

My Ongoing Fight to Enforce Wisconsin's Public Records Laws
Regarding Prison Officials' Retaliatory Treatment, Based on
My Litigation and Publishing Exposés About Prison Practices

by Nate A. Lindell, Created 18 May 2026

On April 20th, 2026, the Wisconsin Court of Appeals granted my Motion to Dismiss the Columbia County Sheriff's Office's appeal from the February 4th, 2026 Order of Circuit Court Judge Roger Klopp, which directed the Sheriff's Office to either turn over to me their records regarding their investigation into an incident at the Columbia Correctional Institution (C.C.I.), or turn those records over to Judge Klopp along with an explanation as to how the records were lawfully denied to me.

Unlike in federal courts, in Wisconsin state courts the filing of a Motion for Reconsideration does not stay the deadlines for appealing an Order that reconsideration was sought for. If the Order that appellate review is sought for is interlocutory, meaning that it did not resolve the entire case, then Leave to File an Interlocutory Appeal must be filed within 14 days of such an Order, per Wis. Stat. § 809.50(1).

Nor may a party appeal from the denial of a Motion for Reconsideration if the Motion merely re-raised issues that were already resolved, as to permit such an appeal would undermine the 14-day time limit of § 809.50(1). See State ex rel. Kramer v. Alderson, No. 2013AP1125, 2014 WL 12670788, at *1 (Wis. Ct. App. Dec. 30, 2014)(Cites omitted.)

Because, as Judge Klopp noted in his February 4th 2026 Order

denying the Sheriff's Office's Motion for Reconsideration, the issues raised in the Motion were previously raised and rejected by Judge Klopp, and the Sheriff never filed a Petition for Leave to file an Interlocutory Appeal, in an Order dated April 3rd, 2026, the Wisconsin Court of Appeals granted my Motion to Dismiss the Sheriff's Appeal for Lack of Jurisdiction.

That sent the case back to Judge Klopp, for compliance with his November 24th, 2025 Order.

However, the attorney for the Sheriff's Office, Gunnar Horstman, instead of complying with Judge Klopp's months old Order, instead sent the Judge a letter asking for more time to provide the records in camera.

So, I filed a Motion to Find the Sheriff's Office in Contempt, along with a separate Motion to Sanction Attorney Horstman for filing and pursuing a frivolous defense rather than simply giving the records to the judge and telling him why they thought it was lawful to deny them to me.

On May 12th, 2026, Judge Klopp conducted a Zoom hearing to consider arguments regarding both of my motions. At that hearing the two attorneys who appeared for the Sheriff's Office (the other one was Horstman's supervisor) conceded that they conferred with the W.D.O.C. and the W.D.O.C. had no objection to the Sheriff giving the records that they obtained from the W.D.O.C. to me, after, for over two years, claiming that they weren't releasing those records because they were concerned that the W.D.O.C. might not want those records released. Such a speculative excuse for not releasing records isn't sufficient reason for denying records. See

John K. MacIver Inst. for Pub. Pol'y, Inc. v. Erpenbach, 2014 WI App 49, ¶¶ 23-26, 354 Wis.2d 61, 77-80, 848 N.W.2d 862, 870-71 (Wis. App. 2014).

Despite withdrawing their main excuse for denying Lindell the records from their investigation into Handl's sham accusation, at the May 12th hearing Judge Klopp decided that he would still review the records in camera and determine what parts of those records to release to me. (That is not how Wisconsin's Public Records Laws are supposed to work. The judge is only authorized to determine whether or not the reasons given by the Records Custodian for denying records was lawful. See Friends of Frame Park, U.A. v. City of Waukesha, 2022 WI 57, ¶ 29, 403 Wis.2d 1, 21-22, 976 N.W.2d 263, 273. When an excuse for denying records is dropped, there is nothing for a judge to review -- the records must be released.

At the May 12th hearing, Judge Klopp asked me what amount of statutory and punitive damages I wanted, and why I believe those amounts are warranted. I asked for 1,000\$ in statutory damages, allowed by Wis. Stat. § 19.37(2)(b), because the denial of records was willful and intentional (I requested the records over two years ago). I asked for over 5,000\$ in punitive damages, because the 5,000\$ in punitive damages that was awarded to a prisoner in Kalafi v. Brown, W.D. Wis. Case No. 16-CV-847-slc for his suit about W.D.O.C. officials punishing him for posting an article on his blog was insufficient to stop the W.D.O.C. from enacting P&P 300.00.82, which directs staff to do that very thing, which was enacted three months after the Kalafi decision, a case in which I testified for Kalafi.

Judge Klopp said that he would render his decision within 30 days.

The records that I sought concern staff at the Columbia Correctional Institution (C.C.I.) punishing me for having an article posted on Facebook.com/PrometheusWrites, which criticized W.D.O.C. officials for violating the Prison Rape Elimination Act (P.R.E.A.) and having another article published on The Progressive's website, which argued for treatment of P.T.S.D. within prisons.

Due to that punishment, I was fired from my tutoring job, stripped of the single cell that I'd earned from years of good behavior, then I was ordered to move into a two-man cell with Ben Handl, a prisoner whom staff deemed so unstable that they declined to put anyone else in with for weeks prior to staff moving me in with him.

Several hours after I was moved in with Handl, Handl bit himself in front of staff, was removed from the cell, told staff that I "touched his butt." He was moved to another unit, and I was put in Seg "pending a PREA investigation."

I was held in filthy conditions, denied cleaning supplies, and much of my property was destroyed, including and mainly art and writings that were irreplaceable.

Ironically, the P.T.S.D. article that I was punished for having published noted that I was diagnosed with P.T.S.D in part due to experiencing childhood sexual abuse and that I was in prison for killing someone because I believed that they sold child porn.

During the almost 30 years that I'd been in prison, I'd never been accused of sexual misconduct.

The core reason that I sought these records was that they

would confirm that C.C.I. officials knew that Handl's accusation was false and used it as a pretext to justify doing what they really wanted to do: punish me for winning a lawsuit and for publishing articles that out the W.D.O.C. for violating the P.R.E.A. and refusing to treat P.T.S.D. (The WI Dep't of Justice signed their settlement with me on July 31st, 2023, the same day that C.C.I. officials issued me Conduct Report (C.R.) #00334012, which charged me with violating DAI P&P 300.00.82 by having the articles posted on my Facebook page and The Progressive's website. That settlement, of W.D. Wis. Case No. 18-CV-895, was for my suit accusing staff in the state's Supermax of setting me up to be stabbed in my head. I won 125,000\$.

I already obtained most of the W.D.O.C.'s records related to the Handl incident, from prevailing in my Public Records action against the W.D.O.C. in Dane County Circuit Court Case No. 24-CV-1066. In that case I also ended the W.D.O.C.'s blanket ban on releasing body-camera footage under the state's Public Records Laws.

Updates and additional materials, including the records I have and will obtain, will be available on:

u/PrometheusWrites
PrometheusWrites.neocities.org
Facebook.com/PrometheusWrites

Attachments:

April 3rd, 2026 Order of WI Court of Appeals, for Appeal No. 2026AP416;

My Motion to Dismiss Appeal for Lack of Jurisdiction;

Judge Klopp's Feb 4th, 2026 Order denying Motion for Reconsideration;

Judge Klopp's November 24th, 2025 Order Granting my Mandamus Petition;

June 22nd, 2018 Order for Kalafi v. Brown, Case No. 16-CV-847;
March 14th, 2019 Judgement for Kalafi v. Brown, above;
the P.R.E.A. post that I was punished for in C.R. #00334012;
C.R. #00334012;
the Disciplinary Decision for C.R. #00334012;
the P.T.S.D. article that I was punished for having published.
Judge Mitchell's 3 June 2025 order requiring release of records
and 27 Jan. 2026 Order denying reconsideration, both for Case
Anyone may contact me through the mail at: No. 24-CV-1066

Nate A. Lindell #303724
[name of my current prison --look it up on the WDOC's site]
P.O. Box 189
Phoenix, MD 21131
U.S.A.

or through my email address: Natester75@gmail.com

or through my forenoted pages/profiles.

This litigation and journalism costs a lot, financially and in
persecution by prison officials who want to decieve the public
aboutwhat is really happening in their prisons.

Pleasae donate. My supporters run a savings account, and you may
donate to it and help fund my endeavors at informing the public
and fighting for the public's right to obtain records (including
video footage --the Fing ACLU didn't do that; I did) about what
is really happening in Wisconsin prisons. Donations may be sent to
my bank account at:

CasApp: \$PrometheusWrites

PayPal: PrometheusWritesMedia@gmail.com

Venmao: Natester75

If you find someone else who is fighting harder and more effect-
ively, support them instead.



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DISTRICT IV

April 3, 2026

To:

Hon. Roger L. Klopp
Circuit Court Judge
Electronic Notice

Julie Kayartz
Clerk of Circuit Court
Columbia County Courthouse
Electronic Notice

Gunnar Arthur Horstman
Electronic Notice

Nate A. Lindell 303724
Stanley Correctional Institution
100 Corrections Dr.
Stanley, WI 54768

You are hereby notified that the Court has entered the following opinion and order:

2026AP416

Nate A. Lindell v. David Clark (L.C. # 2025CV175)

Before Graham, P.J.; Blanchard, and Kloppenburg, JJ.

Pending before this court is respondent Nate Lindell's pro se motion to dismiss this appeal for lack of jurisdiction. On March 9, 2026, we issued an order holding the motion in abeyance pending the filing of the record on appeal. The record has since been filed, and we have examined it consistent with our duty to determine our jurisdiction in every appeal. *See Carla B. v. Timothy N.*, 228 Wis. 2d 695, 698, 598 N.W.2d 924 (Ct. App. 1999). We grant the respondent's motion and dismiss the appeal as prematurely filed.

Appellant David Clark, by counsel, filed a notice of appeal on February 16, 2026, seeking to appeal a circuit court order entered on February 4, 2026. The February 4 order was issued in response to Clark's motion for "reconsideration and relief" from a prior order entered on November 24, 2025. In the November 24 order, the court granted Lindell's request for

disclosure of records related to Lindell's alleged sexual assault of a prison official. The November 24 order states, in relevant part:

The Court orders that Clark shall provide these records within 45 days of this decision or provide a copy of the records to this Court for an in-camera review and explain to this court why you believe the records or which portions of the records should not be disclosed to Lindell.

The circuit court's November 24, 2025 order is not a final order appealable as of right because it does not dispose "of the entire matter in litigation" as to the parties. WIS. STAT. § 808.03(1). If Clark desired appellate review of the nonfinal November 24, 2025 order, he would have had to file a petition for leave to appeal within fourteen days pursuant to WIS. STAT. RULE 809.50. Clark did not file any petition for leave to appeal.

On January 8, 2026, Clark filed in the circuit court a motion for "reconsideration and relief" from the court's November 24, 2025 order. Clark cited WIS. STAT. § 806.07(1)(h) in the motion, but did not develop any argument related to that statute in his supporting brief. In an order entered on February 4, 2026, the circuit court construed Clark's motion as a motion for reconsideration and rejected each of his arguments. The court then ordered Clark to provide the court with the records Lindell had requested, for in-camera review. The court directed Clark to provide a memo listing any items that he thought were sensitive or should be redacted. The court stated that, after an in-camera inspection, it would "decide which records, if any, the Court will require the respondent to provide to the petitioner." The court further stated that it "will entertain a written request from the petitioner in regards to what type of information the petitioner is most interested in and why."

