

Your help needed : a call for a John Doe Investigation

Prisoners and their families and concerned citizens are outraged at a new DOC policy that in one inmates words turns the WI prisons “into both a debtors’ prison and a collection agency. Debtors’ prisons are unlawful in this country and being a modern-day collection agency is not part of the DOC’s initial charter or part of and rehabilitation mission.”

At issue is blatant misinterpretation of a bill passed in the legislature last June, “Act 355, Wis Stat 301.32 which authorizes the DOC to take 50 % of money from funds sent to prisoner, but only for “surcharges” from criminal cases, and money from Wages paid to prisoners for “other obligations” if a prisoner has “acknowledged..them in writing” or they court ordered. DOC has been rampantly taking sometimes 100 percent of everything coming in from vulnerable non litigating prisoners and from everyone, taking funds retroactively and are coming up with bills that have already been paid or were made before restitution existed.

Nate Lindell, fine litigator, has written a letter that asks the court for a John Doe Investigation of this important matter. This is a template letter, and families can put their own name and info where asked or use this as a model to write their own request. Those who have a story of this abuse should make sure they get their information into the letter for the examples here are from a few prisoners in WSPF only and we know this policy has caused widespread suffering. As of this writing , four activist organizations (EXPO, IWOC, WISDOM, FFUP) are coming together to push for this John Doe Investigation. We will gather all letters and submit them at the same time in a way that makes the most impact.

For now, until the final submission committee is formed, send your completed letters to FFUP c/o 29631 Wild Rose Drive, Blue River, WI 53518. For questions, call 608-536-3993 or email pgswan3@aol.com. Also, if you would like this in a word document so it can be changed on your computer as you need, email us.

We are also sending a letter that has more space provided for handwriting to some prisoners in hopes they can spread the word. They can send to family members to send to the court or to FFUP, (same address as above)

We thank you for any help you can give in this important matter

Circuit Court

State of Wisconsin branch _____ Dane County

(print name) _____ Case No. 16-JD-

Petitioner,

Vs

John Schwochert, Cathy Jess etc

Proposed Defendants

Petition for John Doe Proceeding, Pursuant to Wis Stats 968.26

To: Clerk, Dane County Circuit Court
215 S Hamilton St, Suite 1000
Madison, WI 53703

The above named petitioner , (print last name) _____
proceeding pro se [If you have an attorney, delete pro se and put "represented by"], moves the court under **968.26**,
stats., to refer this matter to the District Attorney (D.A) with directions that the D.A. investigate
the matter described herein and prosecute the crimes the DA discovers; and if the DA declines to
reasonably investigate the matters or declines to prosecute crimes discovered/revealed, petitioner
asks this court to conduct an evidentiary hearing where it considers the appropriate evidence and
then directs appropriate prosecutions.

In support of the petition, the petitioner represents as follows:

1. Jim Schwochert ("Jim") is and, at all relevant times, was the administrator for the
department of adult institutions(D.A.I). Jim signed an October 3rd 2016 memo addressed to all
adult prisoners, Corrections Complaint Examiners, Cathy Jess and DOC Legal Counsel. In said
memo Jim stated that money would be taken from prisoners account for "fines, court costs, and
attorney fees" which would include "but not[be]limited to loans, filing fees, VWS, DNA
surcharge, (sic)...child support, disbursements, transportation, room, medical copay, institutional
restitution."

2. As noted in State ex rel. Harris V Larson, 64 wis.2d 521,527(1974),

"if the legislature did not specifically confer a power, it is evidence of legislative intent
not to permit the exercise of the power"

3. Stat. **301.32 (1)**, recently amended by ACT 355, only authorizes the WDOC to take money
from funds sent to prisoner by their loved ones for various "surcharges" or "restitution".
Wardens do have the discretion to approve or disapprove prisoners' requests for how prisoners
spend this money, but 301.32(1) does not authorize wardens or WDOC officials to force a
prisoner to spend the money in any particular way other than surcharges or restitution.

