

First, ON YOUR MONEY

BY: Randy Mataya

I have received over a thousand letters from 'all of you, asking me various questions about the DOC 50% deductions case (KERBY) and other non-related issues. I cannot answer every letter individually because I don't have that kind of cash flow. So, I'm going to do it in this newsletter that FFUP is kind enough to offer a place to me for it.

CURRENT STATUS OF KERBY

As everyone already knows, I litigated KERBY and we won. There is a lot of you that have offered your input into what KERBY means, and some of you have criticized my work as not making all the claims in KERBY that I could have made. Here is the answer to you. One legal beagle said I filed a certiorari in KERBY and in it I failed to seek recovery of the illegal deductions. That is a falsehood. I never did a certiorari action in KERBY. I filed a "Petition for temporary injunction/permanent injunction, and petition for a declaratory judgment". Both actions combined into a single action under the statutory authority of 813.40 and 227.40 of the Wis. Stats. I served a copy of this action on the, JOINT COMMITTEE FOR ADMINISTRATIVE RULE REVIEW, a copy of it on WISCONSIN ATTORNEY GENERAL BRAD D. SCHIMEL and a copy of it on DEPARTMENT OF CORRECTIONS SECRETARY JON LITSCHER, pursuant to the statutes.

In this action, I alleged and proved by documentary evidence that the .DOC'S actions were illegal. First, before I get into all of the legalities of it, I wish to also state that I premised some of my arguments on an obscure DOC Administrative Code known as 309.465. A code that is still active and full of venomous liquid against DOC. I direct you to look it up on the Lexis or in an old 309. It states a lot for one paragraph. When 973.045, 973.05 and 973.06 came into existence, the DOC created and promulgated an Administrative Code, 309.465 that would operate in conjunction with these cited statutes.

The DOJ argues in KERBY that there is nothing in the Statutes that commands that DOC assess and collect any specified percentage, and that said DOC can make their own percentage up and no court can touch their decision because its solely upon .DOC to take whatever percentage it desires to take. HOWEVER, when I quoted 309.465 it eliminated any argument the DOJ could make. The DOC and DOJ, to this date, have not made any statement about my assertion that 309.465 controls their taking 25% of money. You see, a statute controls administrative codes and administrative codes control IPM and DAI policy making authority. No adm. code or policy can conflict with any state statutes. 227.10.

The entire reason I determined a declaratory judgment was needed, was because 309.45.02 runs contrary to 309.465 and 973.045, 973.05 and 973.06. Any attack on policies or codes has to run through 227.40 declaratory judgment proceedings, which is why the Judge, Shelley Gaylord, found DOC taking 50% was illegal as it runs contrary to 309.465 and 973.05, and then she determined that irreparable harm would be caused if 309.465.02 was left in place so she --issued the injunction.

The whole reason why she determined this action was also a cert. action was based on AAG Rice's assertions that only a cert. can challenge a DCC decision. I argued that certiorari was an ineffective remedy in light of on point statutory authorities in 227.40 and 813.40. Further, that certiorari lies when there is no other available remedy at law. I also argued that if this action had to be certiorari, that the brief, petitions and documents filed by Kerby are the administrative record so the judge could still move forward with the petitions and simply use certiorari law in the first stage of the proceedings. She opted to follow that request and we won.

I sought recovery of every 50% deduction made, that 25% of each deduction must be returned to KERBY to make him "whole" under the law. I sought recovery of supervision fees illegally taken and I filed a notice of injury and claim with the AG but for some odd reason the judge determined we did none of that. Order a copy of the action from the Dane County Circuit Court and you too will see that everything was raised. *(included here)*

The best advice I give to you is for you to wait until KERBY is decided by the Court of appeals. CASE NO. 2018AP0284. File nothing until then. No matter how the court rules, it will have an effect on you so you need to wait!!

The one person that I respect and accept any legal speak from is Harlan Richards. He-too has told you guys to wait for KERBY. That is 100% real deal advice. Save your money and frustration until KERBY is decided.

I finished the response brief and mailed it to KERBY on 6-13-18. He will get copies and file it by its due date of 6-21-18. in this "appeal" the DOJ made multiple claims that were never made in the circuit court and that DOC staff never made in their rulings on our ICIS'. Now they claim the action itself was illegal, that the judge made 3 mistakes in deciding this. All frivolous claims which I had the pleasure of stepping on when I responded. They claim 301.31 and 301.32 give them authority to take what they want. Neither supports that. 301/31 deals with industry inmates and 301.32's only change from act 355 was to add restitution into the statutory language. Nothing said 50%. Even if it did, my ex post facto arguments and my argument that act 355 was not determined to be retroactive by the very legislature that enacted 355. I argue that they did so because they knew it would implicate ex post facto law.

I argued that collecting supervision fees was not authorized by DOC policy or adm. Codes and refunds should be issued to all inmates. I never argued this case from the perspective that KERBY was the only person affected by DOC 50%. I always used the term, "every inmate" and I asked the judge to appoint counsel for the purpose of making this a class action, by separate motion. That motion was never even addressed because the AG wanted this to be a certiorari. The COA will have its hands full to sort this all out. I believe we win and that win will be based on DOC ADM. CODE 309.465 language and

FACTS INVOLVED IN THIS CASE:

The Wisconsin State Legislature enacted 2015 Wisconsin Act 355 and made it effective July 31, 2016. Act 355 amended 973.20 Restitution, and 301.32 property delivered to the Warden or Superintendent for the benefit of the prisoners. Please take Judicial Notice that the Act 355 is not being challenged here. The issues at stake herein are the acts of the DOC in their interpretation of Act 355.

