

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PRISON LEGAL NEWS, a project of)	Case No. 2:11-CV-00907 JAM-DAD
the HUMAN RIGHTS DEFENSE CENTER,)	
Plaintiff,)	
v.)	ORDER GRANTING PLAINTIFF'S
COUNTY OF SACRAMENTO; SCOTT R.)	MOTION FOR PRELIMINARY
JONES, individually and in his)	INJUNCTION
capacity as Sheriff of the)	
County of Sacramento; DOES 1-20,)	Judge: Hon. John A. Mendez
in their individual and official)	Date: March 7, 2012
capacities,)	Time: 9:30 a.m.
Defendants.)	Crtrm.: 6

On March 7, 2012 at 9:30 a.m. this matter came on regularly for a hearing in Courtroom 6, Fourteenth Floor, of this Court, the Honorable John A. Mendez presiding. Having considered the parties' pleadings, the arguments of counsel, and the entire record in this case, and good cause existing therefor,

THE COURT HEREBY FINDS AND ORDERS:

Plaintiff Prison Legal News ("PLN") has demonstrated a likelihood of success on the merits of its First Amendment claim. Defendants' policies and practices including refusing to deliver

1 PLN publications and mailings to prisoners because they contained
2 staples and/or a mailing label are not supported by a legitimate
3 penological interest and do not leave open alternative means for
4 PLN to exercise its First Amendment rights. Furthermore, allowing
5 PLN to be delivered to prisoners in the Sacramento County's jails
6 would have very limited impact on guards and other inmates, and
7 there are obvious, easy alternatives to Defendants' bans on PLN's
8 staples and mailing labels. In short, Defendants' policies are an
9 exaggerated response to any security concerns posed by PLN.

10 Plaintiff has demonstrated that it will suffer irreparable
11 harm in the absence of preliminary injunctive relief and the
12 balance of hardships tips in Plaintiff's favor. The loss of First
13 Amendment freedoms, for even minimal periods of time, constitutes
14 irreparable injury. Here, Defendants have infringed on Plaintiff's
15 established rights to send publications to prisoners. The grant of
16 a preliminary injunction will not cause irreparable harm to the
17 Defendants. The balance of equities therefore tips in Plaintiff's
18 favor.

19 Finally, the preliminary injunction set forth below is in the
20 public interest. Defendants' policies operated as a *de facto* ban
21 on PLN publications. Protecting the constitutional rights of PLN
22 promotes the public interest.

23 The preliminary injunction set forth below is narrowly drawn,
24 extends no further than necessary to correct the harm to PLN the
25 Court finds requires preliminary relief, and is the least intrusive
26 means necessary to correct that harm.

27 In these circumstances, waiver of the bond requirement is
28 appropriate because Plaintiff is a small non-profit organization

1 with limited resources.

3 **ORDER**

4 1. It is HEREBY ORDERED that Plaintiff's Motion for
5 Preliminary Injunction is granted.

6 2. DEFINITIONS:

7 (a) As used herein, STAPLES shall mean the type of
8 light-duty small wire fasteners commonly used to attach a few
9 sheets of paper, and used by the Plaintiff to bind the sheets of
10 its monthly publication.

11 (b) As used herein, MAIL LABELS shall mean the type of
12 self-adhesive sticker used by PLN to affix an address to an item of
13 printed matter.

14 3. IT IS FURTHER ORDERED that Defendants County of
15 Sacramento (the "County") and Scott R. Jones, and their successors,
16 officers, agents, servants, employees, and attorneys, and all
17 others in active concert or participation with them (hereinafter
18 referred to collectively as "Defendants"), shall not refuse to
19 deliver PLN publications or mailings to prisoners at the county's
20 jails on the ground that these publications or mailings contain
21 STAPLES, PROVIDED that Defendants may comply by removing the
22 STAPLES.

23 4. IT IS FURTHER ORDERED that Defendants shall not refuse to
24 deliver materials sent to prisoners from PLN because of MAILING
25 LABELS, PROVIDED that Defendants may comply by removing the MAILING
26 LABELS.

27 5. IT IS FURTHER ORDERED that Defendants shall provide
28 adequate written notice and an administrative appeal process to PLN

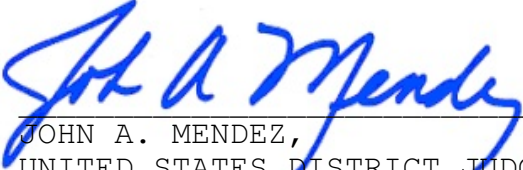
1 when Defendants refuse to deliver PLN publications or mailings to
2 prisoners at the County's jails.

3 6. IT IS FURTHER ORDERED that the bond requirement is
4 waived.

5 7. No person who has notice of this injunction shall fail to
6 comply with it, nor shall any person subvert the injunction by any
7 sham, indirection or other artifice.

8 IT IS SO ORDERED.

9 Dated: March 8, 2012


JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE