

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

No. 5:06-CT-3135-FL

JOSEPH URBANIAK
Plaintiff

V.

AMENDED COMPLAINT

**THEODIS BECK, SECRETARY OF
THE NC DOC; BOYD BENNETT,
DIRECTOR OF NC PRISONS; AND
JOSEPH HALL, ADMINISTRATOR
OF HARNETT CORR. INST.,
Defendants**

INTRODUCTION

1. This is an action by Plaintiff Joseph Urbaniak brought under the Civil Rights Act 42 U.S.C. § 1983 to enforce Plaintiff's rights under the First Amendment to receive publications through the mail and under the Fourteenth Amendment to due process of law. It seeks injunctive and declaratory relief.

I. JURISDICTION

2. The jurisdiction of this Court over the claims of Plaintiff is conferred by 28 U.S.C. §1331, in that the claims arose under the Constitution of the United States; and by 28 U.S.C. §1343. The matters in controversy arise under the Civil Rights Act, 42 U.S.C. Section 1983.

II. VENUE

3. Venue is appropriate in this Court, pursuant to 28 U.S.C. §1391(b), because the events and omissions giving rise to Plaintiff's claims occurred within the Eastern District of North Carolina.

III. PARTIES

4. Plaintiff Joseph Urbaniak is a prisoner of the State of North Carolina and is confined by the North Carolina Department of Correction (NC DOC) at Harnett Correctional Institution.

5. Defendant Theodis Beck is the Secretary for the North Carolina Department of Correction and is responsible for the operation and administration of all facilities within the NC DOC, including the administration of inmate programs and support services, and management of the DOC policies and procedures.

6. Defendant Boyd Bennett is Director of Prisons for the NC DOC and is responsible for the operation and administration of all facilities within the NC DOC, including the administration of inmate programs and support services.

7. Defendant Joseph Hall is Administrator of Harnett Correctional Institution and is responsible for the operation and administration of Harnett Correctional, including the administration of inmate programs and support services provided at Harnett Correctional.

8. All Defendants are sued in their official capacities. Each of their actions alleged herein were undertaken under cover of state law.

IV. FACTS

9. Plaintiff has been an inmate within the NC DOC system since November 6, 1995.

10. The North Carolina DOC/Division of Prisons Policy & Procedures Manual Chapter D, Section .0100 (Exhibit to this Amended Complaint) sets forth the policies and procedures to be followed with regard to NC DOC inmates receipt of magazines and other publications through the mails.

11. The DOC Regulations state that inmates are permitted, at their own expense, to subscribe to and receive magazines and books directly from publishers without prior approval.

Each publication is subject to search and screening at the unit level by the Warden or his/her designee prior to distribution and may be rejected if the publication is determined to pose a threat to institutional order, safety, security, or inmate rehabilitation. Prison officials must review each issue of a subscription separately. Section .0102(b).

12. According to DOC Regulations, the Warden must make a written record of the rejected publication and the rejection rationale, and then inform the inmate of the decision and his/her right to appeal. Inmates are given three options: (1) appeal the decision to the Publication Review Committee, (2) forward the publication to an alternate address and waive the right to appeal, or (3) agree to have the publication destroyed and waive the right to appeal. If the inmate chooses to appeal, he/she is permitted to explain the appeal in writing. Section .0103.

13. According to DOC Regulations, the Director of Prisons is to appoint a Publication Review Committee (PRC) which is to meet monthly, review publication denials to ensure division-wide consistency, and independently review each publication according to the policy criteria. The Committee's decision is to be recorded on a Master List of Disapproved Publications which is to be made available for inmate review through the library or other areas accessible to inmates. Sections .0104-.0106.

14. On numerous occasions, Plaintiff has ordered several publications which upon arrival at Harnett Correctional, were denied to him by prison officials. The publications have included among others, issues of *Out* and *The Advocate* magazines, and the novels American Desert and Avoidance. These magazines contain news, fashion, health, medical, travel, and music information that focus on the gay, bisexual, lesbian and transgender community at large. Many of the rejected books feature gay protagonists.

