

**IN THE MATTER OF:
Human Rights Defense Center v. Johnson County, KS, et al.
Case No. 2:20-cv-02447
U.S. DISTRICT COURT, DISTRICT OF KANSAS**

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (hereinafter referred to as the “Agreement”) is made and entered into as of the date this Agreement is signed, by and among the Board of County Commissioners of Johnson County, KS, on behalf of the county and all of its elected officials, officers, directors, employees, former employees, agents, predecessors, divisions, successors, administrators, and assigns, including but not limited to Sheriff Calvin Hayden (collectively referred to as “Defendants”), and the Human Rights Defense Center (“HRDC”), on behalf of itself and all of its officers, directors, employees, former employees, agents, predecessors, divisions, successors, administrators, and assigns. Defendants and HRDC collectively are “the Parties”.

I. Recitals

A. At all times relevant hereto, the Defendant Hayden was the duly elected sheriff and the authorized representative of Defendant Johnson County, KS, with respect to the operation of the detention centers.

B. At all times relevant hereto, the Human Rights Defense Center is and was a not-for-profit charitable organization recognized under § 501(c)(3) of the Internal Revenue Code, incorporated in the state of Washington and with principal offices in Lake Worth, Florida. HRDC publishes *Prison Legal News* and *Criminal Legal News*, monthly magazines containing criminal justice and corrections news and analysis. HRDC has thousands of subscribers in the United States and abroad, including prisoners, attorneys, and judges. Additionally, HRDC

publishes and/or distributes dozens of different softcover books about the criminal justice system, legal reference books, and self-help books of interest to prisoners.

C. This Agreement addresses and resolves certain disputes arising from and relating to allegations that Defendants violated HRDC's First and Fourteenth Amendment rights as it relates to the handling and delivery of its publications at the Central Booking and New Century Adult detention centers (collectively, the "Jail"), and the alleged lack of due process associated with Defendants' failure to provide HRDC notice and opportunity to be heard regarding rejected or censored publications.

D. The Parties agree that the Defendants deny any liability in this case. However, in order to avoid the expense, delay, uncertainty, and burden of litigation, the parties have agreed to a settlement of the litigation. This written Agreement memorializes the terms of the settlement reached by Defendants and HRDC as to the claims in this case.

II. Injunctive terms

1. Defendants agree that Sheriff Hayden and Jail commanders shall authorize HRDC to send book packages to the Johnson County Detention Centers pursuant to a numbered training bulletin, so long as such packages are clearly marked that they are from HRDC and addressed to individual inmates or the detention centers' "Programs Staff." HRDC's magazines will not be considered "packages."

2. Defendants agree that Sheriff Hayden will authorize and detention commanders will purchase and use new ink hand-stamps that contain the following information and would be used on any mail items rejected for lack of pre-approval or use of stickers/labels/etc.:

- a. "item rejected due to prohibited stickers, labels, etc."
- b. "package rejected for lack of pre-approval"; and

c. one or more of the following:

1. “to appeal rejection visit [web address]”;
2. “to appeal rejection: [email address]”;
3. “to appeal rejection call (913) 715-5900.”

3. Defendants agree that if HRDC establishes to a reasonable degree of certainty in an appeal that any of its mailings should not have been rejected by the jail staff, then Defendants agree to reimburse HRDC for the return to sender fees, the postage costs of the appeal, and the cost and \$4.00 of staff time to resend the item.

4. The Parties agree that Defendant Calvin Hayden and his agents, assigns, employees, deputies and successors, will establish, implement and enforce procedures that will fully effectuate the terms of this Agreement.

5. It is further agreed that within thirty (30) days of the date of entry of this Agreement, Defendant Calvin Hayden will disseminate the requirements of Section II of this Agreement to all employees whose job involves sorting, processing, or delivering mail at the Jail, and that the terms of this Agreement will be fully implemented by all jail staff persons. Defendant Hayden will also cause to be placed in the common areas of the Jails a memo to prisoners that will include the language contained in Exhibit A to this Agreement. Defendants’ counsel will furnish Plaintiff’s counsel with written confirmation that Defendants have complied with the provisions of this paragraph.

6. The Sheriff will ensure that his deputies and staff are sufficiently advised and trained to carry out his obligations under this Agreement with all staff persons who are responsible for any part of the receipt, collection, and delivery of U.S. Mail to prisoners about the contents of this Agreement and the best practices for successful compliance herewith. Defendants shall

certify to Plaintiff that said training has been conducted and the memo to the prisoners has been distributed within ninety (90) days of the entry of the stipulation and Order by the Court.

III. Monetary Agreement and Dismissal.

7. Defendants agree to pay HRDC a total of \$50,000 in full and final settlement of all claims for damages, fees, and costs that were brought in this matter or could have been brought in this matter. Defendants will send direct payment to the Human Rights Defense Center within (thirty) 30 days of the entry of the Stipulation and Order to Dismiss by the Court.

