

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 27 2017

JEFFREY P. COLWELL
CLERK

In the United States District Court
For the District of Colorado

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

Reverend Matt Hale,
Plaintiff,

v.

Federal Bureau of Prisons,
Defendant.

Motion to Enjoin the Defendant, Pursuant
to Rule 26(c), from Blocking Plaintiff
from Raising Funds to Pay for his
Court-Allotted Depositions

Sad to say but just when Plaintiff
Reverend Matt Hale had some hope that he
would now be able to proceed with his
Court-allotted depositions in this case
without any further problems from or

interference by the Defendant, the Defendant's employees at ADX have seen fit to stop him from trying to raise funds to pay for the depositions in question in plain violation of his due process rights.

On April 13th, Rev. Hale, in an effort to help pay for the upcoming depositions which he will be conducting in this case, wrote a letter to his mother in which he asked her to hold an email auction of some of his books which he had mailed home to her the month before from FCI-Terre Haute. On April 19th, however, he was issued an "incident report" for what he had written by B.O.P. staff (see attached), which charged him with a "Code 399" violation. Code 399 of the B.O.P.'s "Prohibited Acts" reads as follows:

"Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons must like another Moderate severity prohibited

act. This charge is to be used only when another charge of Moderate severity is not accurate. The offending conduct must be charged as 'most like' one of the listed Moderate severity prohibited acts."

The "most like" charge indicated here was • Code ~~334~~ 334, "conducting a business."

Over his protests, Rev. Hale was subsequently found on April 21st to have committed the "prohibited act" of Code 399, and sanctioned with a loss of phone usage for 15 days. His letter to his mother was not mailed out by P.O.P. staff.

Argument

I. Asking someone to sell one's personal property in the outside world, in order to pay for a pending lawsuit, does not violate Code 399 on its face.

To the credit of SIS Technician R. Marques, he recounted the facts of what Rev. Hale had written to his mother quite correctly. The problem for the B.O.P., however, is that they do not make out a prohibited act — under Code 399 or any other provision. In other words, a B.O.P. prisoner's request to his family to sell his lawfully-acquired personal property in order to pay his legal bills is not prohibited. The idea that such an auction of personal property in the free world "disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons" (emphasis added) is furthermore nonsensical and absurd on its face. Quite simply, such a sale of personal property has nothing to do with the B.O.P. at all and is thus beyond the scope and reach of Code 399. Therefore Rev. Hale's request of his mother has been unlawfully censored by the Defendant and he has been unlawfully punished as well.

III. It is axiomatic that if a prisoner has a legal right to file suit in the federal courts, he also has the legal right to pay for the costs of that suit, including through the sale of his lawfully-acquired personal property in the free world that is no longer of use to him.

The fact of the matter is that prisoners routinely seek the sale of their personal property in the free world in order to pay their legal bills and thus what Rev. Hale attempted to do here is hardly unheard of. Just because the property in question happens to be a few of his books and not a house, car, or something else of more substantial value does not change the reality that Hale has a right to pay his legal bills and raise money for that purpose. The Defendant, on the other hand, has no legal right whatever to try to stop him from doing so or to punish him for so doing.

and it is surprising, as always, that it would think otherwise. (Essentially, the Defendant believes that it can always do what it wants which is the very opposite of law. It can violate its own rules at will and yet will not hesitate to punish its prisoners for conduct that isn't even prohibited.) The Defendant funds its labors in this lawsuit merely by putting its hand in the taxpayers' pocket; Rev. Hale, however, has no such luxury. He has every right to assist his family in the sale of his personal possessions in order to pay for his prosecution of this case and the Defendant's interference in that effort squarely violates his due process rights. The matter is not even close. This Court has allowed him up to twelve depositions and though he is required to pay for them of course, the Defendant cannot lawfully block him from trying to pay for them.

If a plaintiff has the right to bring a suit, he has the right to pursue a suit by paying for the costs which the suit entails. Were the law to be otherwise, a plaintiff prisoner's rights under the Federal Rules of Civil Procedure to conduct depositions would of course be a sham. On paper he would have the right to conduct depositions but the moment he tried to raise funds to pay for them he would be punished and blocked from doing so. While it so happens that Rev. Hale's family has raised several thousand dollars through raw donations thus far in order to pay some of the costs of the depositions, that fact does not in any way bar him from seeking the sale of some of his property for that purpose too. The Defendant has exceeded its lawful authority here, plain and simple.

III. Since the Defendant is trying to stop Rev. Hale from raising funds to cover his

discovery costs, the issuance of a protective order is appropriate.