15. These publications were rejected based on their content without a full explanation for

the rejections. Publications were denied without a meaningful opportunity to effectively appeal. One magazine was rejected with no opportunity to appeal. Each response from the PRC was a blanket rejection with no explanation. Grievances submitted by Plaintiff were not satisfactorily answered. In addition, some PRC decisions posted on the Master List of Disapproved Publications appeared to completely ban some magazines titles, rather specific issues.

16. Examples of DOC actions regarding Plaintiff's rejected publications include:

- a) Every unit level rejection of Plaintiff's publications consisted of a form letter alleging that the publication violates DOC policy at Section D.0109. Section D.0109 gives a non-exhaustive list of seventeen various criteria which may support rejection of a publication. See the DOC policy in Exhibit to this Amended Complaint and unit level rejections in Exhibits B, N, AA, AB, AC, AK, AM, and AV of the original Complaint.
- b) No rejection rationale was ever offered in responses from the PRC. See Exhibits C, O, and AD of the original Complaint.
- c) Plaintiff requested detailed explanations of rejection rationales in grievances, appeals and letters to the PRC. No explanation was ever provided. See Exhibits B, C, E, F, G, O, R, S, AK, AM, AR, AS and AT of the original Complaint.
- d) On December 20, 2005, Plaintiff was instructed by Harnett Correctional authorities that he could not receive his January 2006 issue of *Out* magazine because all issues of *Out* were banned in total according to the Master List of Disapproved Publications. Plaintiff was not allowed to receive the publication

or to appeal the rejection to the PRC. See Exhibits U, V, W and X of the original Complaint.

- e) Plaintiff was forced to have destroyed or mailed out of the prison facility several magazines and books after they were rejected at the unit level and by the PRC. See Exhibits C, D, G, O, V, W, X, AD, and AE of the original Complaint.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. Plaintiff has exhausted all available administrative remedies regarding the matters described in this complaint. Copies of Plaintiff's grievances and appeals, and DOC responses are attached as Exhibits B, C, E, F, G, H, I, J, K, N, O, V, W, X, AA, AB, AC, AD, AK, AM, AN, AO, and AO-2 in the original Complaint.

V. CAUSES OF ACTION

A. FIRST CAUSE OF ACTION: VIOLATION OF THE FIRST AMENDMENT

18. The allegations contained in paragraphs 1-17 are incorporated herein by reference.

19. In prisons, the First Amendment to the U.S. Constitution prohibits arbitrary censorship of prisoner publications and requires that any censorship by prison authorities be reasonably related to legitimate penological interests.

20. Defendants violate Plaintiff's First Amendment rights when they arbitrarily and capriciously deny Plaintiff access to his publications without reference to legitimate penological interests.

21. Defendants act arbitrarily and capriciously when they ban entire magazine subscriptions rather than individually reviewing each publication on an issue-by-issue basis. Upon information and belief, some publication titles are banned in whole, rather than only those

volumes, issues or editions that have been reviewed and rejected for receipt by inmates by the Publication Review Committee.

B. SECOND CAUSE OF ACTION: VIOLATION OF PROCEDURAL DUE PROCESS

22. The allegations contained in paragraphs 1-20 are incorporated herein by reference.

23. Due Process of Law under the Fourteenth Amendment to the U.S. Constitution guarantees that prisoners are granted minimum procedural safeguards to insure that their constitutional rights are not arbitrarily abrogated.

24. Defendants violate Plaintiff's right to procedural due process when they fail to give Plaintiff the opportunity to appeal rejected publications to the PRC. In some cases, Plaintiff was not told of his option to appeal publication rejections, and in one case he was denied an opportunity to appeal when he requested it.

25. Defendants violate Plaintiff's right to procedural due process when Plaintiff is forced to appeal publication rejections without knowledge of the specific reason for the rejection and without the opportunity to review the objectionable material. Without this information, Plaintiff can not mount an effective challenge to the publication denial, and Plaintiff is denied a meaningful opportunity to be heard.

