

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL

RONALD W. CLARK, JR. #812974  
Inmate Petitioner,

Vs.

DC Case No.: DC14-119

MICHAEL D. CREWS,  
DEPT. OF CORR. SECRETARY,  
Respondent.

PETITION TO AMEND RULE 33-601.830 (7)(i)  
RECREATION FOR DEATH ROW INMATES  
FOR CLARIFICATION PURPOSES

Comes now the Petitioner, pro se, pursuant to § 120.54 (7), Fla. Stat. (2014), and request that the Secretary amend the questioned rule for the following reasons:

**PRELIMINARY STATEMENT**

All references to documentary exhibits will be by: "App: (3)" and found in the attached "APPENDIX".

**STATEMENT OF FACTS**

1. In 2010 the F.D.O.C. implemented a new rule 33-601.830 for Death Row inmates which permitted them to receive six hours of out door exercise per week. Unlike the close management exercise rule which states:

**"However, an exercise schedule shall be implemented to ensure a minimum of six hours per week (two hours three days per week) of exercise out of doors."**

F.A.C. 33-601.800 (10)(m) (EXHIBIT "A"). The death row rule is not written up in a clear precise manner, the rule states:

**"...An exercise schedule shall be implemented to ensure a minimum of six hours per week of exercise out-of-doors."**

FAC 33-601.830 (7)(i) (EXHIBIT "B").

2. Staff are now able to run two three hour recreation periods which presents the following problems:

- (a) Death row recreational yards have no rest room facilities, so inmates are forced to be out there three hours with no bathroom breaks.
- (b) The four death row recreation yards have no shelter from the weather, so inmates have to endure extreme heat, cold or rain for three straight hours.
- (c) If staff cancels a recreation period for any reason, we automatically lose half of our out door recreation. If it were three two hour yards, we would only lose 1/3<sup>rd</sup> of our out door time.

3. This is an issue that must be settled by the rule making authority who has the power to amend and clarify this rule.

### ARGUMENT

4. P-dorm video of recreation yards one, two, three and four, will show that Administrative Recreational officers are only using ONE of the four recreational yards in the morning and afternoon.

5. This is proof that there is ample opportunity time and space to operate three two hour rec periods a week by simply using all four rec yards at once as was the case before 2010.

### PROPOSED AMENDMENT TO RULE

6. Since there is clearly sufficient time and space to run three two hour recreation periods a week, and the rule making authority seen, in 33-601.800 (10)(m) to allow inmates housed close management three two hour rec's a week, it seems sensible to change the wording in 33-601.830 (7)(j) to read as follows:

**“(i) Exercise—an exercise schedule shall be implemented to ensure a minimum of six hours per week (two hours three days per week) of exercise out-of-doors.”**

7. Being that death row is a long term status, and we are on 24-7 lock down, and its clear by (7)(i) 2. and 3. that death row inmates who are on disciplinary confinement are denied recreation due to major rule violations through the ICT's authorization: we need further clarity of this, where the administrative recreational officers are not superseding this rule by applying 33-601.222 (p) Disciplinary confinement exercise which is designed for population inmates who are not confined 24-hours a day 7 days a week for decades.

Respectfully Submitted:

*/s/ Ronald W. Clark, Jr. June 11, 2014*  
Ronald W. Clark, Jr. #812974  
Union Correctional Institution  
7819 NW 228<sup>th</sup> Street  
Raiford, Florida 32026

order to prevent the inmate from inflicting injury to him or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. An inmate who receives services from the Bureau of Braille and Talking Book library will be allowed to have his tape player, devotional or scriptural material tapes, and other books on tape which are in compliance with Rule 33-501.401, F.A.C.

[EXHIBIT (A)]

(m) Exercise - Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. If the inmate requests a physical fitness program handout, the wellness specialist or the close management officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Special Housing, Form DC6-229. However, an exercise schedule shall be implemented to ensure a minimum of six hours per week (two hours three days per week) of exercise out of doors. The assignment and participation of an inmate on the restricted labor squad or other outside work squad required to work outside at least one day per week will satisfy the minimum exercise requirements for the week. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation as defined in this rule, or if the inmate has pending a disciplinary hearing for a major rule violation as defined in this rule. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. Medical restrictions determined by health services staff can also place limitations on the amount and type of exercise permitted. Such restrictions of exercise periods will be documented on the Daily Record of Special Housing, Form DC6-229. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the particular inmate's limitations. Close management inmates shall be allowed equal access to outdoor exercise areas with exercise stations.

(n) At a minimum, wellness services for close management inmates at all levels shall be provided through cell-front tutoring, wellness puzzles, and the wellness education course.

(11) Programs and Privileges in Close Management Units.

(a) While in a close management unit, an inmate's movement within the institution and contacts with other individuals will be restricted. Privileges will also be limited depending on the specific close management level. If an inmate transfers to a less restrictive level due to satisfactory adjustment, the adjustment period required for any privilege shall be waived. Upon placement in CM, inmates shall receive a copy of the Close Management Housing Unit Instructions, Form N11-046. Form N11-046 is incorporated by reference in subsection (19) of this rule.

