

In the United States District Court
For the District of Colorado

Civil Action No. 14-cv-00245-MSK-MJW

Reverend Matt Hale,
Plaintiff,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 12 2016

v.

JEFFREY P. COLWELL
CLERK

Federal Bureau of Prisons,
Defendant.

Emergency Motion to Remove Plaintiff from Retaliatory
Solitary Confinement that is in Violation of the
Constitution, Rules, and Laws of the United States

Pursuant to the First, Fourth, Fifth, and Eighth
Amendments to the Constitution of the United States,
as well as this Court's statutory authority under
the All Writs Act (believed to be 28 U.S.C. sec.
1651) as well as that of other statutes, and its
supervisory authority under Rule 26 of the Federal
Rules of Civil Procedure giving it the power to
prevent the harassment and oppression of one party
by another during the course of the lawsuits that

appear before it, via the issuance of protective orders and other means, Plaintiff Reverend Matt Hale moves this Honorable Court to order the Defendant to release him immediately from the so-called "Special Housing Unit" (otherwise known as "The Hole") at FCI - Terre Haute, where he has been held incommunicado, without any mail, since August 25, 2016. In support of this motion, Rev. Hale states (under oath) as follows:

At approximately 1:30pm on Thursday, August 25th, Rev. Hale was suddenly and without warning arrested by security personnel outside his housing unit in general population at FCI Terre Haute and taken forthwith to The Hole where he was placed in a cell on a range all by himself in total isolation from any other prisoner. Despite his repeated pleas made to staff as to the basis for his arrest and sudden confinement in The Hole, he was given no reason for his arrest whatever by said staff members during this ordeal. Indeed, even after his confinement in The Hole, staff members refused to tell him why he was there, prompting Rev. Hale to commence a hunger strike on Friday morning, August 26th, in a desperate effort to discover that information and to protest his hideous treatment in general, as described below.

On Saturday morning, August 27th, however,

He was finally told by a staff member that he was there pending an "SIS [Special Investigative Services] Investigation." Considering that information to be at least some explanation for a predicament he simply did not understand since he had done nothing whatever wrong, he decided to end his hunger strike after having missed only four meals. However, on Monday afternoon, August 29th, he was given a new explanation for his confinement in the Hole altogether: that he was being confined there pending a move to a part of the prison where his "communications could be monitored more closely." He subsequently decided therefore to begin a new hunger strike on Tuesday morning, August 30th, to protest what would be, in effect, a move to the so-called "terrorist unit" at FCI-Terre Haute, something that would be totally unjustified considering the peaceful and legal nature of all of his communications. That hunger strike likewise lasted only four meals however because on Wednesday afternoon, August 31st, he was finally issued an "incident report" alleging that he was guilty of covertly smuggling out of the prison a press release, a ridiculous charge on its face but one which Rev. Hale can and will prove his innocence to an absolute certainty to in the course

of the prison disciplinary proceedings, it need be. (The evidence will prove that the press release was emailed by Rev. Hale to his mother through the staff-approved prisoner email system which means that it was actually sent out by none other than the prison staff itself! She no doubt still has the email containing the press release that was sent to her and its tracking information will be able to be studied accordingly.)

In the meantime, in any case, Rev. Hale's confinement in The Hole has continued and it is the onerous and oppressive nature of that confinement that is the gravamen of the instant motion. He is in an empty cell, deprived of any of his personal property and the legal property he needs in order to prosecute this lawsuit.

The Defendant has furthermore refused to provide him with any of his incoming mail in violation of his clearly established constitutional rights, including his USA Today daily newspaper, in an effort to traumatize him further, effectively leaving him incommunicado with the outside world. Except for on one occasion, he has been deprived of any recreation time outside his cell, likewise in contravention of the B.O.P.'s stated policies. He has been denied access to a law library,

in violation of constitutional guarantees, and thus was unable to research this motion. He has asked to look at his legal property and been denied. Suggestions of violence against his person have been made towards him by prison staff if he causes too much "trouble." Indeed, things have been so bad for him that he has considerable doubt whether this motion will even reach the Court at all and can only hope that it does.

In essence, Rev. Hale is in an empty cell with nothing but the clothes on his back, a few toiletries, and the pen, paper, envelopes, and postage stamps that he'll need to mail this motion to the Court and Defendant's counsel. Indeed, the Defendant has even refused to give him a pillow, for goodness sakes, though he does have a mattress and a sheet to lay on. It has stopped all of his incoming mail, in blatant violation of the law. It has deliberately and obnoxiously refused to give him no-meat food trays even though they are readily available (despite his repeated requests for same) so that he can at least try to accommodate his religious beliefs as well as he can, their refusing his requests in an effort to cause him even

more grief, if that is possible. He lacks any auditory or visual stimulation whatever and spends his days either sleeping or pacing his cell in utter deprivation of that which the rest of humanity might, quite rightly, take for granted. Staff often forgets he is here.

The purpose of Rev. Hale's ordeal is to stymie his prosecution of this lawsuit, to punish him for having communicated with the press, to frame him for conduct for which he is clearly and provably innocent, and to cause him (and his family) psychological and emotional torture for its own sake. The Defendant has given him no indication whatever when he will be released from "The Hole," if ever. It has denied him all contact with his loved ones, including his elderly mother, leaving his family and friends to wonder whether he is alive or dead.

