

RECEIVED

JUN 23 2023

CLERK, U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

U.S. District Court

Western District Of Pennsylvania (Erie)

Plaintiff

Derrick Butler

V

Civil Action No. 1:22-cv-00289-RAL

Defendant

George Little (Secretary of Doc)

Defendant

Jake Beach (Mail room Supervisor Of SCI-Forest)

Amended Complaint

Jurisdiction & Venue

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3).

2. The Western District of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

Plaintiff

3. Plaintiff, Derrick Butler, is and was at all times mentioned herein a prisoner of the state of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in SCI-Forest, in Marienville Pennsylvania.

Defendants

4. At the time of matters complained of in Complaint defendant, George Little, was the secretary of Department of Corrections of the state of Pennsylvania. He was legally responsible for the overall operation of the Department and each institution under its jurisdiction, including SCI-Forest.

5. Defendant, Jake Beach, is a Mail room Supervisor of the Pennsylvania Department of Corrections, who at all times mentioned in this complaint, held the rank of Mail room Supervisor at SCI-Forest.

6. Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint, each defendant acted under the color of state law.

Facts

7. On 3/1/2022 Plaintiff sent a request slip to the mail room of SCI-Forest, requesting a list of all the legal mail he received for the year of 2022. On 3/3/2022 Plaintiff received the list from the mail room.

8. Upon reviewing the list, Plaintiff noticed the legal mail dated for 2/18/2022 from the Superior Court was rejected by the mail room. **See Exhibit A.**

9. SCI-Forest mail room failed to provide Plaintiff with a rejection notice after the mail room rejected his legal mail from the Superior Court on 2/18/2022.

Legal Argument

10. Plaintiffs Fourteenth Amendment procedural due process right was violated when SCI-Forest mail room rejected his legal mail without giving him notice. Plaintiff has a liberty interest in corresponding by mail.

11. The interest in uncensored communication by letter is plainly a liberty interest. So the Prison must provide minimum procedural safeguards when they censor or withhold delivery of a particular letter. Notice and a reasonable chance to challenge the original official's decision satisfies due process.

12. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs described herein. Plaintiff has and will continue to be irreparably damaged by the conduct of the defendants unless this court grants the compensatory and punitive relief which plaintiff seeks.

Grievance Procedure

13. Plaintiff gave the defendant's a fair opportunity to resolve the issue by exhausting the prison grievance procedure, which resulted in his final grievance Appeal being Denied. **See Exhibits B 1-6**

Show Causation

14. Defendant, George Little (Secretary of D.O.C.) is liable for the violation of Plaintiffs rights, because after learning of the violation through the grievance Procedure he failed to remedy the wrong. **See Exhibit B-6.**

15. Defendant, Jake Beach (Mail Room Supervisor) is liable for the violation of Plaintiffs rights, because after learning of the violation through the grievance procedure he failed to remedy the wrong. **See Exhibit B-2.**

Prayer For Relief

Wherefore, plaintiff respectfully prays that this court enter judgment granting Plaintiff:

16. Compensatory damages against each defendant, jointly and severally.

17. Punitive damages against each defendant.

18. A jury trial on all issues triable by jury.

19. Plaintiff's cost in this suit.

20. Any additional relief this court deems just, proper, and equitable.

I Declare Under Penalty of Perjury That The Foregoing Is True and Correct.

6/20/2023
(Date)

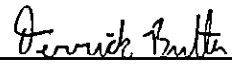

(Signature of Plaintiff)



Exhibit A

Pennsylvania Department of Corrections

Inmate Correspondence History

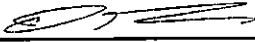
14/2022 3:27:50 PM


Date Range: 1/1/2022 - 3/14/2022

Inmate Number: nz4224

Inmate Name: DERRICK BUTLER

Mail Tracking #:	546601	Jurisdiction:	The Superior Court of PA
Created Date:	2/18/2022	Contact Title:	Prothonotary
Created Location:	FOREST	Delivered Date:	
Mail Type:	Court	Delivered Location:	
Sender Name:		Status:	Rejected by Mail Room
Sender Office:	Superior Court and Commonwealth Court	Sender Address:	PENNSYLVANIA JUDICIAL CENTER, 601 COMMONWEALTH AVE, SUITE 1600 P.O. BOX 62435, Harrisburg, PA, 17106
Inmate Signature:		Signature Status:	

