

Exhibit A

Complaint

Plaintiffs Robert L. Holbrook, Kristi Brian, and the Human Rights Coalition, by and through their undersigned counsel, file the following Complaint.

Jurisdiction and Venue

1. This is an action for injunctive, declaratory and monetary relief for violation of the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 2201.

3. This Court is the appropriate venue pursuant to 28 U.S.C. § 1391(b)(2) because the events and omissions giving rise to the claims occurred in the Middle District of Pennsylvania.

Parties

4. Plaintiff Robert L. Holbrook is currently a prisoner at the State Correctional Institution (SCI) Coal Township.

5. Plaintiff the Human Rights Coalition (HRC) is a nonprofit corporation based in Philadelphia, Pennsylvania whose mission is to protect the human rights of prisoners and criminal defendants and advocate for changes to the criminal legal and prison systems. HRC's chapter in Philadelphia, is the plaintiff in this litigation.

6. Plaintiff Kristi Brian holds a Ph.D. in cultural anthropology and is currently employed by the College of Charleston in South Carolina.

7. Defendant Theresa Jellen is employed as the Mailroom Supervisor at SCI Coal Township. She is responsible for operation of the prison's mailroom, including the inspection of all incoming mail. Her address of employment and mailing address is 1 Kelley Drive, Coal Township, PA 17866-1020. Defendant Jellen is sued in her individual and official capacity.

8. Defendant David Varano was the Superintendent of SCI Coal Township during all but one of the incidents giving rise to this complaint. He was responsible for reviewing all administrative appeals of censored publications and prisoner grievances. He was also responsible for ensuring that staff properly follows Pennsylvania Department of Corrections (PA DOC) policies and procedures. His address of employment and mailing while employed by the PA DOC was 1 Kelley Drive, Coal Township, PA 17866-1020. Defendant Varano is sued in his individual and official capacity.

9. Defendant Nancy Wilson is the Business Manager at SCI Coal Township. She was assigned to review and investigate all claims of improperly censored mail involved in this complaint. Her address of employment and mailing address is 1 Kelley Drive, Coal Township, PA 17866-1020. Defendant Wilson is sued in her individual and official capacity.

10. Defendant Dorina Varner is the Chief Grievance Officer of the PA DOC. She is responsible for reviewing and investigating all final appeals of prisoner grievances. Her address of employment and mailing address is 1920 Technology

Parkway, Mechanicsburg, PA 17050-8507. Defendant Varner is sued in her individual and official capacity.

11. Defendant Diana Woodside is the Director of the PA DOC Office of Policy, Grants, and Legislative Affairs. She is responsible for reviewing all final appeals of publications that are censored within the PA DOC. Her address of employment and mailing address is 1920 Technology Parkway, Mechanicsburg, PA 17050-8507. Defendant Woodside is sued in her individual and official capacity.

12. Defendant Vincent Mooney is the current Superintendent at SCI Coal Township. He is responsible for reviewing all administrative appeals of censored publications and prisoner grievances. He is also responsible for ensuring that staff properly follows PA DOC policies and procedures. His address of employment and mailing address is 1 Kelley Drive, Coal Township, PA 17866-1020. Defendant Mooney is sued in his individual and official capacity.

13. Defendant John Wetzel is and at all relevant times hereto was Secretary of the PA DOC. Defendant Wetzel is sued in his individual and official capacity.

Statement of Facts

14. Plaintiff Robert L. Holbrook is a 39-year-old prisoner currently confined at SCI Coal Township. He is serving a sentence of life-without-parole (LWOP) for a criminal conviction imposed when he was 16-years-old. Sentences of life-without-parole imposed on juvenile offenders (JLWOP) have increasingly been recognized as

a human rights violation and cruel and unusual punishment. The United States of America is the only country in the world to permit JLWOP sentences.

15. There are estimated to be at least 480 people serving JLWOP sentences in Pennsylvania. No state has more prisoners serving a sentence of JLWOP than Pennsylvania.

16. Since 2008, Holbrook's conviction and sentence has been the subject of numerous articles published in print and Internet sources.

17. On August 18, 2011, Holbrook was transferred from SCI Greene to SCI Coal Township as a promotional transfer, enabling him to be at a lower security institution that was closer to home due to his exemplary disciplinary record in recent years. He had been held at SCI Greene for the previous eight years.

18. Prior to Holbrook's arrival at SCI Coal Township he received all copies of articles published on the Internet and in print publications, including those relating to his sentence and conviction. Holbrook received articles about his case, the issue of JLWOP, copies of his own writings and articles quoting him, which have been published in the *Philadelphia Sunday Sun*, *Impacto Latin Newspaper*, the *Philadelphia City Paper*, the *Philadelphia Metro*, the Philly Independent Media Center, the *Las Vegas Weekly*, the *San Francisco Bay View*, and *The Defenestrator* online newspaper.

Censorship of Internet material related to Holbrook's case

19. Prisoner mail is governed by 37 Pa. Code § 93.2, Inmate Correspondence (2010), and PA DOC policy DC-ADM 803, Inmate Mail and

Incoming Publications (2011). Nowhere in this controlling section of administrative code or in the DC-ADM 803 is mail containing materials printed off the Internet, including “social networking” sites, mentioned.

