# Appendix A

# United States Court of Appeals

**For the Seventh Circuit**
**Chicago, Illinois 60604**

September 16, 2024

**Before**

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2962

CHRISTOPHER STEPHEN BECKMAN,
*Plaintiff-Appellant,*
*v.*

CHRISTINA REAGLE,
*Defendant-Appellee.*

Appeal from the United States District Court for the Southern District of Indiana, Terre Haute Division.

No. 2:20-cv-00607

James P. Hanlon,
*Judge.*

**ORDER**

On consideration of the petition for rehearing filed by plaintiff-appellant on September 11, 2024, all members of the original panel have voted to deny the petition for rehearing.

Accordingly, the petition for rehearing is hereby DENIED.

# Appendix 2

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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United States Courthouse
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## FINAL JUDGMENT

August 29, 2024

*Before*
MICHAEL Y. SCUDDER, *Circuit Judge*
THOMAS L. KIRSCH II, *Circuit Judge*
JOSHUA P. KOLAR, *Circuit Judge*

| | |
|---|---|
| No. 23-2962 | CHRISTOPHER STEPHEN BECKMAN,<br>Plaintiff - Appellant<br><br>v.<br><br>CHRISTINA REAGLE,<br>Defendant - Appellee |

**Originating Case Information:**
District Court No: 2:20-cv-00607-JPH-MKK
Southern District of Indiana, Terre Haute Division
District Judge James P. Hanlon

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

Clerk of Court

form name: c7_FinalJudgment (form ID: 132)

# Appendix C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

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|---|---|---|
| CHRISTOPHER STEPHEN BECKMAN,<br><br>Plaintiff,<br><br>v.<br><br>CHRISTINA REAGLE IDOC Commissioner,<br><br>Defendant. | ) | No. 2:20-cv-00607-JPH-MKK |

**ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Christopher Beckman filed this action pursuant to 42 U.S.C. § 1983 alleging that the Indiana Department of Correction's ("IDOC") policies related to role-playing and collectible card game publications, sexually explicit publications, and the copying of photographs violate his First Amendment rights. He seeks injunctive relief and has sued IDOC Commissioner Christina Reagle in her official capacity.

Both parties have moved for summary judgment. Because Commissioner Reagle has shown that these policies are rationally related to legitimate penological interests, her motion is **granted**, and Mr. Beckman's motion is **denied**.

## I.
## Standard of Review

Parties in a civil dispute may move for summary judgment, which is a way of resolving a case short of a trial. *See* Fed. R. Civ. P. 56(a). Summary judgment is appropriate when there is no genuine dispute as to any of the material facts,

and the moving party is entitled to judgment as a matter of law. *Id.*; *Pack v. Middlebury Comm. Sch.*, 990 F.3d 1013, 1017 (7th Cir. 2021). A "genuine dispute" exists when a reasonable factfinder could return a verdict for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "Material facts" are those that might affect the outcome of the suit. *Id.*

When reviewing a motion for summary judgment, the Court views the record and draws all reasonable inferences from it in the light most favorable to the nonmoving party. *Khungar v. Access Cmty. Health Network*, 985 F.3d 565, 572-73 (7th Cir. 2021). It cannot weigh evidence or make credibility determinations on summary judgment because those tasks are left to the fact-finder. *Miller v. Gonzalez*, 761 F.3d 822, 827 (7th Cir. 2014). The Court is only required to consider the materials cited by the parties, *see* Fed. R. Civ. P. 56(c)(3); it is not required to "scour every inch of the record" for evidence that is potentially relevant. *Grant v. Tr. of Ind. Univ.*, 870 F.3d 562, 573-74 (7th Cir. 2017).

When reviewing cross-motions for summary judgment, all reasonable inferences are drawn in favor of the party against whom the motion at issue was made. *Valenti v. Lawson*, 889 F.3d 427, 429 (7th Cir. 2018) (citing *Tripp v. Scholz*, 872 F.3d 857, 862 (7th Cir. 2017)). The existence of cross-motions for summary judgment does not imply that there are no genuine issues of material fact. *R.J. Corman Derailment Servs., LLC v. Int'l Union of Operating Eng'rs, Loc. Union 150, AFL-CIO*, 335 F.3d 643, 647 (7th Cir. 2003).

Local Rule 56-1(e) requires that a party seeking or opposing summary judgment support each fact with a citation to admissible evidence. S.D. Ind. L.

R. 56-1(e). Mr. Beckman did not submit any evidence in support of his principal brief or in response to IDOC's brief, with the exception of copies of photographs to show the quality of the black-and-white copies and citations to the challenged IDOC policy. *See* dkts. 120, 130, 131-1. Rather, he supports most of his arguments with his own non-expert, personal reasoning, which is not supported by an affidavit or any other form of evidence. *See* Fed. R. Civ. P. 56(c)(1)(A) (A party asserting that a fact cannot be or is genuinely disputed must support the assertion with citations to admissible evidence.)

