

UPDATE MEMORANDUM 106

TO: PLRA Litigators

FROM: Jessica Feierman and David C. Fathi, ACLU National Prison Project

DATE: April 28, 2004

RE: More cases

IMPOSITION OF RELIEF

Clement v. California Department of Corrections, --- F.3d ---, 2004 WL 834779 (9th Cir., Apr. 20, 2004)

The Ninth Circuit affirmed an injunction barring enforcement of a policy prohibiting prisoners from receiving mail containing material downloaded from the internet. The court concluded that the injunction satisfied the narrowness-needs-intrusiveness test set forth in 18 U.S.C. § 3626(a)(1)(A). The scope of the injunction – addressed to all prisoners under CDC control – was appropriate. At least eight California prisons had adopted a ban on internet-generated mail, and more were considering it. As a result, the policy was “sufficiently pervasive to warrant system-wide relief.” *Id.* at *3. The injunction was no broader than necessary – it prohibited banning materials simply because their source was the internet, but did not prohibit restrictions for legitimate penological or security reasons. *Id.* Additionally, the court could find no reason why such a ban would be legitimate at other state prisons if it was invalid at one. The court also concluded that the injunction was sufficiently narrow to avoid disruption to the agency. It “does not require court supervision, enjoins only enforcement of the unconstitutional policy and does not interfere with prison mail security measures.” *Id.* at *4.

Gaddis v. Campbell, 301 F. Supp. 2d 1310 (M.D. Ala., Feb. 4, 2004)

In a class action lawsuit, diabetic prisoners and the Commissioner of the Alabama Department of Corrections came to a private settlement to ensure proper screening, medical care and nutrition for prisoners with diabetes. The court approved the settlement, observing that the PLRA did not limit the relief offered by a private settlement. *Id.* at 1313. The court remarked that “[t]he proposed agreement contemplates enforcement through the mechanisms permitted by the PLRA: reinstatement of the action and state-court relief. In agreeing to this, the plaintiffs have avoided the PLRA’S stringent limitations on the type of relief available. The expense of their trade-off is the relinquishment of their right to obtain a court order that is enforceable in federal court.” *Id.* at 1314.

Tvelia v. New Hampshire Department of Corrections, 2004 WL 180037 (D.N.H., Jan. 27, 2004), report accepted by *Tvelia v. Department of Corrections*, 2004 WL 298100 (D.N.H., Feb. 13, 2004)

Gaddis v. Campbell



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