The circuit court's February 4, 2026 order does not dispose of the entire matter in litigation and clearly contemplates further action by the parties and by the court. Accordingly, the February 4 order is not a final order appealable as of right. *See* WIS. STAT. § 808.03(1). From a review of circuit court docket entries, it does not appear that any final order has yet been entered in this case. Accordingly, we dismiss this appeal because it was prematurely filed. *See Kenosha Pro. Firefighters v. City of Kenosha*, 2009 WI 52, ¶32, 317 Wis. 2d 628, 766 N.W.2d 577.

IT IS ORDERED that the respondent's motion to dismiss is granted, and the appeal is dismissed as prematurely filed.

Samuel A. Christensen
Clerk of Court of Appeals

STATE OF WISCONSIN

DISTRICT IV

Appeal No. 2026AP000416

Circuit Court Case No. 2024AP000175

State ex rel. Nate A. Lindell,

Petitioner-Appellee

v.

David Clark, Columbia County Sheriff's Records Dep't,

Respondent,

Respondent-Appellant

APPELLEE'S NOTICE & MOTION, PURSUANT TO WIS. STAT. §
809.14 TO DISMISS APPEAL FOR LACK OF JURISDICTION.

To: Clerk, Wisconsin Court of Appeals, 110 E. Main St., Ste. 215 Madison,
WI 53701-1688; Attorney Gunnar Horstman, 112 E. Edgewater St., Portage,
WI 53901; Hon. Roger Klopp, Branch 3, Columbia County Circuit Court, 400
DeWitt St., PO Box 587 Portage, WI 53901-0587.

PLEASE TAKE NOTICE, that the fornamed appellee, Lindell, proceeding
pro se, hereby moves this court pursuant to Wis. Stat. § 809.10(e), to dismiss
the appeal due to this court lacking jurisdiction based on the untimeliness of
the Notice of Appeal.

I. Relevant Facts.

Lindell filed a Petition for mandamus regarding records related to the Columbia County Sheriff's Office's investigation into an alleged sexual assault regarding Lindell (another prisoner claimed that Lindell had slapped his butt). The case was transferred to Columbia County from Dane county.

The records would include body-cam recordings from the investigating Detective, as well as whatever materials the prison provided to the Sheriff's Office.

On 24 November 2025 Columbia Circuit Court Judge Roger Klopp denied the respondent's Motion to Quash the Writ, issued a Writ of mandamus, directing the Columbia County Sheriff's Office to:

- provide these records within 45 days of this decision or provide a copy of the records to this Court for in camera review and explain to this Court why you believe the records or which portions of the records should not be disclosed to Lindell.

Rather than filing a Petition for Interlocutory Appeal from the November 24th Order, rather than complying with Judge Klopp's Order to at least turn the records over for in camera review and explain why they were properly denied, on the date that compliance was due, on 8 January 2026 Attorney Horstman filed a Motion for Relief From Order.

As Judge Klopp concluded in his 4 February 2026 Order, the arguments that the respondent raised in their Motion for Reconsideration were the same arguments that they raised in their Motion to Quash, which the Court explicitly rejected. Worse, as Lindell demonstrated in the Contempt Motion and Supporting Affidavit that he filed on 9 February 2026, Attorney Horstmann misrepresented the facts (e.g. that the accuser was the victim, when the accusation had been jointly rejected by both the Sheriff's Office and the W.D.O.C. investigators, and it was actually Lindell who was the victim of criminal defamation.

The Respondent's Notice of Appeal specified that he was appealing the Circuit Court's 4 February 2026 Order denying their Motion for Relief from Order.

No Notice of Appeal was filed regarding the 24 November 2025 Order.

VII. ARGUMENT

A. By Declining to File a Petition for Review of the 24 November 2025 Non-Final Order, As Wis. Stat. § 809.50(1) Permitted, and Merely Representing Already Rejected Arguments in Their Motion for Relief from Order, the Appellant Forfeited Their Right to Seek Review of the Circuit Court's 24 November 2025 Order.

As this court reasoned in State ex rel. Kramer v. Alderson, No. 2013AP1125, 2014 WL 12670788, at *1 (Wis. Ct. App. Dec. 30, 2014):

Although the notice of appeal was timely filed as to the order denying reconsideration, we noted an appeal cannot be taken from an order denying a motion for reconsideration that presents the same issues as those determined in the order sought to be reconsidered. See Silverton Enters., Inc. v. General Cas. Co. of Wisconsin, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). The concern is that a reconsideration motion should not be used to extend the time to appeal from a judgment or order when that time has expired. Id.; see also Ver Hagen v. Gibbons, 55 Wis. 2d 21, 197 N.W.2d 752 (1972). Because it was unclear from the record before us whether the motion for reconsideration presented the same issues as those determined in the order dismissing Kramer's mandamus petition, we directed the parties to address in their appellate briefs whether this court has jurisdiction to review the order denying reconsideration.

This court recently reiterated that point in State v. Riker, No. 2025AP1333–CR, 2026 WL 456836, at *2 (Wis. Ct. App. Feb. 18, 2026):

Both his November motion and the February filing are based on Riker's allegation that the State failed to disclose a computer examination report generated by DCI. We conclude that the motion for reconsideration did not raise any new issues that were not already disposed of by the original order and, therefore, we lack jurisdiction and must dismiss the appeal.

This deprives this court of jurisdiction. See Midwest Env't Advocs., Inc. v. Prehn, 2025 WI App 55, ¶ 28, 418 Wis. 2d 212, 234–35, 26 N.W.3d 347, 358 (Time limit for appealing a denial of motion to dismiss or for summary judgement in pPublic Record case is that of Wis. Stat. § 808.04(1) "within 90 days of entry if notice is not given."); Zellner v. Herrick, 319 Wis. 2d 532, 543 ¶ 27 (Wis. 2009)(Failure to timely appeal a Public Records action deprives appellate court of jurisdiction.)

At best, the respondent had 90 days to appeal the 24 November 2025 Order, which means their Notice of Appeal was due on 22 February 2026, four days ago. And their Notice of Appeal would need to specify that was the Order being appealed. On both accounts, they failed.

B. By Declining to Provide Any New Argument or Evidence in Their Motion for Relief From Order, They May Not Appeal That Order.

Here the respondent seeks to do exactly what this court determined is prohibited in Silverton and Ver Hagen. They filed a Motion for Relief from Order rehashing the same arguments that the Circuit Court already rejected, as a tactic to expand their deadline for filing a Notice of Appeal that really wants to appeal the 24 November 2025 Order.

Permitting this appeal to continue would waste this Court's and Lindell's time, and perpetuate an already unreasonable delay in releasing records, when the respondent's should have spent time explaining to the Circuit Court why, during its *in camera* review, were properly denied.

VIII. CONCLUSION

Petition for Interlocutory

Because the appellant did not file their ~~notice of~~^{Notice of} Appeal within 14 days of the Circuit Court's 24 November 2025 Order requiring them to turn over records for its *in camera* review or to turn the records over to Lindell, as Wis. Stat. §809.50(1) mandates, and their Reconsideration Motion simply represented arguments that were rejected by the Circuit Court in its 24 November 2025

Order, the respondent is barred from appealing the denial of their Reconsideration Motion, rendering this court without jurisdiction and the appeal frivolous.

Rather than this court wasting its time and that of the appellee, this court should advise the appellee to drop their appeal or face sanctions for pursuing a frivolous appeal.

IX. CERTIFICATION

I, Nate A. Lindell, certify that, to the best of my ability as a *pro se* litigant, this Brief conforms to the rules for Reply Briefs articulated in Wis. Stat. § 809.19(4)(b).

Date: 26 February 2026

Nate A. Lindell D.O.C. #303724
Stanley Correctional Institution
100 Correctional Dr.
Stanley, WI
54768
Ph. 715-644-2960

BY THE COURT:

DATE SIGNED: February 3, 2026

Electronically signed by Roger Klopp
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

COLUMBIA COUNTY

BRANCH 3

Nate A. Lindell,

Plaintiff,

v.

Case no. 2025 CV 000175

David Clarke,

Defendant.

Court's Response to Respondent's Motion for Reconsideration

BACKGROUND

The respondent has moved the Court for reconsideration of its prior decision in this matter. The Court will briefly address the respondent's arguments.

The respondent alleges it would be a violation of Marsy's Law to provide the requested records. The Court, if using the suggested rational in applying Marsy's Law to this type of a request, would also be precluded from ordering any discovery in relation to criminal cases as well. Respondent fails to explain how providing these records would equal not treating victims of crime with fairness, dignity, and respect for their privacy. Further, the Court still finds Wisconsin State Journal v. Blazel, 2023 WI App 18, 407 Wis. 2d 472, 991 N.W. 2d 250 persuasive and favoring release of the records requested in this matter. Further, the respondent, in its motion for reconsideration, on Page 4, first paragraph, makes a broad conclusory statement without sufficient support which is not persuasive to this court at all. There is no how, what, where or why of facts which would indicate that any of the suggested harm the respondent alleges will happen, would happen to the other inmate if the records are provided.

Later, on Page 4 of the respondent's brief, the respondent alleges that there is a clear, explicit statutory exception that the disclosure of records is prohibited when it would

"endanger the security, including the security of the population or staff... of any state prison." The respondent goes on to elaborate that if information was released, it could lead to retaliation. There is no additional factual basis provided that would lead the Court to believe that retaliation would ensue from release of the records. It is apparent that the petitioner already knows that the reporting inmate has made a report alleging sexual assault against him. So, the conclusion that if records were provided to the petitioner about allegations which the petitioner is already aware of would increase the likelihood of retribution against the reporting party or employees of the prison does not make sense.

The fourth basis for reconsideration is likewise, unconvincing. The respondent takes the position that it has the records which the petitioner wants. The respondent alleges because it has records which it did not originally produce, that those records could somehow pose a danger to the institution and therefore the respondent should not be required to produce them. The operative word in the argument is "could" affect the safety or security of the institution. The Court needs more than "could." Just because someone says something could happen, without any additional facts to support why that would happen, is not a sufficient basis for the Court to deny access to the records.

The last argument put forth by the respondent also fails to convince the Court to reconsider its previous ruling. Respondent alleges that any record pertaining to a potential criminal prosecution, enforcement action, administrative proceeding, etc. is protected from release. Generally, that would be true if a complaint is filed on day one and the investigating agency or agency prosecuting the alleged offense or violation is actively prosecuting an action arising from the set of circumstances which the records pertain to. However, that is not the case in this matter. The request is for records concerning a complaint made by one inmate against another in 2020, as far as the Court can tell based on the attachment to the petition in this matter. It appears that no prosecution has resulted from the complaint. Further, there is no allegation being made by the respondent that they have a current and active investigation into the matter at this time.

Any records subject to the Court's order in this matter will be reviewed in camera by the Court. If there are particular statements, photographs, or other information which the respondent thinks the Court should redact, the Court would entertain those suggestions at the time of the in-camera inspection. The Court is asking the respondent to provide the Court with a memo listing which items the respondent thinks are most sensitive and should be redacted.

The Court is further requiring the respondent to provide the records requested by March 4, 2026 to the Court so an in-camera inspection of the records may be conducted and the Court can decide which records, if any, the Court will require the respondent to provide to the petitioner. Similarly, the Court will entertain a written request from the petitioner in regards to what type of information the petitioner is most interested in and why.

BY THE COURT

BY THE COURT:

DATE SIGNED: November 21, 2025

Electronically signed by Roger Klopp
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

COLUMBIA COUNTY

BRANCH 3

Nate A. Lindell,

Petitioner,

v.