20. 37 Pa. Code § 93.2 and DC-ADM 803 do not authorize prison personnel to prohibit incoming mail solely on the basis that it can be characterized as coming from a “social networking” site.

21. Prisoners are permitted to receive material printed off of the Internet.

22. Any material printed off of the Internet that is denied pursuant to the DC-ADM 803 policy is forwarded to the Incoming Publication Review Committee. The prisoner is able to appeal the denial prior to the censored material being sent out of the prison.

23. On February 22, 2012, Holbrook received a letter from Sadhbh Walshe, a writer from *The Guardian* newspaper, informing Holbrook that she would like to feature him in an article about juvenile offenders sentenced to life-without-parole.

24. In anticipation of this article, Ms. Ly, a supporter of Holbrook, created a page on Facebook that was devoted to Holbrook’s writings, conviction, and sentence. Ms. Ly printed a copy of the page and mailed it to Holbrook to review for accuracy.

25. In a separate envelope, Ms. Ly sent copies of articles written by Holbrook, which were posted on another website dedicated to his case and sentence, freesalim.net. Holbrook intended to forward these articles to Sadhbh Walshe from *The Guardian*, so she could quote them in the article she was about to write.

26. The articles sent to Holbrook by Ms. Ly were titled: “Crushed Against the Law” (published on freesalim.net), “The Tragedy of Man” (published in the print journal of The Thomas Merton Center, *The New People*), “What More Does It Want,” and “From Public Enemy to Enemy of the State” (published in the Internet version of *The Defenestrator*).

27. Holbrook previously received copies of these same articles via U.S. mail without incident, while at SCI Greene. These articles were left at SCI Greene due to limitations on the amount of personal property he could take with him when he was transferred to SCI Coal Township.

28. On March 6, 2012, Defendant Jellen denied Holbrook receipt of the first mailing, containing a printout of the Facebook page created by Ms. Ly. Defendant Jellen sent Holbrook an “Unacceptable Correspondence” form, stating that the first mailing was returned to Ms. Ly on the grounds that “social networking” pages are not permitted.

29. On March 9, 2012, Defendant Jellen denied Holbrook receipt of the second mailing, containing the copies of four of Holbrook’s own articles. Defendant Jellen sent Holbrook another “Unacceptable Correspondence” form, stating that the second mailing was returned to Ms. Ly on the ground that “social networking” pages are not permitted.

30. The DC-ADM 803 policy provides that the prison will hold materials it determines to be in violation of policy so that officials have the opportunity to review

them if a prisoner appeals the censorship. SCI Coal Township failed to follow policy, and returned the censored content to sender prior to Holbrook's appeal.

31. The PA DOC does not mention or provide a definition of "social networking" in any of its policies.

32. The purpose of the Facebook page at issue is to further public advocacy in support of Holbrook, prisoner rights, and the movement to abolish JLWOP. It serves a journalistic function as well, disseminating writings by Holbrook and others pertaining to these issues.

33. The content of the Facebook page printed and sent to Holbrook in the first mailing discussed his writings, his conviction and sentence, JLWOP, and the prison system.

34. The articles written by Holbrook and sent in the second mailing were not "social networking" pages. They were journalistic essays.

35. On March 13, 2012, Holbrook filed a grievance regarding Defendant Jellen's denial of the Internet material sent to him related to his case and conviction on the grounds that this was a violation of his First Amendment rights.

36. On April 3, 2012, Defendant Wilson, assigned to investigate Holbrook's grievance, denied the grievance on the grounds that "social networking" pages are not permitted.

37. Holbrook appealed the denial of the grievance to Defendant Varano, who upheld the explanation for the censorship of Holbrook's mail provided by Defendants Jellen and Wilson.

38. Holbrook appealed the censorship to Defendant Dorina Varner, Chief Grievance Officer of the PA DOC, asserting that his rights under the First Amendment were being violated.

39. Defendant Varner upheld the censorship of Holbrook's mail, stating that "social networking" pages are prohibited.

40. Defendants' actions prevented Holbrook from forwarding the quotes he selected for inclusion by Ms. Walshe in *The Guardian* article published on March 16, 2010, "What JLWOP means: life without parole for kids."

Censorship of literature from College of Charleston Professor Kristi Brian

41. The Pennsylvania administrative regulation governing prisoner correspondence states, "A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular facility, staff member, or official of the Department, or of a correctional or penological practice in this or any other jurisdiction." 37 Pa. Code § 93.2(g)(5).

42. An identical proscription against censoring publications that are critical of prison staff and practices is found in PA DOC policy DC-ADM 803, Inmate Mail and Incoming Publications, § 3(2)(g).

43. On June 10, 2012, Plaintiff Kristi Brian, Director of Diversity Education and Training at the College of Charleston in South Carolina, invited Holbrook to collaborate with her in a presentation at an academic conference on the legacy of the Black Power Movement. The conference, titled “The Fire Next Time: Reframing Black Power Across the 20th Century and Beyond. A Public History Conference and Community Gathering” was hosted by the College of Charleston’s Avery Research Center for African American History and Culture (Avery Research Center).