4. Stat **301.31** authorizes the WDOC to take money from wages paid to prisoners for "other
obligations" if a prisoner has "acknowledged.. them in writing" or they "have been reduced to
judgment."

5. Apparently construing the forenoted statutes in conjunction with **973.08(1)**, Stat (says that judgments of convictions (J.O.C.) must be delivered to the prison by the executing officer, the deputy who brings a conviction to prison), as must be done- see WI Bankers Asso.V Mutual Sav. & loan Asso. 96 Wis.2d, 438, 454(980) (related statutes must be construed together to determine how they're to be enforced)-given that the first two statutes concern debts decreed in JOCs...for over 20 years the WDOC has only enforced/imposed financial obligations identified in prisoners' J.O.C.s, which have been delivered to prisons.. See Butzlaff V WI Paersonnel Com. 166 wis 2d 1028, 1031-32(ct App 1992) (Courts defer to "regular and repeated interpretation of [a] statute..over a period of time by the agency charged with the duty of administering [it]" (cites omitted)

6. Act 355, recently passed, amended 301.32(1)so that money may now be taken form funds sent to prisoners for restitution. But no other changes were made to 301.31, 302.32(2) or 973.08(1). Thus there was/is no grounds for Jim or WDOC to reconstue these statutes to mean they may:

a) use a vendor (i.e. Marquis Corp.) as noted in Exhibit 1, to search for debts prisoners may owe and take prisoners funds to pay those debts prisoners may owe and take prisoners' funds to pay those debts rather than passively process J.O.C.s delivered to prisons by court officers executing the judgments or acting on judgments issued against a prisoner in civil litigation.

b) take money from prisoners for supervision fees, attorney fees or other supposed debts not reduced to judgment or acknowledged by prisoners, from either prison wages and/or gift funds sent to prisoners.

c) take money from prisoners for fees, costs, restitution, and /or other supposed debts that prisoners already paid long ago;

d)rely on CCCAP and /or Marquis Corp. to determine what debts a prisoners has, with no J.O.C. supporting the determination;

e)through DAI policy + Procedure 309.45.02 signed into force by Jim and other WDOC officials, take funds from gift money sent to prisoners to pay more supposed debts that just surcharges and restitution.

f)per DAI policy + Procedure 309.45.02 III.C., refuse to refund improperly deducted funds, thus revealing that they expected funds would be improperly-i.e.-illegally-taken from prisoners.

7.Some specific examples of the illegal activity noted in #6 above are listed below(7) and include but are surely not limited to these situations experienced by prisoners on ONE unit at the Wisconsin Secure Program Facility (WSPF). Petitioner believes there are thousands of other prisoners who've also the experienced these illegal actions. They include:

a) Mustafa-El K.A. Ajala, W.D.O.C.(223971) being obligated to pay 70 \$ in court costs for case no 93-CF-878, which Mr Ajala believes he paid over a decade ago.

b) Dwayne Cox. W.D.O.C. #843241 being obligated to pay 100\$ for a victim witness surcharge (VWS) for case No92-CF-1662, which Mr Cox knows he paid over 20 years ago-five dollars was taken (by Ms. Sutton ,at W.S.P.F) out of a 10\$ money order Mr Cox received on 9 Nov, 2016, for the bogus 100\$ recharge.

c) Dion Matthews, WDOC #254399 being obligated to pay thousands of dollars for restitution, surcharges and fees for various criminal cases from the 1990s, some of which he has long since paid, others of which are not based on JOCs delivered to prison.

d)Nate A. Lindell, WDOC #303724 being obligated to pay: three separate amounts of restitution (i.e.1.40\$, \$0.47and 26.35\$) for case No. 97-CF-140,even though the

