Plaintiff to suffer legal wrong reviewable by this Honorable Court under the (APA) 5 U.S.C. § 706.

6. The Federal Bureau has a tendency to remove certain rules/regulations from the Program Statement and the Code of Federal Regulations without first publicly posting it in the Federal Register by law. Therefore they are in violation of the Federal Register laws pursuant to 5 U.S.C. §552, 552a, 552(a)(1), & 553(b). The (APA) applies to legislative rules that are not available with the F.B.O.P. "Regulations and rules have the same meaning. Title 1 C.F.R. §1.1 Definitions; "Agency means each authority whether or not within or subject to review by another agency of the United States other than Congress...." "Document includes any... rule, regulation, order, certificate, code of fair competition, license, notice, or similar instrument issued, proscribed, or promulgated by the agency;". "Document having general applicability and legal effect means any document issued under proper authority prescribing a penalty or course of conduct, conferring a right, privilege, authority or immunity, or imposing an obligation and relevant or applicable to the general public, members of a class....." Title 1 C.F.R. §5.2(c) "Each document having general applicability and legal effect. Title 1 C.F.R. §9(b) rules and regulations 'interpretation of agency regulations' (c) proposed rules. Section 553 of Title 5."

7. The F.B.O.P. has a practice to change disciplinary rules and regulations without first making them public in the Federal Registry for comment by the Public and/or the inmate population.

8. The F.B.O.P. had initiated Lexis Nexis with the computer system within the F.B.O.P. in 2010. Since then no inmate has had access to a single issue of the Federal Registry, therefore making all laws, rules, regulations, C.F.R., Program Statement ineffective. See Graham v. Lawrimore, (1960 D.C. S.C.), 185 F.Supp 761 affd. (1961 CA4 S.C.), 287 F.2d 207.

9. No inmate has seen an actual Federal Registry issue before the year of 2010. No inmate has access to the laws that are enacted within the United States that are to be proposed to the public for comment before they become law. How is an inmate suppose to know what is being purposed before it is if an inmate does not have access to the Federal Registry?

10. The F.B.O.P. has shown repeatedly that they seem to be above the laws of the United States when it comes to following the rules, regulations, and guidelines in 5 U.S.C. §500, Federal Registry Act. The F.B.O.P. has shirked their responsibilities in making available copies of the Federal Registry to the inmate population.

11. The plaintiff, Robert K. Decker had wrote to the director of the Federal Registry to find out how many copies of the Federal Registry is distributed to the prisons within the United States which has gone unanswered.

STATEMENT OF CLAIM (TWO)

~~Declaratory and Injunctive relief, 28 U.S.C. §2201 &~~

Federal Rule of Civil Procedure 65.

12. Plaintiff re-alleges and incorporates by reference to allegations contained in paragraph 1 through 11 of this "Amended Complaint", as if fully set forth herein.

13. The Declaratory Judgment Act, 28 U.S.C. §2201, grants this Honorable Court authority to declare the Plaintiff's legal rights when actual controversy exists.

14. Plaintiff and Defendants have adverse legal interests that are of sufficient immediacy and reality to warrant the issuance of a declaratory judgment in accordance with 28 U.S.C. §2201.

15. For the reasons stated above, Plaintiff is entitled to declaration of its rights.

16. A failure to enjoin Defendant's unconstitutional and unlawful conduct has and will continue to cause Plaintiff to suffer injury in that it will result in the deprivation of its Fifth and First Amendment Due Process and Freedom of Speech/ Freedom of the Press rights and its protections against agency inaction that is arbitrary, capricious, in bad faith, or contrary to law.

17. No adequate remedy at law exists.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

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18. The Plaintiff has exhausted all of his administrative remedies in this matter. (See attached BP-11 response from the Central Office)

19. I want to state that it is a blatant lie that it is not available in the ELL. I have never seen one issue in the ELL (Electronic Law Library) SO again how is possible for an inmate to possibly know what laws are instituted within the United States? An inmate can't.