44. On June 15, 2012, Professor Brian sent Holbrook a packet containing two essays she had written, along with excerpts from a book titled *If They Come in the Morning*, an anthology published in 1971 focusing on political prisoners, the politics of imprisonment, and current events of that era.

45. Professor Brian’s essays, titled “Families on Lockdown” and “The message is only white life is protected,” contained discussion of Holbrook’s conviction and advocacy on his behalf, along with discussion and analysis of how prisoners and supporters were challenging unjust convictions and human rights abuses in the PA DOC.

46. Neither of Professor Brian’s essays contained content that advocated violence, insurrection, or guerilla warfare against the government or any of its facilities, or created a danger within the context of a correctional facility.

47. Neither of Professor Brian’s essays contained content that advocated, assisted, or contained evidence of criminal activity or facility misconduct.

48. Neither of Professor Brian's essays contained content that was racially inflammatory.

49. None of the excerpts from *If They Come in the Morning* contained content that advocated violence, insurrection, or guerilla warfare against the government or any of its facilities, or created a danger within the context of a correctional facility.

50. None of the excerpts from *If They Come in the Morning* contained content that advocated, assisted, or contained evidence of criminal activity or facility misconduct.

51. None of the excerpts from *If They Come in the Morning* contained content that was racially inflammatory.

52. Defendant Jellen denied Professor Brian's essays and the book excerpts on the following grounds:

- a. The writings "advocate violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the content [sic] of the correctional facility;"
- b. The writings "advocate, assist, or are evidence of criminal activity of [sic] facility misconduct;"
- c. The writings contained "[r]acially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]"

53. Holbrook appealed the denial of the materials to Defendant Varano, informing him that they were related to a paper he was writing for the Avery Research Center conference. Defendant Varano upheld the censorship.

54. Holbrook appealed the censorship to the final stage of review, explaining that the materials included information about his own case and related advocacy efforts, contained nothing that was racially inflammatory, and were sent to him to assist with a paper he was writing for the Avery Research Center conference.

55. On August 29, 2012, defendant Woodside granted Holbrook's appeal, overruling Defendants Jellen and Varano. All of the materials were subsequently provided to the plaintiff, more than 11 weeks after they were originally sent.

56. The delay in receipt of these materials impeded Holbrook and Professor Brian's collaboration for the Avery Research Center conference by not permitting adequate time to review the literature at issue and exchange ideas and revisions.

Censorship of letter, notes, and flyer from the Human Rights Coalition

57. The Human Rights Coalition (HRC) was founded in the year 2000, and incorporated on August 13, 2012. HRC's membership is comprised of prisoners' families, formerly and currently imprisoned people, community activists, and human rights defenders.

58. Robert L. Holbrook is a founding member of HRC, and a member of the Advisory Council for HRC.

59. HRC is consistently critical of human rights violations within the PA DOC. Since 2007, HRC has documented several hundred reported human rights violations within the PA DOC, including accounts of physical, verbal, and sexual abuse, retaliation, inadequate and negligent medical and mental health care, warehousing of mentally ill prisoners in psychologically toxic conditions of solitary confinement, obstruction and denial of access to the courts, pervasive racial discrimination, and deprivations of food, recreation time, personal property, and necessary hygiene items.

60. Media outlets have relied on HRC for information regarding human rights violations within the PA DOC, including the *Harrisburg Patriot News*, *Pittsburgh Post Gazette*, *Wilkes Barre Times Leader*, *Citizens Voice*, *Philadelphia City Paper*, *Philadelphia Weekly*, *Huffington Post*, *The Nation*, as well as several online, radio, and television outlets.

61. Since 2009, the Special Litigation Section of the Civil Rights Division of the United States Department of Justice (DOJ) has utilized HRC's documentation of human rights violations as a basis for analyzing the PA DOC's compliance with constitutional standards. These reports assisted the DOJ in launching a civil rights investigation within PA DOC prisons. In May 2013, this investigation was expanded to include every prison within the PA DOC on the grounds that DOJ had uncovered substantial evidence that prisoners with mental illness and/or intellectual disabilities

were being subjected to cruel and unusual punishment in the state's solitary confinement units.

62. On August 2, 2010, HRC members testified in front of the Pennsylvania House Judiciary Committee regarding human rights violations within the PA DOC.

63. On September 18, 2012, Pennsylvania state representative Ronald Waters held a hearing in front of the state House Democratic Policy Committee titled "Effects of Solitary Confinement." This hearing was held at Temple University.¹

64. HRC members assisted hearing organizers by identifying lawyers, mental health professionals, former prisoners, and prisoner family members who should testify. HRC members provided testimony as well.

65. HRC also organized a rally against solitary confinement, which occurred on September 17, 2012.

66. One week prior to the hearing, on September 11, 2012, Defendant Jellen censored correspondence sent to Holbrook by HRC. The correspondence contained a letter informing Holbrook of the upcoming rally and hearing before the Democratic Policy Committee. A flyer for the rally, and meeting notes from previous HRC meetings were also included.

