An increasing number of Wisconsin inmates may never see any of the money sent to them by friends and loved ones for items such as stamps and hygiene supplies under an updated Department of Corrections policy at the center of a nonprofit’s request for a John Doe investigation.

State law has long allowed the department to withhold money sent by inmates’ families or from wages earned at prison jobs — which often amount to less than $1 per hour for restitution, court surcharges or for “the benefit of the prisoner or resident.”

If an inmate has multiple financial obligations, up to 100% of a gift from a friend or family member or from an in-custody job can be used to pay them rather than being placed into the prisoner’s commissary account, Department of Corrections spokesman Tristan Cook said.

While that has happened in the past, it is becoming more common since last year, when the corrections department changed its policy to withhold more money and a new computer system came online, according to the Forum for Understanding Prisons, a nonprofit organization asking a Dane County court to investigate via a John Doe hearing on the inmates’ behalf.

In the past, the department seized 25% of every deposit into inmates’ accounts toward payment of restitution, according to Cook. In April, after changes in state law, officials increased the withholding to 50% — which they say qualifies as “a reasonable percentage” as defined by the new law.

In the petition for a John Doe, the inmates allege not only that the percentage is unreasonable, but also that money has been withdrawn from their accounts to cover fines they have already paid, restitution that was never ordered or fees not required to be paid until after they are released.

The petition blames the errors on the implementation of the new computer system, saying they began shortly after it was implemented late last year. Twenty-two inmates attached affidavits, many of them saying they haven’t had money deducted from their accounts for 10 or 20 years because all their court-ordered balances have been paid.

Cook said perhaps the prisoners may not have been aware of everything they owed. He would not say whether the types of mistakes cited by the inmates occurred.

He contended the glitches with the new computer system did not add new debts to inmate ledgers. Rather, the conversion to the new system inadvertently caused more than the 50% called for by the new department rules to be withdrawn for restitution.

As a result, the department temporarily stopped withdrawing money for that purpose so officials there could fix the process.

During that time, though, the system continued to remove payments for lower priority items that should have been paid after the restitution. As a result, some of that money was redeposited into the inmates’ accounts, so payment to victims could be made first, as the April law requires.

The problem affected “a limited number of inmates’ accounts,” according to Cook.

“If they disagree with the money that we’ve taken from their accounts, they have the ability to complain about what was withdrawn,” he said.

“If we determine that money was taken outside of our policies, it can be refunded. We look at this on a case-by-case basis.”

Several inmates who filed affidavits with the John Doe petition say the complaint process has not been effective.

Gregory D. Perkins, who has been in prison for 25 years, said the department recently started taking money to cover restitution and other debts that he paid off years ago. When he filed a complaint, officials told him to provide documentation of the prior payments.

“For them to sit there and tell me I have to prove that I paid it … How? When they are the only ones who have access to the system?” he wrote.

The petition also alleges the corrections department has taken money from inmates’ accounts to pay the costs of probation or parole or to help pay public defenders.

The inmates say that’s not allowed under state statute.

But in a letter to one of them, Marc Clements, assistant administrator for the Department of Adult Institutions, asserts that it is.

“Paying down an inmate’s lawful debt certainly provides for the benefit of the prisoner,” Clements wrote.

Lock ’em up, take their money/State prisons ramp up deductions from inmates who work or get outside help

Imagine your job pays just 35 cents an hour. After two 40-hour weeks, that comes to $28. Your workplace provides basic meals and living quarters, but you must buy incidentals like deodorant, shampoo, lotion, writing materials, envelopes, postage, clothing items like gym shoes, and any non-provided food items or snacks.

Now imagine reaching for that $28 to meet these needs and finding it’s been cut to $6.45.

That’s the experience Reo L. Covington, an inmate at Oshkosh Correctional Institution, relates in a November letter to Peg Swan, a prisoners rights advocate in Richland County. It is one of many such letters that Swan has received in recent weeks.

Across the state, Wisconsin prison inmates are crying foul about deductions being made to their trust accounts, which hold the money they make at prison jobs or is sent in by loved ones. They say the state Department of Corrections is abusing its new statutory authority to withhold money for restitution and other costs; the DOC has admitted that some deductions were made in error.

“It really clearly has a lot of people in prison very upset,” says David Liners, state director of Wisdom, a faith-based advocacy group. “People are kind of desperate.”
Molly Collins, acting executive director of the ACLU of Wisconsin, says her group has been hearing from inmates and will take a look at the new policy. But based on what she already knows, her assessment is harsh: “Is it horrible? Yes. Are they taking people’s dignity and what little bit of self-determination they have in prison? Yes.”

The deductions target a wide range of costs, from court fees, victim restitution and “victim witness surcharges,” to supervision fees imposed by the DOC, to child support. Swan, a retired nurse’s aide who corresponds with inmates all over the state, calls what is happening “a huge scam — the DOC is literally stealing money from inmate’s accounts.”

Early this week, Swan mailed a petition to Dane County Circuit Court seeking a John Doe probe into the deductions, alleging violations of law. The petition from her advocacy group Forum for Understanding Prisons, includes testimonials from more than 20 state prison inmates. The DOC has said in correspondence obtained by Isthmus that it is applying its new powers appropriately. But the agency knew beforehand that its conversion to a new computer accounting system would result in errors that would have to be sorted out after the fact.

“During recent testing, DOC discovered a distribution irregularity that affects fines, court costs and attorney fees,” wrote Jim Schwochert, administrator of the DOC’s Division of Adult Institutions, in an Oct. 3 memo to inmates. He asked for “your patience over the next few months while we roll out this new software system,” adding, “Should new issues arise, we will work diligently to resolve them as quickly as possible.” New issues arose.

In prison-posted answers to frequently asked questions dated Oct. 14 and Nov. 3, the DOC provides mostly opaque answers to such questions as, “I paid off my obligation, why does it still show I owe?” The response: “If the court ordered you to pay restitution or court costs at the time of sentencing, then it is still an obligation you owe.” The memo said steps were being taken to “reconcile the balances.”

On Jan. 18, Schwochert posted a memo acknowledging that the new system had made some “improper deductions” that would be reversed. “We apologize for the confusion this process has caused,” he wrote.

Agency spokesman Tristan Cook admits that, for a time, “additional money beyond the amount DOC prescribed was being taken from a limited number of inmates’ accounts.” The collection of restitution was temporarily suspended to resolve the issue, and now, Cook says, “the correct amounts are being withdrawn.”

The confiscated money, Cook explains, goes to “the entity or person to whom it is owed.” For instance, the subjects of court-ordered restitution are supposed to get those sums. Fees deducted for account overdrafts, loans or institution restitution go to the DOC.

**Act 355, which passed the Legislature** last year, amended state statutes to let prison officials “use a prisoner’s money to be paid towards applicable surcharges, victim restitution, or the benefit of the prisoner,” according to a Nov. 30 letter to Wisconsin Secure Prison Facility inmate Nate Lindell, who challenged the deductions.

The act also amended the state’s restitution statute to empower the DOC “to collect, from the defendant’s wages and from other moneys held in the defendant’s prisoner’s account, an amount or a percentage the department determines is reasonable for payment to victims.” But many state prison inmates contend the DOC is taking money for charges they don’t owe. Roy J. Jones, an inmate at Stanley Correctional Institution, has records showing he paid off his assessed court costs as of September 2004. But prison officials deducted $22.56 for court costs, later explaining that an earlier deduction was wrongly applied to a different surcharge and needed to be paid again. Jones is among the petitioners seeking an outside probe.

In some cases, prison officials have acknowledged errors. A Nov. 28 information request from Matt Elliott, an inmate at New Lisbon Correctional Institution, stated: “You took 120 percent of $60 I just received! It is extremely clear you do not know what you are doing.” A prison official responded, “This was due to a computer glitch. Your disrespectful words are not appreciated!” In a follow-up exchange, the same official told Elliott, “That money has been distributed and we cannot give it back. We were not aware this glitch was happening.” Elliott, who provided these records to the Wisconsin Center for Investigative Journalism, expounded in an accompanying letter: “To me it seems like straight-up theft. If I were a store and I kept charging you $20 every week after you only made one purchase from me, then told me I won’t refund your money because this has already been distributed or because there was a computer glitch, are you just going to roll over and say, ‘Oh well, my loss?’”

DOC spokesman Cook says the agency “determined that 50 percent of wages and moneys held in an inmate’s trust account is reasonable for the purposes of this statutory provision.” But, he notes, “Inmates with multiple obligations may see 100 percent of their wages or moneys withheld.” A Jan. 25 memo from an official at Columbia Correctional Institution calls the notion that 50 percent represents an upper limit for deductions a “common misbelief.”

Swan says she’s heard from inmates reporting that 100 percent of money sent in for them is being confiscated: “So you send $50 to your loved one and he gets zero.” Some inmates have been informed they owe hundreds of dollars in debts and obligations going back more than 20 years.

Beverly Walker has stuck by a man who has been locked up for more than two decades. Now she’s sticking up for him as well.

Walker says the money she sent her husband, Baron, an inmate at Oakhill Correctional Institution near Madison, used to be subject to just a 10 percent deduction — to a fund set aside for his eventual release. Suddenly last fall, the prison began withholding 60 percent, including a 50 percent deduction for restitution, she says.