Mail Tracking #:	541922	Jurisdiction:	
Created Date:	2/7/2022	Contact Title:	
Created Location:	FOREST	Delivered Date:	2/7/2022
Mail Type:	Attorney	Delivered Location:	FOREST
Sender Name:	Mark Mungello	Status:	Delivered by Security
Sender Office:	Law Office of Mark D. Mungello	Sender Address:	THE GRAHAM BUILDING, 30 SOUTH 15TH STREET, 15TH FLOOR, PHILADELPHIA, PENNSYLVANIA, 19102
Inmate Signature:		Signature Status:	Accepted To Sign

Mail Tracking #:	545366	Jurisdiction:	
Created Date:	2/15/2022	Contact Title:	
Created Location:	FOREST	Delivered Date:	2/15/2022
Mail Type:	Attorney	Delivered Location:	FOREST
Sender Name:	Mark Mungello	Status:	Delivered by Security
Sender Office:	Law Office of Mark D. Mungello	Sender Address:	THE GRAHAM BUILDING, 30 SOUTH 15TH STREET, 15TH FLOOR, PHILADELPHIA, PENNSYLVANIA, 19102
Inmate Signature:		Signature Status:	Accepted To Sign

DC-804
Part 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONSFOR OFFICIAL USE
971128
GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: SCI - Forest	DATE: 3/8/22
FROM: (INMATE NAME & NUMBER) Derrick Butler N24224	SIGNATURE OF INMATE: Derrick Butler	
WORK ASSIGNMENT: Snow Crew	HOUSING ASSIGNMENT: GB2050	
<p>INSTRUCTIONS:</p> <ol style="list-style-type: none"> 1. Refer to the DC-ADM 804 for procedures on the inmate grievance system. 2. State your grievance in Block A in a brief and understandable manner. 3. List in Block B any action you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted. 		
<p>A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages (one DC-804 form and one one-sided 8½" x 11" page). State all relief that you are seeking.</p> <p>On 3/1/2022 I sent a request slip to the mail room requesting a list of all the legal mail I've received this year. On 3/3/22 the mail room sent the list of legal mail I've received to me through inmate mail. While reviewing the list I noticed the mail dated 2/18/2022 from the Superior Court, that was rejected by the mail room. See Exhibit A enclosed. I was never given a Unacceptable Correspondence Form outlined in the DC-ADM 803 Section 1-Mail Processing Procedures, concerning Exhibit A dated 2/18/2022. The lack of rejection notice not being sent to me in this matter violated my right to "access the court, because I missed a filing deadline. See Lewis v. Casey, 518 U.S. 343 (1996). I missed the opportunity to file a Petition for Allowance of Appeal with the Supreme Court Docket #542 MDA 2021. An Inmate has a right to procedural - Due Process including notice whenever any form of correspondence addressed to that inmate is rejected. See Bonner v. Outlaw, 552 F.3d 673 (8th Cir. 2009). If the grievance process doesn't handle this matter, I plan to file a lawsuit. Relief: I would like to know why I didn't get the mail and what was done with the mail. Also, Nominal Damages for \$1, Compensatory Damages for \$25,000, Punitive Damages for \$25,000</p>		
<p>B. List actions taken and staff you have contacted, before submitting this grievance.</p> <p>Write to the Superior Court</p>		

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Tina
Signature of Facility Grievance Coordinator

3/8/22
Date

WHITE Facility Grievance Coordinator Copy CANARY File Copy PINK Action Return Copy
GOLDEN ROD Inmate Copy



Initial Review Response

SCI Forest
286 Woodland Dr Po Box 307
Marienville, PA, 16239-0307

03/24/2022 11:26

Inmate Name:	BUTLER, DERRICK LORENZO	DOC #:	NZ4224
Facility:	Forest	Unit Location:	G / B
Grievance #:	971128		

This serves to acknowledge receipt of your grievance to the assigned Grievance Officer. The response is as follows:

Decision: Grievance Denied

It is the decision of this Grievance Officer to uphold, deny, or uphold in part/deny in part the inmate's initial grievance. This response will include a brief rationale, a summary of the conclusion, any action taken to resolve the issue(s) raised in the grievance, and the relief sought.