This essentially speaks for itself. Rule 26 (c) of FRCP allows for the issuance of a protective order where necessary to prevent the oppression of one party by another during the course of the discovery process. Hale wants to raise more money so that he can depose all of the witnesses he would like to depose but the Defendant won't let him. The need for a protective order is thus apparent.

Such an order would simply say that the Defendant may not interfere with or prevent Rev. Hale from requesting the sale of his personal property in the outside world for the purpose of paying his discovery costs (i.e. Court-allotted depositions), nor may it punish him for doing so. Since there exists no B.O.P. rule anywhere prohibiting such conduct on Hale's part and it would violate due process in any

case were it to exist, the Defendant is acting unlawfully right now and the Court has the power to enjoin that unlawful conduct through the issuance of a Rule 26(c) protective order.

Conclusion

Plaintiff therefore moves the Court to enjoin the Defendant from interfering with or preventing him from requesting or arranging for the sale of his personal property in the outside world for the purpose of paying his discovery costs in this case, and likewise enjoin it from punishing Rev. Hale ~~for~~ for doing same.

Respectfully submitted,

Rev. Matt Hale

April 25, 2017

Certificate of Service

I, Reverend Matt Hale, hereby certify that on April 25, 2017 I duly mailed a copy of this motion to Susan Prose, Attorney for the Defendant, at 1801 California Street, Suite 1600, Denver, CO 80202, postage fully prepaid.

Rev. Matt Hale

Rev. Matt Hale # 15177-424

U.S.P. - Max.

P.O. Box 8500

Florence, CO 81226-8500

BP-A0288
JAN 17

INCIDENT REPORT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Part I - Incident Report

1. Institution: Administrative Maximum, ADX Florence, Colorado		Incident Report Number:	
2. Inmate's Name: Hale, Matthew	3. Register Number: 15177-424	4. Date of Incident: April 19, 2017	5. Time: 9:30 A.M.
6. Place of Incident: Cell C04-205L	7. Assignment: Unassigned		8. Unit: C- Unit
9. Incident: Conduct disruptive to security or orderly running of a BOP facility (high severity) / Conducting a business		10. Prohibited Act Code(s) 309 209, Most like 334 A. <i>DCW</i>	

11. Description of Incident (Date: 04/19/2017 Time: 9:30 A.M. Staff became aware of incident):

On April 19, 2017 at approximately 9:30 A.M. ADX SIS staff monitored a letter written by inmate Hale, Matthew Reg. No. 15177-424 to Evelyn Hutcheson giving specific direction regarding a box of books he had mailed to her last month. Inmate Hale instructs Evelyn Hutcheson to make sure that there are 33 books in the box, and as a fundraiser to pay for the upcoming depositions he wants her to auction off the books to his email list followers. He instructs her to provide the title of the books and the author's name's, and to let the people know that there are prison address labels in the front cover of some of the books, and follow up two weeks for bids on each book. Inmate Hale mentions that he will also provide a signed certification document for every book that was part of his personal prison collection. He also instructs her to let him know who purchased the books and where he can send the certifications to. He also implies that his copy of Mein Kampf with his prison label in it should go for a considerable sum of money. In addition, he indicates that there are copies of Ending White Slavery and The Racial Loyalist Manifesto which he is sure people will place high bids for. SIS Lieutenant notified.

12. Typed Name/Signature of Reporting Employee: R. Marques Special investigative Technician / <i>R. Marques</i>		13. Date And Time: April 19, 2017 / 11:00 A.M.
14. Incident Report Delivered to Above Inmate By (Type Name/Signature): <i>D. Miranda</i>	15. Date Incident Report Delivered: <i>4/19/2017</i>	16. Time Incident Report Delivered: <i>6:00P</i>

Part II - Committee Action

17. Comments of Inmate to Committee Regarding Above Incident:

18. A. It is the finding of the committee that you: <input type="checkbox"/> Committed the Prohibited Act as charged. <input type="checkbox"/> Did not Commit a Prohibited Act. <input type="checkbox"/> Committed Prohibited Act Code(s) _____	B. <input type="checkbox"/> The Committee is referring the Charge(s) to the DHO for further Hearing. C. <input type="checkbox"/> The Committee advised the inmate of its finding and of the right to file an appeal within 20 calendar days.
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19. Committee Decision is Based on Specific Evidence as Follows:

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act):

21. Date and Time of Action: _____ (The UDC Chairman's signature certifies who sat on the UDC and that the completed report accurately reflects the UDC proceedings).

Chairman (Typed Name/Signature)	Member (Typed Name)	Member (Typed Name)
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U.S. Penitentiary MAX
P.O. Box 8500
Florence, CO. 81226-8500

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APR 25 2017