The DOC has followed 973.045, 973.05 and 973.06 Wis. Stats and the 309.465 Administrative Code since the mid 1980s. These laws and rule allow the DOC to take 25% deductions from inmate wages and gift money for the purpose of paying their court ordered financial obligations. These obligations are commonly referred to as Crime victim and witness surcharges 'A and "B and UCfl, DNA surcharges, Court cost, fees and fines, restitution, etc.

Act 355 amended restitution costs to be taken as a "reasonable amount or percentage". The DOC immediately made an IMP (policy) known now as DAI P&P 309.45.02 in which they changed the 25% deduction rule to 50% deductions across all of the above categories of court ordered debts.

The DOC'S response to the 50% deductions? We are authorized by the 309.45.02 policy, and the 2015 Wis. Act 355 changes. They changed that response to, "301.32 changes allow us to take 50% as it benefits the inmate", which is fundamentally wrong.

First and foremost, the taking of 50% violates ex post facto. The Judgment Of Conviction, "JOC" shows the courts ordered the obligations to be paid. The JOC states the DOC shall take 25% of the inmate's wages money to pay the court ordered obligations. The DOC has absolutely no authority to over-rule the JOC and no authority to over rule 973.045, 973.05 and 973.06 or Administrative Code .309.465. The policy, 309.45.02 is not an administrative code and it cannot over- rule-an administrative code rule or a State Statute.

No agency may promulgate a rule which conflicts with State Law. See §227.10(2). Wis. Stats. In a conflict between a statute and a rule, the statute controls. **Debeck v. DNR**, 172 Wis.2d 382, 493 N.W. 2d 234 (Ct.App.1992).

The fact that the DOC made a policy which is in conflict with the laws of this State, should allow the rule to be stricken. However, a controversy is created here. Must the Joint Committee For Review Of Administrative Rules be notified and served with a copy of this petition? This legal writer believes that the JCRAR should be served with a copy of this petition and invited to attend the hearing this Court will schedule. Therefore, the petitioner of this action will serve a copy of this petition on the JCRAR. If it is necessary, this Court can construe this as a judicial review by Declaratory Judgment under Ch. 227.40 Wis. Stats. All bases are covered this way.

The taking of 50% for court ordered obligations is contrary to law and it is arbitrary and capricious decision making at its worst. The DOC must follow its own rules which it itself had promulgated. Please see **Vitarelli V. Seaton**, 359 U.S. 535, 79 S.Ct. 968 (1959) and our own State Supreme Court decision in **SXR Anderson-El. II V. Cooke**, 2000 WI 40, 234 Wis.2d 626, 610 N.W.2d 821. It is clear, from a reading of Act 355, that the DOC is in violation of several State Statutes, and their own administrative codes. This is why a temporary injunction

must issue. All deductions must either be stopped completely or an order to only deduct 25% until the injunction is resolved.

When all defendants were sentenced under Chapter 973 of the Wis. Statutes, the law held that DOC only take 25% of wages and gifts to be paid toward court ordered obligations. That law cannot be changed retroactively by Act 355. Ex post facto implications are at stake. The U.S. Constitution, Art 1 §10, cl.1 forbids retroactive application by its 3rd prong, which states, (3)Every law that changes punishment and inflicts greater punishment than the law annexed to the crime, when committed. See also, **Careml V. Texas**, 529 U.S. 513, 120 S.Ct. 1 1620 (2000), **Lynce V. Mathis**, 519 U.S. 433, 117 S.Ct. 891 (1997). The Wisconsin Supreme Court interprets ex post facto to mean "An ex post facto law is one that punishes as a crime an act previously committed that; 1) was innocent when done; 2) **makes more burdensome the punishment for a crime after its commission (emphasis added), or 3) deprives one charged with a crime of any defense available at the time** the act was committed. **State V. Thiel**, 188 Wis.2d 695, 524 N.W.2d 641 (1994). Taking 50% of a man's wage certainly "makes more burdensome the punishment..." Id.

The DOC has been taking 50% deductions for more than one deduction at a time, such as, 50% toward crime victim and witness surcharge "A" and of what's left of the money, 50% of it toward crime victim and witness surcharge "B", and if enough is left, 50% of it for DNA surcharge until almost nothing is left for the inmate's account. That is not a reasonable thing to do.

Furthermore, it violates 973.045 Wis. Stats and DOC 309.465. And all JOCS orders. The DOC has taken a stance utterly at odds with the law and they appear to rest their illegal activity on Act 355's new amendments. Nothing in Act 355 says "50% is reasonable", or 50% by 50% by 50% until a man has 2 bucks left out of 100 dollars his family sent to him! This activity must be stopped.

The DOC even started taking supervision fees out of our wages and that too violated the law. Supervision fees are only allowed to be collected when a man is out of prison. Furthermore, they even took supervision fees for pre-1996 years when they didn't even exist!

The DOC is listing old debts, most of which were paid off, but the DOC claims are owed and they are taking money at 50% for them too. We have no way to prove payment for 20 year old debts. Furthermore, when told the debt was time barred by 893.40 statute of limitations, the DOC said nothing at all, it just keeps doing what it wants to do.

Another issue needing resolution is that old debts were waived by the DOC failure to utilize available statutes to collect the debt at that time. 304.074 and 973.07 allow them to convert to civil judgment a debt still owed, also 973.06. When released from prison a debt still owed, must be followed up on by DOC under 304.074(4m)(h):Wis. Stats. If not followed up on, they waive that debt because they failed to take advantage of available remedies!

A Notice Of Injury And Claim pursuant to 893.82 Wis. Stats, has been filed by the petitioner by mailing said notice, certified mail to the Wisconsin Attorney General's office. A copy of this Injunction is also going to be mailed to the Attorney General.