67. Defendant Jellen denied the material on the following grounds:

¹ A documentary record of the hearing can be accessed at:
www.pahouse.com/PolicyCommittee/documents/2012/hdpc091812.pdf.

- a. The writings “advocate violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the content [sic] of the correctional facility;”
- b. The writings “advocate, assist, or are evidence of criminal activity of [sic] facility misconduct[.]”

68. None of the correspondence censored on September 11 included content that advocated violence, insurrection, or guerrilla warfare against the government or any of its facilities. Nor did its contents create a danger within the context of the prison.

69. None of the correspondence censored on September 11 included content that advocated, assisted, or contained evidence of criminal activity or facility misconduct.

70. Holbrook appealed the censorship to Defendant Varano. On September 27, 2012, nine days after the legislative hearing, Defendant Varano upheld the denial of the material, agreeing with Defendant Jellen’s rationale.

71. Holbrook appealed the censorship to Defendant Woodside. On November 16, 2012, approximately two months after the rally and hearing were held, Defendant Woodside granted Holbrook’s appeal. Holbrook subsequently received the correspondence.

72. The censorship by Defendants Jellen and Varano prevented Holbrook from informing his family, friends, and supporters about the rally and the hearing.

Holbrook was also prevented from providing a statement for either the rally or the hearing.

73. Other prisoners who received the information were able to provide written statements that were then included as part of the record of the Democratic Policy Committee hearing on solitary confinement.

74. HRC was deprived of the opportunity to obtain and use a statement by Holbrook at the rally and hearing.

Censorship of *The Movement*

75. *The Movement* is a publication of HRC's Philadelphia chapter. It covers news related to HRC's mission, including legal news, political analysis, human rights reports, interviews with and articles by community activists and professionals, academic essays, letters and articles by prisoners and their families, and updates and information on HRC's work.

76. *The Movement* is the principal means through which HRC communicates with supporters inside and outside of prison. The publication provides updates on important political and legal developments related to the criminal legal and prison systems, and keeps supporters informed as to the activities and initiatives of HRC. A substantial portion of HRC's correspondence from prisoners is addressed to the publication and those members of HRC in Philadelphia who work on it.

77. Prior to Holbrook's transfer to SCI Coal Township in August 2011, Holbrook had received all 12 issues of *The Movement* that had been published since the publication was started in 2008.

78. Most of the articles in *The Movement* criticize injustices and human rights abuses within the criminal legal and prison systems. Much of this criticism focuses on the PA DOC.

79. Since Holbrook arrived at SCI Coal Township in August 2011, he has been routinely denied issues of *The Movement* on the grounds that content critical of the criminal legal system and the PA DOC is allegedly racially inflammatory and/or poses a threat to prison security.

80. On January 1, 2012, Defendant Jellen denied Issue 13 (Winter 2011) of *The Movement*, alleging that pages 44-46 contained "[r]acially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]"

81. Pages 44-46 of Issue 13 contained a letter from an African-American prisoner written in 2007. The letter discussed mass incarceration and its impact on the African-American community.

82. The contents of pages 44-46 of Issue 13 were not racially inflammatory, and posed no threat to prisoners, staff, or facility security.

83. Holbrook appealed the censorship of Issue 13. Defendant Varano upheld the decision of Defendant Jellen, stating that Issue 13 contained racially inflammatory content.

84. Holbrook appealed the decision to Defendant Woodside, and she upheld the censorship on the grounds that Issue 13 contained racially inflammatory material.

85. On April 24, 2012, Defendant Jellen denied Issue 14 (Spring 2012) of *The Movement*, alleging that pages 40-42, 48-51, and 54:

- a. “[A]dvocate[d] violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the content [sic] of the correctional facility;”
- b. “[A]dvocate[d], assist, or are evidence of criminal activity of [sic] facility misconduct;” and
- c. contained “[r]acially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]”

86. These pages contain stories of human rights violations within the PA DOC, the second half of the 2007 letter from the African-American prisoner that was the alleged basis for censoring Issue 13, and a petition for commutation for a woman sentenced to life-without-parole in Pennsylvania.

87. None of these pages included content advocating violence, insurrection, or guerrilla warfare against the government or any of its facilities. Nor did their contents create a danger within the context of the prison.

88. None of these pages included content that advocated, assisted, or contained evidence of criminal activity or facility misconduct.

89. The contents of these pages were not racially inflammatory, and posed no threat to prisoners, staff, or facility security.

90. Holbrook appealed the denial of Issue 14 to Defendant Varano, who upheld the censorship.

91. Holbrook appealed censorship of Issue 14 to Defendant Woodside. She upheld the censorship on the grounds that it contained “writings that advocated violence and/or facility misconduct posing threats to security.”

