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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

12 FRANK CLEMENT

13 Plaintiff,

14 vs.

15 CALIFORNIA DEPARTMENT OF
16 CORRECTIONS, et al.,

17 Defendants.

No. C 00-1860 CW

DECLARATION OF BEVERLY
LOZANO IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Date: August 9, 2002

Time: 10 a.m.

Before: Hon. Claudia Wilken

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1 I, Beverly Lozano, declare the following:

2 1. I am a resident of Dixon, California and, since May 2001, have
3 been corresponding on a regular basis with Scott Collins, who is
4 incarcerated on Death Row at San Quentin State Prison. I submit this
5 Declaration in support of plaintiff Frank Clement's Opposition to
6 Defendants' Motion for Summary Judgment. Unless otherwise indicated, if
7 called upon to do so, I could competently testify of my own personal
8 knowledge to the facts set forth herein.

9

10 2. I have been an activist in the anti-death penalty movement for
11 most of my adult life. My retirement allowed me to play a more meaningful
12 role in that work, and in that capacity, I began corresponding with Mr.
13 Collins, who was seeking assistance securing habeas counsel. Beginning in
14 May 2001, I have regularly sent Mr. Collins materials from the Internet via
15 the U.S. Postal Service.

16

17 3. It has been my experience in corresponding with Mr. Collins
18 that information critical to prisoners' legal and personal needs is, as a
19 practical matter, often available only on the Internet.

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21

22 4. I can not always send hard-copy original materials to Mr.
23 Collins because (1) certain information, including recent court decisions or
24 procedural rules, is not yet available in books or magazines, (2)
25 organizations often refuse to mail hard copies because it is too costly to do
26 so, and (3) it is too time intensive and costly to locate and manually copy
all information from a library.

27

28 5. In the course of my correspondence with Mr. Collins, I have
sent him a wide variety of materials printed from the Internet. These have

1 included materials about Mr. Collins' webpage, his efforts to seek habeas
2 counsel, newspaper articles about the Habeas Corpus Resource Center, legal
3 rules and policies that apply to capital cases, information concerning San
4 Quentin, and information about Mr. Collins' religious beliefs.

5
6 6. During the summer of 2001, San Quentin began prohibiting the
7 receipt of Internet-generated materials. After this policy was implemented,
8 the prison mailroom refused to accept several of my letters containing
9 documents downloaded from the Internet. On September 19, 2001, San
10 Quentin Warden J.S. Woodford confirmed to me that "[f]or security and
11 legal reasons, Internet related material will no longer be allowed into San
12 Quentin State Prison through the mail." A true and correct copy of Warden
13 Woodford's letter to me is attached hereto as Exhibit A.

14
15 7. On several occasions Mr. Collins requested information that I
16 could obtain only on the Internet. To the best of my knowledge, the
17 organizations I have dealt with prefer to communicate and provide
18 information via the Internet.

19
20 8. For instance, Mr. Collins asked me to obtain a copy of the
21 California Department of General Services ("CDGS") report entitled
22 "Preliminary Analysis of Potential Reuse and Relocation of San Quentin
23 State Prison." In August 2001, I called the Department of Corrections
24 ("CDC") and requested a copy. The CDC's Public Information Office
25 informed me that the CDC was not distributing the report and directed me to
26 the CDGS website. On August 7, 2001, I downloaded the report with Adobe
27 Acrobat, a software program that removes Internet identification headers
28 and footers, and sent it to Mr. Collins. After reviewing the report and

1 removing certain site maps for security reasons, mailroom staff delivered
2 the report to Mr. Collins who informed me that he had received this report
3 by September 6, 2001.

4

5 9. The Canadian Coalition Against the Death Penalty (“CCADP”)
6 has a website containing information about the death penalty and individual
7 webpages for death row prisoners across the country. CCADP conducts its
8 activities principally over the Internet. Mr. Collins posted a webpage on
9 CCADP’s website containing information about his case and soliciting help
10 in his efforts to obtain habeas counsel. Communication with CCADP about
11 information posted on its website is conducted solely via email. When Mr.
12 Collins’ website was inadvertently deleted from the CCADP site, CCADP
13 contacted me by email to explain the problem and CCADP’s efforts to
14 restore his website. On June 25, 2001, I printed and mailed these emails to
15 Mr. Collins. On August 6, 2001, I received a letter from Mr. Collins
16 informing me that these materials had been confiscated as contraband
17 because they had been downloaded from the Internet.

18

19 10. Mr. Collins asked me to provide him with rules related to
20 procedures in death penalty cases. I didn’t contact any organizations by
21 phone because in my experience, these organizations instead refer me to the
22 Internet. Generally, court decisions and procedural rules are more
23 accessible on the Internet than in most libraries since procedural rules
24 frequently change. When I have gone to the library to obtain these
25 materials, it has taken me considerable time and expense, if they are even
26 available, to locate and copy them. Downloading the information from the
27 Internet is free and takes relatively little time. In addition, on the Internet,
28 I can review all rules pertaining to the death penalty and select those

1 relevant to Mr. Collins' case to download and mail to him. I have located
2 these rules on the California Supreme Court's website.

3

4 11. On behalf of Mr. Collins, in October 2001, I contacted Amnesty
5 International, Death Penalty Focus and The Moratorium Campaign
6 regarding a petition campaign attempting to secure his habeas counsel.
7 These organizations responded to me by email. I sent Mr. Collins this
8 email correspondence. I am informed and believe that the San Quentin
9 mailroom, despite the policy, allowed Mr. Collins to receive the
10 information. It may be that the mailroom allowed the emails because the
11 regulation was still new. In any case, subsequent to this date, the mailroom
12 has refused to accept letters containing materials downloaded from the
13 Internet.

14

15 12. I am at a loss to understand the necessity for a policy that
16 prohibits me from sending otherwise permissible material to Mr. Collins
17 simply because it was printed from the Internet instead of obtained from
18 some other source. This policy makes it significantly more difficult for me
19 to provide Mr. Collins with information that I am entitled to send to him,
20 the receipt of which would be entirely unobjectionable but for the fact that I
21 downloaded it from the Internet.

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1 I declare under penalty of perjury under the laws of the United States
2 of America and the State of California that the foregoing is true and correct.
3 Executed this ___ day of June, 2002, at Dixon, California.

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Beverly Lozano