

☞ **07hr_JCR-AR_Misc_pt35**



☞ Details: Complaint.

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

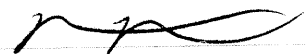
- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

Sen. Grothman,

I am sending you a copy of this action in accordance with Wisconsin Statute 227, which states that a copy of this action must be sent to the Joint Committee for Review of Administrative Rules. And according to the information we have here you are a representative of this committee. If this is incorrect I ask that you forward this copy to the appropriate person. Please send any and all responses to me at the Jackson Correctional Institution.

Sincerely,



Matthew Allen
#270322

IP... 270322

WILLIAM E. HANRAHAN
CIRCUIT COURT, BR. 7

State of Wisconsin Circuit Court Dane County

State Ex. Rel. Matthew Allen,
Petitioner,

v.

Rick Raemish,
Respondent.

Case No. 08CV2286

Case Classification Code 30955

Petition for Writ of Certiorari

To: Judge of the Circuit Court
Dane County Courthouse
215 Hamilton Street
Madison, WI 53703

THIS IS AN AUTHENTICATED COPY OF THE
ORIGINAL PETITION FILED WITH THE DANE
COUNTY CLERK OF CIRCUIT COURT.

I, Matthew Allen #270322, the petitioner in this action respectfully state as follows:

1. I am now confined at the Jackson Correctional Institution at Black River Falls, WI.
2. The Respondent, Rick Raemisch, is the secretary of the Department of Corrections.
3. The agent(s) and/or staff members of the Department of Corrections were acting under the color of the law.
4. In addition to my Challenge to the Warden's (co-respondent) decision, I also filed a complaint challenging the actions and decisions under the Inmate Complaint Review System, or ICRS. The ICRS is an administrative mechanism in which inmates can file grievances, and is described in Wisconsin Administrative Code Doc 310.
5. Pursuant to Wisconsin Administrative Code 310.14, Respondent Secretary of Corrections is the final decision-maker on inmates complaints in the ICRS.
6. I hereby ask the Court to review the Decision of the secretary on my complaint#JCI-2008-3813.
7. on or about 1-31-2008, I filed complaint#JCI-2008-3813 while incarcerated at Jackson Correctional Institution (see exhibit#A).

8. The Institution Complaint Examiner acknowledged receipt of the complaint on 2-04-2008.(see exhibit#B)

9. The Inmate Complaint alleged that:

A. While I was in segregation a processor from Sweetwater was shipped to the institution.

B. I was not notified that the processor had arrived.

C. After I returned to population I sent an interview request slip to the recreation leaders, requesting my hobby item.(see exhibit#J) But their response was that my hobby item had not been recieved as of 1-18-2008.

D. That I spoke with a recreation leader (Mrs.Miller) after I received the response, mentioned above, and informed her that my processor should have been at the Institution. Mrs. Miller told me that she would personally try to find my processor. A week after I spoke to Mrs. Miller (recreation leader), on or about 1-25-2008, I had a chance to speak to her again and she informed me that she had located my processor and would have to speak to her supervisor about approving it so that I could have it.

E. On or about 1-30-2008, I spoke to Mrs. Miller and she informed me that my processor was denied, she told me that her supervisor (Mrs. Boyd) said that there was not any proof of when my family began making payments on the processor and that they could only go off the invoice date on the sales receipt (see exhibit#K)which is 11-07-2007. I was told by Mrs. Miller that I should have had the company send something stating when the payments began.

F. That by the time the processor was located it was held more than 30 days, then it was denied, The retailers policy only allows 30 days for returns, so I am unable to return the processor and get the money for it, I beleive that the Department of Corrections was at fault and that they would have to refund me the money for the processor.

10. The Institution Complaint Examiner conducted the investigation by E-mailing Mrs. Miller and also asking her to describe the processor.

11. The Institution Complaint Examiner recommended that my complaint be dismissed, for the following reasons:

A. It is not listed on the DAI policy 309.36.01 as an

approved item.(see exhibit# C)

B. There is no clause or exception in the policy to allow for payment periods.(see exhibit#C)

C. The item has recording capabilities, Therefore, the processor would have been denied if received prior to July 2007, per Mrs. Miller. (see exhibit# C)

12. The Institution Complaint Examiner's recommendation was submitted to the "Appropriate Reviewing Authority" under DOC 310.12. On 2-04-2008, the "Appropriate Reviewing Authority's" recommendation was to dismiss my complaint.(see exhibit# D)

13. On 2-20-2008, I spoke to the Unit Manager (Mrs. Derus) in regards to the recommendation from the Inmate Complaint Examiner. Stating that the response did not mention anything about refunding my money for the item. Mrs. Derus E-mailed Tim Harrington(customer service representative for the retailer). (see exhibit# E)