Those who have never been suddenly taken away from a comfortable and semi-contented mode of living and inexplicably and indefinitely locked away into a dark and empty cell with the mere clothes on their backs may not quite be able to grasp the degree of psychological trauma that that treatment can inflict upon a

human being, especially ^{one} who is innocent of any wrongdoing and has done nothing but abide by the prison rules since arriving here three months ago. However, even more important is the fact that such treatment, in the circumstances presented here, violates several constitutional guarantees. While it could possibly (though doubtfully) pass constitutional muster if he had already been found guilty of committing a serious prison infraction and one involving the risk of physical harm to others, Hale has been found guilty of nothing here and an investigation into the earth-shattering infraction of "circumventing mail monitoring procedures," even if that infraction were ultimately proven to have actually occurred, cannot, standing alone, possibly justify the hideously onerous and oppressive treatment that Hale is suffering from at the Defendant's hands right now. (He is accused of having another, unknown prisoner mail out the press release to his mother in that prisoner's regular mail, a ridiculous proposition since regular postal mail is likewise read by prison staff!) Simply put, the Defendant had no legal right to arrest and lock up Hale in The Hole in the first place on such a minor, non-violent, and non-criminal charge involving that of a mere press release, of all things. Hence for that reason alone, it should be ordered

to release him forthwith. It was totally unnecessary for the Defendant to throw Rev. Hale into The Hole for an "investigation" of this nature; indeed, thus far the Defendant's employees have failed to ask Rev. Hale himself even a single question pursuant to any such "investigation." That's because the object here has been ~~retribution~~ retribution and punishment against Hale all along, for this lawsuit and otherwise, and the fact that he is still in The Hole after all this time amply proves this fact.

It was unnecessary to deprive Rev. Hale of everything he has in life in order to find out whether he had used another prisoner to mail out a mere press release via the United States Postal Service! Indeed, all the Neanderthalic employees of the Defendant needed to do was check their own email service to see that they had either accidentally, or intentionally, allowed Rev. Hale's press release email to his mother to go through!

Instead, the Defendant has caused him enormous suffering in violation of the law. The Fifth Amendment required that he be given notice and an opportunity to be heard before being placed in such an atypically harsh living environment.

The First Amendment forbade such a punishment for the alleged smuggling out of a mere press release. The Fourth Amendment forbade such an unreasonable search and seizure of all of his property, legal and otherwise, especially since there is no nexus between such a search and seizure and the alleged smuggling out of a mere press release, through the prison-monitored U.S. mail no less. The Eighth Amendment forbids the blatantly cruel and unusual punishment that Rev. Hale has suffered. While Hale will certainly be pursuing legal redress against the Defendant and those of its employees involved for money damages in the future for their reprehensible activities, he has a case or controversy in this Court right now: the fact that the Defendant is stopping his lawsuit in this court from going forward and using its power over his body to oppress and harass the hell out of him, quite bluntly. Thus the Court should intervene and order the Defendant to remove him from the Hole at this juncture or, at a minimum, show cause as to why it is necessary to keep him in The Hole for an "investigation" that was apparently completed, if it transpired at all, on August 31st when the "incident report" was

filed against him. In other words, if the offense of allegedly smuggling out a press release is all the Defendant has against Hale at this point in time, it should be ordered to release him from The Hole now so that he can prosecute this lawsuit without harassment and interference as the Federal Rules of Civil Procedure envision. In effect, Hale is requesting the issuance of a protective order against the Defendant in the form of an order to remove him from The Hole. The Court clearly has the power to issue such an order and it should do so now. It previously issued a protective order against Rev. Hale and it should now issue a protective order against the Defendant to stop oppression and harassment that is actually going on in this case. Plaintiff should be getting ready to conduct depositions scheduled for later this month, not sitting in a dungeon for reasons of pure malice and ignorance. The Defendant should not be allowed to profit from its own wrongdoing in inhibiting Rev. Hale's prosecution of this lawsuit. The Court should not countenance such despicable "tactics" launched by one party against the other in

a lawsuit that is going on before it.

wherefore, Reverend Hale moves the Court to issue an order compelling the Defendant to release him from The Hole at FCI Terre Haute immediately and return him to a regular housing unit along with all of his currently-seized property.

~~Respectfully submitted,~~

Respectfully submitted,

Reverend Matt Hale

Plaintiff

September 6, 2016

Reverend Matt Hale

#15177-424

FCI Terre Haute

P.O. Box 33

Terre Haute, IN 47808

Declaration of Reverend Matt Hale

I swear under penalty of perjury under the laws of the United States that

the foregoing is true to the best of my knowledge and belief.

Reverend Matt Hale

September 6, 2016

Certificate of Service

I hereby certify that the foregoing motion was mailed to Susan Prose, counsel for the Defendant, via 1st Class Mail, at 1225 17th Street, Suite 700, Denver, Colorado 80202 on September 6, 2016.

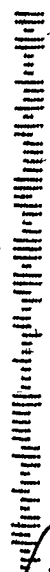
Rev. Matt Hale

Rev. Matt Hale # 15177-424
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