

## PRISONERS NEED LAW LIBRARIES

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I am serving a life sentence in North Carolina. There exists a blanket ban on law libraries at all facilities in this prison system. As an “alternative” to law library access, the State maintains a contractual agreement with an organization called North Carolina Prisoner Legal Services (NCPLS), who in theory are supposed to provide legal assistance to prisoners confined within the North Carolina Department of Correction (NC DOC). In theory. In reality they provide virtually none.

I’m from Missouri. Due to being a life-long addict and consequently a “criminal” since a young age, I served several bids back home too, where law libraries are present (or at least were) within every facility. Good law libraries. Missouri is where I earned my chops as a jailhouse lawyer and put in a lot of work helping others. Law libraries actually create a ripple effect, whereby when they’re present within a facility the facility is better in numerous ways. It isn’t because the administrators wake up feeling unusually emphatic and kind, wondering, “Gee, what can I do today to improve the conditions of confinement for these guys,” but rather the administrators want to keep us out of the law libraries, so they improve conditions and offer privileges proactively.

North Carolina is Exhibit A in support of this. We have nothing here: no privileges, no tablets or televisions, none of the basic little things to help make life meaningful. Quality of life in here is deplorable. Retaliation by prison staff for the use of grievance procedures occurs as a matter of course. Mail is treated as a you’ll-get-it-if-you’re-lucky “privilege,” and not the right that it is. Very rarely do prisoners challenge any of this through litigation: there aren’t law libraries so they have no clue where to begin. Filing lawsuits is not at all part of the culture here.

Of course I blame NC DOC actors, but then again they are identifiably the “enemy” and are doing what opposition is expected to do (i.e. be grimy). It’s NCPLS who are primarily responsible for conditions being so thoroughly antiquated and depressing here. They routinely decline to provide any type of assistance concerning conditions of confinement: in addition to not assisting us in preparing motions or briefs or helping compose § 1983 complaints,<sup>1</sup> they do not perform research, print caselaw or any other material, make copies, etc., and of course DOC staff do not offer the slightest assistance regarding any of these needs.

To illustrate how inexcusably worthless NCPLS is, last year several prisoners and I conducted an experiment in which we sent letters to their office, spaced out over a few months, describing some terrible (but believable) incident that transpired per the actions of abusive prison guards, followed by a desperate plea for assistance in filing a § 1983. If by some chance they actually offered help we fully intended to quickly come clean, but through experience we knew better. As expected, weeks after sending the requests we all received “form letters,” the same impersonal dribble received previously after sending them very legitimate and important requests

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<sup>1</sup> Editor’s Note: 42 U.S. Code § 1983 allows a person to sue government officials who have violated their civil rights. Much litigation surrounding violations of civil rights in prisons falls under § 1983.

seeking any assistance they could possibly offer. The same form letters received by hundreds of frustrated and hopeless-feeling NC prisoners over the years needing help, informed that due to funding or staffing issues they wouldn't receive any.

Recently a law professor at one of the bigger NC universities released information concerning the amount of money earmarked annually to NCPLS for prisoner litigation (i.e. DOC prisoners) to be applied to post-conviction and conditions of confinement matters, versus how much of that money was actually used, and it was startling. Hardly none of it. Within the previous decade they may have provided some assistance in five to ten § 1983s. Maybe, and at most, although I've heard only of three. And occasionally they help with post-conviction matters when there exists a glaring error. There may be one or two among them who aren't totally unfeeling, but NCPLS as a whole is fourth-rate and nowhere near to being a reasonable alternative to law library access. Sadly, their mere existence tends to satisfy the *Lewis v. Casey*<sup>2</sup> standard, particularly in a conservative circuit like the 4th.

After accumulating the best bit of facts available to me in an effort to satisfy the "injury" requirement in *Lewis*, in February 2020 I filed a § 1983 challenging the blanket-ban on law libraries and absence of a meaningful substitute: *LaKemper v. Hooks, et al.*, Civil Action No. 5:20-CT-3083-FL(E.D. NC). Unfortunately, it was summarily dismissed during § 1915 review for failure to state a claim, giving me a dreaded "strike." I filed a Rule 60 motion, pointing out the court's error in assessing my complaint as the usual Sixth Amendment claim, when in fact I attempted a different angle and submitted it as a First/Fourteenth challenge, thereby hopefully circumventing the nearly impossible to satisfy injury standard. The motion remains pending as of this writing. If it fails, it's a wrap because I cannot afford the appeal filing fee or to have a lien placed on my account.

However, if the court allows the case to proceed and I'm able to litigate and possibly win, it would help literally thousands of NC prisoners, now and for a long time. As it is, I'm prevented from helping guys with their valid post-conviction claims because I am unfamiliar with NC criminal law. I would love to be able to help, which would benefit not only the prisoner in need but add needed meaning to my life.

It is fully by design that the blanket bank here is maintained, and that a "legal assistance" firm who very rarely provides any assistance is our "substitute" to a law library, and that per NC DOC Policy a "C-20" disciplinary infraction is assisting another prisoner with "litigation or legal matters," which is strictly enforced and punishable by hole time. Employing policy they actively endeavor to shut us all the way down, and they are extraordinarily successful. Their methods benefit DOC

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<sup>2</sup> Editor's Note: *Lewis v. Casey*, 518 U.S. 343 (1996), is a United States Supreme Court decision in which the Court held that, although prisoners have a constitutional right to access the courts, this right is *not* violated when prisons lack facilities for legal research or legal assistance unless prisoners have been substantially harmed by these deficiencies. In practice, this tends to mean that so long as prisons provide some very basic access to *either* legal research facilities or outside legal assistance, courts tend to find that the rights of the prisoners have not been violated. Even if prisons fail to provide either legal research facilities or legal assistance programs, prisoners must still show that they have been "substantially harmed" before a court will find that the prisoners' civil rights have been violated.

immensely; in addition to the courts by greatly reducing prisoner lawsuit traffic to the point of being nearly non-existent.