Case No. 2025 CV 175

David Clark,

Respondent.

Court's Ruling on Petitioner's Motion for Writ of Mandamus

The Petitioner, Nate A. Lindell (hereinafter Lindell) has filed a Petition for a Writ of Mandamus compelling the release of records which are in the possession of the respondent, David Clark (hereinafter Clark).

FACTS

Lindell, on October 29, 2023, requested records from the Columbia County Sheriff's Office requesting:

- (1) Any reports, findings, memos, photographs, or referrals for prosecution in relation to a complaint Lindell filed regarding alleged sexual assault or abuse done by a correctional officer at the Columbia Correctional Institution (hereinafter C.C.I.), and further;
- (2) Any reports, findings, memos, photographs, recordings of audio or video footage, referrals for prosecution, emails or other communications to or from or with C.C.I. officials and members of the Columbia County Sheriff's Office regarding an August 2023 complaint in which Lindell was accused of sexually assaulting another inmate at C.C.I.

Clark, the records custodian for the Columbia County Sheriff's Office provided information requested by Lindell regarding the first set of facts involving Lindell being assaulted by a C.C.I. corrections officer as requested in paragraph (1). It appears from the pleadings that

Clark has sufficiently provided the records requested by Lindell in relation to paragraph (1) of Lindell's October 29, 2023 request.

Clark withheld many of the records and information pertaining to the complaint in which Lindell was accused of sexually assaulting an inmate at C.C.I. requested in paragraph (2) of the October 29, 2023 letter. Clark's response to Lindell's request stated the release of those records could possibly endanger the person named in the report, as well as a statutory exception to the open records law as a basis for not releasing many of the records requested by Lindell. Clark did release some of the reports regarding the sexual assault including an interview of Lindell by Sgt. Leda Wagner, an incident report, and some emails which were requested by Lindell. Clark further stated he withheld any documents, reports, or video provided by C.C.I. because C.C.I. was the keeper of those records. Clark explained that the Columbia County Sheriff's Office was not able to determine if releasing those records would cause an adverse affect on the safety and security of the institution. Clark also cited the fact that the records concerning the alleged assault by Lindell against another resident of C.C.I. were still being investigated.

APPLICABLE LAW

Pursuant to section 19.35(1)(a) Wis. Stats. any requester has a right to inspect any record. There is a strong presumption favoring the release of the records. The presumption is not an absolute one however and a balancing test must be done to determine if there is a public policy interest in keeping the records confidential. *Linzmeier v. Forcey*, 202 WI 84, ¶10, 254 Wis. 2d 306, 646 N.W. 2d 811. (2002). The court must use a balancing test to determine if the presumption of release is outweighed by public policy which provides for not releasing the records. In *Wisconsin State Journal v. Bazell*, 2023 WI App 18, 407 Wis. 2d 472, 991 N.W.2d 450 (2023) The court looked at a situation similar to the matter at hand. There was an allegation of sexual harassment against a member of the Assembly. The Assembly refused to release records relating to the sexual harassment of an employee by a member of the Assembly. The Assembly, in their response, stated the public policy considerations which favored not releasing the records outweighed the public policy considerations in favor of their release. The court found that the balancing test conducted by the Assembly was misapplied and violated the Public Records law. The court ordered a release of the records and awarded reasonable attorney fees.

In this matter, Clark has withheld records relating to the complaint in which Lindell is accused of sexually assaulting an inmate because release of those records would potentially endanger the persons named in the report. Clark does not state how the release of the records would endanger the persons named in the report. The proposition that release would endanger the persons referred to was conclusory and made without any sufficient justification or explanation.

Clark also refused to turn over any documents, reports, or video provided by C.C.I. because C.C.I. was the keeper of those records. Additionally, Clark stated that the Columbia County Sheriff's Office was not properly situated to determine whether releasing records from C.C.I. could cause an adverse effect on the safety and security of the institution. Similarly, there is not a sufficient factual justification or description as to how the information requested could affect the safety and security of the institution. Hence the balancing test which Clark engaged in making his decision to release or not to release was not adequately performed.

A further basis Clark used to justify not releasing the records requested in paragraph (2) of Lindell's request was that the records pertained to a complaint, investigation, or other circumstances that may lead to a criminal or court proceedings pursuant to §19.35(1) (am)1 Wis. Stats. Clark cites the statutory exception and then argues because it was possible that a fourth-degree sexual assault could be charged as a result of the investigation, the records should not be released. In *Chvala v. Bubolz*, 204 Wis. 2d 82, 552 N.W. 2d 892 the court held that a mere citation to a to the statutory exceptions was not a sufficient basis to withhold the records. This court finds that Clark citing the statutory exemption and stating that there was a possibility criminal charges could be filed did not sufficiently state a public policy basis for denying the release of the records. If Clark actually believed criminal charges were forthcoming, Clark would have stated that rather than asserting there was just a possibility that criminal charges could result from the incident.

DECISION

Due to the Court finding that Clark misapplied the balancing test when competing public interests weigh both in favor of and against release of the requested records and an insufficient statement of public policy reasons for not releasing the records when a statutory exception is cited, the Court is going to order Clark to provide the records requested by Lindell in regards to the second incident which Lindell was seeking records for described as:

"2. Any reports, findings, memos, photographs, recordings of audio or video footage, referrals for prosecution, emails or other communications to or from or with C.C. I. officials and members of the Columbia County Sheriff's Office regarding an August 2023 complaint in which Lindell was accused of sexually assaulting another inmate at C.C.I."

The Court orders that Clark shall provide these records within 45 days of this decision or provide a copy of the records to this Court for an *in-camera* review and explain to this court why you believe the records or which portions of the records should not be disclosed to Lindell.

SO ORDERED BY THE COURT

2018 WL 3104427

Only the Westlaw citation is currently available.
United States District Court, W.D. Wisconsin.

G'esa KALAFI, f/n/a Stanley Felton, Plaintiff,

v.

Lebbeus BROWN, Tim Haines, Craig Tom, Troy Hermans and Shana Becker, Defendants.

16-cv-847-slc

1

Signed 06/22/2018

Attorneys and Law Firms

G'esa Kalafi, Waupun, WI, pro se.

Katherine D. Spitz, Ann M. Peacock, Karl R. Hanson, Wisconsin Department of Justice, Madison, WI, for Defendants.

OPINION AND ORDER

STEPHEN L. CROCKER, Magistrate Judge

*1 On April 5, 2018, this court granted summary judgment to plaintiff G'esa Kalafi, f/n/a Stanley Felton on his claim that defendants retaliated against him in violation of his clearly established First Amendment rights when it punished him for writing an article in which he disparaged defendant Shana Becker and other unnamed members of the psychology staff at the Wisconsin Secure Program Facility, where Kalafi is an inmate. In the same order, the court granted summary judgment to defendant Craig Tom on Kalafi's claim that Tom, who presided over Kalafi's conduct hearing, was a biased decisionmaker. Dkt. 81.

Both sides seek reconsideration of that order pursuant to Fed. R. Civ. P. 59(e). *See* dkts. 84, 88. For the reasons discussed below, plaintiff's motion will be denied and defendants' motion will be granted solely with respect to their contention that I erred in finding defendant Shana Becker liable for damages with respect to Kalafi's retaliation claim.

OPINION

I. Standard of Review

Rule 59(e) allows a party to move the court for reconsideration of a judgment within 28 days following the entry of the judgment. A motion for reconsideration serves a very limited purpose in federal civil litigation; it should be used only “to correct manifest errors of law or fact or to present newly discovered evidence.” *Rothwell Cotton Co. v. Rosenthal & Co.*, 827 F.2d 246, 251 (7th Cir. 1987) (quoting *Keene Corp. v. Int’l Fidelity Ins. Co.*, 561 F. Supp. 656 (N.D. Ill. 1982), *aff’d* 736 F.2d 388 (7th Cir. 1984)). “A ‘manifest error’ is not demonstrated by the disappointment of the losing party. It is the ‘wholesale disregard, misapplication, or failure to recognize controlling precedent.’” *Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (quoting *Sedrak v. Callahan*, 987 F. Supp. 1063, 1069 (N.D. Ill. 1997)). Apart from manifest errors of law, “reconsideration is not for rehashing previously rejected arguments.” *Caisse Nationale de Credit Agricole v. CBI Industries, Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996). Whether to grant a motion for reconsideration “is left to the discretion of the district court.” *Id.*

II. First Amendment/Qualified Immunity Analysis

Citing the same cases cited in their summary judgment briefs, defendants insist that Kalafi's statements in the article found in his cell were defamatory and as such, enjoy no First Amendment protection. They go on to argue that, even if Kalafi's statements were protected, the law establishing such protection was not clearly established at the time he was disciplined, and defendants consequently are entitled to qualified immunity.

Neither of defendants' arguments persuades me that it was manifest error to find that, under clearly established law existing in 2012, Kalafi's statements were protected under the First Amendment even if defendants could prove they were defamatory. Regardless whether the Supreme Court was deciding the precise question before this court, the Court spoke plainly when it declared in *Procunier v. Martinez*, 416 U.S. 396 (1974), that “[p]rison officials may not censor inmate correspondence simply to eliminate unflattering or unwelcome opinions or factually inaccurate statements.” *Id.* at 413. Indeed, in 1979, the Fifth Circuit found that *Martinez* not only barred prison officials from suppressing an inmate's outside correspondence “[e]ven if it is libelous,” but that the case's holding was so clear that qualified immunity was not available to the defendants. *McNamara v. Moody*, 606 F.2d 621, 624 (5th Cir. 1979). Similarly, in *Ross v. Reed*, 719 F.2d 689, 695 (4th Cir. 1983), the Fourth Circuit observed that

*2 in late 1979–early 1980, the law was clear that prison authorities could not as a regular practice censor inmate mail, *even if the letter unduly complains or magnifies grievances or is defamatory*; rather, as was clear, censorship—and other restrictions on inmates' first amendment rights—must be justified by using

narrowly drawn means to further substantial governmental interests in security, rehabilitation, and order.

Id. (emphasis added). Four years later, the Third Circuit reached a similar conclusion, finding that prison officials violated an inmate's clearly established rights under *Martinez* when they punished him for making a false and defamatory statement about a female prison guard in a letter that he had written to the NAACP. *Brooks v. Andolina*, 826 F.2d 1266, 1268 (3rd Cir. 1987).

Defendants acknowledge that the facts in *Brooks* are largely indistinguishable from those in the instant case, and they do not address *Moody*. As for *Ross*, they argue that the case actually augurs in favor of qualified immunity because the court questioned whether the inmate's campaign of writing letters containing false or unsupportable statements even was protected by the First Amendment and granted immunity to the defendants. *Ross*, 719 F.2d at 695.

The facts of *Ross* are inapposite. There, the inmate sent a series of letters to a state records custodian, addressed to a congressman and the news media, in which Ross accused the custodian of deliberately falsifying his parole eligibility date because she was racist and had been bribed. *Id.* at 691-92. At the time, Ross had a lawsuit pending against the custodian in which he alleged that she had violated his constitutional rights by not crediting two years during which he had escaped from prison as time served towards completion of his sentence. *Id.* at 691. Finding that the facts before it were "different in kind" from the situations encountered in *Martinez* and *Moody*, the court agreed with defendants' contention that Ross's letters were not "ordinary correspondence" but were part of "an arguably illegal effort to coerce official action by making allegations known to be false or unsupportable." *Id.* at 695-96.

