

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

HEATHER ANN THOMPSON,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. _____
JOHN R. BALDWIN, in his official and)	
individual capacities, MICHAEL MELVIN, in)	JURY TRIAL DEMANDED
his individual capacity, GLEN AUSTIN, in his)	
individual capacity, and DOES 1-10, in their)	
individual capacities,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Heather Ann Thompson submits this Complaint against Defendants John R. Baldwin, Michael Melvin, Glen Austin, and Does 1-10 (collectively, “Defendants”). Defendants have violated Plaintiff’s due process and free speech rights by arbitrarily censoring her Pulitzer Prize-winning, non-fiction book, and forbidding it from being distributed in some, but not all, prisons in this State.

Introduction

1. Thompson brings this action to enjoin Defendants’ improper censorship of her Pulitzer Prize-winning book, *Blood in the Water*. Thompson sent copies of the book to three prisoners in the custody of the Illinois Department of Corrections. Two were rejected and returned with no explanation; one was delivered to the recipient.

2. Defendants have adopted and implemented mail policies and practices prohibiting the delivery of written speech from Thompson while failing to provide due process in the form of notice of, and an opportunity to challenge, that censorship. Defendants’ actions violate Thompson’s rights under the First and Fourteenth Amendments to the U.S. Constitution.

Thompson thus brings this action pursuant to 42 U.S.C. § 1983 seeking injunctive and declaratory relief and damages in an amount to be proven at trial.

Jurisdiction and Venue

3. This action arises under the First and Fourteenth Amendments of the U.S. Constitution and is brought pursuant to 42 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities guaranteed to Thompson by the laws of the United States.

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. This Court has jurisdiction over claims seeking declaratory, injunctive, and monetary relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

5. Venue is proper in this district under 28 U.S.C. § 1391(b). On information and belief, Defendants John R. Baldwin, Michael Melvin, and Glen Austin reside within this judicial district, and many of the events giving rise to the claims asserted in this Complaint occurred in this district.

Parties

6. Plaintiff Heather Ann Thompson is a professor and historian at the University of Michigan. In 2016, Thompson authored *Blood in the Water*, a non-fiction book about the Attica Prison uprising in 1971. Thompson has also written extensively on the history of policing, mass incarceration, and the criminal justice system for *The New York Times*, *Newsweek*, *Time*, *The Washington Post*, *Rolling Stone*, *The Atlantic*, and other mass market publications, in addition to academic publications in her field.

7. Defendant John R. Baldwin is, and at all relevant times was, either the Director or the Acting Director of the Illinois Department of Corrections, the agency that manages state prisons in Illinois. Baldwin has ultimate responsibility for the promulgation and implementation of Department of Corrections policies, procedures, and practices. He is being sued in his official and individual capacities for damages, and for injunctive and declaratory relief. At all relevant times, Baldwin acted under color of state law.

8. Defendant Michael Melvin is, and on information and belief at all relevant times was, the warden of Pontiac Correctional Center, a prison under the control of the Department of Corrections. Melvin has responsibility for the execution of policies, procedures, and practices at the Pontiac Correctional Center, including the approval of censorship decisions. Melvin is being sued in his individual capacity for damages. At all relevant times, Melvin acted under color of state law.

9. Defendant Glen Austin is, and on information and belief has been, the warden of Logan Correctional Center, a prison under the control of the Department of Corrections. Austin has responsibility for the execution of policies, procedures, and practices at the Logan Correctional Center, including the approval of publication censorship decisions. Austin is being sued in his individual capacity for damages. At all relevant times, Austin acted under color of state law.

10. The names and identities of Defendants Does 1-10 are unknown to Thompson. Each of these Defendants was employed by, and was an agent of, the Illinois Department of Corrections when some or all of the challenged policies and practices were adopted or implemented. Defendants Does 1-10 were personally involved in the adoption or implementation of the mail policies and practices at Department of Corrections facilities, or were responsible for

hiring, screening, training, retaining, supervising, disciplining, counseling, or controlling the staff members who interpret and implement those mail policies and practices. Thompson will seek to amend this Complain when the names and identities of Defendants Does 1-10 have been ascertained.