14. On 2-26-2008, I spoke with Mrs. Derus to see if she had received a response to the E-mail that she had sent. At this time Mrs. Derus gave me a copy of the E-mail and the response. (see exhibit#E)

15. On 2-26-2008, I appealed the "Appropriate Reviewing Authority's" decision to the Corrections Complaint Examiner, Pursuant to Wisconsin Administrative Code DOC 310.13.(see Exhibit# F)

16. The Corrections Complaint Examiner acknowledged receipt of my appeal on 2-29-2008.(see Exhibit# G)

17. On 2-29-2008, The Corrections Complaint Examiner recommended that my complaint be dismissed.(see Exhibit# H)

18. On 3-03-2008, The Secretary of the Department of Corrections action were to dismiss my appeal.(see Exhibit# I)

19. There is no non-Judicial remedy available subsequent to the decision of respondent Rick Raemisch on appeal.

20. In the following respects, the proceedings as described above were undertaken without jurisdiction, were erroneous, were arbitrary and capricious, and were contrary to state

law and the Wisconsin and United States Constitutions:

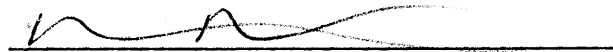
1. An inmate is entitled to prior notice or "Fair Warning" of proscribed conduct. Holm v. Haines, 734 F.Supp. 366, 1990 U.S. Dist. Lexis 3815; And also said: the internal policy must be promulgated pursuant to the authority vested in the department by Wis. Statute chapter 227.

2. The respondent in this case violated the plaintiff's Fourteenth Amendment Rights, which prohibits a state from depriving any person of, liberty, or property, without due process. In this case the process must begin with inacting the policy in accordance with Wisconsin Statute chapter 227.

WHEREFORE, I respectfully request that a writ of certiorari be granted to bring up for review and determination the proceedings in the matter set forth in this petition, and that, upon the return of the writ, the decisions and actions of the respondent(s) and staff be reversed and adjudged to be null and void.

DATED this 14th day of April, 2008.

Respectfully submitted,



Matthew Allen#270322

Jackson Corr. Inst.
P.O. Box 233
Black River Falls, WI 54615

Pro SE PETITIONER

OFFENDER COMPLAINT

INSTRUCTIONS: SEE REVERSE SIDE

OFFENDER NAME (if group complaint, enter name of spokesperson)		DOC NUMBER
Matthew Allen		270322
INSTITUTION NAME	OFFENDER HOUSING UNIT	CELL OR ROOM NUMBER
JCI	MeRose	257
DATE OF INCIDENT OR DENIAL OF REQUEST		
1-31-08		

TO BE FILLED IN BY ICE ONLY	
DOC COMPLAINT FILE NUMBER	JCI 2008-3813
DATE COMPLAINT RECEIVED	2/4/08
CODE NUMBER	07

STATE YOUR COMPLAINT

While I was in segregation a processor from Sweetwater was shipped to this institution for me. I was not notified that it had arrived. After I got out of segregation I sent a request to recreation requesting my hobby item. The response was that they did not have it. After I spoke to Mrs. Miller (rec leader) and she located the processor. However per Mrs. Miller the processor has been denied because of the new leisure time activity policy. Prior to the processor being denied I had informed Mrs. Miller that the processor had been ordered before the policy first came out. But my family was making payments on it until it was fully paid. According to the rules I was not able to receive the processor until it was fully paid for. So when Mrs. Miller told me it was denied she stated that I should have had the company send something stating that the order began before the new policy came into effect. I would like to say that the payments for the processor began on ~~the~~ July, 2007. I'm unsure of the exact date but I know it was before the 20th of July, 2007. Mrs. Miller said that if I would have had Sweetwater send this notification the processor would have been approved.

Also, by the time I got out of segregation and the processor was located the 30 day return policy had already past. Being that

NAME(S) OF PEOPLE WHO HAVE INFORMATION ABOUT THIS COMPLAINT	
Unit manager (Mrs. Derus)	
SIGNATURE OF OFFENDER OR SPOKESPERSON	DATE SIGNED
	1-31-08

NOTICE TO OFFENDER: The ICE will acknowledge your complaint within 5 working days of the date of receipt.

I was not notified that the processor had arrived or had been denied within the 30 days was not my fault and made it impossible to return.