\*13727 (b) CMI. Privileges for an inmate assigned to CMI are as follows:

1. Participation in available approved programs, including in-cell educational opportunities, that the inmate can perform within the cell unless precluded by safety or security concerns;

2. Check out three soft-back books from the library at least once per week and possess no more than three soft back library books at any given time. An inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to check out three books in braille or on tape per week and possess no more than three books at any given time, even though the actual number of tapes may be more than three per book. Books checked out from the library shall not count toward the limit on personal book possession set forth in paragraph (10)(f);

3. Conduct routine inmate bank transactions;

4. Inmates may subscribe to, purchase, or receive no more than one periodical which is printed and distributed more frequently than weekly and four other periodicals which are printed and distributed weekly or less frequently than weekly; an inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to receive up to four issues of a periodical;

5. Make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 30 days after 30 days in close management status and having no major rule violations during this period as well as emergency telephone calls and telephone calls to an attorney as explained in Rule 33-602.205, F.A.C.;

6. Unless restricted pursuant to Rule 33-601.731, F.A.C., CMI inmates shall be eligible to receive one two-hour non-contact personal visit by appointment:

a. After completing 30 days in close management status and having no major rule violations during this period.

for twenty-four hours or longer will have their televisions reassigned to the next eligible inmate, as indicated by the logbook.

6. Altering the television, earphones, or any parts thereof, including the electrical cord, will result in disciplinary action and possible loss of television privileges.

(h) Removal or Denial of Items--Any item may be denied an inmate or removed from a death row cell to prevent the inmate from inflicting injury to himself or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. The senior correctional officer on duty must initially approve the decision to deny or remove clothing, bedding, or any other items from the cell and document the action on Form DC6-229, Daily Record of Special Housing. Removal of any personal property item will also be documented by security staff on Form DC6-220, Inmate Impounded Personal Property List, and signed by the inmate designating what personal items were removed. Form DC6-220 is incorporated by reference in Rule 33-602.220, F.A.C. The original Form DC6-220 will be placed in the inmate's property file, and a copy of the form will be given to the inmate for his records. The duty warden shall make a final decision regarding the appropriateness of any removal no later than the next working day. If an inmate's clothing is removed, a modesty garment shall be provided to the inmate immediately; if the inmate chooses not to wear the garment, it shall be left in the cell, and this action shall be documented on Form DC6-229. Under no circumstances will the inmate be left without a means to cover himself. If items are removed from a death row cell pursuant to this paragraph, staff shall reassess the need for continued restriction every 72 hours thereafter and document the assessment on Form DC6-229. The warden, based on this assessment, will make a final determination on the continued denial or return of the items and document the decision on Form DC6-229. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction is present.

(71) → \*13747 (i) Exercise--An exercise schedule shall be implemented to ensure a minimum of six hours per week of exercise out-of-doors. Such exercise periods shall be documented on Form DC6-229, Daily Record of Special Housing.

1. Medical restrictions can place limitations on an inmate's exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the

particular inmate's limitations. Recreational equipment may be available for such exercise periods provided the equipment does not compromise the safety or security of the institution. The reasons for any medically-based exercise restrictions shall be documented on Form DC6-229.

→ 2. The ICT is authorized to deny exercise for an individual inmate when the inmate is found guilty of a major rule violation as defined in Rule 33-601.800, F.A.C. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide; this shall be documented on Form DC6-229.

3. The ICT is authorized to restrict the place and manner of outdoor exercise, such as an inmate's ability to interact with other inmates or use exercise equipment, if the inmate has been convicted of or found guilty through the department's disciplinary process in Chapter 33-103, F.A.C., of:

a. Assault or battery, murder, or attempted murder of a correctional officer, volunteer, visitor, or other inmate within an institution; or

b. Escape or attempted escape.

c. Possession of escape paraphernalia.

4. Phase III inmates shall be restricted from exercise pursuant to subparagraph (13)(b)8.

(j) Telephone Privileges--When alternative means of access are not feasible, telephone privileges shall be allowed for emergency situations, such as notifications of family deaths, and when necessary to ensure the inmate's access to attorneys or the courts. The necessity of the telephone call may be verified before the inmate is allowed to make the call. Calls to attorneys will not be monitored.

\*13748 (k) Visitation--Death row visits shall be contact visits unless security concerns indicate that a non-contact visit is necessary, in which case the non-contact visit shall be approved by the warden in advance. Visitation shall be on Saturday or Sunday (only one day of visitation per week per inmate) between the hours of 9:00 a.m. and 3:00 p.m. The visitation provisions of Chapter 33-601, F.A.C., otherwise apply. News media visits shall be in accordance with Rule 33-104.203, F.A.C.