20. Defendant's unconstitutional and unlawful conduct will also adversely affect the interests on numerous third parties without advancing the public interest.

21. Plaintiff is entitled to injunctive relief enjoining Defendant's from continuing their unconstitutional and unlawful pattern and practice of conduct as alleged in this Amended Complaint.

22. Defendants have no protectable interest in the continuation of their unconstitutional and unlawful conduct.

PRAYER FOR RELIEF

Plaintiff, Robert K. Decker respectfully requests that this Honorable Court enter judgment in his favor and

A. Declare that Defendants have violated Plaintiff's rights under the Fifth and First Amendment(s) of the United States Constitution;

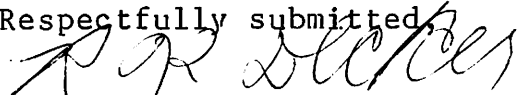
B. Declare that Defendant's pattern and practice conduct as set forth in this Amended Complaint is arbitrary, capricious, in bad faith, and contrary to law;

- C. Enjoin and restrain Defendant(s), their agents, employees, successors, and all persons acting in concert or participating with them from enforcing, applying, or implementing (or requiring others to enforce, apply or implement) the views, positions, patterns or practices in violation of the Constitution and laws of the united States;
- D. Award Plaintiff the costs of litigation and \$1.00;
- E. And grant the Plaintiff such other relief as may be necessary and appropriate or as this Honorable Court deems just and proper.

I declare under penalty of perjury that the foregoing statements made by me are true and correct, pursuant to 28 U.S.C. §1746.

Executed this 30th day of December, 2019.

Respectfully submitted,

  
Robert K. Decker #51719-074  
Federal Corr. Inst.  
P.O. Box 33  
Terre Haute, IN 47808

#### CERTIFICATE OF SERVICE

I, Robert K. Decker, certify and state that I hand delivered the above Amended Complaint to an F.B.O.P. employee to be mailed first class postage paid, by the UNited States Postal Service this 30th day of December, 2019 to:

United States District Court  
Attn: Court Clerk  
750 Missouri Avenue  
East Saint Louis, IL 62201

And

United States Attorney  
Department of Justice  
Nine Executive Drive  
Fairview Heights, IL 62208

- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) \_\_\_\_\_

#### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

No relevant

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

They first arose in Terre Haute, IN. U.S.P. in the year  
of 2017, then in Marion, IL. "CMU" then in Terre Haute, IN.  
F.C.I. "CMU"

\_\_\_\_\_

- C. What date and approximate time did the events giving rise to your claim(s) occur?

From the year of 2017 until present.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- D. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

See statement of claim 4a

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**V. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The fact that I have been unable to determine what laws are  
enacted, what laws are introduced to the public, and what  
laws or Program Statements are introduced to the inmate pop-  
ulation, i.e. disciplinary, visits, phone, first step act,  
Drug Counseling, Mental Health, Drug Laws, Johnson issues,  
et seq.

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**VI. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

That an Injunction and Declaratory relief be issued, and award  
\$1.00

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**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Terre Haute, IN. U.S.P., Terre Haute, IN., F.C.I., "CMU"

Marion, IL., F.C.I. "CMU"

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

That the Federal Bureau of Prisons does not issue the  
Federal Registry to any United States Prison within the  
United States of America

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No



If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

I first filed a BP-8 in Terre Haute, IN USP and  
then I filed a BP-9 in Terre Haute, IN USP and  
then I filed a BP-10 to the Northern Region  
and then I filed a BP-11 to Central Office in Washington,  
D.C. then I started the process over again in Marion, IL.

2. What did you claim in your grievance?

Why is there no access to the Federal Registry within  
the Federal Bureau of Prisons. (See attached response)  
from the Central Office in Washington, D.C.