In this case, by contrast, defendants make no suggestion that they disciplined Kalafi for engaging in a course of conduct aimed "to gain a benefit to which he was not entitled," as the defendants successfully argued in *Ross*. Here, defendants acknowledge that they disciplined Kalafi for making defamatory statements in his article. Under *Martinez*, *Moody* and *Brooks*, that action was plainly unlawful. Indeed, even *Ross* supports this conclusion, insofar as the court found it to be settled law as of 1980 that "prison authorities could not as a regular practice censor inmate mail, even if the letter unduly complains or magnifies grievances or is defamatory." 719 F.2d at 695..

Although it is true that this rule seems to be in tension with the general rule that defamation is not protected by the First Amendment, *see, e.g., United States v. Stevens*, 559 U.S. 460, 468 (2010) (listing defamation among various categories of speech that are not protected), it must be kept in mind that this is not a civil defamation case, but rather an attempt by defendants to justify their censorship of Kalafi's correspondence. As the Supreme Court has explained:

The presumption against prior restraints is heavier—and the degree of protection broader—than that against limits on expression imposed by criminal penalties. Behind the distinction is a theory deeply etched in our law: a free society prefers to punish the few who abuse rights of speech after they break the law than to throttle them and all others beforehand. It is always difficult to know in advance what an individual will say, and the line between legitimate and illegitimate speech is often so finely drawn that the risks of freewheeling censorship are formidable.

*3 *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 558–59 (1975).

Recognizing that “censorship of prisoner mail works a consequential restriction on the First and Fourteenth Amendments rights of those who are not prisoners,” 416 U.S. at 409, the Court in *Martinez* was unwilling to allow “freewheeling censorship” in the prison context, instead holding that censorship of prisoner mail required a showing that it was necessary to further a governmental interest in security, order and rehabilitation. 416 U.S. at 413–14. As noted in the summary judgment order, defendants made no attempt to justify their action on these grounds. Op. and Order, dkt. 81, at 17–18. Taken to its logical conclusion, defendants’ position would authorize censorship of *any* prisoner correspondence deemed to be “defamatory,” a conclusion that the Court flatly rejected in *Martinez*.

Finally, defendants point out that in *Hale v. Scott*, 371 F.3d 917, 918 (7th Cir. 2004), Judge Posner found, without any discussion of either *Martinez* or *Turner v. Safely*, 482 U.S. 78 (1987), that the prisoner’s libelous speech in his prison grievance was unprotected under the Constitution. In defendants’ view, *Hale* signals that the “starting point” for analyzing claims like Kalafi’s is whether the speech is constitutionally protected, or at the very least, that the law in this area is unsettled so as to make qualified immunity available. As explained in the summary judgment order, however, *see* dkt. 81 at 16, *Hale* did not involve outgoing correspondence but rather an internal prison grievance, so it does not control here.

In sum, I am not persuaded that I committed manifest error in concluding that Kalafi’s statements in his outgoing mail were protected from censorship under the First Amendment even if they were defamatory and that the law was sufficiently clear in 2012 that a reasonable official would understand that punishing Kalafi for making such statements was unlawful.

III. Causation

As another ground for reconsideration, defendants argue that because this court speculated that defendants may have had other, non-articulated grounds on which they *could* have disciplined Kalafi apart from the statements in his letter (namely, his possession of Shana Tom’s victim impact statement), they are entitled to a jury trial on the question of causation, that is, whether defendants would have disciplined Kalafi even in the absence of protected conduct. *See* Br. in Supp., dkt. 85, at 9 (citing *Green v. Doruff*, 660 F.3d 975, 979 (7th Cir. 2011)). This is a non-starter. Although

this court speculated that defendants may have had other legitimate grounds on which they could have disciplined Kalafi apart from the content of his letter, *defendants* never claimed to have been motivated by other reasons, apart from Kalafi's protected conduct, for disciplining him. The reason provided by defendants—in the conduct report, the disciplinary decision and their affidavits—was that Kalafi had lied about Becker and other staff in his letter. *See* Aff. of Lebbeus Brown, dkt. 59, at ¶ 10 (“I issued the conduct report for this rule violation based on the statements Felton made in his article.”). There is simply no evidence in the record that defendants would have charged and found Kalafi guilty of lying about staff if it hadn't been for the statements in his letter.

IV. Becker's Personal Involvement

*4 Finally, defendants argue that this court should reverse its finding of liability against defendant Shana Becker because she lacked personal involvement in Kalafi's discipline. Defendants point out that Becker's involvement in the case was limited to reporting her cell-front encounter to security staff and that she did not author the conduct report, ask it to be issued or decide what charges and facts should be included in it.

Defendants raise good points, which in turn raise this question: why didn't defendants make these arguments the first time around? On the issue of personal involvement, defendants objected only as to the warden, defendant Haines; they said nothing about Becker or any other defendant. Even under defendants' *post hoc* version of the facts in which Kalafi was disciplined because he “taunted” Becker with the article, *see* Op. and Order, dkt. 81, at 12-13, it remains the case that Becker merely reported to security staff that Kalafi might have contraband in his cell; she did not issue the conduct report and she had no involvement in the disciplinary proceeding. In other words, defendants could have raised the same arguments during the summary judgment proceeding, but apparently made a deliberate decision not to.

Nevertheless, even if the opposing party completely fails to respond to a summary judgment motion, Rule 56(e) permits judgment for the moving party only “*if appropriate*—that is, if the motion demonstrates that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law.” *Tobey v. Extel/JWP, Inc.*, 985 F.2d 330, 332 (7th Cir. 1993) (emphasis supplied); *see also Big O Tire Dealers, Inc. v. Big O Warehouse*, 741 F.2d 160, 163 (7th Cir. 1984). Thus, “even where many or all of the material facts are undisputed, the court still must ascertain that judgment is proper ‘as a matter of governing law.’” *Johnson v. Gudmundsson*, 35 F.3d 1104, 1112 (7th Cir. 1994) (quoting *Glass v. Dachel*, 2 F.3d 733, 739 (7th Cir. 1993)). Upon reconsideration, I realize that I overlooked this step in awarding summary judgment against Becker.

To recover damages under 42 U.S.C. § 1983, a plaintiff must establish defendant's personal responsibility for the claimed deprivation of a constitutional right. *Sanville v. McCaughtry*, 266 F.3d 724, 740 (7th Cir. 2001). Kalafi argues that a jury could find personal responsibility based on Becker's alleged threat to Kalafi that he wouldn't “get away with” posting his article, the fact

that she was dating Craig Tom, who ordered the search of Kalafi's cell, and the fact that Kalafi did indeed get punished for the article. In Kalafi's view, this sequence of events shows that Becker "collaborated with the right people to make sure Kalafi got punished." Dkt. 91, at 6.

Kalafi has not put forth sufficient evidence to support this theory. Notably, he admits that Becker did not have authority to order a cell search, did not issue the conduct report, did not ask anyone else to issue it and did not testify at the disciplinary hearing. Kalafi has put forth no evidence to dispute Becker's sworn testimony that she thought Kalafi had copies of her victim impact statement in his cell and that her main concern in reporting the incident to security was getting those copies from him. Without more, Becker's alleged warning that Kalafi "wouldn't get away with" posting his article is too vague to be viewed as evidence of Becker's personal responsibility for the way the other defendants proceeded thereafter. Accordingly, because I am persuaded that no facts exist from which a reasonable jury could find Becker to be personally responsible for Kalafi's discipline, I am granting summary judgment to Becker on Kalafi's retaliation claim against her.¹

¹ In light of this ruling, Kalafi will be allowed to submit new damages proffers. See Order, below.

V. Due Process Claim Against Craig Tom

*5 Kalafi asks the court to reconsider its grant of summary judgment to defendant Tom on Kalafi's claim that Tom was a biased decisionmaker because of his relationship with Shana Becker. Kalafi argues that the court erred in finding that Tom "was not aware of what he was authorizing the January 13, 2012 cell and strip search of Kalafi for." Dkt. 88, at 1. He further argues that Tom should have recused himself under governing administrative rules and that Sweeney, the supervisor with whom Tom consulted about his potential conflict of interest, was not authorized to decide whether it was proper for Tom to conduct the hearing. *Id.* Finally, he argues that he adduced sufficient evidence of bias to warrant a jury trial. *Id.*

Kalafi's arguments fail to persuade me that I committed manifest error in granting summary judgment to Tom on this claim. Kalafi's first argument appears to challenge the court's finding in the summary judgment order that "Tom was not directly or substantially involved in the events underlying the disciplinary charge." Op. and Ord., dkt. 81, at 20. Kalafi insists that Tom had to know when he ordered the search of Kalafi's cell that Kalafi was reported to have contraband consisting of copies of the article and/or Becker's victim impact statement, or else he would not have ordered the search. Kalafi further maintains that it is reasonable to infer that Tom reviewed the materials at the time they were found.

Even assuming, *arguendo*, that Kalafi is correct, this would not persuade me that I erred in finding that Tom's involvement with the underlying events was tangential. Kalafi was not charged with possessing contraband. His alleged offense was making false statements about Becker and other PSU staff in his article. How that article came into the possession of prison authorities had no bearing on whether he committed that offense. Kalafi does not dispute that Tom did not

issue the conduct report or that Tom did not ask that one be issued. It is undisputed that Tom was not mentioned directly or indirectly in the article. Under these circumstances, Tom's limited involvement in ordering the cell search six weeks before the conduct report was issued by Brown was not the sort of "direct or substantial" involvement in the underlying facts that would have required him to recuse himself from conducting the disciplinary hearing.

Next, Kalafi points to Wis. Admin. Code § DOC 303.82(1), which provides that members of the adjustment committee are appointed by the warden. According to Kalafi, this means that Tom should have asked the warden, not Sweeney, if Tom should recuse himself from hearing Kalafi's charge given his relationship with Becker. Kalafi further argues that a jury could infer that Tom intentionally vetted his relationship with Becker to Sweeney instead of the warden because he wanted to preside over Kalafi's hearing (presumably so that he could find Kalafi guilty) and he knew that Sweeney would not remove him. Br. in Supp., dkt. 89, at 5.

This a new argument that Kalafi should have raised earlier (there's a lot of that going around in this case); more dispositively, it is unpersuasive. The fact that the warden "appoints" members of the adjustment committee does not establish that it was inappropriate for Tom to raise the potential conflict of interest issue with Sweeney, the institution's security director and his immediate supervisor. Even if it was, Kalafi's suggestion that Tom did so nefariously with a wink and a nudge from Sweeney piles speculation on top of speculation. This will not suffice to defeat Tom's motion for summary judgment.

Finally, Kalafi attacks the court's reasoning leading up to the conclusion that no reasonable fact finder could conclude that Kalafi was denied due process as a result of Tom's participation in his disciplinary proceeding. This is basically a re-hash of Kalafi's summary judgment arguments that fails to reveal any manifest error. Kalafi simply disagrees with the outcome. That's understandable, but relief under Rule 59(e) is not appropriate under this circumstance.

ORDER

*6 IT IS ORDERED that:

1. Plaintiff's motion for reconsideration, dkt. 88, is DENIED.
2. Defendants' motion for reconsideration, dkt. 84, is GRANTED IN PART and DENIED IN PART. It is GRANTED as to the implicit finding of personal responsibility on the part of defendant Shana Becker. That portion of the court's April 5, 2018 opinion and order is REVERSED and summary judgment is GRANTED in favor of Shana Becker. Defendants' motion is DENIED in all other respects.
3. The stay imposed by the court on May 10, 2018 is lifted.

