



September 23, 2013

VIA Facsimile at (615) 217-4760 and U.S. MAIL
Sheriff Robert F. Arnold
Rutherford County Sheriff's Office
940 New Salem Highway
Murfreesboro, TN 37129

Dear Sheriff Arnold:

We have been made aware by concerned inmates and their family members that the Rutherford County Adult Detention Center ("RCADC") will be instituting a new postcard-only mail policy effective October 1, 2013. It is also our understanding that the inmates will only be allowed to receive mail from the first through the seventh of each month. If the information we have received is inaccurate, I invite you to set the record straight and provide ACLU-TN with a copy of the mail policies which are or will be in effect.

Assuming the several letters we have received are accurate, the Sheriff's Office and RCADC must understand that by restricting inmates' access to personal mail, publications, books or newspapers, and other such correspondence or information, RCADC harms the rehabilitative goals of incarceration and risks violating the inmates' First Amendment free speech rights.

The Supreme Court has recognized that inmates retain a right to free speech while incarcerated. *See Turner v. Safley*, 482 U.S. 78, 89 (1987). "Prison walls do not form a barrier separating prison inmates from the protections of the Constitution." *Id.* at 84. A prison regulation that infringes on an inmate's right to free speech is only valid if it "is reasonably related to legitimate penological interests." *Id.* at 89. To determine if a restriction is reasonably related to penological interests the *Turner* Court outlined four factors:

- whether there is a "valid, rational connection" between the regulation and the government interest;
- whether there are alternate means of exercising the right;
- the ripple effect an accommodation might have on guards or other inmates, and
- the absence of ready alternatives to the regulation

Id. at 89-90. This means that there must be a "rational connection" between the postcard-only policy and some legitimate governmental interest in implementing it.
Id.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF TENNESSEE
P.O. BOX 120160
NASHVILLE, TN 37212
T/ (615) 320-7142
F/ (615) 691-7219
WWW.ACLU-TN.ORG

Several courts have examined the issue of postcard-only regulations and have found merit in First Amendment challenges to such regulations. *See, e.g., Hamilton v. Hall*, 790 F. Supp. 2d 1368 (N.D. Fla. 2011) (inmate's First Amendment challenge to prison's postcard-only policy survived motion to dismiss); *Rufus v. Chapman*, 2011 WL 3627315 (M.D. Ga. 2011) (inmate stated plausible claim that prison's postcard-only policy violated First Amendment); *Prison Legal News v. Columbia Cnty.*, -- F. Supp. 2d --, 2013 WL 1767847 (D. Or. April 24, 2013).

Sheriffs and prison officials have provided several justifications for postcard-only policies. *See, e.g., Prison Legal News*, 2013 WL 1767847 at *11. These justifications have ultimately been unpersuasive. *Id.* at *11-*13. Indeed, a postcard-only regulation has been held unconstitutional under First Amendment analysis for precisely this reason. *Id.* at *11. There, the court reasoned that because the prison could not demonstrate that there was a reasonable connection between the postcard-only restriction and any legitimate penological interest, the policy violated the inmates' and third-parties' First Amendment rights. *Id.* at *14.

Additionally, postcard only restrictions have a negative impact on the rehabilitative goals of confinement. According to the Rutherford County Sheriff's Office's website, the RCADC serves "a goal to change behavior and reduce recidivism rates." The ability for inmates to maintain family relationships and community ties, by mail and otherwise, is an essential component of a sound correctional confinement operation. It fosters safe and secure management of the inmate while confined, and facilitates his or her reintegration to the community upon release.

We request that the policy restricting prisoners' ability to send and receive mail be revised so that it conforms to the Constitution. Inmates should be allowed regular mail privileges throughout the month and subscriptions to reading materials unless a legitimate penological concern exists.

We urge you to refrain from implementing this postcard-only policy and ask that you confirm in writing before October 1, 2013 that you will not implement the policy. However, if you do intend to implement this policy, we ask that you provide a copy of the new policy and your written justifications for the time restrictive, postcard-only mail policy at RCADC.

Sheriff Robert F. Arnold
September 23, 2013
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Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at [REDACTED]

Sincerely,



Thomas H. Castelli
Legal Director

cc: Jim Cope, County Attorney, via e-mail at [REDACTED]