3. What was the result, if any?

It was a blatant lie. (See attached response of  
976989-A1 The Federal Registry does "Not" come on  
the inmate bulletin board or the electronic library.  
This is false information. I do not how the bureau  
can lie like that.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

I had filed a BP-8, a BP-9, a BP-10, & a BP-11 "Twice"  
and I was told by all the defendants that it is being  
taking care of. As of the filing of this Amended Complaint  
it still has not been taking care.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I had repeatedly attempted to speak to all parties except the first two Defendants in lieu of this matter and I was constatly told that it is being taking care of. Which never occure

*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

\_\_\_\_\_

\_\_\_\_\_

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_  
\_\_\_\_\_

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☒ Yes

☐ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) See attached cases

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_  
\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

LITIGATION HISTORY

<u>Decker v. Lukens, et al.</u>	Case No. 2:18-cv-00185-MJD-JMS	"Pending"
<u>Decker v. Baez, et al.</u>	Case No. 2:18-cv-00278-MJD-JMS	"Pending"
<u>Decker v. Infante, et al.</u>	Case No. 3:19-cv-11654-RHC-MKM	"Pending"
<u>Decker v. Barr, et al.</u>	Case No. 1:19-cv-02804-UNA	"Pending"

I have two cases pending in New York State Court. Albany New York for the Child Victim's Act and a Probate Court Case. Both cases are pending.

The first case, Lukens, case is about an Eighth Amendment violation for a failure to treat my Hepatits C while in Terre Haute, U.S.P.

Then the case of Decker v. Baez is a case about a Lieutenant and four officers that assualted me and failed to protect me.

The Infante case is a fourth amendment violation for 18 defendants that went into my house and a house across the street that I was renting without a search warrant and left both residences unsecure so the neighbors pilferred my homes.

The case against Will Barr, et al. is a case about being placed in the SHU for 60 days therefore violating my due process rights by placing me in the SHU in retaliation for me filing greivance and appeals for disciplinary sanctions.

December 30, 2019

  
Robert K. Decker #51719-074

**VIII. Previous Lawsuits**

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

MIED ProSe 14 (Rev 5/16) Complaint for Violation of Civil Rights (Prisoner Complaint)

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4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☒ Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) See attached cases

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

\_\_\_\_\_

MIED ProSe 14 (Rev 5/16) Complaint for Violation of Civil Rights (Prisoner Complaint)

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

\_\_\_\_\_

### IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

#### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: December 30, 2019

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification # 51719-074

Prison Address P.O. Box 33

Terre Haute, IN

City

State

47808

Zip Code



Robert K. Decker # 51719-074  
Federal Correctional Institution  
PO Box 33  
Terre Haute, IN. 47808



⇔51719-074⇔  
Clerk Of The Court  
750 Missouri AVE  
Court Clerk  
E Saint Louis, IL 62201  
United States

MAIL CLEARED  
US MARSHALS



RECEIVED

JAN 10 2020

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE

IN THE UNITED STATES DISTRICT COURT  
for the SOUTHERN DISTRICT of ILLINOIS  
~~EAST SAINT LOUIS DIVISION~~

ROBERT K. DECKER,  
Inmate #51719-074,

Plaintiff,

v.


DEPARTMENT OF JUSTICE,  
ATTORNEY GENERAL OF THE  
UNITED STATES OF AMERICA,  
WILLIAM A. BARR, DIRECTOR  
OF THE F.B.O.P., KATHLEEN  
HAWK-SAWYER, ET AL.,

Defendant(s)-Respondent(s).

Case No.: 3:19-cv-00233-JPG

MEMORANDUM OF LAW IN SUPPORT OF COMPLAINT

by:

  
Robert K. Decker #51719-074  
Federal Correctional Institution  
P.O. Box 33  
Terre Haute, IN 47808

STATEMENT OF FACTS

~~I, Robert K. Decker, plaintiff-Petitioner, have attempted to get/~~  
receive the Federal Register for the entire F.B.O.P. population and myself for over two years now. The plaintiff have filed the required BP-8, BP-9, BP-10, and BP\_11 all to be denied for informational purposes only. (see attached response from Central Office, BP-11).