26. The Defendants violate Plaintiff's right to procedural due process when they fail to follow the policies and procedures set forth in their regulations. Upon information and belief, the PRC meets sporadically. Upon information and belief, publication rejections are not regularly recorded on the Master List of Disapproved Publications. Upon information and belief, the Master List of Disapproved Publications bans entire magazine subscription titles.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

a) A declaratory judgment that the Defendants violate Plaintiff's rights under the First Amendment when they prevent Plaintiff from receiving publications which present no infringement of the legitimate penological interests of the NC DOC.

b) Injunctive relief which would require Defendants to give Plaintiff notice of the specific disapproval rationale with reference to the page number(s) of the objectionable material for each publication they reject, and to permit Plaintiff to review the rejected material for the purpose of filing an effective appeal if doing so would not pose a threat to the security, safety, or order of the prison.

c) Injunctive relief which would require Defendants to review each objectionable subscription publication on an issue-by-issue basis.

d) Injunctive relief which would require Defendants to allow Plaintiff to appeal all unit level rejections to a reviewer not involved in the initial rejection decision.

e) Injunctive relief which would require the Publication Review Committee to give Plaintiff a specific legitimate penological rationale when the Committee rejects one of his publications.

f) Injunctive relief which would require the Publication Review Committee to meet regularly to review rejected publications, to regularly update the Master List of Disapproved Publications, and to make the List readily available for inmate review.

g) Award such other and further relief as justice requires.

This May 11, 2007.

/s/J. Phillip Griffin
J. Phillip Griffin
NCSB #14436
Attorney for Plaintiff

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Raleigh, North Carolina 27611
(919) 856-2200
Fax: (919) 856-2223
E-mail: pgriffin@ncpls.org

CERTIFICATE OF SERVICE

I certify that on May 11, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

J.Philip Allen
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, NC 27602
Attorney for the Defendants
pallen@ncdoj.gov

This May 11, 2007.

/s/J. Phillip Griffin
J.Phillip Griffin

EXHIBIT TO THE AMENDED COMPLAINT

**Chapter D Inmate Publication Privileges
State of North Carolina
Department of Correction
Division of Prisons
Policies and Procedures**

**State of North Carolina
Department of Correction
Division of Prisons**

Chapter: D
Section: .0100
Title: **Publications Received/
Possessed by Inmates**
Issue Date: 04/10/06
Supersedes: 05/08/02

POLICY & PROCEDURES

.0101 INMATE PUBLICATION PRIVILEGES

Upon initial assignment to a Division of Prisons facility, each inmate should be informed of the following:

- (a) An inmate in medium, close, or maximum security may receive a reasonable number of hardback and paperback books, newspapers, magazines, and other publications directly from the publisher. Publisher is defined to include legitimate wholesale marketers and distribution centers for published materials. This definition does not include retail bookstores. The amount or volume of permitted materials which any inmate may maintain at any given time may be limited as necessary for security, sanitation and safety considerations, including the potential for blocking access to the cell and the creation of a fire hazard.
- (b) An inmate in minimum custody may receive publications from any source subject to a routine search for contraband.
- (c) Inmates ordering publications must forward their payment for subscriptions or individual publications with their order; inmates shall not receive publications of any kind on a trial basis with payment postponed.
- (d) Inmates may exchange newspapers, magazines, books and other publications. Any attempt by this means to exchange contraband or to use publications as an item of barter shall subject the offender to appropriate disciplinary action.
- (e) The processing of an inmate's request for a money order to pay for a subscription does not include a blanket approval for each issue/edition of the publication. Each publication is subject to review in accordance with this policy.
- (f) When a portion of a publication is disapproved, the entire publication will be disapproved. There will be no attempt to remove or censor the disapproved material.

.0102 FACILITY REVIEW: ADMINISTRATIVE PROCEDURES

- (a) Mailroom staff may perform the initial screening of incoming publications for compliance with this procedure, but may not be the Warden/Superintendent's designee for the purpose of disapproving receipt or possession of a publication by an inmate.