On 1-31-08 is when Mrs. Miller informed me that the processor was denied. I also talked to Mrs. Boyd today and she told me that it was her understanding that the payments didn't begin until November. I informed her that that was not true. Her and my unit manager (Mrs. Derus) suggested that I submit an ICI but Mrs. Boyd suggested that I contact the company and request that they send notification of the day the payments began. I have sent the letter out on 1-31-08 to Sweetwater request that they send a letter to the ICE and a copy to Mrs. Boyd.

I would also like to say that I would rather have my hobby item versus the return of my money. If there are liability issues.

ICE RECEIPT
COMPLAINT NUMBER JCI-2008-3813
***** ICRS CONFIDENTIAL *****

To: ALLEN, MATTHEW - #270322
UNIT: MELRSE-A2 - 257-L
Jackson Correctional Institution
PO Box 233
Black River Falls, WI 54615-0233

Complaint Information:

Date Acknowledged:	February 04, 2008
Subject of Complaint:	7 - Personal Property
Brief Summary:	Inmate complains about property that was denied.

This is to acknowledge the complaint you filed and which was received on the date indicated. Depending on the nature of the complaint, you may or may not be interviewed by the ICE. A recommendation on the complaint will be made and submitted to the appropriate reviewing authority within 20 working days of acknowledgement. A decision will be made by the appropriate reviewing authority within 10 working days following receipt of the recommendation unless extended for cause.

Please write to the ICE if this issue is resolved before you receive an answer.

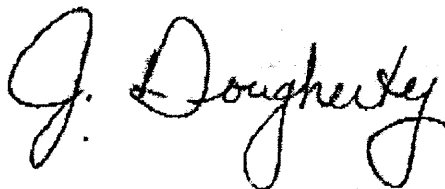
EXIBIT B

ICE REPORT
COMPLAINT NUMBER JCI-2008-3813
***** ICRS CONFIDENTIAL *****

To: ALLEN, MATTHEW - #270322
UNIT: MELRSE-A2 - 257-L
Jackson Correctional Institution
PO Box 233
Black River Falls, WI 54615-0233

Complaint Information:

Date Complaint Received:	February 04, 2008	Inmate Contacted?	No
Subject of Complaint:	7 - Personal Property		
Person(s) Contacted:	Ms. Miller, Recreation		
Document(s) Relied Upon:	DOC-237		
Brief Summary:	Inmate complains about property that was denied.		
Summary of Facts:	<p>Inmate Allen complains a processor he received while in Granton Unit has been denied. He contends he was not notified of its arrival until his release from Granton. He also feels it should be allowed because his family was making payments on it prior to the effective date in July from the first DAI Policy.</p> <p>According to the above staff, the complainant's processor (Tascam 8-Trk DAW Portastudio) is being denied because it is not listed as an approved item according to DAI Policy 309.36.01. While he claims his family had been making payments on the item prior to July 2007, the item was received at the institution after the effective date of the policy. There is no clause or exception in this policy to allow for a payment period. I would also note, per Ms. Miller, the item has recording capabilities. Therefore, the processor would have been denied if received prior to July 2007.</p> <p>It is recommended to dismiss this complaint. Inmate Allen is advised to notify Property or Recreation staff regarding his decision for the disposition of the processor.</p>		
ICE Recommendation:	Dismissed		
Recommendation Date:	February 13, 2008		



Jodi Dougherty

309.20.01

EXHIBIT C

REVIEWER'S DECISION
COMPLAINT NUMBER JCI-2008-3813
***** ICRS CONFIDENTIAL *****

To: ALLEN, MATTHEW - #270322
UNIT: MELRSE-A2 -- 257-L
Jackson Correctional Institution
PO Box 233
Black River Falls, WI 54615-0233

Complaint Information:

Date Complaint Received: February 04, 2008
Subject of Complaint: 7 - Personal Property
Brief Summary: Inmate complains about property that was denied.
ICE's Recommendation: Dismissed
Reviewer's Decision: Dismissed
Decision Date: February 18, 2008



Cari Taylor

CC:

Distributed via email
Miller, Eilene
Sadloske, David

A complainant dissatisfied with a decision may, within 10 calendar days after the date of the decision, appeal that decision by filing a written request for review with the Corrections Complaint Examiner on form DOC-405 (DOC 310.13, Wis. Adm. Code).

EXIBIT D

Derus, Melinda A - DOC

From: Tim Harrington [tim_harrington@sweetwater.com]
Sent: Wednesday, February 20, 2008 9:06 AM
To: Derus, Melinda A - DOC
Subject: Re: Delivery made question

Hi Melinda,

Thanks for your email. The customer is Matthew Allen. He made the original purchase 7/26/07 and the item was returned and replaced with the DP01, which was back ordered. Once it arrived it was sent to the customer. I do not take returns past 30 days.