92. On July 13, 2012, Defendant Jellen denied Issue 15 (Summer 2012) of *The Movement*, alleging that pages 39, 43-45, and 53:

- a. “[A]dvocate[d] violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the content [sic] of the correctional facility;”
- b. “[A]dvocate[d], assist, or are evidence of criminal activity of [sic] facility misconduct;” and
- c. contained “[r]acially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]”

93. These pages contain part of an article on Robert King, an innocent man who spent nearly 30 years in solitary confinement in Louisiana before his wrongful conviction was overturned, a human rights report about the killing of a Pennsylvania state prisoner by PA DOC staff during a violent cell extraction in the solitary

confinement unit at SCI Rockview, and part of an article about public protests against prison expansion in Pennsylvania organized by the group Decarcerate-PA.

94. None of these pages included content advocating violence, insurrection, or guerrilla warfare against the government or any of its facilities. Nor did their contents create a danger within the context of the prison.

95. None of these pages included content that advocated, assisted, or contained evidence of criminal activity or facility misconduct.

96. The contents of these pages were not racially inflammatory, and posed no threat to prisoners, staff, or facility security.

97. Holbrook was then sent a copy of Issue 15 by an HRC member that did not contain pages 39, 43-45, and 53.

98. On August 8, 2012, Defendant Jellen denied this version of Issue 15 although it did not have the allegedly offensive pages originally cited as the reason for censorship.

99. Holbrook appealed the denial of Issue 15 to Defendant Varano, who upheld Defendant Jellen's decision.

100. On September 24, 2012, Defendant Woodside upheld the censorship of Issue 15 despite the absence of the allegedly offensive pages originally cited as the reason for censorship. Defendant Woodside stated that it was not permissible for the sender (i.e. HRC) to alter the publication from its original format.

101. On August 30, 2012, Defendant Jellen denied portions of Issues 13 and 14 of *The Movement* that did not contain the articles previously identified as being in violation of policy. Defendant Jellen did not permit these on the grounds that publications may not be altered by the sender.

102. On September 13, 2012, Defendant Varano upheld the censorship of the articles from Issues 13 and 14 without the pages previously identified as being in violation of policy for the grounds given by Defendant Jellen.

103. On September 27, 2012, Holbrook appealed the censorship of articles from Issues 13 and 14 of *The Movement* to Defendant Woodside, who upheld the censorship.

104. On January 23, 2013, Defendant Jellen denied Issue 17 (Winter 2012) of *The Movement*, stating that pages 1, 2, 3, 4+ (i.e. every page) in the publication contained “[r]acially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]”

105. Pages 1-3 of Issue 17 contained the cover, the table of contents, and a letter from the editor encouraging the family members of prisoners to become involved with “grassroots groups that are struggling on behalf of [all] prisoners, families, and the safety and empowerment of our communities.” Page 4 of Issue 17 contained a notice to readers of *The Movement* about “censorship and banning of issues of *The Movement* by the Pennsylvania Department of Corrections.” Prisoners were

asked to alert HRC about instances of censorship, so HRC could seek legal redress for violations of their First and Fourteenth Amendment rights.

106. None of the contents of Issue 17 are racially inflammatory or pose a threat to prisoner or staff safety, or prison security.

107. On January 31, 2013, Defendant Varano upheld the censorship of Issue 17, using the same rationale provided by Defendant Jellen.

108. On March 7, 2013, Defendant Woodside upheld censorship of Issue 17 on the grounds that “[i]t includes writings that advocate violence and/or facility misconduct posing threats to security.”

109. At some later time, Issue 17 was deemed a “permitted” publication by PA DOC Central Office, and is now allowed to enter PA DOC prisons.

110. Holbrook was never provided his copy of Issue 17.

Censorship of Black History Book

111. On September 18, 2013, defendant Jellen confiscated a book sent to plaintiff Holbrook titled *10 Lessons: An Introduction to Black History*. The following day, the book was denied by the Incoming Publications Review Committee on the grounds that pages 4-28, 41, 47, 97, 128-29, contained “Racially inflammatory material or material that could cause a threat to the inmate, staff, or facility security.”

112. *10 Lessons: An Introduction to Black History* presents an historical analysis of the conditions facing Black people in a world shaped by centuries of European and Euro-American hegemony and anti-black racism. The text particularly focuses on the

history and future prospects of Black people in the United States, advancing a Black Nationalist perspective.

113. *10 Lessons: An Introduction to Black History* does not contain racially inflammatory material, or material that poses a risk to prison security, or in any way harms a legitimate penological interest.

114. Censorship of this book was upheld by Superintendent Vincent Mooney upon appeal by Holbrook.

115. Defendant Woodside upheld the censorship at the final appeal stage, and added additional grounds for her decision, stating that “Publication is in violation of DC-ADM 803 a(3, 4, 5); It includes writings that advocate violence [sic] insurrection or guerilla warfare against the government or any of its facilities or which create a danger within the context of the correctional facility; as well as racially inflammatory materials.”

116. *10 Lessons: An Introduction to Black History* does not advocate violent insurrection against the government, encourage prisoners or others to engage in criminal activity, or otherwise threaten prison security or any legitimate penological interest.

Failure to Provide Notice and Opportunity to Challenge to Non-Prisoner Plaintiffs

117. John Wetzel is the Secretary of the PA DOC. He is responsible for promulgating and authorizing policies of system-wide applicability.