4. Not later than August 3, 2018, defendants shall expunge the DOC 303.271 violation from Kalafi's disciplinary record.

5. Not later than July 13, 2018, Kalafi shall submit a revised detailed damages proffer as described in this court's April 5, 2018 order. Defendants shall have until August 3, 2018 to file a brief in response.

6. If necessary, trial on the issue of damages shall be held on Tuesday, October 9, 2018 at 9:00 a.m., with the final pretrial conference starting at 8:30 a.m. that same morning.

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EXHIBIT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GESA KALAFI

FORMERLY KNOWN AS STANLEY FELTON,

Plaintiff,

1:6-cv-847-slc

v.

LEBBEUS BROWN, TIM HAINES, SHANA
BECKER, CRAIG TOM, AND TROY HERMANS,

Defendants,

JUDGMENT IN A CIVIL CASE

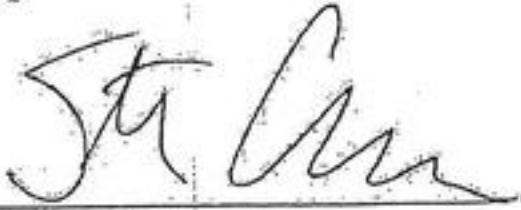
IT IS ORDERED AND ADJUDGED that judgment is entered in favor of defendants
Tim Haines and Shana Becker as to plaintiff Gesa Kalafi's First Amendment retaliation claim
against defendants Haines and Becker; and in favor of defendant Craig Tom as to plaintiff's due
process claim against defendant Tom.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of
plaintiff against defendants Lebbeus Brown, Craig Tom and Troy Hermans as to plaintiff's First
Amendment retaliation claim against defendants Brown, Tom and Hermans.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor
of plaintiff against defendant Craig Tom as to plaintiff's First Amendment retaliation claim
in the amount of \$5,000 in accordance with the jury's verdict on punitive damages.

EXHIBIT

Approved as to form this 13th day of March, 2019.



Stephen L. Crocker
Magistrate Judge



Peter Oppeneer, Clerk of Court

3/14/19

Date

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Prometheus Writes

Nate is an over-the-top funny guy, a genius (literally), 6'5" tall, in good shape, with a good hea...

Readers, this message is being sent with, underneath it, an exposé by WI prisoner Nate A. Lindell, so that you may hold WDOC officials accountable and enact these changes, to bring the WDOC in compliance with the PREA (or face loss of federal funds that refusing to comply with the PREA requires -- see 34 U.S.C. §10153(A)(5)(D)). The changes should include:

- 1) preserve all PREA complaints, whether made in writing or over the phone, until they determine that the complaint won't result in discipline of the complainant (this was not done in Nate Lindell's case, as revealed in the below exposé), complying with 28 C.F.R. §115.71(c) & Exec. Dir. 16-A §IV. E.;
- 2) prohibit practices that deter prisoners from being interviewed about their PREA complaints, such as the strip search noted in the below exposé, complying with 28 C.F.R. §115.67(a) & Exec. Dir. 16-A §I.;
- 3) create a process by which prisoners who believe that they've been deterred from pursuing a PREA complaint (e.g. the strip search regarding Nate) or retaliated against for having made a PREA complaint can complain to & have a non-WDOC agent investigate such complaints and decide them, with the WDOC being obliged to comply with such decisions, complying with 28 C.F.R. §115.67(a), (c);
- 4) vacate the disciplinary action taken against Nate, described below, complying with Exec. Dir. 16-A §V. B. 2 & VI. A. & B.

Please DEMAND that the elected officials will do the right thing, and inform journalists & the public of their response/lack of response to this matter. Your, readers, responses will be shared with Nate, the author of this, posted by his lady friend.

Wisconsin Prisons' Persistent Violation of the Prison Rape Elimination Act (PREA),
Stripping Eligibility for Federal Grants/Funds
by Nate A. Lindell

When I, Nate A. Lindell, was in the Waupun Correctional Institution (WCI) Seg. Unit (RHU) in 2013, I heard from multiple prisoners that staff used "staff-assisted strip searches" to torment/degrade prisoners. I heard multiple incidents where staff physically brutalized prisoners, which the prisoners

later told me culminated in those staff-assisted sexual assaults. I wrote about this in these posts, viewable on betweenhebars.org/blogs/540/ :

"Survivor: Waupun Correctional Institution Seg. Unit," posted around May 2013;

"Ongoing Abuse of Prisoners In W.C.I.'s Segregation Unit," posted around June 2013.

In March of 2013 I filed a grievance (I.C. #WCI-2013-4571) about that practice of needlessly, maliciously doing staff-assisted strip searches, using them as a form of torture. It was a PREA complaint, but wasn't processed as one, wasn't investigated (not surprising, given that WCI staff handled it), which allowed staff to inflict a staff-assisted strip search on me on 10 December 2013. (I'm suing about that in Eastern District of Wisconsin Case #19-CV-704 Lindell v. Pollard, et al.)

Staff-assisted strip searches consist of two guards holding your legs while you're standing, handcuffed behind your back and shackled around your ankles, with two more guards grip your upper arms, a supervisor pointing a taser at you, as a sixth guard uses shears to cut off your clothing then uses his hands/fingers to spread your buttocks (sometimes the guard inserts his fingers up your anus) and lift up your penis and testicles (sometimes groping/fondling them) -- any resistance will result in you being tased, beaten, then the fondling becomes fierce, forceful. Imagine, given that I was raped and molested as a child, am in prison for killing someone because I'd heard he sold child porn -- imagine how a staff-assisted strip search, or even the threat of one, might impact me; and, given that one out of seven men in the general population (the ratio is certainly higher amongst prisoners) have been sexually abused, imagine how such men might be traumatized by staff-assisted strip searches that are unjustifiably done. On 24 August 2013, a guard named Derek R. Schouten got verbally aggressive, threatened to "take me for a walk" (as I was in Seg, I was only supposed to be taken out of my cell for passes & rec, not to go on "walks"), I feared that he was implying that what he meant by taking me "for a walk" was removing me from my cell, pretending that I "resisted" (a common excuse used by guards to justify "using force"), culminating, as usual, with a staff-assisted strip search. Thus, as documented in IR #86652, at 6:40AM that day, I made a PREA call, stating these concerns.

The recording of that PREA call was "summarized" by a Teri L. Nelson, then erased. The summary stated:

"Inmate claims he had a verbal altercation with a CO Shuter (sp?).

Later that night the captain took him out of his cell for no reason and he thinks his intent was to sexually abuse him."

Clearly my call was mischaracterized -- I said nothing about a "captain" doing anything to me. And, the summary stated the impossible, claiming that complained about what a captain did "later that night," when the call was made in the AM (as noted in IR #86652), meaning that I couldn't have complained in the morning about what a captain did later that night. The summary apparently tried to cover for that by misrepresenting the call as having been made by me at 6 PM, contrary to the IR prepared by the guard who facilitated the call.

That was not the end of the mischaracterization of my PREA call, as you'll see.

On 6 November of 2013, two PREA investigators from the WDOC's main office, Bill E. Searls and Ann Turner, appeared at my cellfront in WCI's Seg unit with Sgt. Price and Price asked me if I wanted to be interviewed about my forenoted PREA call, to which I said "Yes." Sgt. Price then told Searls that they needed to strip search me before I was interviewed, which Searls then told me, to which I objected & proposed that they interview me at my cellfront to avoid the "need" to strip search me. (Keep in mind that prisoners were not strip searched before or after being brought out of Seg cells to be interviewed by the psychologist, attend disciplinary hearings, have visits, et cetera -- Searls & Turner could have used the disciplinary hearing room or a visiting booth to interview me confidentially, without "need" to strip search me.)

When Searls said that I would have to endure a strip search before & after he interviewed me, I objected, pointing out how perverse that was given that my PREA call was about harassing strip searches. He became angry, said that I "refused" to be interviewed, repeating himself, then stomped

away. (Ms. Turner said nothing, but didn't intervene either.) Keep in mind what a strip search required me to do, how humiliating they are, especially when I know its unfair, unnecessary & meant to sexually degrade me.

I made a second PREA call about Searls insisting that I endure a strip search in order to be interviewed.

Teri Nelson summarized that call (then deleted the recording of it) as stating:

"Inmate Lindell stated that when the Warden (or who he thinks is the Warden) finally came to speak to him about the incident below. The inmate asked if he would be strip searched before speaking about the complaint. The Warden stated yes and asked Sgt. Price to proceed. At this point, Inmate Lindell stated he didn't think it was fair that he was going to be sexually harassed with a strip search for filing a complaint and refused the search. The Warden waved and walked off."

Ms. Nelson emailed that Summary to the WDOC's then PREA director (Marion G. Morgan) and WCI Security Director (Anthony P. Meli) on 7 November 2013, and Meli emailed Nelson and Morgan back, "This was the PREA investigator Searls that wanted to speak with inmate Lindell about his previous PREA allegation," while PREA Director Morgan emailed Meli and Nelson back, "Copy that..... Bill briefed me....."

I filed IC WCI-2014-21845 about Searls insisting that I be strip searched to be interviewed, but it was dismissed by WCI's warden based on this rationale:

Staff was correct when telling inmate Lindell he would have to have a strip search. No policy or work rule violations were found.... Inmate Lindell is reminded that if [sic] alleges a PREA violation has been committed he needs to cooperate to the fullest extent.

Then, in Searls's Employee Investigation Reports (DOC-1271A form) for my initial PREA call, Searls described that call as being about "Captain Olson" ... adding Olson's name to Nelson's forenoted Summary of my call. Without me ever saying so (because he refused to interview me unless I endured a strip search), Searls mischaracterized my initial PREA call as being about Captain Olson, leaving out any mention of "CO Shuter."

Despite deeming my call as being about Cpt. Olson, Searls never interviewed Olson nor obtained a statement from Olson; yet Searls deemed my initial PREA as "unfounded," which under the PREA (28 C.F.R. §115.5) means that it was "investigated and determined not to have occurred." But it wasn't "investigated." Because Searls never obtained any evidence, that PREA call should have been deemed "unsubstantiated" (see §115.5), meaning "the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred." Keep in mind that the "event" had been distorted from what I actually complained about to being about Cpt. Olson -- neither my concerns nor the concocted concerns were actually investigated.

Nor was my second PREA call investigated, despite WDOC Executive Directive 16-A mandating I be protected from "intimidation," which angrily insisting that I be strip searched (requiring me to bend over and part my buttocks so they could stare in my anus & lift up my penis and testicles so they can stare at them) in order to be interviewed for a complaint about harassing strip searches surely constitutes, and 28 C.F.R. §115.71(a) mandating that they "do so promptly, thoroughly".

Searls sent Meli his DOC-1271A form, on which Meli noted "CR #2406066 issued." That Conduct Report (CR) charged me with Lying about staff in my PREA call. (I filed IC #WCI-2013-22597 alleging that the CR was retaliatory, but the Examiner rejected it, refuse to consider my concerns.)

Despite Meli admitting at the hearing for the CR that he hadn't listened to my PREA call, the hearing officer found me guilty, giving me the maximum penalty, a year in Seg. There was no evidence considered as to what I actually said in mg PREA call, & my request to have a recording or transcript of my call considered was denied.