“If I sent him $100, he would get $40,” says Walker, a consultant on social justice issues for Wisdom and other clients. “I had to continually send in larger sums of money so he could meet his basic needs.” Baron Walker buys much of his own food because, a loved one and he gets zero.” Some inmates have been informed they owe hundreds of dollars in debts and obligations going back more than 20 years.

Shannon Ross, an inmate at Oakhill, says the new policy “just kind of chips away at morale” and “embitters” inmates, especially those who really need the money being taken. She says the change “expands the black market in here, which is not fruitful for corrections, as the word is meant.” - See more at: http://isthmus.com/news/news/state-prisons-ramp-up-deductions-from-inmates/#sthash.9vXPOitb.dpuf (2)
Parole Chopping Block AND Privatization

Scott Walker's budget would shrink parole agency to 1 employee

Jason Stein, Milwaukee Journal Sentinel   Feb. 20, 2017

MADISON - The state's parole system for roughly 3,000 long-time state inmates would drop from eight employees to just one, under Gov. Scott Walker's budget proposal. As a lawmaker in the late 1990s, Walker championed the state's truth in sentencing law to ensure tough sentences on convicted criminals. Now as governor, Walker wants to sharply downsize the system for handling the potential release of state inmates who are still subject to the rules that were in effect prior to the debut of truth in sentencing in 2000. The move is in keeping with other actions of the governor, such as his decision not to issue pardons.

If the state loses some of its staff experienced in judging the risk of paroling inmates, the effect will likely be more people remaining in prison for longer, Madison attorney Lester Pines said. "The default position is going to be it's too dangerous to release this person," said Pines, who has worked on pardon issues. Pines, a Democrat, has sued the Walker administration a number of times over constitutional concerns, but in this case a legal challenge would be difficult to carry off unless a plaintiff could first show that the proposal was actually resulting in delays for parolees, he said.

At least 2,000 state inmates have served enough of their sentences that they can ask to be paroled — a process that requires a hearing for the inmate and for his or her victims. The great majority have served long sentences for violent crimes. Some have been denied parole 10 times or more.

Right now, the state Parole Commission has a staff of civil servants who make release recommendations to a parole chairman who is appointed by Walker. The agency has a budget of $1.2 million a year and 13 positions authorized to it, but it spends only a portion of its budget and has only eight positions currently.

Walker's proposal would cut even more:
- The stand-alone Parole Commission would be replaced by a single worker, a director of parole who also would be appointed.
- The new parole director would work within the Bureau of Classification and Movement. That bureau determines where inmates need to be housed within Department of Corrections prisons based on their security risk.
- The Parole Commission's budget would be entirely eliminated — the Department of Corrections would have to fund the new parole director's salary out of its existing budget. There would no longer be civil servants working parole cases unless the Department of Corrections assigned them to do so. Right now, there's no backlog for hearings for inmates eligible for parole and for their victims.

"The proposal will maintain the integrity of the parole function while saving taxpayer dollars and accounting for workload changes. DOC anticipates that the proposal will continue prompt reviews of parole-eligible inmates," Cook said.

Hidden costs

But the proposal could actually cost taxpayers money in the long term, said Jerry Hancock, a former prosecutor who advocates overhauling the prison system. Hancock, who previously worked as a deputy district attorney in Dane County and an administrator in the state Department of Justice, said that housing inmates eligible for parole costs the state far more than the Parole Commission does.

For instance, taxpayers pay more than $15 million a year to house parole-eligible inmates who are kept in minimum-security facilities. Many of these inmates travel routinely outside the prison walls to serve on work details and related activities. Hancock said.

Hancock now serves as the director of the Prison Ministry Project of First Congregational United Church of Christ in Madison. He said he's also concerned that under the budget proposal the Parole Commission would no longer be independent of the Department of Corrections.

THE ASSOCIATED PRESS

Thursday, February 23, 2017, 7:30 PM

Attorney General Jeff Sessions signaled Thursday his strong support for the federal government’s continued use of private prisons, reversing an Obama administration directive to phase out their use.

Stock prices of major private prison companies rose at the news.

Sessions issued a memo replacing one issued last August by Sally Yates, the deputy attorney general at the time. That memo, which followed a harshly critical government audit of privately run prisons, directed the federal Bureau of Prisons to begin reducing and ultimately end its reliance on contract facilities.

Yates, in her announcement, said private facilities have more safety and security problems than government-run ones and were less necessary given declines in the overall federal prison population. But Sessions, in his memo, said Yates’ directive went against longstanding Justice Department policy and practice and “impaired the Bureau’s ability to meet the future needs of the federal correctional system.”

He said he was directing the BOP to “return to its previous approach.”

The federal prison population — now just under 190,000 — has been dropping due in part to changes in federal sentencing policies over the last few years.

Private prisons hold about 22,100 of these inmates, or 12% of the total population, the Justice Department has said.

Yet the federal prison population may increase again given Sessions’ commitment to aggressive enforcement of drug and immigration laws, and his focus on combating violent crime.
“That is a stab in the heart of our struggle,” he added, about Sessions, who was confirmed as attorney general last week. Jackson then delved into how unlikely it was for him to work together with Trump on anything. Meeting with Trump is going to be a very difficult thing to do. It is going to be very difficult because Trump’s appointees are hostile to our interests,” Jackson said. "For the Department of Education, Ms. DeVos has never ever been in the public schools," he said of newly confirmed Education Secretary Betsy DeVos. "She just bought her position in the government. Hard to discuss education with somebody with those kinds of credentials."

**FFUP NOTES : PRIVATIZATION STAGE ONE AND TWO?**

*Keep prisons bledated/ Use federal private prisons then build your own*

The Walker and Sessions articles above sent shivers through me- Is this the beginning of the end of the possibility of real reform? We all know that Governor Walker brought Truth in Sentencing TIS as a young legislator straight from ALEC and we have feared that privatization has always been on his agenda. Now I fear corporations increasingly run the government and the money to be had in funneling the poor and vulnerable into our prisons will more and more drive prison policies. We need to gather our forces and change the tenor of the discussion-widen it - bring societal needs to the fore front. The arguments for real parole, treatment, prevention support are all solid- they just get no traction in the public square. We need to change that. WISDOM is a partner in that endeavor. See ad for their gathering on March 30 (pg18) and tell your people about it!

On parole, FFUP will be going for legislation. We of course have a beautifully crafted parole rule change, done for that 2015 effort. With that is a powerpoint document that outlines the history and corruption of the system which needs some updating. We have another wonderful suggestion to pursue to get release for old law prisoners and will report on it in next newsletter.

**Legal work on FFUP’s “PLATE”**: As far as our legal work- Much of the needed systemic changes are best addressed with a Wisconsin prison-wide class-action; for example: eliminating long term solitary, building TCI style mental health treatment centers, guards training, good programming and treatment. For health care one main need is banning guards from dispensing meds. The vision is good but will take legislation and legal action in tandem. As most prisoners know, the court has ruled in Howard Vs Pollard that prisoners have to have a lawyer BEFORE they file their class action, making class actions nearly impossible for prisoners. Still, the common reply to requests for representation is “We only do prisoner’s cases that are appointed by the court” This Catch 22, coupled with the near impossibility for vulnerable inmates to exhaust remedies has impeded but not stopped us. We go ahead sideways with two cases- one with a single plaintiff (general health care) with an incredibly tight case who may get the lawyer he needs from the court because of its complexity. There is another class action (AC ) going into county court where there are fewer strangle holds. In a very important individual AC case a mediator for settlement discussions has just been requested. But because of this primary need for class action FFUP will be doing another lawyer contacting round, this time with easily digestible (single issue) class actions difficult to turn down and where possible, will provide examples that enhance ongoing suits.

I have also learned that the root cause of all this dysfunction: overcrowding and Loss of Mission (Too many prisoners held too long)- cannot be addressed in Wisconsin courts as they work now and legislation is needed as is education of our legislators and public. For example, particularly irksome to me and seldom discussed, is that WI releases “youngsters”- the TIS prisoners- without treatment or training even when they beg for help, while holding on to the OL prisoners because “they are too dangerous.” Other important talking points: We hear of alarming overuse of solitary confinement to alleviate overcrowding; and guard and professional staff shortages are at crisis point because of poor working conditions and pay. Affidavits and anonymous testimony giving clear examples of the effects of overcrowding are helpful educational tools. And we all navigate our way together through this muck.

We ask for your patience and we also ask for donations for filing fees from people who have the means. FFUP will be putting up a ‘gofundme” shout out for this also. We have two gofundme campaigns up there now and these take time I do not have as they only spread as far as me little emails and facebook go and I am too swamped and too much of a recluse to have much network ability. If you have family members or friends who love the social media, point them in FFUP direction. All Donations go to FFUP ( Forum for Understanding Prisons) a 501c3 nonprofit, 29631Wild Rose Drive, Blue River, WI 53518. All Help appreciated. The present need is filing fees.