The DOC is in violation of the following State Statutes: 301.32, 227.10, 227.19, 230.012 230.80(1), 230.82(1), 304.074, 304.0782 973.045, 973.05, 973.069 973.072 943.20, 943.70, 943.39, 946.12, 946.68, 946.73, 946.80, 939.05, 940.29 and 2015 Wisconsin Act 355, section 973.20(11)(c). The list of offenses they are committing is quite extensive. The CPA staff are at risk of losing their certification due to the felonies and misdemeanors they are committing by blindly following DOC Administrators orders. Although they are doing what they have been told to do by their bosses, they have been told by this inmate that what they are doing is illegal and why and yet, they are continuing with their illegal behaviors.

My inmate complaint, file number RGCI-2017-3459, is attached to this petition. My ICE decision is attached as well, as is the CCE review and DOC Secretary decision on this matter.

I've also attached a copy of the Notice Of Injury And Claim that has been filed with the Wisconsin Attorney General. I am sending a copy of this petition and its attached exhibits to the Joint Committee For Review Of Administrative Rules at State Capitol, Room 131 South, P.O. Box 7882, Madison, WI. 53707-7882. A copy of all of this is also going to Wisconsin Attorney General Brad Schimel, P.O. Box 7857, Madison, WI. 53707-7857. A copy will also be sent to the Secretary of the DOC, Jon Litseher at P.O. Box 7925, Madison, WI. 53707-7925. A copy of my JOC showing wages only for 25% deductions, is attached.

It is the petitioner's specific request.. that this Court order the DOC to immediately stop all deductions except for release: accounts and, or stop taking 50% and return to taking 25% until this legal action has been concluded. Furthermore, the petitioner intends to also request the Court to order the DOC to return all the excess fees that they illegally took.

The DOC will claim it cannot do that, that it's too expensive to go back through all of our accounts to fix it. Too bad for them. They chose to disregard all of our complaints on the matter. They chose to act willfully, with blatant disregard for the laws of this great State. They created their own dilemma and should bear the burden of fixing the problems and making every one 'whole" again. Let it be a lesson learned. It may act as a deterrent to future illegal acts.

Let it be legally stated here as a legal notice to all parties, if this matter has to go to the federal courts, it will be the petitioner requesting compensatory damages as well as punitive damages and return of all illegally taken funds. Also, that the CPA certifications be revoked from all institution CPA'S and that the U.S. Attorney General seek charges against DAI/DOC Administrators for computer crimes, and wire fraud, theft and any other relief available.

Furthermore, the petitioner seeks reimbursement of his cost and fees in this action as well as sanctions and damages and the interest on all collected funds.

Dated this 9th day of april, 2017./

BY THE PETITIONER: /CC: all referenced within.

WISCONSIN PRISONS in the NEWS-

Democrats running for governor call for slashing prison population

[Patrick Marley](#), Milwaukee Journal Sentinel Published 7:00 a.m. CT July 5, 2018



WI Dem. Candidates for Governor: Evers, Soglin, Vinehout, Roys and Mitchell/

Here are the candidates who seem most informed about and committed to prison reform and I propose we contact them after the primary to ask them to help us push forward an effective parole campaign finally

Kelda Helen Roys said she would cut the prison population in half over four years and she could achieve that reduction by granting more paroles; releasing ill and aging inmates; expanding diversion programs, drug courts and other alternatives to incarceration; legalizing marijuana; pardoning low-level drug offenders; and overhauling the truth-in-sentencing law. She also said she wanted to dramatically scale back revoking probation and parole for felons who violate the rules of their supervision but who did not commit new crimes. She said she opposed building a new prison and opposed using private prisons to house Wisconsin inmates. She said she wanted to close the Milwaukee Secure Detention Facility, which is primarily used to house people on probation or parole violations.

State Schools Superintendent Tony Evers said Wisconsin needs to follow the example of states like Texas that have cut parole revocations and expanded drug courts. He said he would consider releasing some inmates early; providing more drug treatment behind bars; treating 17-year-olds as juveniles instead of adults for criminal charges; and overhauling truth-in-sentencing so prisoners could be released for good behavior. "The fact that we as a state spend more on corrections than (the University of Wisconsin) System tells me the last thing we need is to build a brand-new prison," he said in an emailed statement.

He said he opposes holding inmates in private prisons and supports closing the Milwaukee Secure Detention Facility "as soon as possible." The state is being "dumb on crime" by revoking parole or probation for felons when they have violated rules but not committed new crimes, he said.

Mahlon Mitchell, the president of the statewide firefighters union, called for legalizing marijuana, giving judges more sentencing discretion and overturning the truth-in-sentencing law. He opposes private prisons and supports closing the Milwaukee Secure Detention Facility. "True reform will end many of the problems plaguing our corrections system," he said in a statement. *This is the only candidate with lots of space on his web devoted to prison.*

Madison Mayor Paul Soglin called the state's criminal justice system a "disaster." He opposes building a new prison unless it will replace an outdated facility and supports releasing inmates early for good behavior. He opposes private prisons and said he would need to study whether to close the Milwaukee Secure Detention Facility.

State Sen. Kathleen Vinehout of Alma said she would boost funding for mental health and drug treatment to provide alternatives to incarceration. She showed support for releasing inmates early for exhibiting good behavior and for health(4)

reasons. At a June candidate forum, she suggested cutting the inmate population in half was an “[absolutely doable statistic](#).” She opposes private prisons. She said the Milwaukee Secure Detention Facility and Green Bay Correctional Institution suffer from severe problems and said she expected the state task force to turn up ideas on how to address them.

