

STEPHEN L. PEVAR
American Civil Liberties Union Foundation
2074 Park Street
Hartford, Connecticut 06106
(860) 570-9830

JENNIFER HORVATH
American Civil Liberties Union of Wyoming
PO Box 20706
1603 Capitol Avenue, Suite 510
Cheyenne, Wyoming 82003
(307) 637-4537

ATTORNEYS FOR PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

JOSEPH MILLER,)
on his own behalf and on behalf of)
all other persons similarly situated,)
)
Plaintiffs,)

vs.)

MICHAEL GRUBBE; LONNIE)
PRINDLE; CLYDE GOODMAN; and)
MICHAEL MURPHY,)
in their official and individual)
capacities,)
)
Defendants.)

Civ. No. _____

COMPLAINT

_____)

PRELIMINARY STATEMENT

Shortly after lunch on October 28, 2008, some 25 prisoners were in the open dayroom of Housing Unit B-2 at the Wyoming State Penitentiary (WSP) when an argument erupted between prisoner Ryan Bartlett and guard Bryan Wiseman. Everyone turned to observe it. Suddenly, Wiseman sprayed Bartlett in the face with oleoresin capsicum (pepper spray). Within moments, eight additional guards arrived. Several guards (according to their own reports) yelled at prisoners to return to their cells, while other guards yelled at Bartlett as they took him down on his stomach, shackled his hands behind his back, and pressed on his back and neck to prevent him from moving. Bartlett previously had extensive surgery on his lungs. His medical condition, the weight of the guards on his back, and the effects of the pepper spray made breathing difficult. Bartlett felt he was going to suffocate, and he implored the guards to give him some air. At this point, it appeared that Defendant Grubbe kicked Bartlett in the head. Immediately, at least 15 prisoners started yelling on Bartlett's behalf, asking guards to allow him to breathe and complaining about the guards' conduct.

Plaintiff Joseph Miller, a prisoner housed in B-2, had an unobstructed view of the entire incident and saw Grubbe's shoe hit Bartlett's head. As he entered his cell, Miller told the guards he was going to report what he saw. When guards Grubbe and Prindle heard this, they went to Miller's cell and warned that if he reported anything, he would be "in trouble." They swore at Miller. Miller repeated that he was going to submit a report, whereupon Prindle advised

Grubbe to issue disciplinary charges against Miller that Prindle knew were unfounded. Despite these threats, Miller sent a grievance to Warden Murphy because he felt it was the right thing to do. Several hours later, Grubbe retaliated by issuing false charges against Miller.

Numerous witnesses will testify at trial that at least 15 prisoners were yelling at the guards. Only one of them, Joseph Miller, received disciplinary charges as a result. The reason for the difference in treatment is that Miller is the only prisoner who reported to Warden Murphy what he had observed. Miller was retaliated against for reporting misconduct.

At his November 28, 2008 disciplinary hearing, Miller requested that five prisoners who had witnessed this incident be called to testify. These men would confirm Miller's testimony both as to the guards' conduct towards Bartlett and the retaliation against Miller. The hearing officer, Defendant Goodman, however, refused to allow any of these witnesses to testify. Instead, Goodman summarily found Miller guilty, sentencing him to 90 days in solitary confinement.

Miller appealed his conviction to Warden Murphy. Murphy denied Miller's appeal and affirmed the sentence, claiming that Miller had submitted "no evidence" in his support. Murphy deliberately overlooked the fact that Miller had been prevented by Goodman from presenting testimony from five eyewitnesses. Thus, the disciplinary charges, the disciplinary hearing, the resulting convictions, and Murphy's biased and close-minded review violated Miller's constitutional rights. Plaintiff Miller seeks declaratory and injunctive relief and damages.

This action is also filed as a class action on behalf of all WSP prisoners. The class challenges a practice of Warden Murphy that violates state and federal law. Murphy has a practice of withholding from the public, including prisoners, certain information contained in *non-confidential* prison reports that he has no legitimate reason to conceal, and his doing so is inconsistent with our democratic form of government. Declaratory and injunctive relief (but not damages) are sought on this class claim.