- (b) The Warden/Superintendent or his/her designee of each facility should approve or disapprove publications for receipt or possession by inmates on a case-by-case and/or an issue-by-issue basis in accordance with the requirements of this policy. Individual review of each issue or edition of a publication prior to rejection is required. Rejection of several issues of a subscription publication is not sufficient reason to reject the subscription publication in perpetuity.
- (c) The Warden/Superintendent or his/her designee of each facility is responsible for submitting disapproved publications and the completed Disapproved Publications Log (see Attachment #1) to the chairperson of the Publication Review Committee once each month. Only one copy of each publication or issue should be submitted. Duplicate copies should be held at the facility pending final action by the Publication Review Committee.

.0103 FACILITY REVIEW: PUBLICATION APPROVAL/DISAPPROVAL

All publications received at the facility should be reviewed prior to distribution to an inmate. A determination should be made to approve or disapprove the publication in accordance with the criteria listed in D.0109. When a publication is disapproved, the Warden/Superintendent takes the following action:

- (a) Makes a complete written record of the reason(s) for disapproving the publication on the Disapproved Publications Log, including specific page numbers, a notation describing the disapproved material, and the applicable section in D.0109.
- (b) Within ten (10) days of the arrival of the publication at the facility, the inmate is written using the attached form stating the reason(s) for the disapproval and the appeal options. (See Attachment #2).
- (c) The inmate should choose one of the following options on the disposition of the publication. If the inmate refuses to sign the form or select an option, a notation is made on the Disapproved Publications Log and the publication is forwarded to the Publication Review Committee.
 - (1) Appeal the decision of the Warden/Superintendent to the Director's Review Committee for final review and approval or disapproval, or
 - (2) Forward the publication to an alternate address specified by the inmate and at the inmate's own expense if personal funds are available and agree to waive the appeal to the Publication Review Committee, or
 - (3) Agree to waive the appeal to the Publication Review Committee and agree to have the publication destroyed.

- (d) When an inmate elects to appeal the decision of the Warden/Superintendent or his/her designee to the Publication Review Committee, the Warden/Superintendent forwards to the Publication Review Committee the completed Disapproved Publications Log, the actual publication and the inmate's signed statement of appeal.
- (e) When an inmate elects to forward the publication to an alternate address of his or her choosing and agrees to waive the appeal to the Publication Review Committee, the Warden/Superintendent forwards the publication to the new address and forwards to the Publication Review Committee the inmate's signed waiver of appeal and the Disapproved Publications Log with the disposition of the publication noted as "publication forwarded by inmate to new address".
- (f) When an inmate elects to waive the appeal to the Publication Review Committee and agrees to have the publication destroyed, the Warden/Superintendent forwards to the Publication Review Committee the completed Disapproved Publications Log, the actual publication and the inmate's signed waiver of appeal.
- (g) The withheld publications not forwarded to an alternate address by the inmate are sent to the Publication Review Committee. Only one copy of each withheld publication or issue should be submitted. Duplicate copies should be held at the facility pending final action by the Publication Review Committee.

.0104 PUBLICATION REVIEW COMMITTEE

The Publication Review Committee will consist of members appointed by the Director of Prisons and should meet monthly to review disapproved publications and materials which have been received.

.0105 PUBLICATION REVIEW COMMITTEE PROCEDURES

- (a) The Committee should review all publication denials to ensure division-wide consistency for those publications disapproved for receipt or possession by inmates.
- (b) The Committee should make a determination as to whether each publication reviewed should or should not be disapproved in accordance with the criteria in this policy. The Committee should consult with staff who have expertise in matters of religious publications, security threat groups or other areas as necessary when reviewing materials or publications.
- (c) After reviewing the publications, the Committee should return the approved publications to the facility from which they were received and notify the Warden/Superintendent of its decision. All disapproved publications are held pending notification of the publisher and the publisher's response. Upon completion of the publisher appeal process, all disapproved publications held by the Publication Review Committee are returned to the facility and are handled like any other personal property that the inmate is not entitled to have in his or her

possession as set forth in the policy on Disposition of Unauthorized Property [F.0504 (a) & (b)].