8. In consideration of the above terms agreed to by Defendants, HRDC agrees to dismiss all claims in the instant case. Said dismissal will be with prejudice in the United States District Court to all claims for damages, loss, and costs (including attorney fees) that were or could have been brought in this matter, though the Court shall retain jurisdiction for the purpose of entertaining enforcement actions per the terms described in paragraph 9.

IV. Reservation of Jurisdiction

9. The Parties agree that the Court shall retain jurisdiction for the purpose of enforcing the terms of this Agreement, by entry of a Stipulated Order of Dismissal stating the same.

V. Miscellaneous Provisions

10. Defendants and HRDC acknowledge and agree that they have been represented by legal counsel with respect to the matters that are the subject of this Agreement and that they have entered into this Agreement freely and voluntarily.

11. The Parties agree that facsimile or PDF signatures are deemed to be originals and that this Agreement may be executed in counterparts. Upon signature of the Parties, this Agreement shall be deemed executed, final, and binding.

12. The signatories to this Agreement who sign on behalf of another hereby warrant that they have the full authority to sign on behalf of that person or entity.

13. The Parties agree that this case concerns the First and Fourteenth Amendment rights of a publisher, and is therefore not a case concerning prison conditions as defined in the Prison Litigation Reform Act of 1996. The Parties also agree that the injunctive relief contained herein is narrowly drawn, extends no further than necessary to correct the harm to HRDC, and is the least intrusive means necessary to correct that harm.

14. This Agreement sets forth the entire understanding between the Parties with respect to the claims in this case, and there are no representations, warranties, agreements, arrangements, or undertakings, oral or written, between or among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement supersedes all prior negotiations, representations, statements, or promises between the Parties, whether written or oral, as to these claims.

15. This Agreement or any uncertainty or ambiguity herein shall not be construed against any Party but shall be construed as if all Parties to this Agreement jointly prepared this Agreement.

16. This Agreement shall be binding upon and inure to the benefit of the Defendants and HRDC, and their respective successors and assigns.

17. The obligations imposed by this Agreement are severable. If for any reason a part of this Agreement is invalid or unenforceable, that determination shall not affect the remainder of this Agreement.

18. This Agreement and any of its provisions may be amended, modified, or terminated only by written agreement signed by HRDC and Defendants. Such written agreement(s) shall be effective only upon approval by the Court.

Stipulated and Agreed to:



Ed Eilert
Chairman of Board of County Commissioners
of Johnson County, KS

April 29, 2021

Date

Calvin Hayden, Sheriff

Date

Paul Wright
Executive Director, HRDC

Date

18. This Agreement and any of its provisions may be amended, modified, or terminated only by written agreement signed by HRDC and Defendants. Such written agreement(s) shall be effective only upon approval by the Court.

Stipulated and Agreed to:

Ed Eilert
Chairman of Board of County Commissioners
of Johnson County, KS

Date



Calvin Hayden, Sheriff

4-28-21

Date

Paul Wright
Executive Director, HRDC

Date

18. This Agreement and any of its provisions may be amended, modified, or terminated only by written agreement signed by HRDC and Defendants. Such written agreement(s) shall be effective only upon approval by the Court.

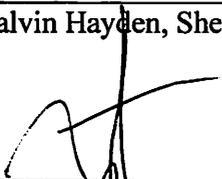
Stipulated and Agreed to:

Ed Eilert
Chairman of Board of County Commissioners
of Johnson County, KS

Date

Calvin Hayden, Sheriff

Date



Paul Wright
Executive Director, HRDC

Date

4/28/21



Memo to inmates at the Johnson County jails

Sheriff Calvin Hayden and Johnson County recently settled the lawsuit *Human Rights Defense Center v. Board of County Commissioners of Johnson County, KS*, case number 2:20-cv-02447 in the United States District Court for the District of Kansas. In that lawsuit, the Human Rights Defense Center alleged that the defendants violated its First Amendment right to free speech by rejecting publications that were mailed to prisoners at the jails in Johnson County. Sheriff Hayden maintains that none of the Human Rights Defense Center's constitutional rights were violated but elected to settle the lawsuit to avoid the costs of further litigation.

The reasons for rejection of the mail items included the jails' policy that book packages had to be pre-approved before they would be accepted at the jails. As part of the settlement in the case, the Human Rights Defense Center may now send a limited number of packages addressed to inmates without first getting approval subject to the current book and magazine possession limitations outlined in the Inmate Guidebook.

For more information please write:

Human Rights Defense Center
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Lake Worth, FL 33460
www.prisonlegalnews.org
www.criminallegalnews.org
(561) 360-2523