JURISDICTION AND VENUE

1. This action seeks relief under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C § 1983. Accordingly, 28 U.S.C. §§ 1343(3) and (4) confer jurisdiction on the Court. Plaintiff's claims arising under Wyoming law may be adjudicated pursuant to the Court's pendent jurisdiction. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b).

PARTIES

2. Plaintiff **Joseph Miller** is serving a criminal sentence in the state of Wyoming and is incarcerated in the Wyoming State Penitentiary (WSP). Plaintiff has been placed under the care, custody, and control of the Wyoming Department of Corrections (WDOC).

3. Defendants **Michael Grubbe**, **Lonnie Prindle**, and **Clyde Goodman** are citizens and residents of Wyoming and are correctional officers employed at WSP.

4. Defendant **Michael Murphy** is a citizen and resident of Wyoming. At all times relevant to this action, Murphy was (and is) the Warden of WSP. As such, he has a duty to operate and administer WSP in a manner consistent with state and federal law.

5. All acts and omissions of Defendants described below were done under color of state law and were performed during the scope of their employment. Each Defendant is sued in his official and individual capacities.

CLASS ACTION

6. Plaintiff Miller brings this action on his own behalf and also on behalf of all other WSP prisoners, present and future. All WSP prisoners are being denied their rights under state and federal law to obtain copies of prison incident reports and other *non-confidential* prison records without Warden Murphy censoring information he has no right to censor. Class certification is sought pursuant to Federal Rules of Civil Procedure Rule 23(a), (b)(1) and (2). The class seeks declaratory and injunctive relief only.

FACTUAL ALLEGATIONS

7. Prisoners at WSP are permitted to possess only a small amount of personal property in their cells. Consequently, the property that prisoners choose to retain tends to be important and meaningful to them, such as family photographs, legal materials, bibles, books, and letters from friends and family.

8. When prisoners first arrive at WSP, and when they are moved within the prison to particular housing units, their personal property is sent to the

prison's Property Office for inventory and inspection. The employee currently in charge of the Property Office is guard Bryan Wiseman.

9. For many weeks prior to October 28, 2008, Warden Murphy had received complaints from prison staff and prisoners that Wiseman was grossly mismanaging the Property Office, often misplacing property and frequently misleading prisoners as to when he was going to return their property to them.

10. Prison documents show, for instance, that at least one sergeant and one case worker specialist had already notified WSP administrators that Wiseman's mishandling of prisoner property and his misleading prisoners about when he would return their possessions were causing such disruption and malcontent that staff safety was threatened.

11. Unfortunately, these warnings went unheeded, and proved prescient. On October 28, 2008, a violent incident erupted that easily could have been avoided had Murphy properly trained and supervised Wiseman.

12. As a result of a cell change months earlier, the personal property of prisoner Ryan Bartlett was sent to the Property Office. Property Officer Wiseman had returned a portion of Bartlett's property but would not return the rest, despite promises to do so. In the previous ten weeks, Bartlett had sent at least eight Inmate Requests to Wiseman, to no avail.

13. Just after lunch on October 28, 2008, Wiseman entered the dayroom of Housing Unit B-2. Approximately 25 prisoners were in the room, including Ryan Bartlett. When Bartlett saw Wiseman, he asked him about his missing

property. Wiseman, however, gave Bartlett the same brush off he had given him for ten weeks. Bartlett raised his voice, and kept asking about his property. Suddenly, Wiseman grabbed his oleoresin capsicum (pepper spray) and sprayed him in the eyes, nose, and mouth.

14. Within moments, eight additional guards arrived at the scene. Several of them helped Wiseman take Bartlett to the ground on his stomach, shackled his hands behind his back, and then pressed on his back and neck with their hands and knees to restrain him. Other guards were yelling at the prisoners in the dayroom, ordering them to go to their individual cells.

