

To Be Posted on jsonline.com or jrn.com, in response
to Gina Barton's 20 Feb.'17 article

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"Wisconsin inmates seek John Doe probe into money withheld from prisoner accounts" (you can comment directly on the article)
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From: Nate A. Lindell #303724 WSPF P.O. Box 9900 Boscobel, WI 53805

Again the Jrn. Sent. misstated the facts & the law in an article concerning prisoners (They previously did so in "PolitiFact" article by Tom Hertscher, regarding Sen. Taylor's effort to delete the "convict exception" from the WI Constitution's ban on slavery. I explain these misrepresentations in a 21 Dec. 2016 post on my blog - <http://betweenthebars.org/blogs/540/>). And, again the WI D.O.C. lied in their statements.

Bill Lueders 16 Feb. '17 article in the isthmus.com explained the matter more accurately.

I'm the prisoner who wrote the John-Doe Petition (J.D.P.) for F.F.U.P., so I understand the facts & law very well.

Let me explain

Facts

1) By saying that we earn "less than \$1 per hour," the article suggests that we may earn... 95¢ per hour, or some amount approaching \$1 per hour. Actually, per Dept. Adult Inst's (D.A.I.) Policy & Procedure (P+P) #309.55.01, average pay is 23.5¢ per hour, with a sliver of prisoners being paid the highest rate of 42¢ per hour. We are indeed slaves.

2) Contrary to the article, the J.D.P. does not claim that "errors" occurred, due to switching to a new computer system or otherwise. The J.D.P. charges that Thefts occurred, intentional, illegal takings of our money, based on a new D.A.I. P+P (i.e. #309.45.02) enacted by the newly promoted D.A.I. Administrator Jim Schwochert. The article's discussion of "glitches" with the new system" isn't relevant to the J.D.P.

The law

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2016 Act 355 amended Stat. § 301.32(1), so that the WDOC could take money from gift funds sent in from our friends/family not only for surcharges courts imposed but also for restitution courts ordered us to pay. But nothing in the Act authorized or required prison officials to begin taking 50% from those funds for restitution + surcharges, nor to take 100% of those funds if such is owed for two or more cases — yet that is what the new P+P says + how WDOC staff are enforcing it! Given that for the last 30+ years the WDOC has construed the relevant statutes as authorizing them to take no more than 25% in total for such fees, even if prisoners owe such debts in multiple cases, it impermissible for Schwochert to take up office + reconstrue the statutes, particularly in this unreasonable manner. 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 power"), Butzlaff v. WI Personnel Com., 166 Wis.2d 1028, 1031-32 (Ct. App. 1992) (Courts defer to "regular and repeated interpretation of [a] statute... over a period of time by the agency charged with the duty of administering [it]" (cites omitted)).

A principle known as stare decisis, adhered to by the courts also reveals Schwochert's irrational trashing of precedent to be illegal. As explained in Kimble v. Marvel Entm't, LLC, 135 S.Ct. 2401, 2409 (2015)

"Overturning precedent is never a small matter. Stare decisis — in English, the idea that today's Court should stand by yesterday's decisions — is a foundation stone of the rule of law. [citation omitted]... it promotes the evenhanded, predictable, and consistent development of legal principles,... and contributes to the actual and perceived integrity of

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the judicial process" (internal quotations & cites omitted) Such considerations are equally important in the administrative branch, particularly within the prison system, which is meant to enforce the law. And.

"... stare decisis carries enhanced force when a decision... interprets a statute. Then Congress can correct any mistake it sees."

Himble, supra, at id. (cites omitted)

Our legislature had a chance to correct the WDOC's practice of taking only 25% of our funds for court debts, when it crafted 2016 Act 355. That it did not do so by directing that a higher percentage be taken reveals it saw no mistake.

Schwochert's reconstruction of the statutes is clearly illegal, particularly given that Wis. Admin. Code § DOC 309.465 specifies — as it has for decades — that only 25% be taken from prisoners' pay &/or gift funds for a specific surcharge, which, no doubt, is why the WDOC only took 25% for other obligations as well.