The plaintiff, have personally spoken to warden's, Regional Personel; Legal Department's staff; all stating it is up to the Central Office. In which the Central Office has repeatedly told these subordinates that it has been taken care of. Only to never be taken care of.

The FBOP instituted the Tru-Lincs LEXISNEXIS program on the inmate law library population computer in the year of 2010 and no inmate has seen one issue of the Federal register since before the computer LEXIS-NEXIS program was created within the FBOP. The plaintiff has spoken to hundreds of inmates throughout the FBOP and all inmates have stated the same thing, "that they have not seen one issue of the Federal Register since before the year 2010".

The Federal Register was created for all human beings in the entire world to have access to proposed laws throughout the entire United States and its territories throughout the entire world. How can the FBOP deny access to the Federal Register for the entire population? The FBOP population is being placed in the dark and is only able to find new laws that already have been enacted before they were able to comment on the proposed law or the promulgation of all of the above. How is it possible for the FBOP to deny the access to the Federal Register? The inmate population is being placed in the dark when it comes to the many laws, i.e.

to drug laws, imigration laws, administration rules, etc., etc.

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#### FIRST ARGUMENT

Enough facts must be provided to "state a claim for relief that is palusable on its face". Alexander v. U.S., 721 F.3d 418, 422 (7th Cir 2013). There is no alternative remedy that is presently available in the present situation. The petitioner has wrote to the Attorney General, The Federal Bureau of Prisons, Director, the Federal Register Director, the Office of Inspector General, in which all entities have gone unanswered. The petitioner, has filed all administartive remedies to the top in which all were for informational purposes only.

Title 5 U.S.C. §551(5) "rule making" means agency process for formulating, amending, or repealing a rule"; (10) "sanction" includes the whole or a part of an agnecy--(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person; (B) withholding of relief; (C) imposition of penalty or fine; (D) destruction, (taking) (seizure), or withhold of property; (E) assessment of damages, costs, charges, fees; (G) restrictive action; (12) "agency proceeding" means an agency process as defined by paragraphs (5),(7), & (9) of this section (13) "agency action" includes the whole or a part of an agency rule, order, sanction, relief, or the equivalent or denial thereof, or failure to act.

Administartion jurisdiction requires a party first to resort to an administartive agency before he may sue for an adjudication involving a question within the competency of that agency. The doctrine was so defined in Armour and Co. v. Alton R. Co. (1941); 312 U.S. 195, 85 L. Ed. 771, 61 S.Ct. 513.

5 U.S.C. §552(a)(1); that an agency's substantive rules of general



applicability and statements of general policy had to be published in the Federal Register. In ~~Morton v. Ruiz~~; (1974) 415 U.S. 199, 39 L.Ed. 2d 270, 94 S.Ct. 1055, the Supreme Court, in affirming a judgment on the other grounds, indicated that the Bureau of Indian Affairs had failed to comply with the requirement of 5 U.S.C. §552(a)(1) that an agency's substantive rules of general applicability and statements of general policy (h)ad to be published in the Federal Register for the guidance....

Agency means each authority, whether or not within or subject to review by another agency, of the United States.....

Title 28 part 35; Designated agencies; 35.190(b)(6) Department of Justice; All programs, correctional institutions.

Title 1 C.F.R. 2.1(a)&(b) "Scope and Purpose" "A primary purpose of this chapter is to inform the public of the nature and uses of Federal Register publications.

While A.P.A. (5 U.S.C. §500 et seq. and Federal Register Act (44 U.S.C.S. §§1501, et seq - are set up in terms of making information available to public, acts are more then mere recording statutes whose function is solely to give constructive notice to persons who do not have actual notice of certain agency rules; unless prescribed procedures are complied with, agency or administartive rule has not been legally issued, and consequently it is ineffective. Graham v. Lawrimore (1960 DC SC); 185 F.Supp 761 affd;(1961, CA4 SC); 287 F.2d 207

Title 5 U.S.C. §301 "Department regulations" "This section does not authorize withholding information from the public or limiting the availability of records to the public.