- (d) The chairperson of the Committee records the decisions of the Committee on the Master List of Disapproved Publications. The Master List of Disapproved Publications lists those volumes, issues or editions of a publication that are disapproved. The Master List of Disapproved Publications does not ban the publication title but only those volumes, issues or editions that have been reviewed and rejected for receipt or possession by inmates.

.0106 NOTIFICATION TO INMATES OF PUBLICATION REVIEW COMMITTEE DECISIONS

- (a) The chairperson of the Committee forwards the updated Master List of Disapproved Publications to all facilities. The Warden/Superintendent will forward copies of the list to appropriate facility staff and will make a copy available for inmate review through the library or other areas accessible to inmates.
- (b) The Warden/Superintendent should notify inmates who appealed of the Committee's decision within ten (10) working days of receiving the decision. For publications approved by the Publication Review Committee, the Warden/Superintendent or designee will inform the inmate in writing that the publication has been approved and will forward the publication to the inmate. For publications disapproved by the Publication Review Committee, the Warden/Superintendent or designee will inform the inmate using the attached form letter. (See Attachment #3.)

.0107 NOTIFICATION TO PUBLISHERS OF PUBLICATION DISAPPROVALS AND APPEAL RIGHTS OF PUBLISHERS

When pursuant to law the Division of Prisons rejects a publication mailed to an inmate, the publisher shall be notified in writing of the reason for rejection and the procedure to follow to appeal the rejection, including the responsibility of the publisher to submit a written appeal. This written appeal must be submitted to the Director of Prisons or his/her designee, as advised in the rejection notice, (See attachment #4) within fifteen (15) days of receipt of the written notification from the Committee that the publication was disapproved. If the publisher appeals, the Division of Prisons will notify the publisher of the outcome of the review within 30 days of receipt of a timely submitted written request for review.

.0108 CONDITIONS FOR RECEIPT OR POSSESSION

Inmates will be permitted to receive or possess written or pictorial materials which are consistent with institution security, safety, inmate rehabilitation and federal and state regulations governing staff work environment and section .0101 of this policy. This procedure applies to receipt or possession of all printed or pictorial materials, whether commercially produced or otherwise and without regard to whether received from a publisher or from a private person, entity or organization.

The materials governed by this policy include but are not limited to any publication, book, booklet, pamphlet, photograph, drawing, magazine, periodical, newsletter, stationery, greeting card or similar document or any photocopy or duplication of same.

.0109 SPECIFIC CRITERIA FOR PUBLICATION DISAPPROVAL

- (a) The Division is required to maintain institution security for both inmates and staff members and to facilitate to the extent possible rehabilitation of inmates. Because inmates are permitted to exchange or otherwise redirect permitted materials within the facility, the treatment of materials is not dependent upon the status, background or underlying offense of the intended recipient. No publication or material will be withheld solely on the basis of its appeal to a particular ethnic, racial or religious group. A publication may not be rejected solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant. Publications that provide unbiased reporting of actual news and events are not normally withheld.
- (b) Materials which pose a threat to the specified objectives may do so either directly, or indirectly. Direct threats include but are not limited to the active advocacy of escape, interference with security devices, or violence against staff or others. Indirect threats to these objectives include but are not limited to: (1) materials which advocate or facilitate collective action or affiliation by inmates either generally or with respect to validated Security Threat Groups; (2) materials, with the exception of foreign language publications as noted in .0109 (f), containing or facilitating communications which are not readily understandable to reviewing staff; (3) materials which may be used to harass, distract, demean, or intimidate staff or others; (4) or materials which impede inmate rehabilitation. Materials which impede inmate rehabilitation may include any item or depiction which encourages or reinforces the perception of other persons as potential objects for physical or sexual aggression.
- (c) Prohibited materials may fall into more than one category or description. For example, the same material may constitute a depiction of unlawful violence, a violation of law, a threat to rehabilitation and be used to intimidate or sexually harass or intimidate staff. The categories and descriptions below are for administrative use only and are not intended to be mutually exclusive. When materials are prohibited under this policy, all applicable categories and examples shall be deemed to apply, whether or not specified in any resulting written notice to the inmate or publisher.
- (d) The following specific categories of prohibited materials are by way of illustration only. Other materials which create or reasonably have the potential to create an articulable threat to the specified objectives may be withheld and processed as provided in the policy at the direction of the Warden/Superintendent or his/her designee.
- (e) This policy section does not apply to foreign language publications which are governed in .0109 (f), below. The Warden/Superintendent or his/her designee should disapprove a publication for receipt and possession by inmates and forward it to the Publication Review