**ON Money scam documents:** As news articles on pages 1 through state, FFUP submitted a John Doe investigation request Early February with complaints of 22 prisoners and a couple families. That was going to be the end of my involvement but I have since received rafts of mail and many calls – whole manila envelopes of documents. It isn’t until this morning that I realized this deluge is simply the time lag and many people are getting the shout out I did way back in order to get the material to file the John Doe request- Here is general rule for now( or “word to the wise”) =if you are submitting writing to a publisher, want help from a lawyer, or want FFUP to advocate for you, submit the minimum of documents and IF you are asked, send the rest. Postage is expensive, as is time. IF you want your documents back, this is particularly important. (I will be sending docs back as I can)

I am not a lawyer and am over my head in this- I can prepare another J.D. filing but I should not be the filer as the court has one from me already. DO not send your documents –an affidavit attesting to your losses is fine-I can prepare another filing if some non-incarcerated Wisconsin resident will file it and/or I can put your story online. I do believe we are marching toward a class action here if these individual action do not halt the alleged theft. FFUP will help with whatever prisoners and their families come up with but cannot be the driver-just part of a team of work horses.
PLEASE SHARE this Rag as we are putting just 200 of these out. Part of the reason is lack of resources and part is because all is in incredible transition and moving rapidly and this will quickly be outdated. The next newsletter will have a legal section editor and will be better- we hope to graduate finally to a regular legal newsletter.

Pages 1 through 4 showed main news articles on WI Alleged misuse of Act 355.

The second half of the newsletter is a glut of riches sent to me by prisoner litigators. The first submission is an overview of the “Money scam” problem with suggestions for each of you and it expresses the need for class action.

I have printed three more offerings although I received more. Each takes a different avenue and I do not have expertise to decipher the value or accuracy of these documents but I believe this is very fine work and I can tell you they were crafted by fine litigators and done in an honest effort to help. I understand this is “too many cooks” but all this takes time and communication is difficult. Clarity will come. It is good to see the energy and I thank all submitters.

(A) Overview

THE WISCONSIN STATE STATUTES INVOLVED

By Randall Mataya RGCI

The list of Statutes involved in the legal quagmire that the D.O.C. (Department Of Corrections) and D.A.I. (Division Of Adult Institutions) created by their actions taken against all prisoners and prisoners families when they DOC/DAI, chose to arbitrarily, capriciously and contrary to all known laws, take our money at a rate of 50% rather than the 25% that is authorized by law, is stated below:

1. 301.321 2. 227.10/ 3. 227.19/ 4. 230.01/ 5. 230.80(1).
6. 230.82(1)/ 7. 304.074 & 304.078/ 8. 973.045/ 9. 973.05,
10. 973.06/ 11. 973.07/ 12. 943.20/ 13. 943.70/ 14. 943.39/
15. 946.12/ 16. 946.68/ 17. 946.73/ 18. 946.80/ 19. 939.05/
20. 940.29. These State Statutes all play a critical role in proving that the DOC/DAI are violating our due process (procedural) and our due process (substantive) rights under the U.S. and Wisconsin Constitutions. A Statute Of Limitations is also involved, 893.40. However, this statute does not play a role in wrongdoing by the DOC/DAI, unless and until inmates cite it to the business office when they learn that they are going to try to collect on debts 20 years or older. Once we tell them that debt is “Time barred” by 893.40. Once they are told that they cannot attempt to collect on it. Id. 893.40 and 2015 Wis. Act 155, also known as 2015 Assembly Bill 117, published 3-1-2016. Make no mistake about this, if you allow them to take money for a time barred debt, the debt becomes revived and the statute of limitations restarts. Object right away. Now, I’ll explain how each named statute above is involved in this mess DOC brought upon us.

First and foremost, remember that State Statutes control. An Adm. Code rule cannot over-rule or run contrary to a state statute. The same applies to Internal Management Procedures and Policy and Procedures. IMP and P&P cannot over-rule or run contrary to Administrative Codes or State Statutes. DOC 309.465 states DOC will take 25% of income and gift money for victim/witness surcharges “A” and “B”, and cites 973.045 Wis. Stats. as authority. That Code is correct. P&P 309.45.02 is an illegal policy based on an illegal interpretation of 2015 Wis. Act 355. The easiest way to think about this is, ACT 355 only amended 973.20 restitution and 301.32 to allow restitution fees to be collected. The Act allows a reasonable amount or percentage for restitution ONLY!!!:

The FDCPA (Federal-Fair Debt Collection Practices Act) is enforced by the FTC (Federal Trade Commission). If attempts are made at collection of a time barred debt, you must write to the Attorney General and request them to force the debt collector to stop its attempts. On court costs, fees, surcharges and even restitution that has been owed for 20 years, or more without any attempts at payment, is a “time barred” debt and you can refuse to pay it.

301.32. This Statute mandates that all money delivered to an employee of DOC, for an inmate (for the benefit of an inmate) shall be delivered to the Warden or Superintendent, who shall enter it into the prisoner’s account. The DOC/RGCI ICE and CCE in Madison are claiming that 301.32 allows them to use the money for all debts as that is “a benefit to the prisoner”. The ICE decisions show now that the DOC takes the position stated as the benefit of the prisoner.

What they do not address is the fact that ex post facto bars the 50% deductions on all debts. Any debt other than restitution must be paid at a rate of 25% per 309.465, 973.045 and 973.05 in every case where a prisoner was charged with a crime prior to July 31, 2016, the effective date of Act 355. Act 355 is not retroactive and any retroactive application of it to cases pre-7-31-16 violate ex post facto because the increase in the amount of money taken as part of a prisoner’s sentence is considered to increase the (5)
amount that was allowed at the time of the commission of the offense. The amount can’t be increased without ex post facto being implicated.

“Every law that changes the punishment and inflicts a greater punishment than the law allowed when the crime was committed” violates the ex post facto clause of the U.S. Constitution, Article 1 §10,Cl.1. See Carmel V. Texas, 529 U.S. 513, 120 S.Ct. 1620 (2000).

In researching the ex post facto clause it was found that it was first applied and explained in Calder V. Bull, 3 Dall. 386, 390 (1798). This law is considered to be “well established” and as such, “boiler plate law”. Weaver V. Graham, 450 U.S. 24, 101 S.Ct. 960 (1981). No matter what the DOC claims, it cannot get around the ex post facto argument!

Any administrative code that the agency wants to create, amend, repeal and or redact, must first go through the Chapter 227.10 Statements of policy and interpretations of law; discrimination prohibited (1) Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute ... at (2) No agency may promulgate a rule which conflicts with State law. Id.

What that means is, policy 309.45.02 which allows 50% deductions, is in direct conflict with 973.045 Wis. Stats. As you can see, the DOC is guilty of violating sub 2 of 227.10. Furthermore, 227.19 Legislative review prior to promulgation, required the DOC/DAI to have its proposed policy approved by the legislature. A LexisNexis search of the computer database in the law library failed to net one single legislative review of any policy 309.45.02.

The people in positions of rule making authority within the DAI are supposed to be highly competent and found to be “fair, efficient and effective” 230.01(1). It appears to me that they are anything but!!! Under Employee Protection, 230.80 definitions, at (1) states “Abuse of authority” means an arbitrary and capricious exercise of power!!! Yes, it actually states that! 230.81/230.82 specifically demand that any employee of an agency whom has knowledge of violations has a duty to bring it to their supervisors and they have to investigate it or ask another agency to investigate it. We all know nobody has stepped up to the plate and demanded an investigation. Even though a lot of correction officers agree the DOC is acting stupidly and irresponsibly and even criminally, none of them have gone to the top. Further proof is, all these institution ICE investigators haven’t done so either. Now, in regard to any prisoner that owed supervision fees or any other court costs, fines, surcharges etc, that fulfilled their sentence and was released from probation/parole and incarceration, that the Dept. of corrections failed to take steps in collecting debts owed by using 304.074 procedures for collecting, waived any right to collect those debts. Including persons who received their sentence completion certificate under 304.078. The DOC waived those debts by law!

973.045 Crime victim and witness assistance surcharge. (1). If a court imposes a sentence or places a person on probation, the court shall impose a crime victim and witness assistance surcharge. Id. This statute and 973.05 show 25% deductions are to be made and “A” must be paid in full before “B” and “B” before “C”. This law is why the DOC cannot take 50% deductions from us. Act 355 doesn’t repeal, replace, amend or alter it in any way. It also cannot be applied retroactively. 973.06 also has surcharges and fees taxable against defendants and also allows 25% deductions.

973.07 is a Statute the circuit court can use in an effort to collect debts by converting your debts into a civil judgment, and the courts can also put you in jail for up to 6 months if it finds you had an ability to pay but chose not to do so.

943.20 Theft. This statute can be used in claims against DOC/DAI employees because by taking our money without proper statutory authority and without proper policies and Administrative Codes authorizing it, its theft. The taking of a persons property without their consent.

943.70 Computer crimes. This is where I’m being creative and complex in legal arguments because its never been done before. Nobody has made computer crime allegations against these people.