Blood in the Water

11. In 2016, Thompson authored *Blood in the Water*, a non-fiction book about the Attica Prison uprising.

12. The book provides a thorough history and analysis of the uprising, including the lead-up to the uprising, the week-long uprising itself, its brutal end at the hands of state troopers, and the protracted legal battles that ensued. In examining its legacy, Thompson explains that the uprising provides a blueprint for improving the American prison system.

13. In writing the book, Thompson drew from more than a decade of research, including information from interviews, government records, personal correspondence, and legal documents, much of which had never before been made public.

14. The book has won high praise and numerous awards. Among the awards are the Pulitzer Prize in History (2017), the Bancroft Prize in American History and Diplomacy (2017), the Ridenhour Prize (2017), the Public Information Award from the New York Bar Association (2016), the Media for a Just Society Book Award from the National Counsel for Crime and Delinquency (2017), and the J. Willard Hurst Award in Socio-Legal History (2017). The book was also included on more than a dozen “Best of 2016” lists, including the *New York Times Most Notable Books of 2016* list, as well as similar lists published by *Kirkus*, *Publishers Weekly*, *Newsweek*, *Christian Science Monitor*, *Boston Globe*, and others.

Censorship in Illinois Prisons

15. Thompson has a strong interest in communicating with prisoners, including those who are incarcerated with the Department of Corrections, through the distribution of her book. She has visited prisons in other states to discuss the book. In one instance, she recorded a podcast at San Quentin State Prison in California, during which she discussed the book with prisoners incarcerated there.

16. The First Amendment to the U.S. Constitution protects Thompson's right to communicate with prisoners who are incarcerated with the Department of Corrections. Regulations, policies, or practices that restrict the receipt of mail by prisoners are invalid unless they rationally relate to a legitimate penological interest.

17. The Fourteenth Amendment to the U.S. Constitution protects Thompson's right to receive notice of, and an opportunity to challenge, restrictions on her communications with prisoners. Regulations, policies, or practices that do not provide these minimum procedural safeguards are invalid. Fourteenth Amendment rights are also violated where procedural safeguards are not followed as applied to a particular publisher.

18. Various prisons within the Illinois Department of Corrections system do not comply with the First and Fourteenth Amendments. Defendants' policies and practices have deprived, and will continue to deprive, Thompson of the right to distribute her book to prisoners, and of the right to notice of, and an opportunity to appeal, the denial of this right.

19. In February 2018, Thompson attempted to send a copy of *Blood in the Water* to Percell Dansberry, a prisoner at the Pontiac Correctional Center. Dansberry did not receive the book because it was improperly censored. A copy of the Amazon order summary and notice of delivery is attached as Exhibit A.

20. Staff at the Pontiac Correctional Center issued a censorship notice to Dansberry, but the censorship notice does not provide any sufficient basis to justify the censorship.

21. Thompson has never received any notice about Defendants' censorship of *Blood in the Water*, at Pontiac or elsewhere. She has never received any notice of an opportunity to appeal the decision to censor the book. This censorship of *Blood in the Water* and the failure of Defendants Baldwin, Melvin, and one of more of the Doe defendants to provide adequate notice and explanation to Thompson violates her First and Fourteenth Amendment rights.

22. In February 2018, Thompson attempted to send a copy of *Blood in the Water* to Jami Anderson, a prisoner at the Logan Correctional Center. Anderson did not receive the book because staff at Pontiac improperly censored it. A copy of the Amazon order summary and notice of refund for failure to deliver is attached as Exhibit B.

23. Thompson never received any notice about the censorship of *Blood in the Water* at the Logan Correctional Center. Thompson has also never received any notice of an opportunity to appeal the decision to censor the book. This censorship of *Blood in the Water* and the failure of Defendants Baldwin, Austin, and one of more of the Doe defendants to provide adequate notice and explanation to Thompson violates her First and Fourteenth Amendment rights.

24. In adopting and implementing the censorship policies and practices described above, Defendants have knowingly violated, and continue to violate, the First and Fourteenth Amendment rights of Thompson, and Defendants have knowingly caused, and continue to cause, serious and irreparable harm to Thompson, including suppression of a political message, loss of supporters and readers, and loss of sales. Absent intervention by this Court, Defendants will

continue to improperly censor Thompson's book, and Thompson will continue to suffer the same irreparable injuries.