118. On December 2, 2011, John Wetzel authorized the DC-ADM 803 policy titled Inmate Mail and Incoming Publications.

119. The PA DOC does not provide non-prisoners with notice and an opportunity to challenge when prison staff censor material mailed to prisoners..

120. Section 3.A.9 of the DC-ADM 803 states that all mail that is undeliverable for reasons other than those articulated in section 1.A.3 “shall be marked appropriately and returned to sender at the inmate’s expense, destroyed, held for investigation, held as evidence, or otherwise disposed of properly.”

121. Section 1.A.3 lists a series of prohibitions that do not include the content-based criteria at issue in this litigation. With the exception of the so-called “social networking” materials, which were not prohibited based on any criteria contained in the DC-ADM 803, the criteria Defendants relied on in each of the other censorship decisions at issue in this litigation are found in section 3.E.3.

122. Section 3.E.4.d provides that if a prisoner decides not to appeal a denial, he or she must pay for the return postage in order to send the mail back to its sender. If a prisoner does not affirmatively seek to pay for return postage by proffering a cash slip the mail will not be returned.

123. Even if the mail is returned, nowhere in the DC-ADM 803 does it require that returned mail must be accompanied by notice of the reasons for the censorship or an opportunity for non-prisoners to challenge the decision.

124. If a prisoner does appeal a censorship decision, section 3.E.4.c of the DC-ADM 803 provides that the publication will be held until the appeal is completed, at which time “final processing” occurs. There is no provision for notice and an opportunity to challenge for non-prisoners.

125. HRC was never provided any notice and opportunity to challenge by prison officials when issues of *The Movement* and other correspondence involved in this litigation were censored.

126. PA DOC prisons continue to censor material sent by the HRC without providing notice and an opportunity to challenge to HRC.

127. Issue 22 of *The Movement* was mailed to prisoners throughout the PADOc in April 2014. HRC was informed by prisoners that SCI Coal Township, SCI Benner, and SCI Rockview censored the issue. HRC was not provided notice by prison officials of the censorship decision, nor of the reasons for it.

128. HRC does not know if other prisons have censored this issue. HRC’s only method for ascertaining if a publication has been withheld from one of its subscribers is if that subscriber informs HRC.

129. Past issues of *The Movement* have been censored at other PADOc prisons, including SCIs Albion, Dallas, Forest, and Mahanoy. HRC was never provided any notice or opportunity to challenge.

130. Kristi Brian was never provided any notice and opportunity to challenge by prison officials when literature she sent to Robert Holbrook was censored.

131. HRC and Kristi Brian continue to correspond with prisoners held by the PA DOC. If mail is denied in the future they will not be notified or given an opportunity to challenge the decision under the current policy authorized by John Wetzel and enforced by Defendants.

Vague and Arbitrary Application of Censorship Criteria

132. The DC-ADM 803 provides the basis for censoring incoming mail in section 3.E.3. With the exception of the materials banned for purportedly being from “social networking” sites, each censorship decision at issue in this Complaint was made pursuant to the criteria identified in 3.E.3(a)(3-5).

133. Section 3.E.3(a)(3) prohibits “writings which advocate violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the context of the correction facility[.]” The phrase “create a danger within the context of the correctional facility” is not defined in the policy. This criterion is applied in an arbitrary and overbroad manner, prohibiting political literature that poses no security threat.

134. Defendants do not specify which clause within 3.E.3(a)(3) is implicated by censored material when issuing notice to prisoners that mail is being withheld on this basis. Defendants do not specify how the censored material at issue violates this prohibition.

135. Section 3.E.3(a)(4) prohibits “writings that advocate, assist, or are evidence of criminal activity or facility misconduct[.]” This criterion is applied in an

arbitrary and overbroad manner, prohibiting political literature that poses no security threat.

136. Defendants do not specify which clause within 3.E.3(a)(4) is implicated by censored material when issuing notice to prisoners that mail is being withheld on that basis. Defendants do not specify how the censored material at issue violates this prohibition.

137. Section 3.E.3(a)(5) prohibits, amongst other things, “racially inflammatory material, material that could cause a threat to the inmates, staff, and security of the facility[.]” The term “racially inflammatory” is not defined in the policy. The policy does not define or describe “material that could cause a threat to the inmates, staff, and security of the facility[.]” This criterion is applied in an arbitrary and overbroad manner, prohibiting political literature that poses no security threat.

138. Defendants do not specify which clause within 3.E.3(a)(5) is implicated by censored material when issuing notice to prisoners that mail is being withheld on that basis. Defendants do not specify how the censored material at issue violates this prohibition.

139. Defendants are not required to and do not provide a meaningful description of the censored material to a prisoner. Article titles, book chapters, authors, or content at issue are not required to be provided to prisoners by policy, and typically are not provided in practice.

140. Defendants would not be burdened by writing a few words describing the content of the material at issue. For instance, “article on cell extraction death,” and “article about prison expansion” could have been written on the denied publication form for Issue 15 of *The Movement* to describe some of the censored content.