EXHIBIT 3

EXHIBIT

I filed IC #WCI-2013-23079 about the hearing officer not giving me his decision, which meant the Warden wouldn't process my appeal (prior to receiving CR #2406066 I'd repeatedly tried to appeal discipline without first receiving the decisions; WCI's warden refused to consider those appeals until Cpt. O'Donovan issued his decisions). That IC was rejected, falsely claiming that I could appeal without the decision. Yet I wasn't given the decision.

I wrote the WDOC's current PREA Director, Leigha Weber, on 15 Nov, explaining all of this. She replied that I should file an appeal now; but, when I did, WCI's Warden's secretary returned my appeal. I filed IC # CCI-2021-19561 about refusing to process that appeal (the IC was rejected) and IC #CCI-2021-18650 about Ms. Weber refusing to investigate the entire forenoted violations of PREA & Exec. Dir. 16-A (it too was rejected on the false assertion that my concerns were already addressed in my forenoted ICs --/ those ICs were rejected, never addressed the merits of my complaints).

That discipline was cited to justify keeping me in solitary confinement for three years in the Wisconsin' Secure Program Facility (WSPF), until (on 8 October 2018) I was stabbed in my head three times with a foot-long steel blade on 8 October 2028, almost killing me. (You may find an exposé, as detailed as this one, about WDOC officials outrageous misconduct related to that stabbing -- both setting it up, destroying evidence & denying me medical- & mental-health care afterwards --posted on facebook.com/PrometheusWrites.)

ADULT CONDUCT REPORT

INMATE NAME (Last, First)	DOC NUMBER	INMATE LIVING QUARTERS	FACILITY NAME	CONDUCT REPORT NUMBER
LINDELL, NATHANIEL	303724	H4AU 2_L	CCI	00334012
INCIDENT DATE: 07/25/2023			INCIDENT TIME: Approx. 1:26 PM	

DESCRIPTION OF INCIDENT

The Investigations Department at Columbia Correctional Institution was made aware of alleged administrative rule violations being made by inmate Lindell, Nathaniel #303724. It was reported that inmate Lindell had a active Facebook account and was selling his art and drawing projects made while incarcerated for a profit. Captain Peters, Investigation Supervisor, began looking into activities associated with inmate Lindell to include any active social media accounts associated with him. I was able to determine that there is a active Facebook account associated with inmate Lindell under the profile name Prometheus Writes. The Facebook page has art pictures from inmate Lindell and is a personal blog. Per DAI Policy 300.00.82 (Inmate Use of Social Media), inmates shall not request anyone to access their personal social media account for any reason, inmates shall not request others post information for them on social media or social networking sites for any reason. Emails were reviewed from inmate Lindell's incoming and outgoing email account. On June 13th, 2023, inmate Lindell write "Rianne Aarts" (allegeks123@gmail.com). In the body of the email, inmate Lindell write "Please tell me when you receive something. Paul confirmed that my drawing sold for \$425." Inmate Lindell submitted and wrote a article for the Pittsburg Post-Gazette dated January 2, 2023 at 11:00pm. Inmate Lindell writes "If you would like to support my writing and litigation endeavors, you may do so by sending me money at accesscorrections.com or by calling Access at 866-345-1884. My info is Nate A. Lindell DOC #303724, and I'm at the Columbia Correctional Institution, within the Wisconsin Department of Corrections.

STAFF MEMBER COMPLETING THIS REPORT

DATE COMPLETED
07/25/2023

PETERS, ERIC

CODE	CODE VIOLATION	FINDING OF GUILT	
		Guilty	Not Guilty
1. DOC 303.36	Enterprises and Fraud	☐	☒
2. DOC 303.28	Disobeying Orders	☒	☐
3. DOC 303.35	False Names and Titles	☒	☐
4. DOC		☐	☐
5. DOC		☐	☐
6. DOC		☐	☐

RECORD OF UNCONTESTED DISPOSITION (Complete if 303.76)

DISPOSITION:

DATE OF DISPOSITION

NAME OF APPROVING SUPERVISOR:

INMATE'S SIGNATURE OF AGREEMENT

SECURITY DIRECTOR REVIEW (Complete if 303.80 or 303.81)

CONDUCT REPORT PROCESS: ☒ Proceed as Major ☐ Proceed as Minor ☐ Return for more information ☐ Dismiss

CONSIDERATION OF MAJOR HEARING :

- ☐ Designated as a Major Offense by DOC 303.71 (2) OR
- ☐ Previously been found guilty of the same or similar offense (consideration given to how often and how recently)
- ☐ Recently been warned about the same or similar conduct
- ☒ Created a risk of serious disruption at the facility or community
- ☐ Created a risk of serious injury to another person
- ☐ Created a risk of serious financial impact
- ☐ The value of property involved (if alleged violation was actual or attempted damage and/or misuse of property, possession of money, gambling, unauthorized transfer of property, soliciting staff, or theft)
- ☐ Psychological services input for serious mentally ill inmate

SECURITY DIRECTOR SIGNATURE

DATE SIGNED
07/26/2023

PITZEN, KEVIN

DATE COPY GIVEN TO INMATE
07/27/2023

STAFF DELIVERING COPY TO INMATE
OLSON, CHRISTOPHER

RECORD OF UNCONTESTED MAJOR DISPOSITION	
DISPOSITION:	DATE OF DISPOSITION
NAME OF SUPERVISOR:	INMATE'S SIGNATURE OF AGREEMENT
SECURITY DIRECTOR APPROVED ☒ DEPUTY WARDEN APPROVED ☐	
RECORD OF CONTESTED DISPOSITION DOC (303.77, DOC 303.80, DOC 303.81)	
DISPOSITION:	DATE OF DISPOSITION
20 Days 0 Hours Room Confinement	07/31/2023
NAME OF SUPERVISOR: RADTKE, NATASHA	MAJOR DISPOSITION ☒ Yes
	MINOR DISPOSITION ☐ Yes
REFERRED TO CLASSIFICATION COMMITTEE: ☐ Yes ☒ No	

DISTRIBUTION: Original - Social Service File, Conduct Reports Section; Official Record - Security File; Copy - Inmate
 CR#: 00334012 DOC#: 303724 Inmate Name: LINDELL, NATHANIEL

Page 2 of 2

MAJOR DISCIPLINARY HEARING
REASONS FOR DECISION AND EVIDENCE RELIED ON

INMATE NAME (Last, First)	DOC #	FACILITY NAME:	HEARING DATE (mm/dd/yyyy)	CONDUCT REPORT #
LINDELL, NATHANIEL	303724	CCI	07/31/2023	00334012

☒ Inmate present at hearing ☒ Conduct Report read aloud to inmate

☐ Inmate not present at hearing, but given a chance to attend. The committee knew these facts because:

INMATE STATEMENT: (summary)

1. Are you innocent or guilty of the code violations charged against you?

I am very clearly innocent, there is no evidence that I asked someone to run a facebook page or that I accepted any money from the artwork sold. I'm not trying to be a smarty pants, there is no evidence in here.

2. Did you request Paul to sell your artwork?

I sent Paul my art as part of someone who visited the exhibition, I gave him permission to sell the art, I did not tell him to sell it, he used some of the money to buy flowers for two friends of mine. Paul felt I should get some money, I said buy some flowers for my friends.

3. Did you receive any money from sale?

Not a penny, I just cashed a check for 600 dollars I don't need the money.

4. Who set up the facebook page Prometheus Writes?

I do not know who set up the facebook page

5. Do you have any contact with the owner of the page?

I have no control over that facebook page.

6. Do you have control over the statements made on the page?

I don't know about that. I mail my writings and art to different people. If you google my name you'll find writings and artwork by me on other peoples social media, I'm just out there

7. Do you have anything else to add?

I have never sold any art nor drawings through any facebook page. The C.R. says that Paul sold my drawing, not me. Paul works at a gallery, bought flowers for two of my friends with the money he obtained from selling my drawing. I asked Rianne if she received those flowers. DOC 309.04(2)(c) says that "the department shall permit an inmate to correspond with anyone," and we're given forms to send people telling them how to send us money. DOC 303.36(1)(b) says that I "may write and seek publication of works." We are allowed to receive money from anyone, are given forms telling people how to send us money —so, how does it violate any rules for me to explain that in an article that was published in a newspaper? 303.36 prohibits me from selling things, to protect the public from fraud. It doesn't bar me from telling people how to send me money. No evidence in the record shows that I used "Prometheus Writes" as my name, nor that I sold anything, nor that I asked anyone to set up a facebook page. No legitimate prison concerns were threatened. I shouldn't be punished because someone liked my drawing enough to buy it from Paul nor because others publish my writings. DAI P&P 300.00.82 is illegal, can't be enforced, per Wis Stat. 227.01(13)(a), as the public wasn't notified of it, interested parties weren't afforded any input, nor did the legislature approve it. The P&P is also illegal under 227.11(1) & (2)(a), as it's not interpreting and applying a statute or regulation, but it is an illegal effort at making a rule without the legislature's approval. Koutnik v. Berge, 2004 WL 1629548 (W.D. Wis. 19 July 2004) held that it violates the First Amendment to punish prisoners for using nicknames in communication outside of prison. Simon & Schuster Inc. v. Members of the N.Y. state crime victim's board, 502 US 105, 123, (1991) declared if it violates speech rights to deny convicts pay for writings about their crimes; White v. City of Sparks, 500 F.3d 953, 954 (9th Cir. 2007) ruled that obstructing sales of paintings violated free speech. This attempt to discipline me is illegal.

EVIDENCE The committee relies on the following evidence in finding the inmate guilty

☒ Statement in the Conduct Report 00334012

☐ Testimony by reporting staff member

☒ Testimony by witness(es)

☐ Physical evidence (list)

☐ Confidential Witness Statements (attach copy of DOC-0078A)

☐ Corroborated by one of the following:

☐ Other Evidence

☐ Evidence of similar violations by the accused

DISTRIBUTION: Original - Social Service File, Conduct Report Section; Official Record - Security File; Copy - Representative; Copy - Inmate

Hearing Date: 07/31/2023

CR# 00334012

DOC# 303724

Inmate Name: LINDELL, NATHANIEL

Page 1 of 2

- ☐ Two anonymous statements of different persons
☐ Rules, Policies and Procedures (specify Rule)

☐ Verbal/Special Written Order (write the order given)

DECISION Based on the evidence, the committee finds the inmate guilty or not guilty based on the following offense.

1. 303. 36 ☐ Guilty ☒ Not Guilty 2. 303. 28 ☒ Guilty ☐ Not Guilty
3. 303. 35 ☒ Guilty ☐ Not Guilty

☒ UNANIMOUS

☐ REFER TO WARDEN

REASON FOR DECISION:

Hearing Committee reviewed all testimony and evidence
Report writer is viewed as credible due to direct observation of the incident, without reason to fabricate the report and has no stake in the outcome of the hearing.
The Committee notes no known conflict between the Advocate and the Accused.
The Hearing Committee notes that a DOC-73 was received from the inmate.
After reviewing the available evidence and testimony, the Hearing Committee feels the event, more likely than not, unfolded as recorded and ergo, finds the inmate guilty of 303.28 and 303.35 as it is supported in the statement written in the conduct report and the committee has no additional evidence to rely on.
The inmate was notified that he has 10 days to appeal the Conduct Report.

