

Attachment
A

Mailed Out on [Date Here]

orchurch.org
Print Your Name, #
+ Address Here, Ph.#
+ e-mail if you're free

Jim Schwochert, DA I Administrator,

Re: Your Embezzlement of Prisoners' Funds + Racketeering.

Mr. Schwochert:

This letter is to ask you to cease + desist the following criminal activities + that you refund the monies illegally taken (noted below) + revert to the WDOC's prior (to D.A.I. P+P 309.45.02) practice for garnishing prisoners' monies for valid court-ordered obligations.

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Although you insinuated that **Act 355 (2016)** authorized/commanded you to do so in your 21 June 2016 letter to all D.A.I. prisoners, nothing in the Act even suggested that the W.D.C.'s prior practice of only taking 25% from prisoners' wages + gift funds wasn't reasonable + that 50% should be taken + taken from prisoners monies along with 50% more for obligations prisoners might owe for multiple criminal cases. The legislature had the chance to specify this, like it amended stat. §301.32(1) to say that deductions could now be made from gift funds (sent to prisoners) for restitution ordered by courts. That the legislature did not specify that 50% of a prisoners money should be taken for obligations, along with another 50% for each case a prisoner might owe money on, indicates the legislature did not intend for you to decide to do so. State ex rel. Harris v. Larson, 64 Wis.2d 521, 527 (1974) ("... if the legislature did not specifically confer a power, it is evidence of legislative intent not to permit the exercise of power.") Without any changes in the relevant statutes (i.e. §301.31, §301.32(1) + §973.08(1)), you reconstructed statutes that the WDOC + DA I construed otherwise for over 30 years - that is impermissible, not only per State ex rel. Harris, but per the rationale behind Butzlaff v. WI Personnel Com., 166 Wis.2d 1028, 1031-32 (Ct. App. 1992) (The "regular and repeated interpretation of [a] statute... over a period of time by the agency charged with the duty of administering [it]" is to be respected), + Kimble v Marvel Entmt, LLC, 135 S.Ct. 2401, 2409 (2015):

"Overturning precedent is never a small matter.

....

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... stare decisis [the fundamental legal principle that courts adhere to their prior decisions] carries enhanced force when a decision... interprets a statute. Then Congress can correct any mistakes it sees"

WI's "Congress" did fix any mistakes in Act 355 (other than that restitution could also be taken from gift funds) because it didn't see any. It is not your place to write law for them.

Likewise, despite 30 years of WDOC & DAII precedent, you apparently:

1) directed prison staff to take monies from prisoners to pay supposed debts that are not based on a judgement of conviction (J.O.C.) or a judgement in a civil case that has been delivered to prison staff for execution (e.g. attorney fees), which you must know you lack the authority to do, because in your very P+P 309.45.02, you reference Stat. § 301.328, which requires prison staff to get a judgement from the court in order to deduct monies from prisoners for "litigation loans", which prisoners already signed their agreement to pay! Yet you pretend to believe you have the authority to take 50% of prisoners' pay and gift funds for "obligations" that are not even declared in a judgement?!

2) directed prison staff &, apparently, the bill-collection business "Marquis", to not merely passively process judgements against prisoners & impose those debts on prisoners, but to search for debts and J.O.C.s that weren't delivered to prison staff, then take 50% of prisoners' pay & gift funds for those "debts". Act 355 did not authorize you to act as a bill collector nor to hire a bill collector.

3) suddenly reconstrued the phrase "[for] the benefit of the prisoner" in Stat. § 301.32(1) to authorize prison staff to take monies from prisoners' gift funds, against their wishes, to pay debts beyond surcharges & restitution, when the legislature's specification in the statute that such funds may be used (in a "reasonable" amount) for surcharges & restitution but makes no mention of "other debts" reveals that the legislature did not intend to authorize your deductions. See State ex rel. Harris, supra at id.

4) incited prison staff to re-impose debts on me & other prisoners that I/we paid years ago, based on dubious information they dug up (e.g. CCAP), contrary to State v. Bonds, 292 Wis.2d 344, 371-74 (2006) (Explaining that CCAP is not a reliable source of information, as the site itself cautions) and

Due Process clause, e.g., Anderson-el v. Cooke, 334 W.2d 646, 636 (2000) (When prison officials act outside their authority by not providing due process, the action is illegal), and, Lindell v. Schmeiter, 2006 U.S. Dist. LEXIS 7519 * 3-4 (W.D. Wis. 29 Jan. 2007) (Prison officials may not arbitrarily deprive prisoners of protected interests); King v. B.O.P., 415 F.3d 634, 637-38 (7th Cir. 2005) (Due Process clause protects prisoners' use of their money) and the Takings clause, see McIntyre v. Bayer, 339 F.3d 1097 (9th Cir. 2003) (Taking prisoners' interest from account without "just compensation" is a 5th Amend. claim)

(6) direct prison staff, under DAI Pt B 309.45.02 III. c. to not refund to prisoners money staff wrongfully took from prisoners, which shows that you expected money would be wrongfully taken from us.

I/we am/are asking you to end these unlawful practices, policies & actions, which violate these state laws

3943.20 Theft, sub. (b); 3946.1a Misconduct in public office, sub (a), and 3946.68 Simulating legal process, sub (1r),

and these federal laws

18 U.S.C. 5666 Theft... concerning programs receiving federal funds, subs (a)(1)(i) & (ii); 31956 Laundering of monetary instru- ments, sub (a)(1)(A)(i); 3196a Prohibited activities, subs. (a) - (d),

and 31963 Criminal penalties [for RICO Act]

and have caused these illegal debts to be imposed on me

[Describe each debt - the amount, what it's for, why it's illegal; \$ 200, attorney fees, not ordered by any judgement]

resulting these monies being taken from me

[State how much was taken, when it was taken & for what debts: \$15, for attorney fees, taken on 2 Jan. 2017 from gift funds]

Mr. Schwochert, please conform with the law, return the stolen monies and correct your policy.