141. Allowing un-trained staff the ability to censor based on vague and undefined criteria causes arbitrary and unconstitutional acts of censorship.

142. Since the filing of the Complaint in this case Defendant Jellen has continued to utilize this vague criteria to arbitrarily censor constitutionally-protected material sent to Plaintiff Holbrook.

143. On April 2, 2014, Defendant Jellen denied Holbrook receipt of the book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* despite it being on the PADOC’s permitted publication list. *The New Jim Crow*, authored by law professor Michelle Alexander, is a critically acclaimed *New York Times* bestseller that describes and analyzes how the criminal legal system in the United States has become the driver of a racial caste system. The book was censored on the grounds that un-specified pages contained “Racially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]”

144. Holbrook was provided *The New Jim Crow* on appeal.

145. In April 2014, Defendant Jellen denied Holbrook receipt of issue 22 of *The Movement* on the basis that it contained “Racially inflammatory material or material that could cause a threat to the inmate, staff, or facility security[.]”

146. Holbrook was provided Issue 22 on appeal.

147. On April 29, 2014, Defendant Jellen denied Holbrook receipt of a course-reader on youth empowerment titled *One Hood United* that was sent to him as part of a correspondence course. The publication was censored on the grounds that pages 12-13 contained “Writings which advocate violence, insurrection or guerrilla warfare against the government or any of its facilities or which create a danger within the content [sic] of the correctional facility,” and because un-identified pages were determined to contain “Racially inflammatory material or material that could cause a threat to the inmate, staff, or facility security.”

148. Holbrook was provided the course-reader two days later after Central Office notified SCI Coal Township that the publication must be permitted.

149. The current policy’s use of vague and undefined catch-all criteria enable mailroom staff such as Defendant Jellen to censor material based on arbitrary, subjective standards. As a result, all Plaintiffs continue to face arbitrary and ongoing restrictions on their ability to send and receive publications.

150. The current policy’s use of vague and undefined catch-all criteria fail to provide adequate notice and opportunity to challenge to prisoners whose mail is censored.

151. All of the censorship decisions at issue in this litigation failed to provide Holbrook with notice of the content being censored. Instead, Holbrook was merely told that a publication violated a vague category justifying censorship.

152. Due to the vagueness of the criteria utilized by Defendants in making censorship decisions, Plaintiffs are uncertain as to what type of communication is and is not permitted under the DC-ADM 803.

153. The DC-ADM 803 does not provide sufficient guidance to PA DOC personnel as to how to render censorship determinations in accordance with the Constitution. Categories for justifying censorship are vague, undefined, and consequently permit PA DOC staff to censor materials based on subjective, standardless grounds. The PA DOC does not provide training to mailroom staff such as Defendant Jellen so that she is capable of consistently applying the DC-ADM 803 in accordance with the Constitution.

Causes of Action

COUNT I

Censorship of Internet Material – Claim for Monetary and Injunctive Relief

154. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

155. Defendants Jellen, Wilson, Varano, and Varner violated Plaintiff Robert L. Holbrook's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring incoming correspondence containing a printout of the Facebook page dedicated to Holbrook's case, conviction,

sentence, and writings. This censorship was not based on a reasonable relationship to a legitimate penological interest.

156. Defendants Jellen, Wilson, Varano, and Varner violated Plaintiff Robert L. Holbrook's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring incoming correspondence containing his own writings, which discussed his case, the issue of juveniles sentenced to life-without-parole, and political reflections on the prison system. This censorship was not based on a reasonable relationship to a legitimate penological interest.

157. Defendants enforce an ongoing and unconstitutional policy of banning mail that constitutes "social media." Plaintiff Holbrook's ability to receive printed copies of journalistic writings and websites is critical to his political advocacy. Based on the censorship of such material, he fears that he will be unable to receive it in the future.

COUNT II

Censorship of literature from Charleston College Professor Kristi Brian – Claim for Monetary Relief

158. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

159. Defendants Jellen and Varano violated Plaintiffs Robert L. Holbrook and Professor Kristi Brian's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring two essays that Professor Brian sent to Holbrook to facilitate their participation in the Avery

Research Center conference. This censorship was not based on a reasonable relationship to a legitimate penological interest.

160. Defendants Jellen and Varano violated Plaintiffs Robert L. Holbrook and Professor Kristi Brian's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring excerpts from the book *If They Come in the Morning* sent to Holbrook by Professor Brian to facilitate their participation in the Avery Research Center conference. This censorship was not based on a reasonable relationship to a legitimate penological interest.

COUNT III

Censorship of Human Rights Coalition Materials – Claim for Monetary and

Injunctive Relief

161. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

162. Defendants Jellen and Varano violated Plaintiffs the Human Rights Coalition and Robert L. Holbrook's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring a letter, meeting notes, and a flyer sent by the Human Rights Coalition to Holbrook. This censorship was not based on a reasonable relationship to a legitimate penological interest.

163. Defendants Jellen, Varano, and Woodside violated Plaintiffs the Human Rights Coalition and Robert L. Holbrook's rights of speech and association under the First and Fourteenth amendments of the U.S. Constitution by censoring Issues 13, 14,

15, and 17 of *The Movement*. This censorship was not based on a reasonable relationship to a legitimate penological interest.