Thank you

Tim Harrington
800 222 4700 x 1395
www.tim-harrington-band.com

On Wednesday, February 20, 2008 9:51 AM, Derus, Melinda A - DOC

<Melinda.Derus@Wisconsin.gov> wrote:

>Delivery made question

>I am a supervisor at Jackson Correctional Institution. You had sent a
>delivery to an inmate here of a portastudio invoice dated 11/7/07. The
>inmate at the time was in segregation status and did not receive the
>item or notice of the item until 1/18/08. At which time he was notified
>that that particular item was not an allowable item. Unfortunately with
>your 30 day return policy we were not able to send it back due to his
>segregation status. The processor has never been opened, is still in
>its box and we have a receipt for it, is there a way we can arrange to
>get it sent back and he could receive a refund. Thank you for your
>time and consideration.

>Melinda Derus, Unit Supervisor
>Jackson Correctional Institution
>N6500 Haipek Road
>Black River Falls WI 54615
>715-284-4550 ext 7210
>Melinda.Derus@wisconsin.gov
>

REQUEST FOR CORRECTIONS COMPLAINT EXAMINER REVIEW

INSTRUCTIONS:

1. Rejected complaints can only be appealed to the appropriate Reviewing Authority. That decision is final.
2. Prepare an original and one copy of this request. Please print or type.
3. Keep the copy of this request for your records and send the original, in a sealed envelope, to:

CORRECTIONS COMPLAINT EXAMINER
DEPARTMENT OF CORRECTIONS
PO BOX 7925
MADISON, WI 53707-7925

PART I - MUST BE COMPLETED

OFFENDER NAME	DOC NUMBER	INSTITUTION (Abbreviate)	COMPLAINT FILE NUMBER
Matthew Allen	270322	J.C.I.	JCI-2008-3813

STATE BRIEFLY WHY YOU ARE NOT SATISFIED WITH THE ACTION OF THE APPROPRIATE REVIEWING AUTHORITY

There are several reasons why I am not satisfied with the decision

1. I would like to say that I was incorrect when I stated in the ICE that my family was paying payment on the processor until it was ship. But I didn't know I was incorrect until my unit manager (Mrs. M. Derus) gave me a copy of an email she received from the company where the item was purchased. (A copy of the email is included). As it is the processor was purchased rather the original order was 7-26-07, around the time the policy came into effect. It is my understanding that had this information been known prior to the ICE recommendation I may have been allowed to have my processor without this appeal, but since a decision was reached I must appeal it in order to receive my processor.

2. I have reviewed policy 309.20 + 309.36 and there's nothing saying that inmates cannot have items that has memory capability the ICE states that it records but only internally ~~there's only~~ only sounds that are connected to it, such as guitars or keyboard, it is not ~~equ~~ equipped with a built in microphone nor can it record as a tape player would it only hold musical instruments just as keyboards with built in memory capability or recording capability.

3. The issue was never addressed about me not being able to send the item back to the company and receive my money back and that was the main issue in the ~~request~~ complaint. The staff here never notified me that I had received the item until I asked a recreation leader (Mrs. Miller) about it's whereabouts, and according

(CONTINUE ON REVERSE SIDE)

EXHIBIT F

To the Rec Leader she had to really look for it because it was in a place where hobby items aren't usually placed. So by the time the item was located and denied my 30 days to return the item had past and the company won't accept the item back. And I believe that because it's no fault of mine, but, the fault of staff here. I should not be out of my money, if I'm not allowed to have the item. But I would like to have the item instead of my money. Hopefully since the item was purchased earlier than I thought (according to the e-mail) I will be approved to have the hobby item.

PART 2 – IDENTIFY AND LIST ALL FORMS OF PROOF YOU HAVE OR ARE AWARE OF THAT SUPPORTS YOUR COMPLAINT.

NAME OF PERSON WHO CAN VERIFY YOUR STATEMENT	WHERE CAN THIS PERSON BE REACHED
<u>Mrs. M. Derus</u>	JCI (Recreation Leader)

WHAT WOULD THIS PERSON VERIFY
 That I did have to notify here about the existence of the hobby item and what took place from then until now.


NAME OF PERSON WHO CAN VERIFY YOUR STATEMENT	WHERE CAN THIS PERSON BE REACHED
<u>Mrs. M. Derus</u>	J.C.I (Melrose unit manager)

WHAT WOULD THIS PERSON VERIFY
 That the copy of the email sent is a copy of the e-mail she received

OTHER (Receipts, property sheets, disciplinary paper work, PRC summaries, etc.)