The Court will provide some leeway to Mr. Beckman given his pro se status. For instance, the Court will cite to Mr. Beckman's verified amended complaint where appropriate, and it will consider his descriptions of some of the role-playing materials for context. *See Ebmeyer v. Brock*, 11 F.4th 537, 542 n.4 (7th Cir. 2021) ("[A] document filed *pro se* is to be liberally construed[.]") (cleaned up). But generally, consistent with Local Rule 56-1(h), facts alleged in Defendant's motion for summary judgment are "admitted without controversy" so long as support for them exists in the record. S.D. Ind. L. R. 56-1(f).

## II.
## Factual Background

At all relevant times, Mr. Beckman was an inmate in the custody of the IDOC. Dkt. 98 at 1, 2–3. He challenges various aspects of IDOC Offender Correspondence Policy 02-01-103 ("the Correspondence Policy") which is applied IDOC-wide. *Id.* at 2–3. Under these policies, Mr. Beckman was denied access to

publications containing sexually explicit content or nudity and publications concerning role playing games ("RPGs") or collectable card games ("CCGs").

Andy Dunigan is employed by IDOC at the Central Office as the Department Policy Manager. Dkt. 125-2 at ¶ 2. In that role, he is familiar with the rules and regulations of IDOC. *Id.* at ¶ 3. He promulgates and oversees IDOC policies and is privy to the reasons for restricting inmates' access to certain materials. *Id.* at ¶ 4.

**A. Policy Restricting Access to Materials Containing Nudity or Sexually Explicit Content**

Mr. Beckman wants to be able to order sexually explicit publications such as *Hustler* or *Playboy* because he believes that being permitted access to these publications does not pose a legitimate threat to the safety and security of the facility. Dkt. 98 at 4.

The Correspondence Policy prohibits "[p]rinted matter, which threatens the security of the facility[,]" including any publication "that features nudity or any other material depicting nudity" or "containing sexually explicit material which by its nature or content poses a threat to the security, good order or discipline of the facility or facilitates criminal activity...." Dkt. 125-1 at 21–22.

The IDOC defines "nudity" as "a pictorial depiction where genitalia or female breasts are exposed" but omits printed materials containing nudity for "educational, medical, or anthropological purposes...." *Id.* at 21-22. "Sexually explicit" is defined as "a pictorial depiction of actual or simulated sex acts including sexual intercourse, oral sex, or masturbation." *Id.* at 22. Publications

containing nudity or sexually explicit content are not prohibited solely on the grounds that they are obscene, unless obscene under Indiana law. *Id.* at 23. Materials containing nudity or sexually explicit content are reviewed on a case-by-case basis to determine if they should be withheld because they pose a threat to the security or order of the facility. *Id.* at 22–23.

According to Mr. Dunigan, IDOC prohibits access to materials that are sexually explicit or contain nudity because providing inmates access to these materials increases rates of sexual harassment, sexual battery, and violence against prison staff and other inmates. Dkt. 125-2 at ¶¶ 5–6. Additionally, some inmates are incarcerated for sexually motivated crimes, and allowing any inmate to have access to these materials creates a risk that the materials would be shared with incarcerated sex offenders, which would hinder sex offender rehabilitation. *Id.* at ¶ 5. In Mr. Dunigan's experience, at times when inmates had greater access to sexually explicit materials, there was an increase in instances where (1) inmates threw bodily fluids at staff or other inmates, (2) inmates openly engaged in sexual acts in front of others, and (3) inmates solicited sexual contact from others. *Id.* at ¶ 6.

**B. Policy Restricting Access to Role-Playing Materials**

Mr. Beckman alleges that IDOC has a blanket ban on RPGs and CCGs. Dkt. 98 at 3–4. The Correspondence Policy states that "Role-playing materials" cannot be received via the mail.[1] Dkt. 125-1 at 15. Examples of RPG publications

[1] Defendant argues that there is no blanket ban against these materials because inmates "could access RPGs online, through the facility library, or by any other means besides mailing." Dkt. 131 at 5. Because inmates generally do not have access to the Internet,

that Mr. Beckman would like to order include *Dungeons and Dragons* rule books, *Nightbane Role Playing Game* rule books, and *The Palladium Fantasy Role Playing Game* rule books. *Id.* Examples of CCG publications are *Magic: The Gathering* and *Pokémon. Id.* at 4. Mr. Beckman acknowledged that the ban did not extend to novels based on these fantasy games. *Id.*

Mr. Dunigan provided the following reasons for banning these publications:

- They promote a hierarchal structure based on roles within the game. For example, *Dungeons and Dragons* uses a leader who exerts control over the gameplay and players. Allowing publications about games with a rigid, internalized leadership structure could undermine prison security by encouraging players to obey the directives of the game leader instead of prison staff. The organization of these games also mimics the structure of a gang system and could lead to the development of a gang.
- RPGs and CCGs are centered around narratives involving escape, the use of weaponry, and violence because the players pretend to engage in those activities. Thus, allowing these materials could contribute to inmates' obsession with escape or encourage violence or the construction of weapons.