15. Bartlett has had extensive surgery on his lungs. Many prisoners in B-2 were aware of this, and had seen the large vertical scar on his chest.

16. After Bartlett was taken to the ground and guards placed their weight on his back and neck, he began screaming "I can't breathe. I can't breathe." Bartlett will testify at trial that he thought he was going to suffocate due to the pepper spray in his lungs, and because the guards were compressing his chest with their weight. He also thought he was having a heart attack.¹

¹A staff report filed by one of the guards involved in the take down of Ryan Bartlett acknowledges that Bartlett "complained that he couldn't breathe [and] requested that we let him up," and that Bartlett told the guards "he thought he was having a heart attack." Another staff report states that while Bartlett was on the ground he "began complaining of chest pain and telling us to get off his chest." Plaintiff Miller is unable to identify the guards who wrote these reports due to the illegal redaction by Warden Murphy of their names, an issue that he and the class seek to redress in this lawsuit.

17. Most of the 25 prisoners in the room were yelling at the guards on Bartlett's behalf, asking that they allow Bartlett to breathe and complaining about the use of excessive force. At this point, Bartlett felt a blow to the side of his head, which came from the foot of Defendant Grubbe.² Observing this, prisoners began yelling even louder.

18. Plaintiff Joseph Miller had an unobstructed view of what Grubbe did. The officers had instructed all prisoners to return to their cells, and Miller's cell was located directly across from where the incident was taking place. Miller watched as Grubbe's shoe hit Bartlett's head.

19. Prisoners protested. Some started swearing at the guards, but Miller, who rarely uses profanity, was not one of them. Miller's voice was no louder than the 15 other prisoners who were making statements.

20. From inside his cell, Miller told the guards that he planned on reporting Grubbe's conduct to the Warden. As soon as Grubbe heard this, he went directly to Miller's cell. As several witnesses will testify, Grubbe told Miller, "You'd better mind your own f..... business or you'll be in trouble."

21. Miller told Grubbe that he intended on filing a report. This prompted another guard, Defendant Lonnie Prindle, to join Grubbe at Miller's cell. Prindle told Miller to stay out of this. Prindle swore at Miller. When Miller said again that

²According to a staff report, Bartlett told a sergeant the day of the incident "that someone either kicked him or punched him in the head." Bartlett, who had just been sprayed in the face with mace, could not identify the officer who had hit him. Numerous prisoners will identify Grubbe as the perpetrator.

he was going to file a report, Prindle turned to Grubbe and told him, "Write him up for calling you a m..... f....., and I'll witness it." Prindle knew that Miller had said no such thing.

22. Grubbe followed Prindle's advice. Grubbe wrote a Staff Report that falsely accuses Miller of yelling through his cell door and calling Grubbe a "stupid piece of s..." and a "m..... f....."

23. Witnesses will testify that not only did Miller not make those statements, it is virtually inconceivable he ever would.

24. Plaintiff Miller submitted his grievance to Warden Murphy by 3 p.m. that afternoon. Of the nine guards involved in the incident, Grubbe was the last one to file his Staff Report, submitting it at 6:57 p.m. It would appear that Grubbe delayed his report to see if Miller would be submitting a grievance.

25. Grubbe's Staff Report states that he was charging Miller with two disciplinary infractions. Those charges were, to quote the report, "a GN-9 (Abusive language or actions towards another person.) and a MJ-15 (False Pretenses: Representation of some fact or circumstance which is not true and is calculated to mislead, deceive or defraud another.)"

26. These charges were fabrications and entirely retaliatory.

27. No fewer than 15 prisoners made critical accusations about the guards' misconduct. Yet only Plaintiff Miller was charged with GN9 and MJ15 infractions.

28. Grubbe was a pod officer assigned to B-2 that day, and remained in B-2 after the incident. As witnesses will testify at trial, prisoners continued throughout the afternoon to verbally confront Grubbe concerning his actions, questioning why he had kicked Bartlett in the head.