Overtime in Wisconsin prisons tops \$42 million as state wrestles with worker shortage

[Patrick Marley and Kevin Crowe](#), Milwaukee Published 6:45 a.m. CT May 18, 2018 |

MADISON - Taxpayers spent more than \$42 million on overtime for prison workers last year largely because of a long-standing shortage of correctional officers that has worsened in recent years. The situation shows no sign of improvement, despite recent pay raises and attempts by the Department of Corrections to recruit and retain more workers.

As of last month, 920 jobs at state prisons — 12.5% — were vacant, according to the nonpartisan Legislative Fiscal Bureau.

The problem was most acute at Waupun Correctional Institution and Redgranite Correctional Institution, where more than 20% of the jobs were open. At four other prisons more than 17% of the jobs were open.

The worker shortage has prompted officials to hand out bonuses in the hope of retaining workers and led at least one prison to limit when its visiting room is open. It has also resulted in more instances of workers being told they have to keep working just as they are supposed to be wrapping up their shifts. “It’s very stressful, is what it is,” said Paul Mertz, an officer at the Redgranite prison. “You never know if you’re going home at the end of the day.”

Last year, the Department of Corrections paid its workers \$42.4 million in overtime, state payroll data show. That’s up 1.3% from the year before — a much smaller increase than other recent years. Other recent years have seen double-digit increases. During Gov. Scott Walker’s time leading the state, the cost of overtime at the Department of Corrections has gone up 31%, more than twice the rate of inflation. Overtime at the department cost \$32.2 million in 2010, the year before Walker took office.

Sen. Jon Erpenbach, D-Middleton, said the problem was caused by Act 10, the 2011 law championed by Walker that all but eliminated collective bargaining for correctional officers — and most other employees — and required them to pay more for their benefits.

Workers have not wanted to take or stay in prison jobs when the pay is low and they can’t negotiate over safety conditions, he said. “The whole idea of Act 10 worked as far as Walker was concerned because it busted unions, but it’s costing taxpayers more in the long run because you can’t hire workers,” Erpenbach said.

Department of Corrections spokesman Tristan Cook noted prisons around the country are having trouble filling jobs, including in Arkansas, where two prisons were temporarily shut down in March because of staffing shortages. Cook said Wisconsin’s record-low unemployment rate is making it difficult to fill prison jobs and said the state faced a similar challenge from 2001 to 2004 for the same reason. “With the improving economy after 2011, leading to historically low unemployment rates today, we are experiencing many of the same issues as private-sector employers in recruiting workers,” Cook said in a statement.

The Department of Corrections is trying to combat the problem with raises and incentives. New officers are getting \$2,000 bonuses at Lincoln Hills School for Boys and the Waupun prison, with half paid soon after they take the job and half paid after a year. In addition, officers and sergeants at those two facilities and Green Bay Correctional Institution are getting an extra \$1 per hour in pay until June 2019. Officers at all prisons got an 80-cent-per-hour pay bump in 2016 and their starting wages, now \$16 an hour, are set to increase to \$16.65 an hour by January. In all, that will amount to a 9.5% increase in starting wages since 2016.

After two years on the job, officers will make \$18.70 an hour under the Department of Corrections’ plans. Officers make one-and-a-half times their regular pay when they work more than 40 hours a week. Jodi Grenko, an officer at Dodge Correctional Institution, said the pay raises aren’t enough after workers saw a big drop in their total compensation with Act 10. More troubling, she said, is that employees can no longer negotiate with their bosses about safety conditions. “When you feel you don’t have any say in your own safety in your job, it’s disheartening to say the least,” she said.

The worker shortage is most severe at the Redgranite prison, where 64 of 293 jobs — 21.8% — were vacant in April. Twenty-nine of those jobs, or nearly 10%, had been open for more than six months, according to the fiscal bureau. The library and visiting room at that prison are closed on some days and the inmates lost their access to the weight room more than a month ago. Some fear those actions will rile up frustrated inmates, making the prison more dangerous for workers. Mertz, the officer at Redgranite, said he is so concerned about the worker shortage that he believes the state should develop a plan to bring in the National Guard if necessary. “The newer workers are burning out so fast they start to quit,” Mertz said.

Department of Corrections officials do not believe the National Guard would be needed at the prison, said Cook, the agency spokesman. The Redgranite prison will be training a new class of recruits in July to help fill jobs there, he said. The worker shortage was nearly as bad last month at the Waupun prison, where 92 of 441 jobs, or nearly 21%, were open. More than 17% of the jobs were also open at Lincoln Hills and Columbia, Dodge and Green Bay correctional institutions. Those figures account for jobs that are open, but they do not account for positions that are effectively vacant because of workers who are on medical leave.

FFUP news : This newsletter is limping it's way along as printer can no longer printer large quantities. As I write this we have a new printer. one that has a much larger capacity ,was relatively inexpensive to buy and much more economical to run as it will be only used for large quantity printing (no scanning or copying on it). I was mid way into printing present newsletter when printer quit so I beg your indulgence with lateness and some long overdue, some outdated content.

THE GOOD NEWS: Our Suit against over use and abuse of solitary confinement went in on June 22th and by July 2nd we had an order from Honorable Judge Crabb. FFUP's filing fee was rejected because I have "No Standing" and each plaintiff was ordered to Pay full fee or go informa pauperus. We appealed the fees with a "motion to reconsider" and replaced letter requesting representation with a formal motion and asked for a time extension. In her second order she gave inmates leave to pay with one filing fee and said appointing a lawyer was "premature" and spoke of the difficulty of obtaining a probono lawyer. I am heartened because the order did show she is taking this suit seriously. Now that the case is proceeding, we will redouble our efforts to secure a lawyer ourselves, asking them to take the case, not as a probono lawyer, but on commission. I am always aware of my inadequate law learning and am grateful to the prisoner litigators who answer my questions and guide when asked. They need to remain anonymous but their guidance is everywhere obvious as we go forward. In the meantime, in our little group of plaintiffs we have had two suicide attempts and one young man had his cell trashed and radio broken. I have also about a dozen more really vulnerable people to add to the suit ONCE WE GET A LAWYER. This simply must go forward , however cobbled. We are determined one way or another to keep this a multiple plaintiff action for that is the only way to get real change.