Isn’t our money put into the State treasury’s DOC inmates accounts? And isn’t that money accessed via a computer? All transactions are done via DOC computers. The money they take and transfer to collections is all done by computer. Furthermore, isn’t a Western Union transfer of funds into our accounts, considered a wire transfer? Taking money from that is a computer crime. See 943.70 (1)(f)data is property, (g) is “financial instruments” mean money orders checks, certificates of deposit and any computer representation of them! (h) Property means anything of value, including financial instruments, information, data, etc! Easy enough to make legal claims here! Look at sub (2), even better. 943.39 Fraudulent writings! Whoever intends to defraud another person is guilty of a Class H felony!!! (6)
Being a director, an officer, a manager, agent or employee qualifies you to make this allegation as well.

946.12 Misconduct while in public office. 946.68 Simulating legal process. 946.73 Penalty for violating laws governing state or county institutions. 946.80 through 946.88 allow us to claim the DOC is a criminal enterprise and engaged in multiplicitous acts of criminal financial violations, computer crimes and anything else you wish to claim and prove against them.

940.29 Abuse of residents of penal institutions is self explanatory. In regards to all the statutes cited, you must apply your facts to those statutes to make your claims.

The list below are most of the things the DOC is illegally doing:
1. Taking 507 of funds for debts when statute is 257;
2. Taking multiple 50% deductions from accounts that have multiple debts;
3. Taking 50% deductions for debts that have already been paid off;
4. Taking 50% deductions for supervision fees when it’s not allowed;
5. Taking 50% deductions for time barred debts;
6. Taking 50% deductions for uncertified debts;
7. Taking 50% deductions for obligations court ordered at 25% on JOCS;
8. Taking 50% deductions for debts from already served sentences;
9. Taking 50% deductions for non-restitution surcharges when those are only collectible after incarceration is completed;
10. Taking 50% deductions for restitution that hasn’t been ordered and restitution that hasn’t been properly determined by a judge.

The above list is just what I’ve witnessed here at RGCI. It isn’t a complete list of all violations. When DAI ordered these deductions, it did so with the blessings of Scott Walker. The RGCI ICE stated that the money being collected for victim and witness surcharges is not being routed to the proper accounts. That Scott Walker ordered the money to be used for other State Of Wisconsin debts and goals. This needs to be investigated. It’s already known by the Wisconsin Democratic Party that Walker received pay offs from debt collection companies to get him to amend debt collection laws. See 2015 Wis. Act 155!!! Walker’s amended debt collection laws. Paperwork proof already sent to you.

A notice of injury and claim has been filed by two different inmates at RGCI. Its alleging the same things but has different facts. The Attorney General’s office received a letter from me requesting them to perform an investigation into these matters. To this date all I know is they sent a copy of my letter to DOC legal counsel for response by them and those idiots wrote to me and said they cannot offer me legal advice!! I wrote them back and said the AG wants your response to my claims, not me. I told them they are not qualified to offer me legal advice. I’d rather ask my dog for advice than those clowns. They cosigned the 507 crap the DOC is doing.

The lines have been drawn in the sand. These idiots have actually rested their case on 301.32!!! “Benefit of the inmate” language! What’s so great about that you ask? Well, 301.32 doesn’t say anything about a 50% deduction and when you read the benefit of the prisoner language, it’s in reference to the money being placed into the prisoner’s account for his benefit!!! It makes no claim that paying off ones debts is to an inmate’s benefit at the rate of 50%. Once again the DOC is stretching the words used.

“The property may be used only under the direction and with the approval of the warden and for (listed multiple debts) the inmates benefit. If you have the Act 355, read it. The DOC takes it out of context and regardless of that, 25% deduction laws have not been repealed or replaced or amended so the DOC is sucking wind. We all see Act 355 makes no claim that 50% is reasonable. It only regards restitution owed under 973.20. The DOC thinks it’s reasonable to take 50% or all of a man’s money for debts. Shows where their heads are at. Could you imagine the look on their faces when they got their paycheck and it showed 40 bucks to them and 3,500 bucks went to their mortgages and other debts!!! Love to be that fly on their wall!!! They’d scream bloody murder from their roof tops.

To effectively challenge these people, we will go into court. It’s not cheap. A class action is hard to come by. It would be much easier if we had an attorney already lined up and filing the action once our admin exhaustion process is completed. Remember, file notice of injury and claim forms with the AG. You have to send them certified mail too!!!
Every one of us is having 50% of incoming money taken to pay criminal court obligations, some of which the WDOC has no authority to collect (that is explained in a John Doe Petition, which you may obtain from https://ffupstuff.files.wordpress.com/1017/01/jd-request-letter-final.-for-blog.pdf or by sending Peg Swan two stamped envelopes. There should now be a revised version available.

BELOW you will find:

a) a sample ICRS complaint, two page.(pg 11 here)
b) a Notice & Motion for sentence Modification, one page
c) an Affidavit In Support of Sentence, two pages
d) a Memorandum of Law in Support of Modification, two pages

which you may want to research to verify they are legit (I’m not an attorney, can’t act as one, thus these are just my suggestions) and then file.

You’ll notice that you need to write the D.A.I. Director before you file the complaint. Give him two weeks to reply, then file the complaint, with a copy of the letter you sent attached. §DOC 310.10(2) allows multiple prisoners to sign the complaint, which will save you all time and postage. Exhausting the ICRS on this issue is necessary so you can, if necessary, file a suit on the issue.

Then you’ll notice in the sentence modification papers multiple bracketed areas. You need to write in the info identified in those bracketed areas. You’ll also need to get the affidavit notarized. Then, when you mail it all to the court, you should include a letter on top explaining what’s enclosed and verifying that copies were also mailed to the D.A., as you must do.

If there is an intelligent paralegal or litigator around, it would be wise to get his advice before you file anything. Just make sure he isn’t merely a fast-talker but actually knows the law and has good character. By no means do I claim these materials are perfect or perfectly applicable to your case.

Guys, please help those helping you. FFUP always needs postage, as do I. We are working on multiple class-action suits, which we need money to pay the filing fees for. And I would like to file a suit challenging the ban on stapled magazines and hard covered books in seg., which I need the filing fee paid to do. Put some gas in the Tiger tank that’s going to war for you! For those of you who can. And let your people know about my blog—betweenthebars.org/blogs/540/—where I post articles about WDOC scams, abuse, etc.

Regards, Nate A. Lindell;#303724; WSPF P.O. Box 9900; Boscobel, WI 53805

1) State of Wisconsin Circuit Court Branch (#) (Your County) County

State of Wisconsin Plaintiff

Case No: (put case # here)

v.

(Print Your Name) Defendant

Defendant’s Notice & Motion for Sentence Modification

To: The Honorable (Name of Your Judge) & (D.A.’s name and address).

(Court’s Address)

PLEASE TAKE NOTICE, THAT, PURSUANT TO Wis. Stats. §973.19, stats. and State v. Noll, 258 Wis. 2d 573; 581 (Ct. App. 2002), defendant (your last name), proceeding pro se, moves this court to modify its judgment of conviction in this case to state that (Your Last Name) must pay only 25% of his prison income for his obligations in this case and no funds are to be deducted for this case if funds are already being deducted for another case.

In support of this motion, (Your Last Name) incorporates by reference his accompanying Affidavit and Memorandum of Law.

WHEREFORE, (Your Last Name) asks this court for the specified sentence modification; and, if deemed appropriate, asks for a hearing on the matter. (if a hearing is scheduled, (Your Last Name) will need representation . as a jailhouse lawyer-Nate Lindell-prepared this material and (Your Last Name) is not savvy as to the applicable law.

Dated: Respectfully

Submitted, (Print Your Name & DOC #, address)
I. (Print Your Name), being first duly sworn under oath, declare under penalty of perjury that the following statements are true, truthful and correct, based on my personal knowledge or information and belief, as state herein.

1. I am (state your age) and fully understand what I am stating herein.

2. Around November of 2016, based on Policy & Procedure #309.45.02 I.D., which was approved/enacted by new Dept. of Adult Institutions (D.A.I.) Administrator Jim Schwochert, prison staff began talking 50% of my income to pay the financial obligations I was sentenced to in this case. This was done despite the WI Dept. of Corrections previously taking 25% maximum from my income for such obligations, as it has done for all prisoners for over 30 years. I learned this from reading the new policy, memos sent to me by Mr. Schwochert, talking with other prisoners and looking at my Trust Account Statements.

3. Because 50% of my income is now taken, those who previously sent me money to help me provide for my basic needs (e.g. buy postage, deodorant, phone-call credit, etc.) no longer do so and the money I do receive is insufficient to provide for my basic needs. (Note: You better make sure you don’t get money for a couple months, ‘cause they will check and lying may get your more time.)

4. Prison staff do not provide me with (list all the things you are not provided and that are basic needs—e.g. paper, postage, lotion, deodorant, shaving materials, gym shoes, phone credit, underwear, socks, T.V. etc).

5. Now that half of my income is taken, I only receive (state the amount) a month in prison pay, which is not enough to provide for my basic needs, especially given that we’re fed only starvation rations and I must buy food on commissary.

6. (State whatever else you think shows that the 50% deductions impose a hardship on you.)

Subscribed and sworn to before me this _____ day of _________, 2017 (Sign in Front of Notary) (Print Your Name), Affiant

Notary Public, State of Wisconsin

My Commission expires: (Print Your Name & #) (Print Your Address)
Memorandum of Law Supporting Motion for Sentence Modification

NOW COMES the forenamed defendant (“Your Last Name”), proceeding pro se, hereby provides the legal authority that supports his accompanying motion for sentence modification.