Response:

Inmate Butler is grieving that on 3/3/22 he received a list of legal mail showing that on 2/18/22 a piece of legal mail was returned and he never got an Unacceptable Correspondence form according to the DC Admin803. Relief sought is Nominal Damages of \$1 Compensatory Damage of \$25,000 and Punitive Damages of \$25,000.

Your mail is being processed in accordance to the DC Admin803 Section 1 B. 1. Inmate Mail will be refused for the following reasons: c. Privileged mail that does not contain a valid (ACN) Attorney control number Court control number (CCN), Non-attorney control /court control number (MCN) and or time code as applicable. Only time in accordance to policy you receive an Unacceptable correspondence form when an item has been confiscated.

This grievance is denied no relief issued.

Signature:	
Name:	J. Beach
Title:	CHS
Approver:	J. Biel
Date:	3/24/22

CC: Facility Grievance Coordinator
DC-15

Exhibit B-3

SCI-FOREST
APPEAL TO SUPERINTENDENT

GRIEVANCE

DC NUMBER	NAME	HOUSING UNIT	DATE SENT	GRIEVANCE#
NZ4224	Derrick Butler	G-B 2050	3/28/22	971128

I received my initial response from the Grievance Office/Coordinator on [redacted] and have the following appeal issues:

Refer to DC ADM 804 Grievance Appeal Procedures for complete instructions.

Please provide a BRIEF (no longer than two pages) appeal statement.

In response to denied grievance #971128, the responder said my mail is being processed accordance to the DC Admin 803 Section 1B1. If my mail is being processed, I'm guessing that the mail room still has my mail. If this is true, this means the mail room has had my mail for over a month, in which further proves my claim. The Superior Court has made me aware that the mail was never returned to them. See Exhibit B enclosed. DC Admin 803 is unconstitutional, the law requires that any mail that is rejected by state officials for what ever reason, inmates must be giving a rejection notice. It is still unclear to what happened to my mail. The fact is that because of this error, I have lost my right to file allowance of appeal with the Supreme Court. With these facts, I'm adapting my original grievance #971128.

INMATE SIGNATURE: Derrick Butler



Facility Manager's Appeal Response

SCI Forest
286 Woodland Dr Po Box 307
Marienville, PA, 16239-0307

04/20/2022 01:08

Inmate Name:	BUTLER, DERRICK LORENZO	DOC #:	NZ4224
Facility:	Forest	Unit Location:	G / B
Grievance #:	971128		

This serves to acknowledge receipt of your grievance appeal to the Facility Manager for the grievance noted above. In accordance with the provisions of DC-ADM 804, "Inmate Grievance System Policy", the following response is being provided based on a review of the entire record of this grievance. The review included your initial grievance, the Grievance Officer's response, your appeal to me and any other documents submitted.

Decision: Uphold Response

It is the decision of this Facility Manager to uphold the initial response, uphold the inmate, dismiss, or Uphold in part/Deny in part. This response will include a brief rationale, summarizing the conclusion, any action taken to resolve the issue(s) raised in the grievance and your appeal and relief sought.

Response:

Inmate Butler has appealed the initial response to this grievance. On appeal, the grievant maintains that the mailroom must still have their mail and the Superior Court has made them aware that it was never returned to them and maintains that they should have been given a rejection notice. The requested relief is what was requested in the original grievance.

Upon reviewing your official inmate grievance, the initial response, and your subsequent appeal, the Facility Manager finds that on appeal, this was reviewed with Mr. Beach, who is the mailroom supervisor. The mailroom does not have your mail and it was returned to the sender. The facility is not responsible for the U.S. Postal Service.

Therefore, for the reasons stated above, this grievance appeal is denied and the initial response is upheld. Requested relief is denied.