NEXT: It is time to get FFUP some structure. I think we have demonstrated the importance of your voice to the community, and there are more and more people who want to help make that voice stronger. Soon I will be meeting in Madison with a few people to work out a plan for a board out here and real division of labor. I have resisted this in the past because there was no one "out here" I knew who saw the need to keep FFUP about prisoners. Now the importance of this bridge called FFUP is more fully acknowledged and we can take the big step of connecting with outside people and groups. One big discussion is a network of people helping you with litigation- looking up cases and helping with fees and copies and most importantly- helping vetting the suits and guiding litigants. I will still rely heavily on prisoner litigants to help these guys new to the law. Besides the winning of suits, I find learning the law and its discipline does help keep people in there sane. Some of us out here are very aware of diminishing access to the courts that is happening on every level and in every prison and maybe this can be an antidote. The other project I keep bringing up is reducing prisons population and I certainly will be working to get a really connected campaign going. We have tried many times before but this time I hope FFUP can obtain a spokesman who can relate well with groups , likes media and gatherings= that will make positive connection possible.

Finally, the stamp program needs structure as requests have quadrupled and I abandoned much of the once a month policy and have been ordering as letters come in- very inefficient and I know I am always told to beware of scammers- That someone is using his stamps to gamble for hygiene or canteen is no big concern of mine and something I completely understand except that with limited funds we need to focus on those in need of stamps and paper first. So I will start a list of those who have proven their indigence with account statements and/or are helping FFUP and other inmates with litigation and use stamps in that cause. I would like to see an account statement every three months and there need not be correspondence in between. So I hope you won't have to waste your valuable stamps writing for stamps any longer. Without an account statement, I will send one pack stamps and one pad paper- once. I will keep track of those that send account statements.

FFUP has a fairly successful GOFUNDME account considering I never get there. We will be revving that up once this "structure" gets going. Lots of Requests for FFUP to set up separate "gofundme" accounts for specific inmates and what I will do is roll all into one and ask donors to earmark what they want their funds to go to. When I have set up separate accounts they sit there. This works.

We just keep going, step at a time.



from **Lincoln Hills/ Copper Falls**

MJS March 20, 2018 MADISON - The state agreed Tuesday to pay \$18.9 million to a former teen inmate who was severely brain damaged after a failed suicide attempt at the state's problem-ravaged juvenile prison. The girl's attorney, Eric Haag, described it as the largest civil rights settlement the state has ever reached. With other inmate lawsuits pending, Wisconsin taxpayers could be on the hook for further payouts. . The girl, Sydni Briggs of Janesville, was 16 when she was held at Copper Lake for breaking into a liquor store and stealing several bottles of vodka and gin. On Nov. 9, 2015, she turned on a call light that staff were supposed to respond to immediately. Guards could see into Briggs' room from a video camera, but no one came to her door for nearly 24 minutes. By then, she had hanged herself with a torn T-shirt, had no pulse and was not breathing. Staff revived her with CPR and a defibrillator.

An expert witness determined Briggs was hanging for 2 to 5 minutes, which suggests staff could have stopped it if they had responded to her call light promptly, Haag said. "The tragedy is that this was preventable and it didn't require heroics or anything extraordinary to prevent it from occurring," he said in a statement. "If people had competently done their jobs and fulfilled basic responsibilities this would not have happened."

She spent the next four months in a coma and was later moved to a rehabilitation Center. Briggs, now 19, uses a wheelchair, has the cognition of a young child and is expected to require around-the-clock care for the rest of her life that will cost \$200,000 or more a year. Haag said he has met her about 10 times over two years but has had to re-introduce himself every time because of her poor memory. In an interview at her rehab center last year, Briggs said she could not remember details about her time at Copper Lake but was not happy there. "Nothing good," she said of what she recalled of Copper Lake. "It was all bad."

Four months before Briggs hanged herself, an audit of operations at the prison found staff were not routinely checking call lights when inmates turned them on. Three weeks before Briggs tried to kill herself, she told a prison psychiatrist she had suicidal thoughts and sometimes viewed life as not worth living. Those comments came just months after Briggs began discussing for the first time sexual abuse that happened to her when she was 13.

.At the time of her suicide attempt, guards said they were checking on her every 15 minutes. In fact, they had not checked on her for 42 minutes, a recent internal investigation showed. An earlier internal investigation gave no indication of the extent of the problems(6)

leading up to Briggs' suicide attempt, including that guards had falsified records claiming they had routinely checked on Briggs. Haag called that investigation a "cover-up." Three staff members involved in the incident — Andrew Yorde, Darrell Stetzer and Rosemary Esterholm — this month ended their employment at the prison, according to the state Department of Corrections. A department spokesman declined to say if they quit or were fired.