When a “new factor” presents itself, there’s no time-limit bar to filing a motion to amend the sentence. State v. Noll, 258 Wis.2d 573, 581 (Ct. App. 2002).

A “new factor” is:

“(A) fact or set of facts highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing, either because it was not then in existence or because, even though it was then in existence, it was unknowingly overlooked by all of the parties.”

Rosado v. State, 770 Wis.2de 280,288 (1975)
Motions for sentence modifications that present a new factor are processed like a motion under 3974.06(3), stats. See State v. Grindemann, 255 Wis 2d 632, 646 (Ct. App. 2002).

As revealed in (Your Last Name)’s Affidavit, at the time of his sentencing the WDOC took only 25% of prisoners’ incomes for the obligations prisoners had for criminal cases. Although statutes such as §301.31, §301.32(1) and §973.20 (11)(c) give/gave the WDOC discretion as to how much they take/tokk from prisoners for those obligations (§973.20(11)(c) species that a “reasonable” amount be taken for restitution), Wis Admin. Code §DOC 390.465 stated/states that 25% was to be taken for surcharges. Apparently from that code the WDOC construed “reasonable” to mean 25%, which was what they took from prisoners’ income for criminal-court obligations, for over 30 years. See WI Bankers Assoc. v Mutual Savings and Loan Assoc., 96 Wis.2d 438, 454 (1980) (Related statutes are to be construed together); Butzlaff v WI Personnel Com., 166 Wis.2d 1028, 1031-32 (Ct. App. 1992) (Courts defer to the “regular and repeated interpretation of (a) statute. . .over a period of time by the agency charged with the duty of administering (it).”) (cites omitted).

Aside from the point that Mr. Schwochert statutory re-construction* is impermissible/unjustifiable, the impact of the new practice is a relevant new factor, as suggested by the fact that Stat. §973.20(11)(c) directs the courts to explain their restitution decisions. State v Norton, 248 Wis.2d 162, (1989) (As the WDOC did not parole defendant when the court expected, that constituted a new factor). Had this court known that the WDOC was going to impose grinding poverty on (Your Last Name) contrary to the policy in place at the time (Your Last Name) was sentenced, this court may not have ordered Johnson to pay any fees, costs or restitution, e.g., see State ex rel. Lindell v Litscher, 280 Wis2d 159 at ¶3 (Ct. App. 2005) (Noting that no restitution was ordered, in a murder case where a house was burned down), or it may have specified that only 25% of (Your Last Name)’s prison income be taken for the obligations.

This court may have known, maybe should have known, that, at the time of sentencing, the WDOC was only taking 25% of prisoners’ income for said obligation. Such knowledge would make the court’s financial sentence reasonable. But, under the new practice of taking 50% of (Your Last Name)’s income, this court might have sentenced (Your Last Name) otherwise.

In case this court thinks that it has no say in how the WDOC collects (Your Last Name)’s obligations, the recent decision in State v. White, Appeal No. 2015-AP-780-CR, per curiam decided 12 Oct. 2016, says otherwise. Id., at ¶’s 3, 7, 23. (White was ordered to pay 25% of prison income.)

*This is being challenged in Dane County Circuit Court in multiple John Doe actions (e.g. 16-JD-15) and soon will be challenged in civil actions.

Conclusion

(Your Last Name) prays that this court will amend the Judgment of Conviction in this case so that it declares that “no more than 25% of (Your Last Name)’s prison income is to be deducted for the obligations in this case, and no income is to be deducted for these obligations if income is being deducted already for obligations in another case.”

Dated: (Print Date you sign this)

Respectfully

(sign)

(Print Full Name Here)

(Print Your Address)

See ICRS complaint on Page 11

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX(10)
JOHN DOE CRIMINAL COMPLAINT

Now comes the Complainant _________________, a Natural born person within the United State of America, in possession of those inherent rights stipulated to under the 1st & 4th Amendment U.S.C., and Article 1, sec. # 9 & 11 of Wisconsin Constitution.

Appearing herein to prosecute pursuant to Article 1, sec. # 21 (2) Wisconsin Constitution, as a witness/Victim testifying to the following Statement under Oath and Affirmation before the Court, pursuant to § 906.03 (1)(2) Wis. Stats., having Original Jurisdiction over all Criminal and Civil matters, pursuant to Article 7, sec. # 8 Wisconsin Constitution and § 302.02 (lm)(d) Wis. Stats., arising under the law of the States and State of Wisconsin. I hereby do prosecute in my own proper person capacity, under penalty of perjury, this Criminal complaint, and affirm that the following under Oath, is true and correct to the best of my knowledge:

Count 1: On October 3, 2016, defendant Jim Schwochert,(Hereinafter as “Schwochert”), in the City of Redgranite, Waushara County, Wisconsin, knowingly and willfully abused and ill-treated, ________________, a resident of Redgranite Correctional Institution, contrary to § 940.29 Wis. Stats., committing a Class I felony and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months, or both.

Count 2: On October 3, 2016, defendant Jim Schwochert, in the City of Redgranite, Waushara County, Wisconsin, knowingly and willfully with the intent to defraud ________________, a resident of Redgranite Correctional Institution, and doing so while acting in the capacity of the Administrator, of the Division of Adult Institution, (Hereinafter as “DAI”), contrary to § 943.39 (1)(3) Wis. Stats., and § 939.05 (1) Wis. Stats., did aid & abet, another person, and while aided and abetted by one or more person, committing a Class H felony, and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 6 years or both.

Count 3: On October 3, 2016, defendant Jim Schwochert, in the City of Redgranite, WAUSHARA County, Wisconsin, knowingly, and intentionally, while in the capacity of Administrator of the "DAI", committed an act that he knew was in excess of his lawful authority, which he knew was forbidden by law to do so while acting in his official capacity, while exercising his discretionary power in a manner that was inconsistent with the duties of both his office and the rights of ________________, and with the intent to obtain a dishonest advantage for another, made an entry in an account or record book, report, or statement which in amaterial respect he intentionally falsified, and which he solicited and accepted for the performance of service or funds, or money for payments of debts that he knew was greater than that fixed by law, and he did so while aiding & abetting another and while aided or abetted by one or more persons, contrary to § 942.12(2)(3)(4)(5)Wis. Stats., & § 939.05 (1) Wis. Stats., committing a Class I felony and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months, or both.

Count 4: On October 3, 2016, defendant Jim Schwochert, in the City of Redgranite, Waushara County, Wisconsin, knowingly, willfully, and intentionally, directed ________________________, by notice to _____________________, a inmate of the Division of Adult Institutions, of compliance by a government agency, which he did so with the intent to induce payment of a claim, by Simulating the legal process and containing statements which are not the legal process, and Jim Schwochert, did intentionally and feloniously aid and abet another to defraud another person with the intent to induce payment of a Claim, while aided and abetted by one or more persons, by simulating the legal process, contrary to § 946.68 (lg)(lr)(b)(c) Wis. Stats., and § 939.05 (1) Wis. Stats., committing a Class H felony, and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 6 years or both.

Count 5: On ____________________,defendant. Ann. Wuest,(hereinafter as "Wuest"), in the City of Redgranite, Wauhara County, Wisconsin, knowingly, willfully and feloniously, aided and abetted another to abuse and ill-treat, _________________, resident of Redgranite Correctional Institution, contrary to § 940.29 Wis. Stats., and § 939.05 (1) Wis. Stats., committing a Class I felony, while aided and abetted by one or more persons, and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months or both.
Count 6: On ____________________, defendant Ann Wuest, in the City of Redgranite, Waushara County, Wisconsin, knowingly and willfully, with the intent to defraud, a resident of the Red Granite Correctional Institution, by fraudulent writings, while acting in the capacity of Financial Program Supervisor, by falsified account records, which she made publish, while knowing that such false entries in trust account balance statements or that the owing of such debts were false, and she knowingly and feloniously, aided and abetted another person, made such fraudulent writings, while aided and abetted by one or more persons, committing a Class H felony, contrary to § 943.39 (1) Wis. Stats., and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 6 years or both.

Count 7: On ____________________, defendant Ann Wuest, in the City of Redgranite, Waushara County, Wisconsin, knowingly and intentionally, while in the capacity Financial Program Supervisor, "DAI", committed an act she knew was forbidden by law, to do while acting in her official capacity, while exercising her discretionary power in a manner that was inconsistent with the duties of both her office and the rights of _______________________________ and with the intent to obtain a dishonest advantage for another, made an entry in an account she intentionally falsified, and which she solicited and accepted for performance of service or funds, or money for payments of debts that she knew was greater than that fixed by law and did knowingly and feloniously aid and abet another person to perform such misconduct of their office, while aided and abetted by one or more persons, contrary to § 946.12(2) (3)(4)(5) Wis. Stats. and 9.05 (1) Wis. Stats., committing a Class I felony and upon conviction subjected to a fine not to exceed $10,000 or imprisonment not to exceed 3 years and 6 months, or both.

