INCARCERATED WRITERS STRUGGLE TO PUBLISH AGAINST PRISON CENSORSHIP. WHAT ARE PRISONS AFRAID OF?

MOIRA MARQUIS[∞]

This article is a companion to The Watcher Watching the Watchmen *by Daniel Pirkel and details the author's experience working with Mr. Pirkel as he navigates prison censorship.*

When Daniel Pirkel won honorable mention for his essay, "The Unintended Consequences of Retributive Justice" in PEN America's 2022 Prison and Justice Writing contest, he was excited to see it printed in the anthology which accompanies the annual award. [1] It was the second time his writing placed; the first was in 2019 for another essay, "Parole Reform."

When a print copy of the anthology containing his essay arrived at the mailroom of the Michigan prison where Daniel is incarcerated, he received a rejection notice from the mailroom staff informing him that he would not receive the anthology because it presented a security risk. Scrawled by mailroom staff, the notice indicated that Daniel's possession of his own published writing could enable him to have undue influence over other incarcerated people. This rationale is not listed in the Michigan Department of Corrections' (MDOC) censorship criteria. Despite the lack of explicit policy, prisons often deny incarcerated writers copies of their published works and are allowed to do so because the courts grant tremendous latitude to prison administrators. Daniel knew that appealing this spurious rejection would lead nowhere and so he let it go.

In addition to being an essayist, Daniel is somewhat of a jailhouse lawyer. He has spent his time in prison working on his own case and developing and publishing his legal scholarship. During the inaugural Prison Banned Books Week in 2023, Daniel published an article with The Emancipator, "I'm a prisoner fighting book censorship. Here's why our access to books matters." This series won the Edward R. Murrow Award for Excellence in Diversity, Equity and Inclusion. While the process of sending this article out for publication involved the usual cumbersomeness back-and-forth editing causes for writers inside, his writing wasn't censored.

But the next year, two of Daniel's essays were accepted for publication by New York University's Review of Law and Social Change. The journal mailed Daniel a contract, and he waited and waited for it to arrive. Finally, he told the editor to mail

---

[∞] Moira Marquis is the Freewrite project senior manager in the prison and justice writing department at PEN America. Marquis has many years of experience teaching writing in both secondary and higher education, as well as leading Asheville Prison Books, and founding Saxapahaw Prison Books. She has a PhD in English from the University of North Carolina at Chapel Hill. *Bio courtesy of PEN America.*

[1] PEN America is a nonprofit organization that "works to ensure that people everywhere have the freedom to create literature, to convey information and ideas, to express their views, and to access the views, ideas, and literatures of others." I was senior manager in their Prison and Justice Writing Program at the time.

another. On March 28, 2024, four days after NYU mailed the contract for a second time, Pirkel was "locked in" – meaning he was not allowed to leave his cell – and suspended from his jobs because he was under investigation by the prison. Though he did not receive any written documentation of formal charges, he was told that there was criminal activity in his mail.

Suspecting that the investigation related to Daniel's publication contract with NYU, I, as a representative of PEN America, and the Review of Law and Social Change wrote letters to the prison warden. She responded to my letter, confirming that that Pirkel was under investigation and stating that she couldn't say more over email. The NYU journal did not receive a response.

Four days after being first locked in, Daniel was placed on "OO" or "Unemployable" status – meaning he was fired from his three jobs – without notice or due process. Although people in Michigan prisons can be fired if they refuse to work, don't fully participate in work, or have a documented history of disruptive behavior while on the job, such a determination must be made by the prison Classification Director and the Program Supervisor[2]. In Daniel's case, no such determination was made because he had not done anything that would warrant being fired.

Shortly thereafter, Daniel was transferred to another Michigan prison. There was no rationale stated on his transfer paperwork, but being transferred is a common way prisons "manage" people they're finding difficult. When incarcerated people are transferred, they usually lose a lot of personal items, beneficial relationships with staff, and any work assignments–some of which require privileged status to obtain.[3] One of Daniel jobs was a coveted position that guaranteed parole when he became eligible. His other positions were similarly coveted for similar reasons. When he was officially fired from his three jobs the week of April 8th there was no CSJ-363 "Prisoner Program and Work Assignment Evaluation" paperwork. MDOC policy states this needs to be submitted to the counselor and the prison's records office.[4]

Daniel settled into his new facility as best he could. He also kept writing. The Emancipator was interested in publishing another of his articles during the second annual Prison Banned Books Week. They mailed Daniel a contract and, this time, he received rejection paperwork. Prison staff identified two rationales for prohibiting Daniel from publishing his writing: that incarcerated people publishing written work poses a threat to the security of a prison and that mail for the purpose of operating a business is prohibited

However absurd it may seem in Daniel's case, prisons know that they are permitted to censor incarcerated persons' speech if it poses a security threat. In *Turner v. Safley*, the U.S. Supreme Court held that prisons can lawfully curtail incarcerated persons' right to free speech if the censorship is "reasonably related" to

[2] *See* Mich. Dep't of Corr., *Policy Directive 05.01.100*, 5 (Dec. 2, 2019), https://perma.cc/AQF9-MUGA.