DISPOSITION CONSIDERATIONS:

- (a) The inmate's overall disciplinary record, especially during the previous 12 months.
- (b) The inmate's disciplinary record of the same or similar offenses.
- (c) The risk of serious disruption at the institution or in the community caused by the violation.
- (d) The risk of serious injury created by the violation.
- (g) Whether the inmate was actually aware that the inmate was committing a crime or offense at the time of the offense.
- (h) The motivation for the offense.
- (i) The inmate's attitude toward the offense and toward the victim, if any.
- (L) The risk to the security of the institution, inmates, employees or the community caused by the violation.

DISPOSITION

20 Days 0 Hours Room Confinement

Security Director BLOUNT, RYAN

Deputy Warden

AUTHORIZING DISPOSITION

☒ Security Director ☐ Deputy Warden (for disposition over 120 days DS)

NAMES OF HEARING COMMITTEE MEMBER(S)

• BONFIGLIO, ANTHONY • RADTKE, NATASHA • GARNER, REBECCA

HEARING OFFICER NAME

BONFIGLIO, ANTHONY

PRINT NAME OF STAFF MEMBER GIVING COPY TO INMATE

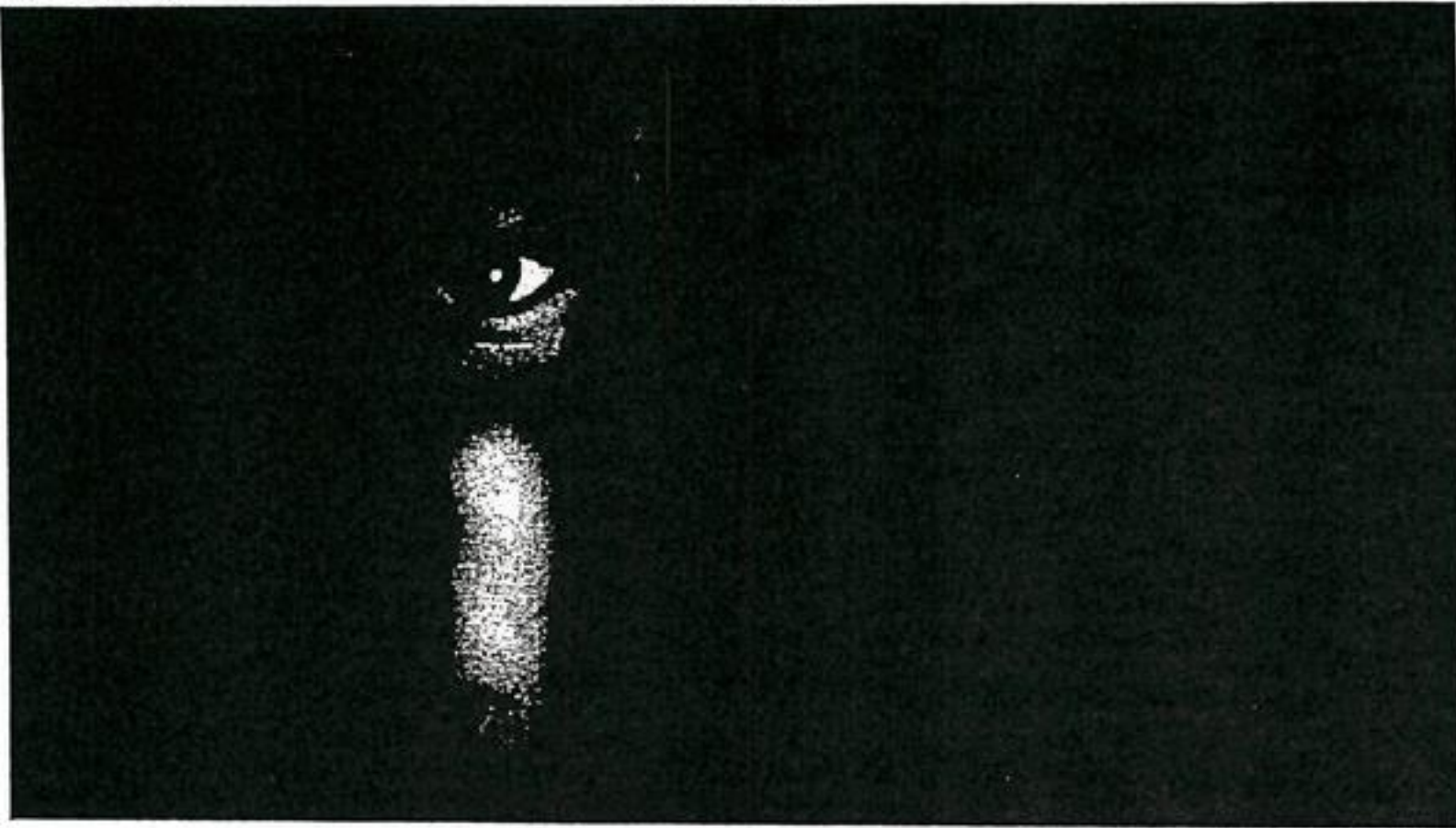
DATE GIVEN TO INMATE (mm/dd/yyyy)

07/31/2023

RADTKE, NATASHA

EXHIBIT 3

EXHIBIT



Nate Lindell: Treating prisoner's ptsd will change their lives and save others' lives

NATE LINDELL

Progressive Perspectives

JAN 2, 2023

11:00 PM

When I was 21, I killed someone. What I did was wrong, and at the time I couldn't explain why I was capable of such hate and extreme violence. So I remained silent, not because I was being "tough," but because it seemed immoral to point my finger at other people.

I had heard that the victim sold child porn, saw red, and decided that he deserved to be robbed and to die. That is what I proposed to my brother when, one day, he came to me with a plan to rob a bank. We were poor college students at the time.

Why did learning that my victim may have sold child porn leave me feeling as if I had no choice but to take his life? Neither I nor my attorneys — the only people I'd told the truth to — thought to ask that question. But it

EXHIBIT 3

EXHIBIT

haunted me for years. I didn't think of myself as the kind of person who could kill someone, at least not an "innocent" person.

Eventually, my uncle told me that I had been molested. That was hard for me to hear, yet it matched with disturbing visions that I sometimes had, visions that I came to realize were, in fact, memories.

Years later, while festering in solitary confinement, I contacted my stepfather and asked him about my uncle's claim. He then told me that his friend raped me as a child. I was shocked and infuriated, but I started to understand why I was capable of homicidal fury toward a suspected child porn distributor.

I was diagnosed with PTSD before I came to prison. For that reason, I was deemed temporarily incompetent to stand trial and spent a month in a mental hospital.

PTSD is prevalent among prisoners. One large-sample 2014 study found that 30% to 60% of incarcerated men had it — 10 times as many as in the general male population. And prison conditions can cause and exacerbate PTSD: For example, prisoners who witness violence, even if they did not participate, show post-traumatic symptoms.

However, when I sought help for my aggravated PTSD, prison psychologists enlisted an outside psychiatrist who diagnosed me as psychopathic and thus recommended an end to any interpersonal therapy because I was incorrigibly manipulative. I was one of many prisoners in my unit who were labeled as such when we pressed for help with PTSD.

I am not alone. The Wisconsin Resource Center offers the only trauma program for incarcerated people in my state that I am aware of, with a limited number of beds available to Wisconsin's more than 20,000 prisoners.

During a brief stint in another prison, a different psychologist finally diagnosed me with PTSD (a necessary step even though I'd already been diagnosed on the outside), and apologized for the misdiagnosis. She too had experienced childhood sexual abuse and called the misdiagnosis "secondary wounding."

When I returned to the supermax in October 2018, I was stabbed in my

EXHIBIT 3

EXHIBIT

head, face, arm and knee. I was told that I died twice before surgical repairs were finished. After the assault, with 32 staples holding my scalp together, I was transferred to another prison's segregation unit, where I was again kept in solitary confinement. My repeated requests for help with my greatly worsened PTSD symptoms were denied and my grievances were dismissed.

Had my traumatic experiences as a child been treated, I believe that I would not have killed a man, that I would have been helped by a professional, come to terms with my own abuse and not taken my rage out on a possibly innocent person.

While it won't bring that person back to life, treating PTSD among prisoners could help to relieve our misery and prevent crimes such as the one I committed. And because PTSD is correlated with rearrests after prisoners are released, some suggest intervention could help to reduce recidivism.

But for such treatment to happen, the public will need to stop seeing people in prisons as monsters. Everyone — perhaps especially those of us who committed grave wrongdoing — should have access to treatment.

Nate A. Lindell is a writer and artist incarcerated in Wisconsin.

First Published: January 2, 2023, 11:00 p.m.

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START YOUR TRIAL TODAY

FILED
06-03-2025
CIRCUIT COURT
DANE COUNTY, WI
2024CV001066

BY THE COURT:

DATE SIGNED: June 3, 2025

Electronically signed by Judge Everett D. Mitchell
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 4

DANE COUNTY

STATE OF WISCONSIN ex rel.
NATE A. LINDELL,

Petitioner,

v.

Case No. 2024-CV-1066

TERRI REES, et al.,

Respondents.

MANDAMUS ORDER, IN PART

In this public records case, Nate Lindell seeks recordings of body-worn cameras related to his detention for an alleged sexual assault on August 11, 2023. On June 2, 2025, the Court heard oral arguments and then ordered the Respondents to produce redacted versions of the body-worn camera recordings. The purpose of this order is to reduce, in part, the Court's order to writing to facilitate the Respondents' redaction.

Bates Number 56 – the body-worn camera of Laturi.

From 9:16:00 p.m. until 9:18:55 p.m., the camera shows corrections officers restraining and escorting a prisoner in a private area of the prison. Out of an abundance of caution, this section

should be redacted to ensure prisoners do not learn about the specific and perhaps secret methods the prison uses to transport prisoners. Everything after 9:41:10 should be redacted for the same reasons. The interview from 9:18:55 p.m. until 9:41:10 p.m., during which the subject is seated, is conducted in a prison common area which is surely well-known to the prisoners. This portion must be released to the requester.

Bates Number 57 – the body-worn camera of Lange

Same redactions. Only the interview from 9:18:55 p.m. until 9:41:10 p.m. should be released; the remainder should be redacted.

Bates Number 58 – the body-worn camera of Zenk

This footage is from later in the evening. The parts from 10:20:26 p.m. until 10:31:49 p.m. depict an interview with Lindell, who is seated in his cell. Everything after 10:31:49 p.m. should be redacted because, once again, these parts of the video depict after-hours prisoner transportation, knowledge of which might impair institutional safety.

IT IS ORDERED that the, consistent with this order and for the reasons stated on the record at the June 2, 2025, hearing, the Respondents shall redact the body-worn camera recordings and produce the remaining part to the requester.

This is NOT a final order for purpose of appeal.

BY THE COURT:

DATE SIGNED: January 27, 2026

Electronically signed by Judge Everett D. Mitchell
Circuit Court Judge

FILED
01-27-2026
CIRCUIT COURT
DANE COUNTY, WI
2024CV001066

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 4

DANE COUNTY

STATE OF WISCONSIN ex rel.
NATE A. LINDELL,

Petitioner,

v.

Case No. 2024-CV-1066

TERRI REES, et al.,

Respondents.

DECISION AND ORDER

INTRODUCTION

This is a public records case in which Nate Lindell seeks the release of government records related to an alleged sexual assault involving himself and another prisoner in a Wisconsin prison. On June 2, 2025, the Court ordered the respondents "to produce redacted versions of the body-worn camera recordings" Lindell had sought. Now, the respondents seek reconsideration of that order. I deny the respondents' motion for reconsideration because they fail to show any manifest error in the prior ruling; I further address, and deny, the multitude of other motions filed in the recent months.