Count 8: On ____________________ Ann Wuest, in the City of Redgranite, Waushara County, Wisconsin, knowingly and willfully, directed ________________ , by notice to __________________ , an inmate of the Division of Adult Institution, by notice to __________________ an inmate of the Division of Adult Institution, of compliance by a government agency, which she did so with the intent to induce payment of a claim, by Simulating the legal process, and she did so intentionally and feloniously, aid and abet another to defraud another person with the intent to induce such payment of claim, while aided and abetted by one or more persons, by simulating the legal process, contrary to § 946.68 (lg) (lr). (b)(c) Wis. Stats., and 939.05 (1g) (lr) (b)(c) Wis. Stats., and 939.05 (1) Wis. Stats., committing a Class H felony and upon conviction, subjected to a fine not to exceed $10,000 or imprisonment not to exceed 6 years or both.

Affidavit In Support of Criminal complaint

The Complainant being first duly sworn under Oath States, the following Statement is true and correct to the best of his knowledge and belief:

That On October 3, 2016, Jim Schwochert, Administrator, of the Division of Adult Institutions (DAI), sent a Notice, to direct to me in the capacity of Division of Adult Institution inmate, which appear to be legal in nature and appearances, informing me that the DAI, around November 2016, would roll out a new trust account software system called Wisconsin integrated Corrections System (WICS), and that it would act as a collection agency, to collect and deferred fines, cost court, and attorney fees, etc., and this notice was intended to induce payments for alleged unpaid fines, Court Costs, attorney fees etc and it further gave notice that any DAI WITS Trust Account Statement, that I should receive represents a statement of record for current transactions including but not limited to, loans, filing fees, VWS, DNA Surcharge, Child Pornography surcharge, child support, disbursements, board, transportation, room, medical copay, institution restitution. (See: Exhibits A, Attached Hereto)

1. Under 2015.WI ACT 355, the Department of Corrections pursuant to § 973.20 (11)(c) Wis. Stats., is authorized to make a rule to determine a percentage amount within the law, that it determines is reasonable for payment of the Court order Restitution, if they receive a Court Order which orders that the defendant authorize the Department of Corrections to make the deductions from their account, earnings or funds they receive while in prison.

However, neither 2015 WI ACT 355, nor § 973.20 (11)(c)Wis. Stats., expressly implies or specifically mandates that the Department of Corrections, authorization, was to act retroactively to prisoners in its custody prior to the effective date of 2015 WI ACT 355, or § 973.20 (11)(c). Wis. Stats., newly amended portion thereof, as required by law, in order for the Department of Corrections, (Hereinafter as "Doe"), to apply their new 50% rule, DAI Policy#309.45.02 sec.# I. 6-10 & 19, 20, to prisoners who were in their custody prior to the newly amended portion of 2015 WI ACT 355, or § 973.20 (11) (c) Stats., and without such retroactive authorization being given to the "DOC", any retroactive application of their policy is "Unconstitutional" wherein the Wisconsin Supreme Court has mandated that:

"Legislation presumably operates prospectively, not retroactively, unless the Statutory language reveals by express language or necessary implication an intent that it applies retroactively..."

"Retroactive application of Statute modifying joint and several liability was Unconstitutional as employee had vested right in his claim on date of injury. Retroactive application of Statute to would violate due process rights..."


(13)
2. Although the newly amended 2015 WI ACT 355, & § 973.20 (11)(c) Wis. Stats., authorizes the DOC to determine the percentage to be deducted from newly sentenced prisoners in its custody, it does not authorize the DOC, to make such rule or Policy in conflict with that already established by State law, § 973.05 (4)(b) Wis. Stats., which only authorizes a maximum of 25% deductions can be made from prisoners/defendant's commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and other money due or to be due in the future to the clerk of circuit court for payment of the unpaid fine, surcharge, costs, or fees, especially, wherein § 227.10. (2) Wis. Stats. mandates that, "No Agency Can make a Rule that conflicts with State Law". See: Plain -vs-Harder, 268 Wis. 507 (Sup. Ct. 1955); Seider-vs-Musser, 222 Wis. 2d 80 (Ct. App. 1998).

However, to the contrary, the DOC has made DAI Policy# 309.45.02 sec.# I. 6-10, 190 20, which clearly conflicts with state law, § 973.05 (4)(b) Stats., as DAI Policy# 309.45.02, sec. allows the DOC officials to make 50% deductions, from prisoner's commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and other money due or to be due in the future to the clerk of circuit court for payment of the unpaid fine, surcharge, costs, or fees etc., when to the contrary § 973.05 (4) (b) Stats., only authorizes 25% deductions to be made from the listed funds, that prisoners receives for the same types obligations and debts., furthermore, DAI Policy# 309.45.02, sec. #I. 6-10, 19, 20, and § 973.20 (11c) Wis. Stats., is Unconstitutional, as the legislature could not delegate the authority to the DOC to make the percentage determination, because not only does it conflict with state law, § 973.05 Stats. percentage mandate, but it violates the separation of powers doctrine, as fixing of the percentage for payments of fines, surcharges, restitution, costs, fees and other obligations, is a Judicial Act and the extent to which payment maybe deferred, is something solely the Judge must decide, pursuant to 5973.05 (4) Stats., in conjunction with § 973.20 (12)(a)(13)(a)(c) Wis. Stats., and is Judicial function that could not under Article 3, of the U.S. Constitution be delegated to a Non-Judicial officer or Subordinate Administrative Agency as to circumvent the separation of powers doctrine. See: State ex rel. Zimmerman-vs-Dammann, 229 Wis. 570 ( Sup. Ct. 1938); Martinez-vs-Dept.of Industry, Labor &...Human Relations, 160 Wis. 2d 272 (Ct. App. 1991); State-vs Ramirez, 83 Wis. 2d 150 (Sup. Ct. 1978); Bowsher-vs-Synar, 478 U.S. 714, at 730 (1986); U.S.-vs-Murphy, 28 F. 3d 38 (7th Mr. 1994).

The Fines, Courts Costs, Restitution, Crime Victim witness surcharges, Supervision fees etc., are a part of a Judicial Courts imposition of sentencing, and when the Judge imposed at sentencing, against prisoner's Crime victim witness surcharge, Restitution, costs, fines, DNA Surcharge or other obligations, and set the payments thereof to be made at 25% or not to be paid until prisoner is released or on supervision, the DOC officials, acting in the fiduciary role, must comply, with the Court issued Order, or Judgment of Conviction,(hereinafter as "JOC"), order, unless, the order is stayed or set aside on Appeal, al, and under no circumstances may the Judicial Order be ignored or countermanded by the DOC officials, nor does DOC Officials have the authority to vacate or void a facially valid Circuit Court Order. See: Bartus-vs-Dept of Health and, Social Services & Div of Corrections, 176 Wis. 2d 1063 (Sup Ct. 1993); Beese-vs-Liebe, 153 F. Supp. 2d 967 (Wis.)(E.D. 2001); Hall-vs-Stone, 179 F. 3d 1043,1044 (7th dr. 1999).

The DOC Officials/defendant's herein, contrary to prisoners "JOC" that the defendant's had access to in prisons Institution records, disregarded prisoner's 'JOC's", which only permitted them to make deductions of 25%, from prisoners earnings, wages, and other money, to make payment towards unpaid court obligations, costs, Crime victim witness surcharge's, DNA. surcharges, fines, and court ordered Restitution, contrary to law, and acted within the Judiciary core zone of exclusive power, of § 973.05 (4)(b) Stats., and § 973.20 (12)(b)(13)(b) Stats., which it lacks constitutional authority to do so, under article #4 sec.1; Article #5, sec. 1, and Article #7, sec. 2 of the Wisconsin Constitution, and has impermissibly intruded on the constitutional power of the Circuit Court, which is Unconstitutional. See: State ex rel. Friedrich-vs-Dane County Circuit Court, 192 Wis. 2d 1 at 15 (1995); Matter of Complaint Against Grady, 118 Wis. 2d 762,776 (1984); especially, wherein prior to the amended 2015 WI ACT 355 and § 973.20 (11)(c) Stats., there was no statute authorizing the DOC to determine a percentage amount. See: State-vs-Evans, 238 Wis. 2d 411 (Sup. Ct. 2000), and the DOC Officials/defendants knew that they were precluded under the doctrine of both "Claim & Issue of Preclusion, Collateral Estoppel, and Res Judicata from relitigating the issue of what percentage to be applied to prisoners unpaid Court ordered fines, costs, fees, Crime victim witness surcharges, DNA surcharges, and other court obligations, that was previously litigated In Court Ordered "JOC's, or § 973.05 (4)(b) Stats. See: Minniecheske-vs-Village of Tigerton, 203 Wis. 2d 272 (Ct. App. 1996); Wanta-vs,-Wis Dept. of Revenue, 288 Wis. 2d 658 (Ct. App. 2006)*; State-vs-Canon, 230 Wis. 2d 512 (Ct. App. 1999); State-vs-Witkowski, 163 Wis. 2d 985,990 (Ct App. 1991).
Also see attached hereto Memorandums, Notices, and Inmate Trust Account Statement, and correspondences, showing illegal notice of the alleged debts, deductions etc.)