[3] Iolanthe Brooks, *"You Want to. Be in the Hell You Already Know": How Prison Transfers Regularly Upend Incarcerated People's Lives*, PRISON POLICY INITIATIVE (Jun. 5, 2025), https://perma.cc/RM9T-ME73.

[4] Mich. Dep't of Corr., *Policy Directive 05.01.100*, 2 (Dec. 2, 2019), https://perma.cc/AQF9-MUGA.

neutral" government interests.[5] Though the curtailment must be "reasonably" related to a government interest, courts have construed that relationship broadly, allowing prisons to invoke security interests to justify censorship even when the threat seems far-fetched.[6] For example, the 7th Circuit court upheld a ban on the Dungeons and Dragons role playing game because carceral authorities argued that such "fantasy role playing" creates "competitive hostility, violence, addictive escape behaviors, and possible gambling" in *Singer v. Raemisch*.[7]

The second rationale cited in the censorship paperwork is that "mail for the purpose of operating a business while in the facility" is prohibited. This rationale is widely applied to deny incarcerated people compensation for their writing and prohibit them from signing the contracts that most publications require in order to publish written work. Mumia Abu-Jamal, who published extensively during his long incarceration, challenged this prohibition in *Abu-Jamal v. Price.*[8] In his case, the Third Circuit ruled that a prison could not use the rule against "engaging in a business or profession" to interfere with an incarcerated person's writing for publication. Despite this favorable judgment for free expression, it has not been widely effective at curbing carceral censorship. It needs to be adjudicated in a higher court for it to bind courts outside the 3rd circuit, which includes Delaware, New Jersey, Pennsylvania, and the Virgin Islands.

After he received the rejection, Daniel used the only recourse he had, and filed an appeal.[9] Such appeals are within the prison systems, however, and prisons overwhelmingly uphold their initial determination.[10] As a result, although there is a widespread demand for work by incarcerated authors by publications and the public, it is incredibly challenging and risky for people in prison to publish. Prison authorities censor extensively and through myriad, undocumented, and dubious means that, at the very least, largely prevent people outside prison walls from hearing the voices of the two million people who are locked inside those barbed wire fences and iron gates.[11]

---

[5] 482 U.S. 78, 89-90 (1987) ("This government interest must be legitimate and neutral, 'without regard to the content of the expression,'" noting that a regulation will not be considered legitimate if the "logical connection between the regulation and the asserted goal is so remote as to render the policy arbitrary or irrational" and that prison regulations restricting First Amendment rights must "operate in a neutral fashion, without regard to the content of the expression") (quoting *Pell v. Procunier*, 417 U.S. 817, 828 (1974); Wolfish, 441 U.S. 520 (1861)).

[6] *Id.*

[7] 593 F.3d 529 (7th Cir. 2010).

[8] 154 F.3d 128, 134-36 (1998).

[9] Prison Litigation Reform Act of 1995, S. 866, 104th Congress (1995-1996) (The Prison Litigation Reform Act, which was passed by congress in 1996, restrictions imprisoned people's access to courts by first requiring appeals to prison administration to be written and proven ineffective at remedying whatever grievance people have. In order for imprisoned people to bring cases to court, they have to demonstrate that they have exhausted all possible means of addressing their issue with prison administrators.)

[10] Moira Marquis & Juliana Luna, *Reading Between the Bars: An In-Depth Report on Prison Censorship*, PEN AMERICA (2023), https://perma.cc/PAP5-X3MC.

[11] Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2025,* PEN AMERICA (Mar. 11, 2025), https://perma.cc/89AA-9CQR

Mass incarceration in the U.S. is justified, at least in part, by the idea that it is necessary to protect the rest of us.[12] If this system is being implemented in our names, purportedly to serve us and improve our lives, then we should at the very least know what occurs within prisons. A basic level of transparency would enable people housed within this system to publish their work documenting what occurs behind those walls and publish their ideas more broadly. Particularly when outside editors of major publications feel confident providing a platform, the denial of publication only makes carceral censorship more suspect. What is being hidden?

[12] VICTORIA LAW, PRISONS MAKE US SAFER": AND 20 OTHER MYTHS ABOUT MASS INCARCERATION (Beacon Press 2021).