29. Shortly after the incident with Bartlett, Grubbe walked through the rotunda of the pod and at least ten prisoners verbally accused him of having kicked Bartlett in the head and made derogatory remarks about Grubbe's conduct. Not a single one of these prisoners was charged with "abusive language," "false pretenses," or any other infraction.

30. There was no legitimate reason to single out Miller for "abusive language" or "false pretenses" when at least 15 other prisoners were engaging in more egregious conduct than Miller. Miller observed Grubbe's foot hit Bartlett in the head, said as much, and stated his intention to file a report. Several witnesses, in fact, will admit that their statements about Grubbe's actions were far more "abusive" than Miller's. Whereas some prisoners swore at the guards and called them names, Miller confined his comments to what he had actually observed and said he would be filing a report about it.

31. That evening while Miller was eating in the dining room, a lieutenant summoned Miller into the hallway and sought to convince him not to report what he had observed. The lieutenant threatened Miller by telling him that he would spend the rest of his sentence in segregation if he proceeded with his complaint, and suggested that Miller send the grievance to him instead. Miller told the

lieutenant that he intended on pursuing his grievance with the Warden but that he would also write one for the lieutenant, which Miller did.

32. On October 29, 2008, the day after Miller submitted his grievance, Miller was removed from his cell and placed in segregation pending a hearing on disciplinary charges.

33. Grubbe's Staff Report accuses Miller of committing two -- and only two -- disciplinary infractions.

34. However, someone added a third infraction to Miller's charges. Miller does not know who added this charge, and no staff report mentions or supports it. This additional charge was equally as bogus as the first two. Miller was charged with an MJ26, which the Code of Inmate Discipline defines as: "Organizing, encouraging or participating in a work stoppage and/or other disruptive demonstration or practice."

35. Miller entered a plea of not guilty to all three charges. He was afforded a disciplinary hearing on November 28, 2008, and Defendant Clyde Goodman was the Hearing Officer.

36. On his hearing forms, Miller listed the names of five prisoners from B-2 as his witnesses. All of them were eyewitnesses. Goodman, however, refused to allow a single one of them to testify. These witnesses would have confirmed that Miller's statements were less offensive in content and tone as those made by some 15 other prisoners. Indeed, Miller might have been the only prisoner not using profanity. Some of these witnesses would also have testified that they

heard Grubbe and Prindle threaten Miller with retaliation if he reported to the Warden what they had done.

37. At the conclusion of the hearing, Defendant Goodman dismissed the GN9 charge (abusive language) but found Miller guilty of the remaining two charges, despite a lack of evidence supporting either one and despite the fact that Goodman had prevented Miller from presenting corroborating evidence from eyewitnesses.

38. Goodman sentenced Miller to 180 days in segregation, with 90 days suspended. Prior to imposing this sentence, Goodman reviewed a letter Warden Murphy had sent Miller four days earlier. Murphy stated in his letter that Miller's charges were "relatively minor" and Miller should expect to be released from segregation "before the end of this week."

39. Miller appealed his conviction to Warden Murphy, but Murphy rejected Miller's appeal. In a decision dated January 9, 2009, Murphy claims that he reviewed "the procedure utilized during the Disciplinary process and the conclusion and sanction concluding the Hearing process," and found no error.

40. Murphy states in his January 9 decision that there is "no evidence to support your claim that [the Notice of Charges] was done in retaliation." Murphy's contention is both false and disingenuous. It is false because Miller submitted detailed evidence of retaliation during the hearing through his own testimony. It is disingenuous because Goodman *had prevented Miller* from

submitting testimony from corroborating witnesses, a fact the Warden fails to mention.

41. What Murphy did in accusing Miller of failing to submit evidence is akin to placing a prisoner in a straight-jacket and then finding him guilty of an infraction for failing to submit a written statement.