Committee for final action if the publication can be reasonably documented to contain the following:

- (1) Threats to institutional safety and security include but are not limited to materials which depict, describe or advocate or which include:
 - (A) the commission of criminal activity and/or the violation of state or federal laws and/or the violation of the Division of Prisons policy and/or inmate disciplinary policy and procedures.
 - (B) the manufacture, simulation and/or concealment of weapons, ammunition, explosives, incendiaries, or escape devices and/or escape techniques.
 - (C) the ingredients and/or manufacture of poisons, drugs, intoxicants, abrasives, corrosives or other toxic or illegal substances.
 - (D) violence, disorder, insurrection or terrorist/gang activities against individuals, groups, organizations, the government or any of its' institutions.
 - (E) instructions and/or information, which contain technical specifications for or may be used to alter or defeat electronic, mechanical or other security devices, facility blueprints, procedures, diagrams and/or information concerning security techniques and training of personnel and/or canine units.
 - (F) instructions and/or information, which may be used to alter or defeat institutional systems of communication.
 - (G) instructions and/or information relating to the ability or attempt to physically assault, disable, injure or kill a person.
 - (H) violence against any ethnic, racial or religious group or which reasonably appears likely to provoke or to precipitate a violent confrontation between the recipient or recipients or any other inmate in possession of same and a member or members of the target group.
 - (I) materials which are used or which reasonably appear likely to be used to intimidate or sexually harass facility staff or visitors.
 - (J) material which is written for or supports the activities of a validated Security Threat Group; or material which in any way supports, incites, promotes, encourages or advocates any type of gang activity by pictorials or writings or sign gang language or insignia. Sign gang language alone, in isolation of other material that supports, incites, promotes, encourages, or advocates any type of gang activity, should not be cause for rejection.

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Publications Received/Possessed by Inmates

- (K) sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity. This category includes sexually explicit or fully or partially nude photographic depictions of inmate relatives and friends. Sexually explicit materials are defined as pictorial depictions of actual or simulated sexual acts including sexual intercourse, oral sex, masturbation, or sex acts with animals.
- (L) items or materials which can be used for the improper purpose of establishing personal information about a staff member, victim or any other citizen. This prohibition includes but is not limited to a drivers license, drivers license records check, property title or deed, tax listing information, social security card, birth certificate, passport, military discharge papers, personal financial documents such as credit cards, checkbooks or similar items. Items sent to aid an inmate who is being prepared legitimate transition to the community are received and maintained for the inmate in a secure location until the inmate is released.
- (2) Materials which threaten inmate rehabilitation. In addition to maintaining security and custody of inmates and providing a work environment consistent with state and federal law and policy, the Division is charged with the rehabilitation of inmates. Rehabilitation includes but is not limited to the acquisition of appropriate personal and social skills and responses, and the acquiring of self-control. As a result, all materials specified above are also considered to be a threat to inmate rehabilitation. In addition, pictorial materials which depict exposed, full frontal view of uncovered human genitalia or the female breast are specifically deemed to be a threat to institutional order, security and safety and a threat to inmate rehabilitation and are prohibited. This prohibition shall not apply to patently medical, artistic, anthropological or educational commercial publications, including but not limited to *National Geographic*, works of art displayed in public galleries, i.e., ArtNews, anatomy texts or comparable materials.
- (f) Foreign Language Publications. Foreign language publications do not, per se, require disapproval. Inmates who cannot read English and inmates engaged in foreign language study may receive such publications. Staff may visually inspect foreign language publications to determine if they contain prohibited pictorial communications of the type described in .0109 e. (1) and (2). If, and only if, a foreign language publication appears to contain such communications, the Warden/Superintendent may obtain an accurate translation in order to finally determine whether it should be disapproved because it is obscene or presents a threat to order, security, and rehabilitation. This policy is not intended to prohibit inmates from receiving scholarly, news, or popular publications, including newspapers, not written in English.