JOC for the case doesn't list any restitution being owed and the sentencing judge specifically refused to order restitution; two separate amount of restitution(i.e.11.81\$ and 46.39\$)for case No.94-CF-566, even though no judgment stating these obligations was served on a prison and Lindell paid all restitution for the case over 20 years ago; restitution in the amount of 33.45\$ for case no 95-DF-1173, even though Lindell paid that over 20 years ago and no JOC stating that obligation was served on a prison, 260\$ for a 1995 "Supervision fee", that the WDOC has no authority to collect and Lindell believes he doesn't owe; 24\$ in court costs for case no. 97-CF-1173, which the WDOC has no authority to collect and Lindell believes he doesn't owe; 24\$ in court costs for case NO.97-CF-140, which Lindell paid over a decade ago and 20\$ each in court costs for cases Nos. 94-CF-556 and 95-CF-1173 which Lindell paid off and no J.O.C.s listing those obligations was served on a prison, multiple "non- restitution surcharges" that Lindell either paid or no JOCs concerning them were served on a prison.

All of the forenoted prisoners filed a group complaint (i.e. # WSPF-2016-22206), explaining, as noted above that the WDOC didn't have authority to impose the forenoted obligations on their accounts. But the complaint was dismissed.

8) Due to Jim's forenoted new practice and policy, the petitioner had these new financial obligations imposed on him: (write you're your experience)

(Continue on end or another page)

9) the prisoners notes in #7 above, are all in WSPF, the petitioner believes that many prisoner in every other prison are experiencing the same illegal treatment.

10) It may be that prisoners are being made to pay court-ordered debts that were already paid because WDOC staff stole the money rather than delivering it to the courts or appropriate parties; Or that Marquis gets paid more the more they make us pay. DOC's cashier unit gets 59% of everything they collect, so that's more motive to collect more. Or it may be that WDOC staff are basing their assessment on what debts are owed on an impermissible, non-credible source, other than JOC served on prisons. The first scenario would violate **943.20 Theft**, sub.(b); while the second scenario would violate **946.12 Misconduct in public office**, Sub (2).

11) Despite Mr Lindell, noted above, mailing DAI Director Jim Shwochert a memo, on 16 Nov 2016, explaining how his new policy and the practices it caused are illegal, as explained above, Jim has not put an end to said practices, it's likely that hundreds of other prisoners also wrote Jim and/or other WDOC staff objecting to the illegal practice of taking prisoners' money for debts already paid or not enforceable by the WDOC.

12) In conclusion, all of the DAI /WDOC officials note herein and the "vendor," noted in 6a above, along with, no doubt, other state and private persons, are in collusion to illegally take prisoners' money.

Crimes Believed to Have Been Committed

Solely based on the presently known facts-the DA will uncover more during his investigation-the petitioner believes that the state officials and private persons noted herein are guilty of being party to the crimes (**939.05(2)**) of:

(a) **943.20 theft, (b);**

(b) **946.12 Misconduct in public office, sub (2);**

(c)**946.68 simulating legal process**, sub **(1r)**(i.e. Jim sent a memo, which purported to be authorized by law, when it wasn't , in the name of the Department of Adult Institutions and, (d) **946.80, Wisconsin Organized Crime Control Act (WOCCA)** because:1) the precursor crime of **946.12** has been committed 2) more than three times by (3) on "enterprise" of government employees spread across the entire state.

Conclusion

As the presently known facts support the petitioners belief that the fore noted crimes have been committed, **968.26(2)(am)** requires that the matter be referred to the DA by this court, with directions that the DA comply with sub**(2)(b)**. The petitioner urges the DA to obtain and review complaints filed by the prisoners concerning these matters (Mr Lindell and other prisoners note on all complaints that they waive confidentiality) and correspondence to WDOC and DAI officials on these matters, as well as any contract or agreement with the "vendor" Jim referred to, WDOC and DAI staffs' emails on the issue, other correspondences and request the basis for the new obligations imposed on prisoners noted herein and discovered by the DA.

Respectfully submitted,

Signed_____

Print name and # _____

address_____