42. The best evidence that Miller could have presented in defending against these particular charges was eyewitness testimony. Murphy had to have known that Goodman's refusal to permit Miller to call eyewitnesses was fundamentally unfair. Such a one-sided hearing could not possibly be lawful.

43. In addition to appealing his disciplinary conviction to Warden Murphy, Plaintiff Miller filed a separate grievance alleging that he was the victim of retaliation. The Warden dismissed Miller's grievance using the same bankrupt rationale he employed in rejecting his disciplinary appeal. First, Murphy erroneously contends that Miller was "afforded the opportunity to give your side of the story to the disciplinary hearing committee." Second, Murphy falsely contends that the hearing process was "appropriate" and that Miller's claim of retaliation was supported by "no evidence." Noticeably lacking in Murphy's decision, again, is the fact that Miller was prohibited from calling witnesses.

44. The record of the disciplinary hearing contains not a scintilla of evidence to support a conviction under MJ26. No Staff Report refers to such a charge or cites any facts showing the Miller's statements caused any work stoppage or disruption. Goodman should have dismissed that charge.

45. Had Goodman conducted a fair hearing, as he was constitutionally required to do, he would have learned that at least 15 other prisoners were yelling at the guards--more stridently than Miller--and thus the MJ26 charge was patently absurd, discriminatory, and retaliatory.

46. Miller's statements on October 28, 2008, caused no more disruption or work stoppage than the statements made at the same time by at least 15 other prisoners, none of whom was cited for committing an MJ26.

47. Accusing Miller of "abusive language" and "work stoppage" is a cover-up for Defendants' retaliatory and discriminatory actions against Miller.

48. Plaintiff Miller appealed Warden Murphy's decision to the Director of the Wyoming Department of Corrections, Robert Lampert. Lampert agreed with Plaintiff Miller that Murphy's decision must be reversed. Lampert found that mistakes made by Goodman during the disciplinary hearing rendered Miller's conviction indefensible. Lampert ordered that Miller be afforded a new hearing.

49. Following Lampert's reversal of Murphy's decision, Miller was asked by WSP Captain Curruthers on January 30, 2009, to participate that day in a new hearing. Miller told Curruthers that he was scheduled to meet with his attorney on February 10 and asked Curruthers to postpone the hearing until after that date. Prison rules expressly provide that prisoners have a right to consult with counsel prior to a disciplinary hearing, and Curruthers therefore granted Miller's request for a postponement.

50. The sheet that prisoners are given prior to their disciplinary hearings informs them that they have a right "to consult with private counsel prior to the hearing."

51. On February 4, 2009, however, Curruthers informed Miller that his hearing was going to be held that day. Miller reminded Curruthers of the conversation they had had on January 30 and again requested a postponement until after his February 10 consultation with counsel. Curruthers refused to allow a postponement.

52. There were no exigent circumstances requiring that Miller's hearing be held prior to February 10, 2009.

53. Indeed, Director Lampert's decision ordering a new hearing for Miller informed him that the hearing would be held within three weeks. That deadline would not have expired on February 10, 2009. Miller's request for a postponement was thus within the time frame contemplated by Director Lampert.

54. In direct contravention of prison rules allowing prisoners to consult with counsel prior to a disciplinary hearing, Curruthers wrote on the hearing form that Miller had "refused to participate" in his hearing. That statement is inaccurate, and Curruthers knew it. In truth, Miller did not refuse to participate in his hearing, but merely requested a postponement consistent with prison regulations. In denying that request, prison officials once again violated their own policies in their rush to deny Miller a fair hearing and find him guilty.

55. As noted earlier, the incident that gave rise to these events occurred on October 28, 2008. Miller submitted his grievance to Warden Murphy the same day, and was placed in segregation the next day. He remained in segregation until December 24, 2008. He was inexplicably released from segregation by Warden Murphy prior to the expiration of his 90-day sentence, even though Murphy believes that Miller's hearing, conviction, and sentence were entirely appropriate.