25. The above-described violations of Thompson's rights, as well as the irreparable and serious injuries she suffered as a result, were caused by censorship policies and practices adopted or approved by Defendant Baldwin in his capacity as head of the Illinois Department of Corrections.

26. The individual Defendants are responsible for, or personally participated in, creating and implementing these unconstitutional censorship policies, practices, and customs, and training and supervising the staff who carry them out.

27. The censorship policies, practices, and customs, as well the regulations giving rise to them, are unconstitutionally overbroad in their construction and arbitrarily applied in practice. In effect, prison officials are permitted to censor any speech with which they disagree or find offensive, and to do so in an arbitrary manner. In this case, for example, prison officials allowed Thompson's book to be delivered to a prisoner incarcerated at Stateville, but refused to deliver the same book to a prisoner incarcerated at Pontiac—even though both facilities are maximum security prisons operated by the Illinois Department of Corrections.

28. Defendants' unconstitutional policy, practices, and customs continue to violate Thompson's rights. As a result, Thompson has no adequate remedy at law.

29. Thompson is entitled to injunctive relief prohibiting Defendants from refusing to deliver, or refusing to allow delivery, of her book, *Blood in the Water*, to prisoners incarcerated with the Illinois Department of Corrections without due process of law.

30. Thompson seeks compensatory and punitive damages against the individual Defendants.

COUNT I

Violation of the First Amendment (Censorship) – 42 U.S.C. § 1983

31. Thompson incorporates by reference all of the allegations in paragraphs 1-30.

32. The acts described violate Thompson’s rights under the First Amendment to the U.S. Constitution.

33. The First Amendment to the U.S. Constitution protects Thompson’s right to communicate with prisoners incarcerated with the Illinois Department of Corrections.

34. Defendants’ actions were objectively unreasonable and were undertaken intentionally with malice, willfulness, or reckless indifference.

35. Defendants’ actions directly and proximately caused the violations of Thompson’s constitutional rights and her resulting injuries.

36. Defendants’ actions have caused, and if not enjoined will continue to cause, damage to Thompson.

37. Thompson seeks injunctive relief against Defendant John R. Baldwin in his official capacity, and nominal and compensatory damages against all individual Defendants. Thompson also seeks punitive damages against all individual Defendants in their individual capacities.

COUNT II

Violation of the Fourteenth Amendment (Due Process) – 42 U.S.C. § 1983

38. Thompson incorporates by reference all of the allegations in paragraphs 1-30.

39. The acts described above violate Thompson’s rights under the Fourteenth Amendment to the U.S. Constitution.

40. The Due Process Clause of the Fourteenth Amendment protects Thompson’s right to receive notice of, and an opportunity to appeal, Defendants’ decisions to censor her speech.

41. Defendants' censorship policies and practices failed to provide Thompson with adequate notice of, and an opportunity to appeal, Defendants' decision to censor her book.

42. Defendants' actions were objectively unreasonable and were undertaken intentionally with malice, willfulness, or reckless indifference.

43. Defendants' actions directly and proximately caused the violations of Thompson's constitutional rights and her resulting injuries.

44. Defendants' actions have caused, and if not enjoined will continue to cause, damage to Thompson.

45. Thompson seeks injunctive relief against Defendant John R. Baldwin in his official capacity, and nominal and compensatory damages against all individual Defendants. Thompson also seeks punitive damages against all individual Defendants in their individual capacities.

RELIEF REQUESTED

Plaintiff respectfully requests judgment against Defendants, jointly and severally, for the following:

- A. A declaration that Defendants' censorship policies and practices violate the U.S. Constitution;
- B. A preliminary and permanent injunction prohibiting Defendants from continuing to violate the U.S. Constitution, forbidding them from preventing the distribution of Plaintiff's book in the Illinois prison system, and providing other equitable relief;
- C. An award of compensatory, punitive, and nominal damages;
- D. An award of costs and attorneys' fees arising out of this litigation; and
- E. Any other relief this Court deems appropriate.

DEMAND FOR JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Thompson demands a trial by jury in this action of all issues so triable.

Respectfully submitted,

By: /s/ Benjamin R. Brunner

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