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and there is no evidence that role-playing or collectible card game materials are available in the prison libraries, the Court assumes for the purpose of these motions that there is a general ban on these materials.

- RPGs and CCGs are so immersive or potentially addictive that inmates who consume these materials may become obsessed with gameplay or fixated on fantasy worlds, which could therefore detract from IDOC's efforts to rehabilitate these inmates.

Dkt. 125-1 at ¶ 8.

**C. Photocopy Policy**

Mr. Beckman's final challenge is to IDOC's policy of copying photographs that are purchased from commercial vendors and providing black-and-white copies to the inmates. Dkt. 98 at 4. Mr. Beckman alleges that the copies are made on "cheap copy paper" and are of bad quality. *Id.* He requests that inmates be permitted to receive the original photographs from commercial vendors or that IDOC invest in color copiers. *Id.* at 6. He includes as an exhibit several black-and-white copies of photographs he purchased. Dkt. 130-1 at 3–7. Though grainy, the subjects of the pictures are clearly discernible. *See id.*

The Correspondence Policy provides that all incoming "general correspondence," which is any correspondence that is not privileged correspondence or legal mail, is photocopied, and the photocopies are then provided to the inmates. Dkt. 125-1 at 4–8. Mailroom staff then destroy the original correspondence 14 days after the inmate has received the copies. *Id.* at 8.

Copies, rather than the originals, are provided to inmates in order to prevent the introduction of contraband—such as illicit substances and intoxicants—into IDOC facilities. Dkt. 125-2 at ¶ 9. The policy applies to

415 F.3d 634, 638–39 (7th Cir. 2005) (books); *Jackson v. Frank*, 509 F.3d 389, 391 (7th Cir. 2007) (pictures).

In *Turner v. Safley*, 482 U.S. 78, 89 (1987), the Supreme Court held that prison regulations that restrict inmates' constitutional rights are valid as long as they are reasonably related to legitimate penological interests. *See also Thornburgh v. Abbot*, 490 U.S. 401, 413 (1989) (adopting the *Turner* reasonableness standard for regulations on incoming publications sent to prisoners). Thus, to determine whether the challenged IDOC policies are valid, the Court must examine the four factors established by the Court in *Turner*:

(1) Whether the regulation has a valid, rational connection to a legitimate governmental objective, 482 U.S. at 89;

(2) Whether there are alternative means for the prisoners to exercise the right in question, *id.* at 90;

(3) The extent of the impact the accommodation of the right in question will have on prison staff, other prisoners, and the allocation of prison resources generally, *id.*; and

(4) Whether there are ready alternatives to the regulation, *id.*

"The four factors are all important, but the first one can act as a threshold factor, regardless of which way it cuts." *Singer v. Raemisch*, 593 F.3d 529, 534 (7th Cir. 2010). Mr. Beckman bears the burden of demonstrating that a prison regulation is unconstitutional. *Id.* Despite this burden, "prison officials must still articulate their legitimate governmental interest in the regulation and provide

some evidence supporting their concern." *Riker v. Lemmon*, 798 F.3d 546, 553 (7th Cir. 2015).

Finally, when weighing the *Turner* factors, the Court recognizes that it "must accord substantial deference to the professional judgment of prison administrators, who bear a significant responsibility when defining the legitimate goals of a correction system and for determining the most appropriate means to accomplish them." *Singer*, 593 F.3d at 534 (cleaned up).

**B. Policy Restricting Access to Materials Containing Nudity or Sexually Explicit Content**

The IDOC has established a rational connection between the prohibition of sexually explicit images and images containing nudity. IDOC believes—based on staff observation—that allowing inmates to possess sexually explicit content increases sexual violence and harassment and undermines its efforts to rehabilitate sex offenders. Dkt. 125-2 at ¶¶ 5–6.

In *Payton v. Cannon*, 806 F.3d 1109, 1110 (7th Cir. 2015), the Seventh Circuit affirmed a district court's entry of summary judgment that upheld an Illinois prison's ban on pornographic material. There, the plaintiff had provided no evidence in response to the defendant's evidence that the material posed a safety risk to inmates and staff, who are often subjected to increased sexual harassment. In *Payton*, Judge Posner expressed skepticism that a policy prohibiting sexual material was effective and hoped that the policy would be studied "with an open mind." *Id.* at 1111. Considering *Payton*, this Court

permitted Mr. Beckman to challenge IDOC's policy. *See* dkt. 20 at 3 (July 16, 2021, Order Screening First Amended Complaint).