I. General background.

This case involves two records requests Lindell made last year to the Wisconsin Department of Corrections. On September 13, 2023, Lindell asked for body worn camera footage from several prison guards. Beahm Aff. ¶10, dkt. 18 (the record custodian's summary)¹ & Ex. 1002 (the custodian attaches a copy of Lindell's request). The next day, on September 14, 2023, Lindell asked for incident reports concerning himself. Beahm Aff. ¶5, dkt. 18 & Ex. 1000, dkt. 19 (the custodian attaches a copy of Lindell's request). Nobody disputes that DOC timely responded to, and largely denied, both requests by November 6, 2023.

In response to Lindell's first request, DOC refused to produce any camera footage. Here, in relevant part, is DOC's explanation why:

DENIED ACCESS

Entire

Video - Body Worn Camera

Per Wis. Stat. § 19.35(1)(am)2.c., the security in state correctional institutions is explicitly recognized under the public records law as being an overriding public interest and is sufficient to justify limited access or non-access to a recording. Here, the department's security concerns are based in large part on the video recording which you have requested could be disseminated or shown to the general public. The video recording of the requested subject matter was taken by our Body camera system. The safety of staff and inmates, the rehabilitation of inmates and the orderly and secure administration of the prisons justifies the denial of access to the requested video recording. Under the circumstances, the public interest in protecting the safety of inmates and staff outweighs your interest in access to these materials.

Beahm Aff. Ex. 1003, dkt. 22. In response to Lindell's second request (seeking reports about

¹ The Court's writ of mandamus commanded both Terri Rees and Robert Beahm to produce responsive records. This was because Lindell's petition implies that Rees serves the DOC while Beahm serves the Columbia Correctional Institution. Beahm says he is employed as "the Offender Records Supervisor for the Wisconsin Department of Corrections." Beahm Aff. ¶1, dkt. 18. Beahm has primarily responded to the writ and Lindell does not object.

Lindell) DOC provided redacted copies of a few reports. DOC concluded those redactions were necessary under § 19.35(1)(am)2.d., which limits the public records laws' application where releasing records would compromise a prisoner's rehabilitation, and DOC further concluded redactions were necessary under the public policy balancing test in § 19.35(1)(a). Here, in relevant part, is DOC's explanation of the public policy reasons for redacting records:

Additionally, per the Wis. Stat. §19.35(1)(a) balancing test, PREA² screening score information is not disclosed. I have determined that the disclosure of score information would compromise the integrity and reliability of the PREA screening. In addition, the release of the scoring information could permit individuals to manipulate the results, which can cause harm to the public and its interest. Under these circumstances, ensuring the integrity of the PREA screening process by withholding the screening score information is far greater than your interest in accessing the information in question.

Beahm Aff. Ex. 1001, dkt. 20 (footnote added).

Unsatisfied with these responses, Lindell then petitioned for mandamus relief. On April 17, 2024, I issued a writ of mandamus commanding the records custodians to produce records responsive to Lindell's records requests. Dkt. 4. The parties submitted briefing on the mandamus petition and I then reviewed *in camera* the records, which principally consisted of video footage from body-worn cameras. *See State ex rel. Youmans v. Owens*, 28 Wis. 2d 672, 682, 137 N.W.2d 470 (1965) (describing the use of *in camera* review in public records cases).

Following my review of the records and the parties' briefing, on June 2, 2025, I ordered the respondents "to produce redacted versions of the body-worn camera recordings" Lindell had sought. The next day, June 3, 2025, I detailed the specific redactions the respondents should make in a written order memorializing the oral ruling. Dkt. 142. My order allowed the respondents to redact large parts of the recording to ensure institutional security. That included any footage from

² PREA refers to the Prison Rape Elimination Act, 42 U.S.C. § 15601 et seq.

any "private area of the prison," or that depicted any "methods the prison uses to transport prisoners," especially including any "after-hours prisoner transportation." *Id.* On the other hand, the respondents failed to show some parts of the recordings had any relevance to institutional security. Because the respondents did not meet their burden to explain why redaction was necessary, I ordered them to produce those parts of the video that depict Lindell "in a prison common area which is surely well-known to the prisoners" and parts of "an interview with Lindell, who is seated in his cell." Dkt. 142:2.

II. The respondents' motion for reconsideration is denied.

A. A party seeking reconsideration must show a manifest error.

The respondents did not comply with the order to produce records. Instead, they have continued to offer novel and shifting theories to try and meet their burden to show they properly withheld public records. On July 25, 2025, the respondents moved for reconsideration. Most recently, on November 14, 2025, the respondents filed a "second amended submission for in camera review," dkt. 228, as well as a "supplemental brief regarding redactions and reconsideration." Dkt. 233. Notably, the respondents now concede that they should have released records to Lindell that contain "a PREA victim's investigatory statement" and that the respondents' withholding of those records "was not consistent with a previous release of relevant records to Lindell" *Id.* at 2.

I liberally construe the respondents' July 25, 2025, briefing together with the November 14, 2025, supplemental briefing as a motion for common law reconsideration of my oral ruling requiring the respondents to produce redacted records.

[A] circuit court possesses inherent discretion to entertain motions to reconsider "nonfinal" pre-trial rulings. To succeed, a reconsideration movant

must either present newly discovered evidence or establish a manifest error of law or fact.

Newly discovered evidence is not new evidence that could have been [submitted earlier]. Similarly, a "manifest error" must be more than disappointment or umbrage with the ruling; it requires a heightened showing of wholesale disregard, misapplication, or failure to recognize controlling precedent. Simply stated, a motion for reconsideration is not a vehicle for making new arguments or submitting new evidentiary materials that could have been submitted earlier after the court has decided a motion

Bauer v. Wisconsin Energy Corp., 2022 WI 11, ¶¶13-14, 400 Wis. 2d 592, 970 N.W.2d 243.

(citations, some quotation marks, and original alterations omitted).

B. The respondents fail to show any manifest error.

The respondents contend I committed a manifest error in two ways. First, they say I committed a manifest error by ordering records that contain PREA interviews because that kind of information "would endanger the security of the population in the institution." First Mot. for Reconsideration, dkt. 175:5. The only evidence offered in support of this assertion is the testimony of Leigha Weber. *Id.* (citing First Weber Dec., ¶¶22-28, dkt. 166). As noted, however, Weber has since amended her testimony. She now concedes that she has already "released the [relevant records] to Lindell ... without redaction of the alleged victim's investigatory statements." Second Weber Dec., ¶14, dkt. 227. Weber does not explain this further but, at a minimum, I am satisfied that I will not endanger the security of any institution by ordering DOC to produce records that Weber has *already given* Lindell in an unredacted form. This is not a manifest error that warrants reconsideration.

The respondents' second argument focuses on the video footage. They argue that, even considering only those limited parts of the video that show Lindell seated in his own cell, disclosure would still be a manifest error because it will jeopardize institutional security. That

jeopardy arises because a person could "infer ways to circumvent the recording capacities of this equipment." First Mot. for Reconsideration, dkt. 175:7. This argument is not convincing because the respondents do not support it with evidence. They cite only the testimony of a Robert Rymarkiewicz, who opines, unremarkably, that "[v]ideo footage demonstrates information about both the abilities and the limitations of surveillance and other cameras" *Id.* (citing Rymarkiewicz Dec., ¶7, dkt. 124). This is undoubtedly true. For example, if the cameras simply did not function at all, then a prisoner would learn "information about the limitations of cameras." What is missing, however, is some evidence to connect the specific kind of information that will be disclosed with any kind of institutional concern. The respondents have never produced that evidence, so they do not show it was manifest error to order the release of heavily-redacted excerpts of video footage.

III. All of the other various motions are denied.

In the months following the June 2, 2025, order to release records, Lindell and other persons affiliated with Lindell have filed numerous other motions. I deny each motion without a hearing for the following reasons.

On July 1, 2025, Lindell moved for reconsideration. He says I committed manifest error because, based on his review of the transcripts of the June 2 hearing, "the defendants were afforded ten pages of transcript time to speak, while [Lindell] was only afforded seven pages" Lindell First Mot., dkt. 162:1-2 (emphasis in original). I deny Lindell's motion for reconsideration because he does not develop an argument supported by citation to legal authority in support of the proposition that pages of transcript time matter.

On July 15, 2025, Lindell moved to prevent the respondents from "concoct[ing] additional or expanded excuses for denying the records or redacting the portions of them." Lindell Second

Mot., dkt. 172:2. I deny Lindell's motion as moot because I have already determined that the respondents may not provide additional reasons in support of their decision to withhold responsive records.

On August 7, 2025, Lindell moved for additional time to file a brief in opposition to the respondents' motion for reconsideration. Lindell Third Mot., dkt. 180. I express no opinion about this motion except that I may deny it as moot because I have already denied the respondents' motion that Lindell sought to oppose.

On August 28, 2025, Lindell filed what appears to be a supplemental authority in opposition to the respondents' motion for reconsideration. Lindell Fourth Mot., dkt. 193. I again express no opinion about this motion except that I may deny it as moot because I have already denied the respondents' motion that Lindell sought to oppose.

On September 16, 2025, Lindell moved for relief pending appeal. Lindell Fifth Mot., dkt. 196. I deny this motion because, based on my review of the record, Lindell has not appealed.

On October 1, 2025, Lindell moved to sanction the respondents under Wis. Stat. § 802.05. Lindell Sixth Mot., dkt. 204. A sanctions motion "shall not be filed with or presented to the court unless" served twenty-one days in advance on the other party. Wis. Stat. § 802.05(3)(a)1. I deny Lindell's sanctions motion because he fails to provide evidence that he complied with this "safe harbor" provision of the sanctions procedure.

On October 15, 2025, a person named Brianna Burton moved to intervene under Wis. Stat. § 803.09(1). Burton First Mot., dkt. 209. Burton then filed an amended motion on November 3, 2025. Burton Amend. Mot., dkt. 219. As Burton acknowledges in her amended motion, the first element of intervention requires "that the movant's motion to intervene is timely." *Helgeland v. Wisconsin Muns.*, 2008 WI 9, ¶38, 307 Wis. 2d 1, 745 N.W.2d 1. I express no opinion about

whether Burton may have some other remedy based on the contentions in her papers; I deny her motion to intervene because she fails to develop an argument supported by citation to legal authority to explain why her intervention, more than a year after this matter commenced, was timely.

On October 20, 2025, Lindell moved for relief under Wis. Stat. § 809.15 to correct a technical error that resulted in the destruction of part of the transcript of a hearing. Lindell Seventh Mot., dkt. 213. I deny this motion as moot because, having recognized the destruction of that part of the transcript, the Court has already re-created the hearing.

On December 2, 2025, and again on December 9, 2025, Lindell wrote the Court letters to criticize the respondents' motion briefing. Lindell Eighth Mot., dkt. 237-238. Lindell seeks an order that will "acknowledge" inconsistencies in evidence provided by the respondent as well as other forms of relief that appear to entirely overlap with the writ of mandamus I have already issued. Dkt. 238:2. Liberally construing these letters as motions, I deny each because Lindell fails to develop an argument supported by citation to legal authority for the relief he seeks which, in any event, appears to be largely moot.

ORDER

For the reasons stated,

IT IS ORDERED that the Respondents' motion for reconsideration of the June 2, 2025, oral ruling commanding them to produce records, is denied.

IT IS FURTHER ORDERED that all other pending motions are denied.

This is a final order for purpose of appeal. Wis. Stat. § 808.03(1).