## SECOND ARGUMENT

In the present case at bar the petitioner has repeatedly attempted

to resolve this matter on the administrative level with no success.

~~The plaintiff, seeks for this Honorable Court to intervene on the present situation and Order an Injunction an Order the F.B.O.P. to supply the Federal Register on the LexisNexis computer for all F.B.O.P. facilities throughout the entire United States.~~

The Federal question is it legal for the Federal Bureau of Prisons to deny the inmate population access to the Federal Register? That is the question that needs to be answer to this Honorable Court. The plaintiff states "No" it is not legal for the F.B.O.P. to deny the inmate population the right to access to the Federal Register.

The plaintiff in this case has paid the full filing fee in hopes that this Honorable Court will issue an order to Order the F.B.O.P. to supply the inmate population with the Federal Register. The plaintiff seems that he is the only inmate who cares in that the Federal Register is unavailable to the inmate population. The plaintiff conducts extensive litigation throughout the entire United States and the Federal Register is crucial to the litigation of the plaintiff's litigation process and therefore the plaintiff prays that this Honorable Court issues an Order ordering the F.B.O.P. to require that all F.B.O.P. facilities have access to the Federal Register throughout the entire United States.

### THIRD ARGUMENT

Pursuant to 5 U.S.C. §§701-706 Under the A.P.A., an aggrieved party may file suit in a federal district court to obtain review of any "final agency action for which there is no other adequate remedy in a court". 5 U.S.C. §704 & 28 U.S.C. §2401(a) National Association of Manufacturers v. Department of Defense 199 L.Ed.2d 501, 2018 U.S. LEXIS 761 <\*pg. 513>.

~~("Interpretation of a word or phrase depends upon reading the whole~~  
statutory text considering the purpose and context of the statute")  
Ali v. Federal Bureau of Prisons, 552 U.S. 214, 222, 128 S.Ct. 831,  
169 L.Ed.2d 680 (2008) (construction of a statutory term "must to  
the extent possible ensure that the statutory scheme is coherent and  
consistent") Davis v. Michigan Department of Treasury, 484 U.S. 803,  
809, 109 S.Ct. 1500, 103 L.Ed.2d 891 (1989)

"([S]tatutory language cannot be construed in a vacuum. It is a  
fundamental canon of statutory construction that the words of a  
statute must be read in their context and with a view to their place  
in the overall statutory scheme. 179 L.Ed. 2d 1031, 563 U.S. 582,  
Chamber of Commerce of U.S.A. v. Whiting (2011) at 1071.

Pursuant to Ramer, et al. v. Saxbe, 522 F.2d 695, 697 "that  
the Bureau of Prisons is, indeed an "agency" within the definition  
of the A.P.A., 5 U.S.C. §551, and that its rule making is subject to  
applicable requirements of that Act. 5 U.S.C. §553 Rule making (b)  
General notice or proposed rule (s)hall be published in the Federal  
Register.

The plaintiff, seeks to raise a due process claim and a freedom  
of speech/ freedom of the press claim in order to get the ear of the  
court. The plaintiff should not be turned away because he has attempted  
to show this Honorable Court the only cites of law that he has come up  
with through his research throughout the law library. Inmates should  
be afforded leniency in proposing legal arguments and construing legal  
conclusions due to be a layman in legal theories.