Other lawsuits prompted by conditions at Lincoln Hills continue. One was brought by an inmate whose arm was broken; the guards who allegedly took him to the ground received letters in December from federal prosecutors telling them they could be charged with a crime. Another lawsuit was brought by inmates with the help of the American Civil Liberties Union of Wisconsin and Juvenile Law Center. That litigation is ongoing but resulted in an injunction last year that forced Walker's administration to reduce its use of pepper spray and solitary confinement. Published 9:58 a.m. CT March 20, 2018 | **Updated 3:43 p.m. CT March 21, 2018.** E STORIES

Two Submitted by: Ron Schroeder 528682;OSCI; PO Box3310; Oshkosh, WI 54903 Is Prison Disciplinary Process Biased?

In McAdams v Marquette University, 2018 wi 77, a Marquette University Professor was disciplined. He challenges it through MU's Faculty Hearing Committee (FHC), who found him guilty. He appealed and the university President sustained FHC's finding.

The state supreme Court reversed, finding the FHC was "compositionally" and "structurally" biased because it was "composed entirely of University employees"(p 134), the court continued, "But it was not just the FHC-everyone in the disciplinary process was a University employee"(p 134). The court quoted a US Supreme Court case In re Murchison, 349 U.S. 133, 136 (1944) m "no man is permitted to try cases where he has an interest in the outcome."

Using his Rationale, is there bias when the DOC employee writes a conduct report (CR) and the hearing committee is composed of DOC employees? Is there further bias when the final decision-maker on appeal is the warden-another DOC employee? McAdams suggests so.

McAdams teaches that we should request—in writing-non-DOC employees to hear our CRs and appeals. And should you seek certiorari review of the CR, consider this recent supreme court declaration:"We have decided to end our practice of deferring to administrative agencies' conclusions of law. "Tetra Tech EC, Inc. v.DOR, 2018 WI 75,P3

Demand Lawyer for Jail Sanctions

2013 Wis. Act 196 created Wis Statue 301.03 (3)(a)-(c). The Act directed the DOC to do fewer revocations and more sanctions. The DOC has since done more jail sanctions.

State v. Hardwick, 144 Wis.2d 54, 58,58 (ct.App.1988) an State v. Hays, 173 Wis .2d 439,337 n.3(ct.App1992)held that when a person faces incarceration he or she has a conditional right to counsel. A jail sanction is incarceration, naturally. If your PO discussed a jail sanction, write to your PO and local public defender (and keep a copy) , "I invoke my right to counsel as I'm facing a jail sanction. See State v. Hardwick, 144 Wis.2d 54 and State v Hays, 173 Wis.2d 439." State exrel. Griffin v. Smith, 2004 WI 36, P3 held we have a right to counsel during revocation proceedings, where we face incarceration. A jail sanction is a shorter term incarceration, but it's incarceration nonetheless. And arguably the right to counsel attaches.

More on Using the ADA (American's With Disabilities Act)

Explanation: We have been trying to get a clear explanation of how to use the ADA effectively. It broadens the scope of possible remedies as it requires you prove discrimination due to your disability. You do not have to prove deliberate indifference. Carl McDaniel submitted the article below, which goes through the strict criteria used to determine if you have a case under the ADA.

Title II-2.4000 "SUBSTANTIAL LIMITATION IS A MAJOR LIFE ACTIVITY"

To constitute a "Disability", a conditions must substantially limit a major life Activity. Major life activities include such activities as caring for one's self, performing manual tasks, walking, seeing, Hearing, speaking, breathing, learning and working.

Title II-2.5000 "RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY"

The ADA protects not only those individuals with disabilities who actually have a physical or mental impairment that substantially limits a major life activity, but also those with a record of such an impairment. This protection group includes:

- 1) A person who has a history of an impairment that substantially limited a major life activity but who has recovered from the impairment. Examples of individuals who have a history of an impairment are persons who have a history of mental illness or emotional illness, drug addiction....
- 2) Persons who have been misclassified as having an impairment. Examples include persons who have been erroneously as mentally retarded or mentally ill.

Title II-2.6000 "REGARDED AS"

The ADA also protects certain persons who are regarded by a public entity as having a physical or mental impairment that substantially limits a major life activity, whether or not that person actually has an impairment. Three typical situations are covered by the category:

- 1) An Individual who has a physical or mental impairment that does not substantially limit major life activities but who is treated as if the impairment does substantially limit a major life activity.
- 2) An individual who has a physical or mental impairment that substantial limits major life activities ONLY as a result of the attitudes of others towards the impairment.
- 3) An individual who has no impairments but who is treated by a public entity as having an impairment that substantially limits a major life activity.

Title II-2.8000 “QUALIFIED INDIVIDUALS WITH A DISABILITY”

In order to be an individual protected by Title II, the individual must be a “qualified” individual with a disability. To be qualified, the individual with a disability must meet the essential eligibility requirements for receipt of services or participation in a public entities programs, activities or services with or without:

- 1) Reasonable Modifications to a public entity’s rules, policies, or practices;
- 2) Removal of architectural, Communication, or transportation barriers; or
- 3) Provision of auxiliary aids and services.

Title II-3000 “GENERAL REQUIREMENTS,” 28 C.F.R.35.130-35.135.

The TITLE II Requirements are essentially the same as section SO4 of the Rehabilitation Act..

Title II-3.2000 “Denial of Participation”

The ADA, like other civil rights statutes, prohibits the denial of services or benefits on specified discriminatory grounds. Just as a government office cannot refuse to issue food stamps or other benefits to an individual on the basis of his or her race, it cannot refuse to provide benefits solely because an individual has a disability.

Title II-3.3000 “EQUITY IN PARTICIPATION/BENEFITS”

The ADA provides for equity of result. The Foundations of many of the specific requirements in the Department’ regulations is the principal that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity’s aids, benefits and services.

ILLUSTRATION 1: A deaf individual does not receive an equal opportunity to benefit from attending a city council meeting if she or he does not have access to what is said.