164. Defendants Jellen, Varano, and Woodside violated Plaintiffs the Human Rights Coalition and Robert L. Holbrook's rights under the First and Fourteenth amendments of the U.S. Constitution by censoring the altered Issues 13, 14, and 15 of *The Movement* that did not contain pages previously and erroneously identified as being in violation of PA DOC policy. This censorship was not based on a reasonable relationship to a legitimate penological interest.

165. Plaintiff HRC wishes to continue sending materials to PA DOC prisoners. Plaintiff Holbrook wishes to receive such materials. The ability of these Plaintiffs to send and receive these materials is arbitrarily restricted on an ongoing basis.

COUNT IV

Censorship of "Altered" Publications – Claim for Monetary and Injunctive

Relief

166. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

167. Defendants enforce an ongoing and unconstitutional policy prohibiting publications if any pages are removed. This policy serves no legitimate penological purpose and violates the First and Fourteenth amendments of the U.S. Constitution as there is no reason to withhold publications if any material that is even arguably problematic has been removed.

168. Issues 13, 14, and 15 of *The Movement* were censored based on this policy.

COUNT V

Censorship of Black History Book – Claim for Monetary Relief

169. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

170. Defendants Jellen, Mooney, and Woodside violated Plaintiff Robert L. Holbrook's rights under the First Amendment by censoring the book *10 Lesson: An Introduction to Black History*. This censorship was not based on a reasonable relationship to a legitimate penological interest.

COUNT VI

Violations of Non-Prisoner Plaintiffs' Due Process Rights – Claim for Monetary and Injunctive Relief

171. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

172. Defendants Jellen and Woodside violated Plaintiffs the Human Rights Coalition and Kristi Brian's Fourteenth Amendment rights when making initial and final censorship decisions without providing non-prisoner Plaintiffs with notice of the censorship, notice of the reasons for the censorship, or an opportunity to challenge the decision,

173. Defendant Wetzel violated Plaintiffs the Human Rights Coalition and Kristi Brian's Fourteenth Amendment rights by authorizing and enforcing the DC-ADM 803 policy, which fails to provide non-prisoners with notice and an opportunity to challenge censorship decisions that deprive them of a liberty interest in sending

mail to people in prison. This harm is of an ongoing nature and will continue as long as the current policy and practices in existence in the PA DOC last.

COUNT VII

Inadequate Criteria for Censorship– Claim for Monetary and Injunctive Relief

174. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

175. Defendants Jellen, Varano, Mooney, and Woodside violated each Plaintiff's First and Fourteenth Amendment rights by censoring materials pursuant to a policy that is unconstitutionally vague.

176. Defendant Wetzel violated each Plaintiff's First and Fourteenth Amendment rights by authorizing a policy that enables and permits arbitrary and subjective censorship decisions based on vague and undefined criteria. This harm is of an ongoing nature and will continue as long as the current policy and practices in existence in the PA DOC last.

177. Defendant Wetzel violated each Plaintiff's First and Fourteenth Amendment rights by authorizing policies and practices that fail to adequately train PA DOC personnel in making constitutional censorship determinations. Current policy and practice permits censorship based on criteria that is unconstitutionally vague, and it fails to provide adequate notice as to what material is and is not permitted. This harm is of an ongoing nature and will continue as long as the current policy and practices in existence in the PADOCC last.

COUNT VIII

Violations of Robert L. Holbrook's Due Process Rights – Claim for Monetary and Injunctive Relief

178. Plaintiffs re-allege paragraphs 1-153 as if fully stated herein.

179. Defendants Jellen, Varano, Mooney, and Woodside violated Plaintiff Robert Holbrook's Fourteenth Amendment rights by censoring materials on vague, unspecified, and undefined grounds that did not provide him meaningful notice of what content was being censored, and why it was being censored.

180. Defendant Wetzel violated Plaintiff Robert Holbrook's Fourteenth Amendment rights by authorizing a policy that permits PADOCC staff to censor materials on vague, unspecified, and undefined grounds that do not provide prisoners with meaningful notice of what content was being censored, and why it was being censored. This harm is of an ongoing nature and will continue as long as the current policy and practices in existence in the PADOCC last.

181. Defendant Wetzel violated Plaintiff Robert Holbrook's Fourteenth Amendment rights by authorizing policies and practices that fail to adequately train PADOCC personnel in making constitutionally-acceptable censorship determinations. This harm is of an ongoing nature and will continue as long as the current policy and practices in existence in the PADOCC last.

Prayer for Relief

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- A. Issue an injunction ordering defendants and their agents to cease their illegal policies and practices that result in unconstitutional censorship and denial of due process rights.
- C. Award compensatory damages;
- D. Award punitive damages;
- E. Grant attorneys' fees and costs;
- F. Such other relief as the Court deems just and proper.

Jury Trial Demand

Plaintiffs demand trial by jury in all claims so triable.

Respectfully submitted,

ABOLITIONIST LAW CENTER INC.

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