The plaintiff shall attempt to present the injustice by not having the availability of the Federal Register available to him and the rest of the 165,000 inmates throughout the entire United States. When a new law, rule, regulation, statute, Program Statement becomes introduced and it is published in the Federal Register, i.e. drug laws; inmates have more knowledge when it comes to narcotics than most experts in society, from experience, hands on knowledge, research and what not, when it comes to certain drugs, i.e., ecstasy, when the ecstasy law was going to be initiated the people that were enacting the law failed to take into account of the other substances that are in an ecsatsy pill. Therefore classification of the narcotic is definitely incorrect for perspective considerations. Therefore comments were more than warranted in that situation. "L.S.D." when the laws were enacted in lieu of L.S.D. if the Federal Register was available to the inmate population they would of been able to comment on the fact that one hit of L.S.D. that is on paper does not even puport to the fact that L.S.D. cannot be weighed with the medium that it is placed upon. Pursuant to Chapman v. United States, 500 U.S. 453 (1991) A labatory is the only method to determine the actual amount of LSD that is on the paper. Therefore comment in the Federal register would have been more than warranted.

The plaintiff could show this Honorable Court thousand's of different ways that (i)f the Federal Register is avaiable throughout the entire FBOP it would be beneficial to all people, incarcerated and the public in society , but the plaintiff is not going to be redundant in nature. The plaintiff wants to stress to this Honorable Court that the defendant(s) do not want to have the 165,000 inmates within the FBOP to have access to the Federal Register for numerous

reasons. i.e. (I)f a new rule, regulation comes up on the Federal Register and it is shown to the inmate population for comment and over 50,000 inmates comment on a proposed rule, regulation or Program Statement it would deter the FBOP from implementing the rule, regulation or Program Statement from being enacted in the first place. In the present situation by the Federal Register being unavailable to the inmate population the FBOP has a better footing to implement rules, regulations, and Program Statement without comments from the inmate population and the public at large. If the inmate population had access to the Federal Register a proposed law, rule, statute, regulation, or Program statement could be restated to family, friends, or acquaintance's for comment through an email, phone conversations, or letters. Otherwise the public would have not been aware of the proposed law, statute, rule, regulation, or Program Statement. Therefore it would be beneficial to all parties involved in the present situation. The FBOP cannot argue that it would not be beneficial for the inmate population and society at large and the entire world.

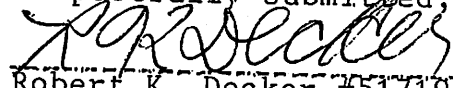
Throughout the entire time that the plaintiff has attempted to acquire the Federal Register, FBOP employees has encouraged me to file in the Federal District Court to acquire the Federal Register for the inmate population. All employees had agreed that the inmate population should have access to the Federal Register, i.e., the legal department's, the Northern Regional Counsel, the plaintiff's Unit Teams, Education Department's. All employees had agreed that the inmate population should have the Federal Register available to the inmate population. I, plaintiff, Robert K. Decker always received the same response from all of the above, "its above my pay grade" So therefore the plaintiff has filed suit in lieu of the A.P.A.

~~Wherefore, the plaintiff seeks for an Order, Ordering the FDOP~~  
to supply the Federal Register to the entire inmate population  
throughout the entire United States Federal Bureau of Prisons.  
The plaintiff seeks to have an injunction issued in the present matter  
as soon as legally possible.

The plaintiff certifies and states that the foregoing statements  
made by me are true and correct to the best of my knowledge and beliefs  
pursuant to 28 U.S.C. §1746.

Dated: October 8, 2019

Respectfully submitted,

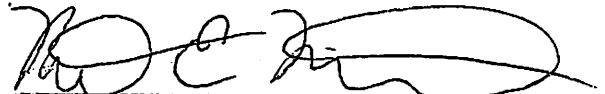


Robert K. Decker #51719-074  
Federal Correctional Institution  
P.O. Box 33  
Terre Haute, IN 47808

I, Robert E. Miller, certify and state that while I have been incarcerated within the Federal Bureau of Prisons that I have not had any access to the Federal Register since after the year of 2010. I have inquired about the access to the Federal Register with no success as of yet. I would like to have access to the Federal Register as soon as administratively possible.

I, Robert E. Miller, certify and state that the foregoing statements made by me are true and correct to the best of my knowledge and beliefs, pursuant to 28 U.S.C. §1746.