ILLUSTRATION 2: An individual who uses a wheelchair will not have an equal opportunity to participate in a program if applications must be filled out in a second floor office of a building without an elevator, because he or she would not be able to reach the office.

ILLUSTRATION 3: Use of printed information is not equally effective for individuals with vision impairments who cannot read written materials.

Title II- 3.400 :”SEPARATE BENEFIT/INTEGRATED SETTING”

A primary goal of the ADA is the equal participation of individuals with disabilities in the “mainstream “of American Society. The Major Principles of Mainstreaming are:

- 1) Individuals with disabilities must be integrated to the maximum extent appropriate.
- 2) Separate programs are permitted where necessary to ensure equal opportunity. A separate program must be appropriate to the particular program.
- 3) Individuals with disabilities cannot be excluded from the regular program or required to accept special services or benefits.

Title II-3.500 “ELIGIBILITY CRITERIA”

Title II-3.5100 “GENERAL”

A public entity may not impose eligibility criteria for participation in its programs, services or activities that either screen out or tend to screen out persons with disabilities, unless it can show that such requirement are necessary for the provision of the services, program, or activity.

Title II-3.6000 “REASONABLE MODIFICATIONS”

A public entity must reasonably modify its policies, practices or procedures to avoid discrimination. If the public entity can demonstrate, however, that the modifications would fundamentally alter the nature of its services, program or activity, it is not required to make the modification.

Title II- 3.11000 “RETALIATION OR COERCION”

Individuals who exercise their rights under the ADA or assist others in exercising their rights, are protected from retaliation. The prohibition against retaliation or coercion applies broadly to an individual from exercising his or her rights or to retaliate against him or her for having exercised those rights. Any form of retaliation or coercion, including threats, intimidation , or interference, is prohibited if it interferes with the excise of rights under the act.

“DIABETES”

Although diabetes cannot be cured, it can be managed. Some people are able to control their diabetes by eating a balanced diet, maintaining a healthy body weight, and exercising regularly.

As a result of changes made by the ADAAA, Individuals who have diabetes should easily be found to have a disability within the meaning of the first part of the ADA’s definition of disability because they are substantially limited in the major life activity of endocrine function. See 29 D.F.R. 1630.2 (j) (3) (iii)

Additionally, because the determination of whether an impairment is a disability is made without regard to the ameliorative effects of mitigating measures, diabetes is disability even if insulin, medication, or diet controls a person’s blood glucose level. An individual with a past history of diabetes also has a disability within the meaning of the ADA. Id. at 1630.2(k)

We would like to know more about what is happening with the new HSU building at CCI. Here is one take on it:

Progress or Giant Step Backwards?

From submission by Ras Uhuru © 2018 April

Tagline: If any Muslim Country or China, even Russia announce to the public they were building new Suicidal complexes, the Human Rights community would condemn them. Yet that’s what WI-DOC/CCI prison is doing and no one has even made one comment.

1) On March 22, 2018, Senator Lena Taylor and one of her assistants had a visit to CCI prison. I became aware of this because she came to HU-7 (Housing Unit Seven) where they created this false RHU (Restrictive Housing) transitioning unit for those of us on AC. But this range is a façade. The differences are cosmetic illusions to misdirect and mislead the public that AC is no longer punitive- IT IS.

2) Before I could determine why the senator was here, I was rushed off the law computer back to my cell. I will be writing her to find out and expose the lies and falsehoods of CCI. For one example, in 2017 DOC revised the DAI of the 308 that governs AC and mandated a transitional process. (They call it a level system –impose the punitive games) It’s now April 2018 and CCI still have not approved, let alone implemented a transitional process-for prisoners to move out of punitive AC to non-punitive AC and eventually GP. I was rushed away when the Sgt. began to explain to the senator how the unit works. And my request to speak to her was denied.

3) CCI/DOC are liars when it comes to the abuses that go on and the Human Rights abuses/conditions at CCI. For example, over the past year we have been told that the NEW Construction being done here on the old basket ball court next to the indoor rec gym, is for a NEW HSU (health service unit).

4.) ITS ALL BEEN A LIE / going through my legal work, I ran across a 2009 Justice Reinvestment initiative oversight report, of the WI legislative council special committee of January 12 2009. In the proposed major projects –adult male corrections institutions section 11-7 the NEW Construction is cited as “a 150 bed maximum security special management housing unit.” Code for SHU unit or Supermax building. 22.3 million, year 2011-13.

5) This new SHU/Supermax complex at CCI is being guised as HSU building. Why? Because all across this country and Internationally, people have called SHUs and Supermaxes as Human rights Hot Beds. Yet we see here in WI, they don’t honor Human rights as shown when we conducted Human Rights no-food/water dissent in 2016.

6) This Warden, Security director and those who follow either out of fear or in malice of collusion, still give out 120s and 180 DS time when the maximum DS is supposed to be 90 days only.

7) I witnessed a prisoner murder himself with CCI as party to crime back in September of 2017. This man killed himself because of the solitary confinement conditions here for the mentally ill. They had a court order to force psychotropic drugs on him, allegedly to stop the murder to himself these conditions cause.

8) I’ve heard of at least four self induced murders here at CCI since I’ve been here (may 27th 2016) and they ALL were avoidable If the draconian conditions the warden et al created were stopped.

9) If four people have checked out over the current conditions, can we extrapolate that the self murder rate with CCI’s party to will be two times higher? Meaning the segicides will increase to 16 to 20 a year or more.