To the contrary, the defendant's have made deductions from prisoner's account, at 50% contrary to the prisoner's "JOC" order, and without authorization from the Court or prisoner, even though such authorization is mandated in the newly amended Law. See: Leverence-v-U.S.Fid.& Guar., 158 WIS. 2d 64 (Ct. App. 1990))§ 973.20(11)(c) Wis. Stats., and 2015 WI ACT 355, that requires that they have a Court Order requiring the prisoner to authorize the "DOC" to make deductions, which to the contrary they never they never possessed any such Court Order nor authorization from prisoner's prior to making the arbitrary deductions.

Thereby, acting contrary to State law, as § 302.31 Wis. Stats; only authorize-the-"DOC" to take money from wages paid to prisoners for "other obligations", if a prisoner has "Acknowledged" them in "writing", or which have been reduced to a "Judgment".

However, the DOC has nothing from ______________________________ which acknowledges any "other obligation, Costs, Fees, Court Ordered Victim Restitution, fines, Crime Victim Witness Surcharge A or B, DNA Surcharge, Attorney Fees, Supervision fees, Child Support fees etc.; nor does the DOC have in its possession any Court Order that was rendered at the time of his Sentencing or within the 6 year statutory limitation, under § 939.74 Wis. Stats., a "Judgment", or "JOC", that orders the DOC to make 50% deductions for unpaid, Court Ordered, "Other obligations, fines, Restitution, fines, Costs, Crime Victim witness surcharges, Supervision fees, Attorney Fees, etc., contrary to the 25% mandate under . 973.05 (4)(b. Wis. Stats.; Nor does the doc have in its possession a “JOC” that was delivered pursuant to 973.08 (1)Stats.

That the Doc official's continue to arbitrarily make deductions, from inmates account's, wages, earned income and gift funds for alleged Court Obligations that have previously been paid in full years ago, and the DOC refuses to provide prisoners with a complete and accurate record of the previous account records of deductions made from wages, gift money, salaries etc., or they falsely claim they don't know how deductions were made in the past etc., when they know that prior to 9-11-09, no funds were placed into prisoners release account, at 15%, unless the prisoner had paid their Crime Victim witness surcharges in Full, as mandated by their own rule DOC 309.466 (1)(2) Wis. Adm. code, which mandated that:

**DOC 309.466(1) After the crime victim and witness assistance surcharge has been paid in full, as provided for in s.DOC 309.465 and upon transfer of the inmate to the first permanent placement, following assessment and evaluation under s.DOC 302.12, and in all subsequent placements, the institution business office shall deduct 15% of all income earned by or received for the benefit of the inmate, except from work release and study release funds under ch.DOC 324, until $500 is accumulated, and shall deposit the funds in a release account in the inmate's name.** (In part relevant hereto)

The DOC officials are attempting to hide the fact that prisoner's money, earned income, salaries or gift funds were arbitrarily stolen, or taken by Wisconsin Department of Corrections Business Office personnel, under the disguise of making deductions for Court ordered Restitution, Crime victim and witness surcharges, Costs, Supervision fees, fines, Child Support etc., and yet, none of the deducted funds were being sent to the Clerk of Courts, as mandated by § 973.045 (4) Wis. and § 973.20 (11)(a)(b)(12)(c) Wis. Stats., constituting a violation of **Theft**, as a party to crime, pursuant to § 943.20 (b) (1)(b)(c)(d)(3) Wis. Stats, and § 939.05 (1) Wis. Stats, and DOC despite prisoner's throughout the "DOC", informing the prison officials to stop their arbitrary deductions of their funds, and despite the DOC officials acknowledging that money was arbitrary and their system was inadequate, they continue to make arbitrary deductions from prisoners' funds without the prisoner’s consent or authorizations or Judgment from Court reduced in writing, contrary to the Laws of the State of Wisconsin.

Wherefore, as said affiant verily believes and prays that pursuant to Article 1, sec. 21 (2) Wisconsin Constitution, which authorizes him to "Prosecute" his suit in his own proper person, that said Jim Schwochert, and Ann Wuest, might be arrested and dealt with according to law.

[Note: *1 The Plaintiff does not cite any Unpublished Opinion herein for their Precedential value, but for their persuasive interpretation of Wisconsin]

Dated day of ____________________, 2017

Respectfully Submitted Without Prejudice

/s / Complainant:In person/Box 925, Redgranite, WI. 54970

(15)
Subscribed and Sworn to before me on this________, day of________________, 2017

Notary Public/State of Wisconsin My Commission expires:__________________
I find Probable Cause does exist________________ or does not exist________________and that the crime was committed by the defendants: ____________________________________________________________________________________
and I order that he or she be held to answer thereto _______________________________, or be released forthwith ; Dated day of ______________, 2017
By The Court:________________________________________________________________________

/s/Circuit Court Judge:
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

D)Motion For Order to Clarify (submitted anonymously)

STATE OF WISCONSIN  CIRCUIT COURT  MILWAUKEE COUNTY
BRANCH_______________________

STATE OF WISCONSIN,
Plaintiff,
Vs.
___________ Case No. ______________
Defendant.

MOTION FOR ORDER TO CLARIFY MECHANICS OF SATISFYING RESTITUTION ORDER AND PROHIBITION OF CONTRAVENTION THEREOF

To: Judge, Circuit Court
Milwaukee County, Criminal Division
Milwaukee, WI 53233

NOW COMES THE DEFENDANT _____________________________ pro se, moves the Court pursuant to Wis. Stats. § 802.01(2) and State v Greene, 2008 WI App 313 Wis. 2d 211, 756 NW.2d 411, to issue an order clarifying the mechanics of satisfying a restitution obligation set by this court on__________________________ in the matter captioned above. In support thereof the Defendant states as follows:

That Mr._________________ has a legitimate expectation of finality in sentence. If a defendant has a legitimate expectation of finality in sentence, then an increase in that sentence is prohibited by the Double Jeopardy Clause. See State v. Jones, 257 Wis. 2d 163, ¶9, 650 N.W.2d 844 (2002), quoting State v. Fogel 264 U.S. App. D.C. 292, 829 F.2d 77, 87 (D.C. Cir. 1987).

ARGUMENT

In Mr._________________ Judgment of conviction this Court set the terms on which Mr._________________ must pay fines, court costs and restitution. (Ex. A:(# of pages)). Specifically the Court stipulated:

The Court plainly states the terms in Mr._________________ Judgment of Conviction that costs, fines and restitution is to be paid pursuant to Wis. Stats. § 973.05(4)(b), which states:

“(4) If the defendant fails to pay the fine, surcharge, costs, or fees within the period under sub. (1) or (1m), the court may do any of the following:----
(b) Issue an order assigning not more than 25% of the defendant’s commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and other moneys due or to be due in the future to the clerk of circuit court for the payment of the unpaid fine, surcharge, costs, or fees. In this paragraph, "employer" includes the state and its political subdivisions.”
(Wisconsin Annotated Statutes________________________)

(16)
On its face, the court has set the terms upon which court costs and restitution is to be paid. Any alteration to that order and the mechanics thereupon set would constitute Double Jeopardy. See *State v. Ziegler*, 2005 WI App 69, ¶19, 280 Wis. 2d 860, 695 N.W.2d 895 (Double Jeopardy protection applies to restitution orders.)

On July 1, 2016, the Department of Corrections, post hoc, the passage of Wis. ACT 355 (2016) which amended Wis. Stats. § 973.20 to include 973.20(11)(c) (2016), which reads:

"If a defendant who is in a state prison or who is sentenced to a state prison is ordered to pay restitution, the court shall require the defendant to authorize the department to collect, from the defendant’s wages and from other moneys held in the defendant’s prisoners account, an amount or a percentage the department determines is reasonable for payment to victims. (Id."

There is no language in Wis. ACT 355 which states such newly created amendment to Wis. Stats. § 973.20 shall apply retroactively to include those sentenced before July 1, 2016, nor could it because it would violate Due Process and implicate the Double Jeopardy Clause of both the United States and Wisconsin Constitutions. The language, “If a defendant who is in a state prison or who is sentenced to pay restitution...” cannot mean that this statute is to apply retroactively to those already confined because, the following words state "the COURT order shall require the defendant,..." and court orders are issued by the court and not the legislature, and defendants have a legitimate expectation of finality in sentence.

"If application of the Double Jeopardy Clause to an increase in sentence turns on the extent and legitimacy of a defendant's expectation of finality in that sentence. The analytical touchstone for double jeopardy is the defendant's legitimate expectation of finality in a sentence, which may be influenced by many factors, such as the completion of the sentence, the passage of time, the pendency of an appeal, or the defendant's misconduct in obtaining sentence." *Jones*, 257 Wis. 2d at ¶10.

"For the purpose of determining the legitimacy of a defendant’s expectations, there is a distinction between one who intentionally deceives a sentencing authority or thwarts the sentencing process and one who is forthright in every respect. Whereas the former will have purposely created an error on the sentencer’s part and thus can have no legitimate expectation regarding expectation that the sentence, once imposed and commenced, will not later be enhanced. Under this analysis, unless the statute explicitly provides for sentence modification, or the defendant knowingly engages in deception, a sentence may not be altered in a manner prejudicial to the defendant after he has served his sentence." *Jones*, supra, at ¶12, quoting *United States v. Jones*, 722 F.2d 632, 638-39 (11th Cir. 1983).