~~copy~~ copy of the email sent to Mrs. Derus.

PART 3 – MUST BE COMPLETED

SIGNATURE OF OFFENDER	DATE SIGNED
	2-26-08

CCE RECEIPT
COMPLAINT NUMBER JCI-2008-3813
***** ICRS CONFIDENTIAL *****

To: ALLEN, MATTHEW - #270322
UNIT: MELRSE-A2 - 257-L
Jackson Correctional Institution
PO Box 233
Black River Falls, WI 54615-0233

Complaint Information:

Date Appeal Acknowledged	February 29, 2008
Subject of Complaint:	7 - Personal Property
Brief Summary:	Inmate complains about property that was denied.

Your request for review has been received.

The Corrections Complaint Examiner (CCE) has 35 working days to submit a recommendation to the Office of the Secretary (OOS) for Review. The OOS has 10 working days to make a decision after receiving the CCE's report. The OOS may extend the time for making a decision for cause and upon notice to all interested parties.

If you do not receive a decision or other notices within that time, you may write directly to:

Secretary of the Department of Corrections
Post Office Box 7925
Madison, WI 53707-7925

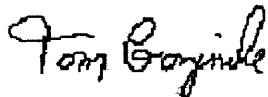
CCE REPORT
COMPLAINT NUMBER JCI-2008-3813
***** ICRS CONFIDENTIAL *****

To: ALLEN, MATTHEW - #270322
UNIT: MELRSE-A2 -- 257-L
Jackson Correctional Institution
PO Box 233
Black River Falls, WI 54615-0233

Complaint Information:

Subject of Complaint:	7 - Personal Property		
Brief Summary:	Inmate complains about property that was denied.		
Method of Disposition:	Review on Record?	Yes	Investigation? No
CCE's Recommendation:	Dismissed		
	The institution's decision reasonably and appropriately addressed the issue raised by this inmate. In addition, the CCE notes that, on appeal, the inmate presents no new information that would warrant recommending overturning that decision. Thus, it is recommended this appeal be dismissed.		

Recommendation Date: February 29, 2008



Tom Gozinske

EXIBIT H

INTERVIEW / INFORMATION REQUEST

I Request This Interview Information

Reason: *I have just gotten outta Segregation and before I went some lobby items were sent here for me I would like for you to call me down so that I can have them*

Name Matthew Allen
Number 220322
Assignment A1A
Housing me12052

DO NOT WRITE BELOW THIS LINE

Name _____ No. _____ Date _____
Information Requested _____

I don't have anything to say

You will be interviewed
Will not be interviewed

Signed [Signature]
Dept. Recreation

YOUR NAME & NUMBER

Matthew Allen 220322

HOUSING UNIT me12052 CELL NUMBER 275

SHOP _____ DATE 1-18-05

FOLD

DEPARTMENT OF CORRECTIONS
Division of Adult Institutions
DOC-761 (Rev. 4/97)

FOLD

INTERVIEW / INFORMATION REQUEST

TO: MRS. BRUGGLE
(Name of)

FCI Recreation
(Institution Department)

STAPLE

EXIBIT T

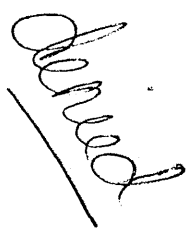
Sweetwater | invoice

Billing Address:
 Elynn Hussey
 1504 W 73 Pl.
 Chicago, IL 60636

Shipping Address:
 Matthew Allen
 Jackson Correctional Inst.
 N6500 PO Box 233
 Black River Falls, WI 54615-0233

Invoice Page	1 of 1
Invoice Date	11/07/07
Invoice Number	7224373
Customer Number	828223

Qty	Item	Retail Price	Your Price	Total Price
1	DP01 - TASCAM 8-Trk DAW Portastudio	\$299.00	\$269.97	\$269.97
1	Phone - Please phone when shipping			
1	ShipTo - Ship to is correctional facility			
1	ApplyCredit - \$63.45 from Inv#7241645			



*Thanks for the order!!
 Tim Harrington x 1395*

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 Paid via Visa 5791: \$206.52
 Paid via Other: \$63.45
 Balance Due: \$0.00



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Contact Information:
 5501 US Highway 30 W
 Fort Wayne, IN 46818
 (260) 432-8176
 (800) 222-4700
 www.sweetwater.com
 sales@sweetwater.com

EXIBIT K

SERVED ~~PERSONAL~~ SUBSTITUTE

AT 2930 M THIS 1 DAY OF July 2008
AT THE Co OF Madison
BY DAVID J. MAHONEY
Deputy Sheriff