Signature:

Name: 
D. Oberlander

Title: Facility Manager

Date: 4-20-2022

CC: DC-15
File

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 2 - Appeals, Attachment 2-B

NZ4224 Grievance #: 971128

BUTLER, DERRICK LORENZO

Issued: 1/26/2016 Effective: 2/16/2016

Exhibit B-5

INMATE APPEAL TO FINAL REVIEW GRIEVANCE

INMATE NUMBER	NAME	FACILITY	DATE	GRIEVANCE#
NZ4224	Derrick Butler	Forest	4/24/22	971128

I received my appeal from the Superintendent on 4/22/22 and have the following appeal issues:

Refer to DC-ADM 804, Grievance Appeal Procedures, for complete instructions.
Appeals must relate to the issue presented in the initial grievance and 1st level appeal.

Please provide a BRIEF (no longer than two pages) appeal statement.

The Superintendent total disregarded the issue's. The grievance is because the prison was suppose to notify me when my incoming mail was rejected, its my Fourteenth Amendment due process right to procedural due process, which means I have a liberty interest to communicate by mail, which includes a notice to inmate's whenever mail address to them is rejected by the prison. See (Steven David Vogt v. John E. Wetzel United States Court of Appeals for the Third Circuit 2021 U.S. App. Lexis 23540). My First Amendment right to access the courts was also violated because the prisons failure to notify me about my rejected mail, in which the superior court said the prison never returned the rejected mail as undeliverable. See Exhibit A. Because of this I've lost my right to file a Allowance of Appeal to the Supreme Court which was due on 3/8/22. See Exhibit B. I did not receive the denial from the Superior Court that I needed to file the allowance of appeal to the Supreme Court till 3/9/22. See Exhibit C. The Subject Mail was rejected on 2/18/22. See Exhibit D. I'm Amending the Relief I'm asking for

Nominal Damages: \$50,000

Compensatory Damages: \$50,000

Punitive Damages: \$50,000

Injection: I would like D.O.C. to change DC Admin 803 Section, so all inmates are notified when there incoming mail is rejected.

Willing to Negotiate

C.C. Filed

INMATE SIGNATURE: Derrick Butler



06/30/2022 12:59

Final Appeal Decision

Secretary's Office of Inmate Grievances & Appeals
 Pennsylvania Department of Corrections
 1920 Technology Parkway
 Mechanicsburg, PA 17050

Inmate Name: BUTLER, DERRICK DOC #: NZ4224
 LORENZO
 SCI Filed: Forest Current SCI: Forest
 Grievance #: 971128

This serves to acknowledge receipt of your appeal to the Secretary's Office of Inmate Grievances and Appeals for the grievance noted above. In accordance with the provisions of DC-ADM 804, Inmate Grievance System Policy, the following response is being provided based on a review of the entire record of this grievance. The review included your initial grievance, the Grievance Officer's response, your appeal to the Facility Manager, the Facility Manager's response, the issues you raised to final review, and (when applicable) any revised institutional responses required as a result of a subsequent remand action by this office. As necessary, input from appropriate Central Office Bureaus (e.g., Health Care Services, Chief Counsel, Office of Special Investigations and Intelligence, etc) may have been solicited in making a determination in response to your issue as well.

Decision: Uphold Response

It is the decision of the Secretary's Office of Inmate Grievances and Appeals to uphold the initial response, uphold the inmate, or Uphold in part/Deny in part. This response will include a brief rationale, summarizing the conclusion, any action taken to resolve the issue(s) raised in the grievance and your appeal and relief sought.

Response:

This office is in receipt of your appeal and has reviewed all applicable documents. In your grievance, you claim that you had just learned that a mailing was rejected and returned to the sender. You claim that you were not properly notified. You go on to claim that the sender did not receive the returned mailing. You sought monetary relief.

A review of the records reflects that there is nothing further to add to the responses provided. Your issues were sufficiently addressed at previous levels. You offer no additional evidence or information that would alter those responses. Based on the review, your appeal and any requested relief is denied.

Signature:

Name:

D. Varner

Title:

Chief Grievance Officer

Date:

06/30/22

CC: DC-15/Superintendent - Forest
 Grievance Office

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 2 - Appeals, Attachment 2-F

Issued: 1/26/2016 Effective: 2/16/2016

NZ4224 Grievance #: 971128

BUTLER, DERRICK LORENZO

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