Mr.___________ falls in the latter category where he is blameless and thus, has a legitimate expectation that the sentence imposed and commenced for more than______years will not now be altered and enhanced absent a statutory invocation for sentence modification by a party with standing to do so. There is no statute that "explicitly" provides for a sentence modification in this case for the time to file for sentence modification pursuant to cis. Stats.973.19(l)(a) has long since passed and there are no grounds to invoke the courts "inherent power" to modify this sentence based on a "new factor" justifying sentence modification.

Wis. Stats. 973.20(11)(c)(2016) does not give the DCC the power to unilaterally modify the mechanics of a sentencing order and judgment long since issued. It does not explicitly authorize the modification of a sentence period. It gives the court the authority to impose a sentence consistent with statute at the time of sentencing.

This case is distinguishable from *Greene*, 313 Wis. 2d 211, as in *Greene* the mechanics of that restitution order was never set, there, the court found no Double Jeopardy violation for that fact. *Greene* 313 Wis2d 211, 1118-20. Here, the mechanics of the order at issue was set at sentencing and according to statute and the law. Any post hoc alteration/modification of that order is in violation of Mr.__________’s Due Process Rights under the Double Jeopardy Clause. *Ziegler*, 2005 WI App 69, at 519.

(17)
Mr._____________________ prays upon the court to Issue an order clarifying the mechanics set by this court pursuant to Wis. Stats. 973.05(4)(b) in this case relating to court costs and restitution and prohibiting the institution from withholding funds in this case inconsistent with those mechanics set at the time of sentencing. Further, to return the funds taken cost hoc in contravention and inconsistent with the Judgment of Conviction beginning July 1, 2016 to the date of service of the order.

Mr._____________________ further prays upon the Court that said order be sent to (your prison, warden and address)

Dated this - day of 2016 in GreenBay, Wisconsin.

Respectfully Submitted,

your Name), pro se,

(Your Name & ID)
(Prison and address)

There will be Breakout Groups dealing in-depth with 11 different issues at the WISDOM Madison Action Day on March 30. They are:

- Treatment Alternatives and Diversions (TAD) - seeking more resources for alternatives to incarceration.
- The Second Chance Act - which would move most 17 year-olds back to the juvenile justice system (currently, Wisconsin is one of a few states that treats all 17 year-olds as adults).
- Solitary Confinement - pushing for continued reduction of the use of solitary confinement, and investment in mental health programs in prisons as alternatives to it.
- Crimeless Revocations - calling on the state to stop sending people on Supervision back to prison for mere rule violations if they have not committed a new crime.
- Parole and Compassionate Release - rather than end the parole board, restore real opportunities for the many parole-eligible people in prison to earn their release.
- Transitional Jobs - calling for greater investment in a very successful program that provides jobs for people who have been unemployed for a long time.
- Transit - working to increase the resources dedicated to public transportation, to invest equitably in people who do not drive cars.
- Immigration reform - standing in solidarity with immigrants in this very difficult time.
- Back Forty Mine - standing with the Menominee people to oppose a sulfide mine on their ancestral lands (which include burial mounds) which also poses a threat to our rivers and Lake Michigan.
- Health Care As a Human Right - working to ensure that health care coverage is not lost for people in Wisconsin, but rather that it is expanded.
- Education - this workshop will be led by students, dealing with their needs and hopes.

You can register online or through any WISDOM organization, or mail it in to the WISDOM office.

MADISON ACTION DAY 2017
THURSDAY, MARCH 30
Bethel Lutheran Church
312 Wisconsin Ave, Madison, WI
$25 includes breakfast, lunch and materials

8:00 Breakfast and Networking at the Church
9:00 Welcome, Prayer, Plenary, Workshops, Strategy Sessions
12:00 Lunch, Visits with legislators about proposed state budget issues
4:00 Closing event at the Capitol.
17 EXPO of Milwaukee Forum

What:
Join us for the 2017 EXPO of Milwaukee Community Forum. The forum will be covered live on the Earl Ingram Show on 1510 am. The forum will include panel discussions about the consequences of excessive revocations in Wisconsin, the inhumane conditions at Milwaukee Secure Detention Facility, and the need to invest in community-based alternatives to incarceration. Come out and join the conversation on April 29.

When:
Saturday, April 29 11:30am - 3pm

Where:
Wisconsin Black Historical Society 2620 W. Center St. Milwaukee, WI 53206

Why:
Wisconsin officials should support policies that would give all people the opportunity to be treated with fairness, dignity, and respect and to live in safe and healthy communities. Unfortunately, Wisconsin’s unjust revocation policies lead to the unnecessary incarceration of thousands of men and women every year. These policies, which disproportionally harm people of color and people with disabilities, tear families apart, disrupt communities, and drain resources that could instead be used to build safer and stronger communities.

It is time for Wisconsin to stop incarcerating people who have not been convicted of new crimes and join the growing number of states that are making significant investments in community-based alternatives to incarceration!

Sponsored by EXPO (EX-Prisoners Organizing)

to RSVP for the 2017 EXPO of Milwaukee Forum go here on web: https://actionnetwork.org/events/2017-expo-of-milwaukee-forum?source=email&

Contact Info: email: support@actionnetwork.org
Mailing address: EXPO c/o Mike Rice; 3195 Superior St, Milwaukee WI 53207 (this is WIsdom’s address also)

THIS JUST IN: Link to Instructions and Template for Filing a restraining Order:
https://ffupstuff.files.wordpress.com/2017/03/r-mataya-injunction.pdf

See Page Two
Explanation:
This newsletter has been difficult and I apologize for it’s bulk and confusion. I had finished the printing and was gathering to mail when I received the EXPO announcement by email and a possible final resolution of the money problem by post. I felt information about this template for an injunction must be included and as it is 10 pages (size of another newsletter) - I have put the whole thing online for you to download OR I can mail it to you. Send SASE if you can.

I have been over my head for this whole debacle and yet have been the primary information giving and receiving conduit for many inmates. I collated 22 prisoner complaints and sent them with a Request for John Doe Investigation written by Nate Lindell in February which was carried in two newspapers. (articles included here). This generated a lot of mail. I do not know the law enough to judge the accuracy or possible effectiveness of the 5 solution proposals herein. I work with many prisoner litigators and usually do not have a problem of too many cooks as their interests are very diverse. But this issue has got us all. I present all so you can be the judge and with this really ridiculous newsletter, I hope to be done with the issue except if needed, to send specific documents of your choice presented here- tell me which submitter/writer you need. I know the way I scrolled these is probably confusing. So, I acknowledge my failure here but I have found this good reading – they all are well written. and good luck. The issue, like so many, is appalling.

Newsletter will resume its regular size and I hope to get next one out in May. Please make submissions no later than end of April. I hope to be able to focus better now on the issues closest to my heart: solitary confinement horrors and its victims, lack of treatment and Parole.

THIS JUST IN: Link to Instructions and Template for Filing a restraining Order

Randall Mataya (#86167; RGCI) has submitted a template for an injunction. It is online to download here: https://ffupstuff.files.wordpress.com/2017/03/r-mataya-injunction.pdf

Or if you have no internet access you can write me for a copy, including a SASE if you can.

Included in template package is (11 pages total):

1) Petition for Injunction and Declaratory Judgment to Jon Litscher

2) Petition for Injunction and Declaratory Judgment to Joint Committee For Review of Administrative Rules

3) Letter to Brad Schimel WI DA enclosing petition and stating that notice of injury and claim has been filed.

4) Letter to WI DOJ Civil Litigation Unit asking for PLRA certification

5) Petition for a temporary /Permanent Injunction pursuant to 813.02 Of the Wisconsin State Statutes (7 pages)

Here is Ronald Mataya’s statement.
“ I am enclosing the documents that all inmates will need to succeed in court. They have to follow the steps I put right into the petition. If they don’t they will lose. At RGCI we are waiting for the CCI in Madison to decide the appeal of the ICE decision. --- will file this as soon as the CCE decides the appeal. “

“life” by Kahil Gibran

Life sings in our silences and dreams in our slumber. Even when we are beaten and low. Life is enthroned and high. And when we weep, Life smiles upon the days and is free even when we drag our chains.

Oftentimes we are bitter and dark. And we deem her empty and unprofitable m but only when the soul goes wandering in desolate places, and the heart is drunken with overmindfulness of self.

Life is deep and high and distant, and through only your vast vision can reach even her feet, yet she is near; and through only the breath of your breath reach her heart, the shadow of your shadow crosses her face and the echo of your faintest cry becomes a spring and an autumn in her breast.

And life is veiled and hidden, even as your greater self is hidden and veiled. Yet when Life speaks all the winds become words, and when she speaks again, the smiles upon your lips and the tears in your eyes turn also into words. When she sings, the deaf hear and are held; and when she comes walking, the sightless behold her and are amazed and follow her in wonder and astonishment.

Submitted by LaRon McKinley

FFUP; 29631 Wild Rose Drive, Blue River, WI 53518; ( a502c3 nonprofit)