56. The actions of the four Defendants described above were undertaken with reckless disregard for Plaintiff Miller's constitutional rights and were done in a deliberate and malicious attempt to retaliate against him for calling attention to what he perceived to be the unnecessary use of force on another prisoner.

57. Warden Murphy committed six errors that proximately caused Plaintiff Miller's injuries. First, he failed to adequately train and supervise Property Officer Wiseman and ignored complaints about Wiseman's misconduct. Second, he failed to adequately supervise and train Defendant Goodman in order to ensure that Goodman conducted fair disciplinary hearings. Third, Murphy deliberately overlooked inherently prejudicial procedural defects in Plaintiff Miller's hearing that, as Director Lampert concluded, rendered the conviction unsupportable. Fourth, Murphy sought to cover up those procedural defects by accusing Miller of having failed to produce evidence, when Murphy knew it was Goodman's fault that such evidence was precluded from the hearing. Fifth, when Murphy reviewed the record on appeal, he had to have seen that no staff report alleged

that Miller had committed an MJ26 offense and no evidence of disruption or work stoppage had been presented at the hearing. Lastly, Murphy's review of the record on appeal must also have revealed to him the flagrant contradictions and inconsistencies in the statements submitted by his staff that clearly show that some guards were not telling the truth. Rather than affirm Plaintiff Miller's conviction, Warden Murphy should have dismissed all charges against Mr. Miller.

58. Miller appealed Curruthers' decision of February 4, 2009, that found that Miller had "refused to participate" in his hearing. On February 23, 2009, Miller was offered a new hearing. Miller presented evidence from himself and three eyewitnesses that his statements were less abusive than those made by some 15 other prisoners, and that officers had threatened him with retaliation when he announced his intention to report what he had observed. Yet Miller was again found guilty. This finding of guilt was retaliatory and inconsistent with the evidence.

59. Defendant Grubbe is aware that he used, or that persons might reasonably believe he used, excessive force on Ryan Bartlett. The day after the incident, Grubbe went to Bartlett's cell and told him that he did not mean to hit him in the head.

60. Defendants are also aware that Bryan Wiseman may have used excessive force on Ryan Bartlett. Although an internal review cleared Wiseman, this investigation was a whitewash. In the first place, it failed to take into account an officer who observed the entire incident and who later testified that Wiseman

did not have a valid reason to use pepper spray on Bartlett. Moreover, the internal investigation also failed to interview any of the 25 prisoners who observed the incident. The prison's internal review was not designed to obtain the truth.

Overly-Redacted Prison Documents and Withholding Prison Documents

61. Prior to filing this lawsuit, Plaintiff Miller submitted a request (through counsel) to the Wyoming Attorney General's office for photocopies of the staff reports that guards submitted to the WSP administration in connection with this incident and a copy of the Use of Force investigation that was conducted by the prison in connection with the pepper spraying and restraint of Ryan Bartlett. When these reports were sent, every officer's name had been redacted from these documents, including the names of the authors of the staff reports.

62. Defendants are aware that these documents are not exempt from disclosure under state or federal law. This explains why Defendants provided the reports rather than claimed a privilege to withhold them.

63. Neither state nor federal law authorizes Defendants to redact the names of prison employees from these *non-confidential* documents. Indeed, this very issue was litigated and resolved *adversely to Warden Murphy* by this Court in Skinner v. Uphoff, 2005 WL 4089333 (D. Wyo. 2005). There, as here, Defendants sought to prevent WSP prisoners--the same class of plaintiffs here--from learning the identities of WSP employees involved in prison investigations and incidents of violence. The Court held that "non-confidential information

should be available to the inmates and the public." Skinner, 2005 WL 408933 * 3. The Court reasoned that "the public has a right, and even a responsibility, to review the investigative reports." Id., citing Allsop v. Cheyenne Newspapers, Inc., 39 P.3d 1092, 1096 (Wyo. 2002). The Court then listed the information that was confidential and therefore subject to redaction from WSP reports. Id. at *3-*4. Notably, the Court did *not* authorize redacting the names of employees involved in these incidents nor redacting the names of the authors of these staff reports.

