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THE ACLU OF UTAH AND COMPLAINTS REGARDING ACCESS TO LAW LIBRARIES AND THE COURTS AT UTAH'S JAILS AND PRISONS

Introduction

Thank you for contacting the American Civil Liberties Union (ACLU) of Utah. We are committed to combating unconstitutional jail and prison conditions and practices, and your complaint is important because it helps us identify problems in Utah's correctional facilities.

Law libraries and access to the courts

In 1977, the United States Supreme Court held that jail and prison officials must "assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law" (*Bounds v. Smith*, 1977).

In 1996, the United States Supreme Court specified that a prisoner must show a denial of access to the court, not a denial of access to a law library or legal assistance, in order to claim a denial of court access. Therefore, a prisoner must show that the failures of the jail or prison's library or assistance program made it more difficult to pursue a legal claim and that an "actual injury" resulted (*Lewis v. Casey*, 1996). An "actual injury" occurs when the effort of a prisoner to pursue a non-frivolous legal claim is "hindered," "frustrated," or "impeded." For example, in *Lewis v. Casey*, the Court explained that if a prisoner's complaint is dismissed because he was unable to research pleading requirements or unable to file a complaint, a hindrance has occurred. Jail or prison officials can also hinder access by interfering with an inmate's ability to complete all administrative remedies for non-frivolous claims as required by the Prison Litigation Reform Act (see more information about the PLRA below) (*Davis v. Milwaukee Co.*, 2002). To determine injury, an inmate does not need to show that if he had been provided with acceptable legal facilities he would have succeeded in a lawsuit; he need only show that he was prevented "from litigating a non-frivolous case" (*Walters v. Edgar*, 1998).

These constitutional rights apply only for federal civil rights and habeas corpus claims that are related to an inmate's incarceration. If an inmate wants to file a civil lawsuit that is unrelated to an inmate's incarceration, the prison or jail does not have an affirmative duty to provide assistance. However, the prison or jail does have a constitutional duty not to interfere with such a lawsuit. (*John L. v. Adams*, 6th Cir. 1992).

Utah prisons employ contract attorneys to fulfill their requirements under *Bounds v. Smith*.

If you feel the jail or prison's legal assistance program is hindering your efforts to pursue a legal claim, please file a formal grievance with the jail or prison.

The ACLU of Utah compiled the above information from the following sources:

1. "Know Your Rights: Prison Law Libraries" by the ACLU National Prison Project, November 2003