Very Truly
[Sign Here]

cc: file
Schwochert
LUI media entities.

Attachment B

INMATE COMPLAINT

OFFICE USE ONLY

| | | |
|---------------|----------------|-----------------------|
| DATE RECEIVED | COMPLAINT CODE | COMPLAINT FILE NUMBER |
|---------------|----------------|-----------------------|

INSTRUCTIONS FOR INMATE: COMPLETE ALL SECTIONS OF FORM. Do not use a highlighter or marker on this form. The form may be returned to you if you submit an incomplete form or if you do not follow the instructions. Print clearly, illegible forms will not be processed. See reverse side for more information.

| | | | |
|---|------------------|-----------------------------|----------|
| INMATE NAME (if group complaint, enter name of <u>spokesperson</u>) [Spokesperson's Name] | DOC NUMBER | HOUSING UNIT | FACILITY |
| LOCATION OF INCIDENT Our Prison's Biz. office & DAI Hdqtrs | DATE OF INCIDENT | TIME OF INCIDENT ongoing | |

ANSWER THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED:

BRIEFLY STATE WHO OR WHAT IS THE ONE ISSUE OF THIS COMPLAINT?

On [Write the date you mailed letter] I wrote the DAI Director, asking him to cease illegally taken our money & return what has already been illegally taken. Mr. Schwochert has declined to do so.

PRIOR TO SUBMITTING THIS COMPLAINT, HOW DID YOU ATTEMPT TO RESOLVE YOUR ONE ISSUE AND WITH WHOM?

Wrote Jim Schwochert on [Write the date you mailed letter]. A copy of the letter is attached. Please scan it into the file then return it to me.

WHAT WAS THE RESULT OF YOUR ATTEMPT TO RESOLVE THE ONE ISSUE?

My request was not granted [Explain whether or not you received a response. If you did, attach it & ask them to scan it in & return it.]
[File this if you don't get a response to you letter w/in 11 days]

WHAT ARE THE DETAILS SURROUNDING THIS COMPLAINT?

The details are fully provided in my attached letter, which I hereby incorporate by reference into this complaint as though fully written here.

Co-Complainant Signatures (allowed per § Doc 310.10(a))

- They've had money taken in the same illegal manner as have I:

| | |
|------------|------------|
| 1. _____ # | 5. _____ # |
| 2. _____ # | 6. _____ # |
| 3. _____ # | 7. _____ # |
| 4. _____ # | 8. _____ # |

Better start getting these signatures ahead of time, so you can file this 11 days after your letter is sent!

| | | |
|--|--|-------------|
| SIGNATURE OF INMATE [Spokesperson signs here] | By our forenoted signatures we waive all confidentiality for this complaint & its resulting file & appeal, so that anyone - journalists, lawyers, etc - may view +/or copy parts or all of this material. Continue on reverse if more space is needed. | DATE SIGNED |
|--|--|-------------|

You can add more co-complainant signatures here, if you need to. Go ahead & attach documents that verify money was illegally taken, like trust-account statements, for each co-complainant (if you wish); just be sure & describe them in this form - e.g. "Exhibit 3 is \$\$\$" - & you can use multiple forms if one isn't enough to hold all the signatures or info.

ACTION REQUESTED That the relief I sought in my letter to Schwachert be granted

INSTRUCTIONS FOR COMPLETING THE INMATE COMPLAINT FORM

All inmates are required to follow the chain of command. You must speak with appropriate staff in an effort to informally resolve your issue before filling out this form. If you have not done so, the Institution Complaint Examiner (ICE) may direct you to, prior to accepting the complaint. The Department of Corrections (DOC) shall not exclude impaired, handicapped, illiterate or Limited English Proficiency (LEP) inmates from full participation in the Inmate Complaint Review System (ICRS).

1. Complaints filed by an inmate or group of inmates shall:
 - a) Be typed or written legibly on forms supplied for that purpose. The facility shall make these forms accessible to inmates.
 - b) Include the original inmate signature.
 - c) Not contain language that is obscene, profane, abusive, or threatens others, unless such language is necessary to describe the factual basis of the substance of the complaint.
 - d) Be filed only under the name by which the inmate was committed to the department or the legal name granted by a court.
 - e) Contain only one issue per complaint, and shall clearly identify the issue.
2. Inmates may not file more than two complaints per calendar week, except that the ICE may waive this limit for good cause. The ICE shall exclude from this limit sexual abuse and sexual harassment or PREA complaints, and complaints that raise health and personal safety issues.
3. An inmate shall file a complaint within 14 calendar days after the occurrence giving rise to the complaint, except that the ICE may accept a late complaint for good cause.
4. Use of the ICRS is confidential, however, confidentiality may be waived if the security, safety or health of the institution or any person is involved.
5. If your complaint contains a false statement, making that false statement outside the ICRS constitutes the offense of DOC 303.32. Lying about an employee.

NOTE: The ICRS is governed by the rules in chapter DOC 310, Wisconsin Administrative Code. For more information on using the ICRS, please review this chapter.

All sexual abuse and sexual harassment complaints submitted to the ICRS shall be immediately redirected and referred for a sexual abuse and / or sexual harassment investigation.

The ICE will acknowledge your complaint with an ICE Receipt, or return the complaint to you for correction or with further instructions, within 5 working days of receiving your complaint submission.