

On September 28, 2017, the Florence Federal Prison Camp unlawfully seized the mail of inmate David Banks. Theft or obstruction of the mail is a felony crime under federal law. Both 18 U.S.C 1701 and 1702 makes it a federal crime to knowingly and willfully take, obstruct or retard the passage of mail and is punishable by up to 5 years in prison.

The mail seized by prison officials was a dossier of prosecutorial and judicial misconduct of the Colorado federal criminal case widely known on the Internet as the "IRP6" case, which involved Banks and his five codefendants. The dossier has been widely distributed to members of Congress, the Department of Justice, news organizations and as part of a national press release over the Internet.

Warden Goetz and Mr. Winecheck improperly claim they can seize the dossier based on Program Statement 1351.05, Release of Information, which is the Freedom of Information Act (FOIA) policy governing the BOP's release of information to inmates. FOIA generally governs documents in the possession of the BOP (e.g. PSIR and Statement of Reasons in an inmate's central file) and release of that information to inmates. A Just Cause has consulted a 2012 10th Circuit legal case against the Florence ADX Warden and Director of the BOP that discusses the purpose and objective of BOP's 1351.05.

"On September 19, 2002, the BOP implemented a policy agency-wide concerning inmates and their possession of Presentence Investigation Reports ("PSIR") and other similar court documents...(noting a PSIR obtained through the mail is contraband...Under the policy, an inmate incarcerated with the BOP is not permitted to keep a copy of the PSIR, Statement of Reasons and other similar court documents in his physical possession...Specifically the agency was identifying situations where inmates pressured other inmates to show copies of the PSIR to reveal gang affiliations, financial resources, and/or government cooperation. Inmate assaults, and at least one inmate homicide was found to have been connected with the pressure tactics by offenders." See *Jordan v. Wiley*, 477 Fed. Appx. 525 (10th Cir. 2012).

PS 1351.05 doesn't give Warden Goetz or the BOP the carte blanche authority to violate federal law by seizing, taking possession or censoring of inmate mail (like the dossier) because of public transcript excerpts or because it is unflattering to the government. Discussion of criminal cases and transcripts are routinely seen in newspapers and various other publications. Inmates have access to prison law libraries where they can view cases of other inmates, many of which include excerpts from transcripts. A Just Cause, like any other advocacy or news organization reports and discusses injustice both in print and on Internet radio and compiles facts from public documents and court transcripts. Warden Goetz and Winecheck violated federal criminal code and the censorship prohibitions under the First Amendment by seizing the mail and restricting the dossier from Mr. Banks.

Program Statement 5265.14, section 540.14, states the "Warden may reject correspondence sent by or to an inmate if it is determined detrimental to the security, good order, or discipline of the institution, to the protection of the public, or if it might facilitate criminal activity." Furthermore, 540.14 also states

that "all incoming general correspondence and outgoing mail in MEDIUM, HIGH and ADMINISTRATIVE institutions (except "special mail") is subject to random reading by correctional staff." From A Just Cause's reading of 540.14, reading of inmate mail at federal prison camps is not authorized, but it does permit "inspection" of Camp mail for the detection of contraband.

Because nothing in the white-collar related dossier can be used to pressure inmates, reveal gang affiliations, financial resources or government cooperation, Warden Goetz and Mr. Winecheck violate federal law and the Constitution by feebly advancing the baseless argument that the dossier (which presents limited public information from court documents) somehow presents a threat to the person or FOIA privacy of codefendant Gary L. Walker who was released from BOP custody in July 2017. Goetz and Winecheck's assertion that they seized the dossier from the mail and withheld from Mr. Banks to protect a former inmate codefendant is beyond absurd, and quite frankly, it is not the truth.

The dossier is constitutionally-protected free speech and the Supreme Court has said that official reprisal for protected speech "offends the Constitution [because] it threatens to inhibit exercise of the protected right...and that the First Amendment prohibits government officials from subjecting an individual to retaliatory actions...for speaking out." Crawford-El v. Britton, 523 U.S. 574 (1998).

It is now October 8, 2017 and the BOP has held Mr. Banks mail in violation of the federal criminal code for 10 days. A Just Cause demands that the BOP immediately release Mr. Banks' mail to him. As mentioned above, numerous members of Congress are in possession of the dossier and A Just Cause has reached out to them and requested that they inquire into Warden Goetz and Mr. Winecheck's withholding of the dossier and obstructing the mail and Goetz's broad new policy of withholding court documents and transcripts outside the scope of PS 1351.05 that was detailed in a September 26, 2017 memo.

A Just Cause will seek every legal action available to them, including filing a lawsuit in federal court.

Sincerely,

Lamont Banks

Executive Director