Dated: October 7, 2019

  
Robert E. Miller "Inmate"

I, David R. Hinkson, certify and state that the following statements made by me are true and correct:

1. That I have not had access to the Federal Register since before the year of 2010.
2. I have not had access to the Federal Register either in paper form or through the inmate computer LEXISNEXIS, Tru-lincs program.
3. I have been repeatedly inquiring about the Federal Register with no success what so ever.
4. I have been trying get access to the Federal Register for over nine years now with no sucess.

I certify and state that the foregoing statement made by me are true and correct to the best of my knowledge and beliefs pursuant to 28 U.S.C. §1746.

Dated: October 7, 2019



David R. Hinkson "Convict"

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION

ROBERT DECKER,

Plaintiff,

DEPARTMENT OF JUSTICE ET AL,

Defendants,

Case No. 3:19-CV-00233-JPG

AFFIDAVIT OF Mario Gernard Bernadel  
in Support of Memorandum of Law

I, Mario-Gerard Bernadel, being of age of majority, certify that the following statements are true, correct, complete, certain and not meant to mislead, and that Affiant has first hand knowledge of these facts, and if called upon as a witness, Affiant will verify and certify to its accuracies.

1. That Affiant is currently confined at the FBOP facility, FCI-CMU Terre Haute, in Indiana;
2. That all times during this time frame, from March 2010 to present of October, 2019, Affiant has never had access to the Federal Register, neither in paper format, nor computerized format;
3. That Affiant has asked continuously for 9 years for the Federal Register, to no avail.

I, Mario Gerarad Bernadel, certify under the pains and penalties of perjury, [28 USC § 1746(1)] that the facts contained are true, correct, complete and not meant to mislead, to the best of my recollection and belief, SO HELP ME GOD..

Certified,

by:

Mario-Gerard Bernadel, Affiant

10/7/19

Administrative Remedy No. 976989-A1  
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you request access to the Federal Register.

We have reviewed documentation relevant to your appeal and, based on our findings, concur with the manner in which the Warden and Regional Director responded to your concerns at the time of your Request for Administrative Remedy and subsequent appeal. Pursuant to Program Statement 1315.07, Inmate Legal Activities, inmates are provided with library materials through print libraries and the Electronic Law Library (ELL). The Federal Register is not available in the ELL; however, the Code of Federal Regulations, which contains the final, currently-effective regulations, is available in the ELL to all inmates. Also, the Electronic Bulletin Board contains the Bureau of Prisons (BOP) proposed regulations which are published in the Federal Register for public comment. Inmates may send comments if they wish. Further, when the BOP finalizes the draft regulations, the finalized documents are published in the Federal Register and again posted on the Electronic Bulletin Board.

Accordingly, this response is for informational purposes only.

11/27/17  
Date

JL  
Ian Connors, Administrator  
National Inmate Appeals *MSJ*


Administrative Remedy No. 958304-A1  
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you claim the inmate population does not have access to newly released journals of the Federal Register. For relief, you request access to every current issue of the Federal Register.

We have reviewed documentation relevant to your appeal and, based on our findings, concur with the manner in which the Warden and Regional Director responded to your concerns at the time of your Request for Administrative Remedy and subsequent appeal. Pursuant to Program Statement 1315.07, Inmate Legal Activities, inmates are provided with library materials through print libraries and the Electronic Law Library (ELL). The Federal Register is not available in the ELL; however, the Code of Federal Regulations, which contains the final, currently-effective regulations, is available in the ELL to all inmates. Also, the Electronic Bulletin Board contains the Bureau of Prisons (BOP) proposed regulations which are published in the Federal Register for public comment. Inmates may send comments if they wish. Further, when the BOP finalizes the draft regulations, the finalized documents are published in the Federal Register and again posted on the Electronic Bulletin Board.

Accordingly, this response is for informational purposes only.

5/30/19  
Date

  
Ian Connors, Administrator  
National Inmate Appeals 