 4-10-06
Director of Prisons Date
D.0100_04_10_06

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Publications Received/Possessed by Inmates

Attachment # 1

Disapproved Publications Log

(To be sent to the Publication Review Committee monthly by the facility with disapproved publications and/or the inmate appeal/waiver form.)

Facility Name: _____ Date: _____

Inmate Name & Number	Date Received	Publication	Volume Issue/Date	Reason for Disapproval	Page Numbers
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Publications Received/Possessed by Inmates

Attachment #2

SAMPLE LETTER TO INMATE & INMATE APPEAL/WAIVER FORM

(To be sent to inmate within ten (10) days of receipt of publication/material by the mail room.)

TO: Inmate Name & Number DATE:

FROM: Warden/Superintendent/Designee

RE: Publication/Material Confiscation

Your publication/material, list name and volume and issue # / date, has been received. I have reviewed this publication and determined that it violates Division of Prisons policy at section D.0109. Therefore, I am disapproving possession of this publication pending review by the Publication Review Committee.

Your publication will be forwarded to the Publication Review Committee and you will be notified of their decision. If you wish to dispose of this publication in accordance with Division of Prisons policy at section D.0103 instead of having it reviewed by the Publication Review Committee you must notify me within three working days of how you want to dispose of it. If you choose to dispose of the publication, you waive your right to appeal the decision to disapprove your possession of it. The below options are available to you.

Listed below are the options available to you in this matter.

1. ☐ I wish to appeal.

If you select this option, the item(s) described above will be forwarded to the Director's Publication Review Committee for final review. You may attach additional sheets to explain your appeal or you can use the space below.

2. ☐ I do not wish to appeal and would like to send the item(s) to the address I have indicated. I am aware that the cost of this mailing must be paid from my funds. (Name and address)

3. ☐ I do not wish to appeal and would like the item(s) to be destroyed.

Inmate Signature/Date _____

Staff Signature/Date _____

c: Publication Review Committee Facility File Inmate

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Publications Received/Possessed by Inmates

Attachment #3

SAMPLE LETTER TO INMATE

(To be sent to inmate after review by Publication Review Committee)

TO: Inmate Name & Number DATE:

FROM: Warden/Superintendent/Designee

RE: Publication/Material Disapproval

Your publication/material, _____ list name and volume and issue # and/or date _____
has been reviewed by the Publication Review Committee. It has been determined that you cannot possess
this publication/material.

This publication/material has been disapproved due to the violation of Division of Prisons Policy Chapter
D, Section .0109, # _____. The publication or material appears to constitute a threat to institutional
order, security and safety or a threat to inmate rehabilitation.

Thank you for your attention to this information.

cc: Facility File

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Publications Received/Possessed by Inmates

Attachment # 4

SAMPLE LETTER TO PUBLISHER

(To be sent to publisher following the decision of the Publication Review Committee)
(Date)

Name of Publisher
Address

To the Publisher:

You are hereby advised that the following issue(s) of publications sent to an inmate of the North Carolina Department of Correction, Division of Prisons have been disapproved for delivery to the inmate.

[Publication name, volume/issue/number, pages]

This action was taken for the following reasons:

These issues contain material which violates Division of Prisons policy on Publications Received/Possessed By Inmates, and could be detrimental to the security and good order of the prison facility and the rehabilitation of inmates. The numbers for those pages which were reviewed on which violations were found are listed above with the issues containing them.

You may obtain an independent review of this decision by writing within fifteen (15) days of receipt of this letter to the Director of Support Services, North Carolina Department of Correction, Division of Prisons, 4260 MSC, Raleigh, NC 27699-4260.

Sincerely,

Chairperson of the Publication Review Committee

cc: Director of Support Services
Publication Review Committee File

Should you not wish to receive such notification in the future, please sign below and return to the above address.

Signature: _____ Date: _____
Title: _____