(l) Library Services--Inmates shall be allowed to check out library books once weekly,



FLORIDA  
DEPARTMENT of  
CORRECTIONS

*Changing Lives to  
Ensure a Safer Florida*

Governor

**RICK SCOTT**

Secretary

**MICHAEL D. CREWS**

501 South Calhoun Street, Tallahassee, FL 32399-2500

<http://www.dc.state.fl.us>

Dorothy Ridgway, Agency Clerk

Phone number (850) 717-3605

ACKNOWLEDGMENT OF NEW CASE

June 17, 2014

RE: Ronald Clark, DC#812974 v. DC

DC CASE NUMBER: DC14-119

The Department of Corrections has received the following documents reflecting a filing date of June 17, 2014.

Petition to Initiate Rule Making (Pertaining to Rule 33-601.830(7)(j) – Death Row Inmates).

The Department's case number must be utilized on all pleadings and correspondence filed in this case.

cc: Ronald Clark, DC#812974  
Union Correctional Institution  
7819 N.W. 228<sup>th</sup> Street  
Raiford, Florida 32026-4000

Michael Milnes

*Blog Followers*

*Here you see how I'm trying to change  
the rule's on recreation to allow us  
three Rec's a week. and make up rec's  
and rec while on D.C.*

*Ronald W. Clark  
June 25, 2014*

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS

~~INMATE REQUEST~~

Mail Number: \_\_\_\_\_

6-14-243

Team Number: #6

Institution: Union

TO: (Check One)  Warden  Asst. Warden  Classification  Security  Medical  Mental Health  Dental  Other

FROM:	Inmate Name	DC Number	Quarters	Job Assignment	Date
	Ronald W. Clark jr	812974	P-6118	—	6-12-14

REQUEST

Check here if this is an informal grievance

I'm grieving the fact that 33-210.101(e) violates my Constitutional Rights, by stating "Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods or services." By prohibiting me from using mail services, to seek out and find legal representation to fight for my life and Constitutional Rights. I have a "right" to write letters, asking for help and assistance, this rule, is unconstitutional and needs to be rescinded as an unconstitutional hinderence to competent legal representation. For that reason this grievance needs to be approved and forwarded to Tallahassee for review. Thank you

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing.

Ronald W. Clark 812974

DO NOT WRITE BELOW THIS LINE

RESPONSE

Mahony

DATE RECEIVED: 6/13/14

The rule does not prohibit you from seeking legal counsel for representation. Therefore, your grievance is denied.

Blog Followers Here she says the grievance is approved yet she states it's denied. Unbelievable. Now as a result of her denying it I'll file a formal grievance taking the next step. Waste of time, but she should have approved it.

Ronald W. Clark  
June 25, 2014

[The following pertains to informal grievances only:  
Based on the above information, your grievance is denied. (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]

Official (Signature): M Mahony Date: 6-23-14

Original: Inmate (plus one copy)  
CC: Retained by official responding or if the response is to an informal grievance then forward to be placed in inmate's file  
This form is also used to file informal grievances in accordance with Rule 33-103.005, Florida Administrative Code.

Informal Grievances and Inmate Requests will be responded to within 10 days, following receipt by the appropriate person.  
You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form as required by Rule 33-103.006, F.A.C., attaching a copy of your informal grievance and response, and forwarding your complaint to the warden or assistant warden no later than 15 days after the grievance is responded to. If the 15th day falls on a weekend or holiday, the due date shall be the next regular work day.

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS

Mail Number: \_\_\_\_\_

Team Number: 46

Institution: UNION

60-14-334

TO:  
(Check One)

Warden  
 Asst. Warden

Classification  
 Security

Medical  
 Mental Health

Dental  
 Other

FROM:	Inmate Name	DC Number	Quarters	Job Assignment	Date
	Ronald W. Clark jr	812974	P-6118	~	6-18-14

Check here if this is an informal grievance

I'm grieving the fact that the barbers that the FDOC use's for hair cuts and shaves are not trained and certified barbers, they are indangering the health and safety of the inmates back here. These barbers are spreading rash's, skin diseases, Hepatitis A and C. and putting our lives in jeopardy. we need trained Certified barbers who are put through proper schooling. This grievance needs to be approved. If it's not, it will be sent with a formal complaint to OSHA and the CDC. For appropriate action.

Ronald W. Clark jr

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing.

DO NOT WRITE BELOW THIS LINE

RESPONSE

DATE RECEIVED: 6-19-14

Capt. Jackowski

Inmate Clark, Inmate barbers are trained to cut hair, and clean their clippers and attachments. Hair cuts given are D.O.C. regulation hair cuts. I have not received any information from the medical department informing security staff of any medical related issues pertaining to hair cuts or shaves.

Blog Followers.

This is a serious health and safety issue. I will be fighting to change this.

Ronald W. Clark jr  
June 27, 2014

[The following pertains to informal grievances only:

Based on the above information, your grievance is Denied. (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]

Official (Signature):

Jackowski

Date:

6-23-14

Original: Inmate (plus one copy)

CC: Retained by official responding or if the response is to an informal grievance then forward to be placed in inmate's file  
This form is also used to file informal grievances in accordance with Rule 33-103.005, Florida Administrative Code.

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DC6-236 (Effective ) Incorporated by Reference in Rule 33-103.019, F.A.C.