Lies By the WDOC

In the article WDOC spokesperson/propagandist Tristan Cook is quoted, "If we determine that money was taken outside of our policies, it can be refunded."

The policy itself says, P&P 309.45.02 III. c., that no refunds may be given, but prisoners must get the money from where it was distributed to. This is like someone robbing a bank, giving the money to someone else & then claiming they have no duty to return the money.

The reason the WDOC does this is because, as revealed in deputy D.A.I. Administrator Marc Clements response to my letter, which is attached to the J.D.P. (Exhibit 20), they see us as chattel slaves, who have no right to our money, even though our state Supreme court has ruled otherwise in Lewis v.

Sullivan, 188 Wis.2d 157, 169-170 (1994) (Holding that prisoner could sue over wrongful taking of his property & denial of property), as have federal courts. E.g., McIntyre v. Bayer, 339 F.3d 1097 (9th Cir. 2003), including the one that sits over WI. See King v. B.O.P., 415 F.3d 634, 637-38 (7th Cir. 2005). A

Delusions of Omnipotence

In Gov. Walker's recently announced budget proposal, the state will consume 70+ billion tax dollars, over the next one or two years (I forgot which). Also over the next two years the WDOC, which houses around 20,000 prisoners, will consume over 2 Billion dollars — that's over 100,000 dollars per prisoner per year.

You are not getting drug-treatment programs, higher education, counselling nor therapy for thousands of emotionally disturbed + mentally ill prisoners warehoused by the WDOC.

Taxpayers gave the WDOC a blank check, so, it's not surprising that they think they are our gods.

Taxpayers better hope their treasury's full, because they will be writing thousands of checks for prisoners who will be suing the WDOC over stealing their money, suing not only under state law, the costs of which for the courts to simply process the suits + the Dept. of Justice to begin defending will soar into the hundreds-of-thousands of dollars range. But the WDOC is also violating the R.I.C.O. Act, which prisoners can sue them under for mandatory "triple damages," three times what was stolen. (My outline for filing these suits will be posted on my blog on about... April 20, 4:20 baby!)

The WDOC's prisoncrats do not care. Wis. Stats. § 895.46 requires the state to pay for their attorney + any money they must pay..

"...unless it is found by the court or the jury that [prisoncrats] did not act within the scope of their agency."

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That is the heart of the issue: "did Mr. Schwochert & his flunkies act within the scope of their authority?"

Clearly they did (& are) not, thus it's likely that they will have to pay for their racketeering out of their own greedy pockets.

The only way the W.D.O.C. will escape being declared the "corrupt organization" that those of us experienced with it have long known it to be is if the Dane Co. courts refuse to refer our J.D.P.s to the D.A., the D.A. refuses to properly investigate them &/or the U.S. Attorney for the Western District of Wisconsin ignores what should be an avalanche of demands by free-world supporters of prisoners to investigate the RICO violations.

Surely other prisoners explained how little the W.D.O.C. provides to us — no nail clippers, no shower shoes, no postage, no deodorant, e.g. — & thus why we need our slave wages. So I'll part by noting the R.I.C.O. laws being violated.

§1963, the RICO criminal statute, which prohibits any organization or enterprise from engaging in a "pattern of racketeering activity" or conspiring to do so. ^{18 U.S.C.}

A "pattern of racketeering activity," per §1961(5), is two or more acts by any member of the enterprise within ten years which violate: §1962 (a) (using illegally obtained \$ in ways that concern interstate business), (b) (maintain such an enterprise), (c) (collect unlawful debts for the enterprise), (d) (conspire to these things); or §1956 (a)(1) (using money known to be illegally obtained for any financial transaction) (A)(i) (intended to "promote" the illegal activity) & possibly §1344 (bank fraud), §1960 (illegal money transfers). (Given that the W.D.O.C. receives millions from the feds, they're guilty of §666 Theft, bribery concerning programs receiving federal funds, sub. (a)(1)(i) & (ii))

§1964 authorizes injured parties to sue RICO violators, for three times what they lost.

Attach as a .pdf, if possible,
a copy of the J.D.P. & the
Guide on how to file it.