

PRESS RELEASE

Human Rights Defense Center
For Immediate Release



February 25, 2022

Publisher Files Censorship Suit Against Nebraska Department of Correction

Lincoln, NE – On Friday, the non-profit organization Human Rights Defense Center (HRDC) filed suit in the U.S. District Court for the District of Nebraska to challenge censorship by the Nebraska Department of Correctional Services (NDCS), in Lincoln, Nebraska. The complaint names Scott Frakes, Director of the NDCS as defendant.

HRDC publishes two monthly magazines, *Prison Legal News* and *Criminal Legal News*, in addition to numerous legal books. According to the complaint NDCS has utilized an “Approved Vendor Policy” since May of 2021, which prohibits mailed books unless they are sent from Edward R. Hamilton, a Connecticut-based wholesaler of books. On at least six occasions, HRDC has been prevented from sending books to NDCS prisoners under the “Approved Vendor Policy”.

In September 2021, HRDC mailed several legal books to prisoners at various NDCS prisons that were censored by prison officials; sometimes the books were sent back marked “Return to Sender” or “Refused” with no explanation provided. HRDC was not provided notice (other than receipt of a returned package) and was never afforded an opportunity to appeal the censorship decisions.

In the complaint, HRDC alleges violations of its constitutional rights under the free speech clause of the First Amendment and under the Fourteenth Amendment’s right to due process. As a result of this censorship, HRDC claims that its right to communicate with Nebraska prisoners has been violated.

“HRDC’s books and magazines inform prisoners about educational opportunities, their constitutional rights, and means for self-improvement while incarcerated,” noted HRDC General Counsel Daniel Marshall. “Banning these publications from reaching those who are in prison is an affront to the First Amendment, as well as counterproductive to the goals of security and rehabilitation.”

The lawsuit seeks injunctive relief, declaratory relief and damages against the defendant, as well as attorney fees and costs. Prior to filing suit HRDC wrote Mr. Frakes expressing its concern that its free speech rights were being violated by this policy. Its concerns were rejected, hence the

decision to seek judicial review of this policy. The case is [Human Rights Defense Center v. Scott Frakes, Case No. 4:22-cv-03028.](#)

This is not the first time HRDC has sued Scott Frakes for violating its constitutional rights to free speech, due process and freedom of the press. In 2003 a federal district court in Seattle issued three injunctions against Mr. Frakes and other Washington state prison officials finding they had violated HRDC's (then named Prison Legal News) First Amendment rights to distribute its material to prisoners in that state and its right to due process notice of the censorship. The federal appeals court for the Ninth Circuit later upheld that ruling in its entirety. See: *Prison Legal News v. Lehman*, 397 F.3d 692 (9th Cir. 2005). The state of Washington ultimately paid \$100,000 in damages to HRDC and \$442,000 in attorney fees for violating HRDC's constitutional rights.

The Human Rights Defense Center, founded in 1990 and based in Lake Worth Beach, Florida, is a non-profit organization dedicated to protecting human rights in U.S. detention facilities. HRDC publishes *Prison Legal News* and *Criminal Legal News*, two monthly magazines that includes reports, reviews and analysis of court rulings and news related to prisoners' rights and criminal justice issues. *Prison Legal News* has thousands of subscribers nationwide and operates a website (www.prisonlegalnews.org) that includes a comprehensive database of prison and jail-related articles, news reports, court rulings, verdicts, settlements and related documents.

For further information, please contact:

Paul Wright, Executive Director
Human Rights Defense Center
(561) 360-2523
pwright@prisonlegalnews.org

Daniel Marshall, General Counsel
Human Rights Defense Center
(561) 360-2523
dmarshall@humanrightsdefensecenter.org