10) The psychosis will also increase. Why would you build a Supermax/SHU style complex when the World Human Rights Body has declared them to be and are inhuman. The worst prison system has declared them in-human, pelican Bay. Yet WI-DOC /CCI want to fool people into believing that it has dangerous prisoners worse than CA, so as to exempt them of human rights standards

11) Other noteworthy hidden DOC-projects discussed in 2009 to abuse the future are:

- a) DCI is to construct a SHU/ Supermax unit SMU) for 100/200 beds 52.5 mill (2009-2011)
- b) Fox Lake to construct two 250 cell, 475 bed medium security housing units. (120-2mill 2017—2019)
- c) GreenBay to build a 250 cell/475 bed max. security housing building. 61.0 mill.2011-2013. And another 250 cell, 475 bed security building. Demolish existing HSU, BSI , canteen, shop and dormitory etc
- d) WCI: demolish social services building, construct new secure intake unite w/*vehicle sally ports, reception cells, mail rooms, property storage.*9.0 mill (2011-2013)

e) WSPF: Convert unit D to a GP housing unit/server: construct an inmate multi-purpose building.30 Mill 9 2009-2011).

f) SCI: Stanley Construct new armory and training building. 1.6 mil(2009-2011)

12) Let's now put this in context. Weeks ago, the assembly passed a bill (SB54) allowing for 350 million to build a prison or new prisons. With 50 million for yearly operational slush funds. Greatly the senate denied the bill. But we must not be fooled that they will not be repackaging and reintroducing these projects. When we sit back, they will pass them through. We need to monitor these DOC evils and not allow them to further move backwards in cruel and inhuman prison conditions. If we don't stay vigilant. They will sneak them in.

Write and call your state officials and tell them you want to be alerted to any DOC spending projects. And voice the Human rights that DOC violates, abuses and discards. Also write the WI legislative Committee on corrections.

In constant Struggle, Ras Uhuru/ Until the death I fight for prisoners' Human rights.

Summary RE: Denial of WSPF librarian to E-file exhibits for summary Judgment Responses

Re: Ledford V Bainen, etal., case no. 16-cv-665 (E.D.Wis)

in 2016 I filed a conditions of confinement suit out of the Green Bay Correctional institution(GBCI) against private or public sector defendants("construction defendants")and GBCI/DOC defendants ("State Defendants"). After extensive discovery, while I was at Waupun Correctional Institution (WCI) both construction and state defendants, on April 18, 2018, filed for summary judgment, separately. After a couple of delays, one being my transfer to the Wisconsin Secure Program Facility (WSPF) on June 17, 2018, I filed all of my responses to the Defendants' proposed findings of fact, my own proposed findings of fact , and two briefs in opposition. In addition. as evidentiary support for my responses, I submitted for filing to the WSPF librarian for e-filing my declaration and attached exhibits 1-41.Those Exhibits numbered approximately 500 pages-depositions, manuals, log book, exhibit reports, admissions, interrogations, photos etc.

After e-filing my response and briefs, the WSPF library assistant refused to e-file my exhibits. He communicated with the clerk of court that it was too much for the facility to do. The Clerk of Court informed me that I would be required to mail the exhibits to the court at my own expense because, allegedly, the institutions "lacked the resources to timely scan...such a large body of documents under the e-filing program."

That was not acceptable to me. I filed a motion to compel compliance with the prisoner e-filing program, arguing that I was not provided any notice of this "exception" to the mandatory program and that I could not afford the cost of mailing the exhibits. I asked that the court order either 1) to compel the WSPF library to e-file the exhibits , or 2) bear the cost of the mailing and packaging or 3) the clerk's officer bear the cost of mailing and packaging ;or 4)I be allowed to use funds in my release account to send the exhibits.

In an order dated July 11, 2018 (document #148)the court agreed with me, stating I should not be penalized for submitting a large amount if "documents without prior warning that such an admission could be denied under the E-Filing program." The court directed the clerk to provide me a prepaid envelope to send in my exhibits, which the clerk did, and I sent in my exhibits for filing.

However, as we all know as prisoners, the courts now bend over backwards to protect the DOC and its employees. And that is true here as well. In its order the courts states that it was 'Immanently reasonable to require that massive submissions like plaintiff's [to] be mailed to the clerk..rather that have the institution's staff expend their limited resources doing that work." (dkt. 148 at 2)

Of course, there is no indication of what constitutes notice or what would or will constitute too many documents to e-file. Seems completely arbitrary. So you will have to be careful, especially if you have a case that has a large amount of discovery and/or testimonial evidence(i.e.depositions).

Submitted by Bill Ledford 80495, WSPF

Cloth Typewriter Ribbons/From Ron Schilling 32219 KMCI ,PO Box 282, Plymouth, WO 53073

I submitted a request to the property sergeant, stating that "DAI property policy lists 'fabric ribbons ' for typewriters. DOC vendor catalogs do not have fabric ribbons for my smith corona 250 (grandfathered) typewriter. The JCI Srg allows orders from Office Max an Walkenhorst for fabric ribbons for the SC250.Can we order the same? HE got back to me just today with "you are approved to order from above." Real ribbons again, that last 40 times longer.

Wisconsin Alliance for Youth Justice : questions or concerns can be sent to the address below. Due to limited capacity, WayJ is only able to correspond with people who would be directly impacted by their current project scope. People who were convicted of a crime committed while under that age of 18 years old that resulted in a life (or defacto) sentence fit the project scope. WayJ/PO BOX 12/Sheboygan Falls WI 53085 (10)

FFUP (Forum for Understanding Prisons), a 501c3 non profit/29631 Wild Rose Drive;Blue River, WI 53518

Donations can be made using our gofundme account at "www.gofundme/prisonforum.org " OR checks or money order can be made out to "Prison Forum." All donation appreciated and are stretched as far as they will go.