64. Prior to the Court's ruling in Skinner, Defendants were redacting the names of employees and authors from all incident and investigative reports they sent to counsel for Plaintiffs. After the Court's ruling, Defendants ceased redacting those names from these documents. Thus, it is clear that the Court had ruled--and Defendants knew that the Court had ruled--that Defendants must cease redacting employee identifications from these incident and investigative reports.

65. Concealing the names of the authors of these non-confidential staff reports, as well as the names of the employees mentioned in them, is contrary to the principles of a democratic society, which promotes an open government, and violates the principles set forth in the Court's prior ruling on this same issue.

66. Defendants have no compelling interest that necessitates the redaction of the names of employees from these documents, as these documents do not involve disciplinary matters against employees, health records, or any other subject privileged under state or federal law.

67. Prisoner Bartlett requested a copy of the Use of Force investigation involving the October 28, 2008 incident so that he could assess whether his testimony had been fairly summarized in the report and whether the investigation reached a reasonable conclusion as to whether excessive force had been used against him. Bartlett submitted a written request for a copy of the report, which request was denied. During his hearing, he asked the Hearing Officer (Defendant Goodman) if he could examine a copy of the report, given that the report was being considered as evidence. Goodman contacted Warden Murphy. As the tape of Bartlett's hearing will show, Murphy refused to allow Bartlett to review the report, even though no document in the report is confidential under state or federal law.

68. Unfortunately, Defendants have returned to their old ways, seeking to construct a curtain around their activities and concealing information from the public and from prisoners that they have a right to know. Plaintiffs have no adequate remedy at law.

FIRST CLAIM FOR RELIEF

69. Based on the facts set forth above, Plaintiff Miller claims that Defendants Grubbe, Prindle, Goodman, and Murphy violated rights secured to him by the First and Fourteenth Amendments to the U.S. Constitution. Relief is sought pursuant to 42 U.S.C. § 1983.

SECOND CLAIM FOR RELIEF

70. Based on the facts set forth above, Plaintiff Miller, on his own behalf and on behalf of the plaintiff class, claims that Defendant Murphy has redacted, and has a policy of redacting, information contained in non-confidential prison documents requested by prisoners that the law does not permit him to redact. By censoring this information, Defendant Murphy has violated and is violating rights secured to plaintiffs by the First and Fourteenth Amendments to the U.S. Constitution and by Wyoming constitutional and statutory law. Relief is sought pursuant to 42 U.S.C. § 1983, and under Wyoming constitutional and statutory law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Honorable Court will:

1. Issue declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, declaring that Defendants violated Plaintiff Miller's rights under the First and Fourteenth Amendments to the U.S. Constitution.

2. Issue declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, declaring that Defendant Murphy has violated rights secured to members of the Plaintiff class by the First and Fourteenth Amendments to the U.S. Constitution and by Wyoming constitutional and statutory law.

3. Issue injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure on behalf of Plaintiff Miller enjoining Defendants from (a) any further retaliation against him, (b) failing to afford him a fair hearing on his disciplinary

charges, (c) failing to dismiss disciplinary charges that lack foundation or are discriminatory and retaliatory, and (d) failing to expunge all references in his prison file to the disciplinary charges at issue herein and to restore the classification he would have had but for his conviction on those charges.

4. Issue injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure on behalf of the Plaintiff class enjoining Defendant Murphy from redacting information contained in non-confidential prison documents beyond what Wyoming and federal law allows.

5. Grant Plaintiff Miller the *total* sum of \$10,000 in compensatory damages and grant punitive damages to Mr. Miller from *each* defendant in the amount of \$10,000.

6. Grant such additional and further relief as the Court may deem proper under the circumstances, including an award of attorneys' fees and costs incurred in this litigation.

Stephen L. Pevar

Jennifer Horvath