After *Payton* and this Court's Screening Order, however, the Seventh Circuit affirmed the grant of summary judgment in a case that challenged IDOC's ban on nude photographs. *Trowbridge v. Indiana Dept' of Corr.*, 854 F. App'x 84 (7th Cir. 2021). In *Trowbridge*, the Court concluded that IDOC's rationale for the policy—that it protected staff from sexual harassment—"reflect[ed] the kinds of professional judgment about inmate behavior and prison safety to which federal courts routinely defer." *Id.* at 86 (citing *Payton*, 806 F.3d at 1110). Further, the burden is "not on the State to prove the validity of prison regulations but on [Mr. Beckman] to disprove it." *Overton v. Bazzetta*, 539 U.S. 126, 132 (2003).

Here, Mr. Beckman has provided no evidence to contradict IDOC's rationale besides his personal disagreement about its effectiveness. *See*, e.g., dkt. 132 at 3 (arguing that providing sex offenders with sexually explicit materials involving "a willing partner, of a legal age" may promote rather than hinder rehabilitation, and observing that "the previous policy [that permitted sexual content] worked just fine for the entirety of the first two times I was in prison[.]").

Given that the IDOC prevails on the first *Turner* factor, the Court only briefly addresses the remaining three. *Singer*, 593 F.3d at 534. As to the second factor, Mr. Beckman has alternative means of possessing material of a sexual nature. He can order lingerie catalogs and pictures that do not have complete nudity. Indeed, the pictures Mr. Beckman submitted into evidence—which show

scantily clad women in sexually suggestive positions—demonstrate that IDOC mailroom staff do allow inmates to possess sexual content. As to the third factor, accommodating Mr. Beckman's desire for more sexually explicit material could have a negative impact on IDOC staff and inmates alike for the reasons explained in Mr. Dunigan's affidavit. Dkt. 125-2 at ¶¶ 5-6. As to the final factor, the policy is not an "exaggerated response" to prison concerns, since Mr. Beckman can still obtain pictorial and reading material that is sexual in nature.

**C. Policy Restricting Access to Role-Playing Materials**

The IDOC has also shown a rational basis for restricting RPGs and CCGs. RPGs and CCFs can encourage inmates to look to each other for leadership rather than IDOC staff; can promote inmates to fantasize about criminal activity and weapons; and can encourage inmates to become addicted to their alternative fantasy worlds, which detracts from rehabilitation efforts. Dkt. 125-2 at ¶ 8.

In *Singer*, the Seventh Circuit affirmed summary judgment on a challenge to a Wisconsin prison's ban on all *Dungeons and Dragons* materials. Prison officials there proffered similar reasons for the ban. 593 F.3d at 532 (noting it promoted fantasy role playing, addictive escape behaviors, gang membership, etc.). In that case, Mr. Singer had provided affidavits from fifteen individuals—fellow inmates, his brother, and three RPG experts—who attested that they had never heard of *Dungeons and Dragons* players becoming gang members and instead that playing the game prevented them from engaging other undesirable activities. *Id.* at 533. The Seventh Circuit found that this evidence did not

supplant the prison's rationale, which was rooted in "matters of professional judgment." *Id.* at 534 (citing *Beard*, 548 U.S. at 530).

Here, Mr. Beckman again provides no evidence, besides his opinion and experience as an RPG fan for 34 years, dkt. 132 at 5, to disprove IDOC's rationale for the ban on RPGs and CCGs. He provides examples to show IDOC's response might be exaggerated. *See, e.g.*, dkt. 130 (disagreeing that RPGs encourage violence, Mr. Beckman states, "In real life if you walk up [and] punch someone you go to jail, obviously this is bad. [If[ your character in the game walks up and punches someone, the person may shapeshift into a dragon and turn their character into a charcoal briquette. Obviously, also not an encouragement."). But his examples are not probative evidence sufficient to overcome IDOC's assertion that RPGs can be a negative force in a prison environment. *Singer*, 593 F.3d at 537 (citing cases in which individuals obsessed with the fantasy world of *Dungeons and Dragons* ended up murdering others or committing suicide). And again, this Court must defer to the views of IDOC authorities with respect to the need for this policy. *Overton*, 539 U.S. at 132.

As to the second factor, Mr. Beckman "has access to other allowable games, reading material, and leisure activities." *Singer*, 593 F.3d at 539. The third *Turner* factor also cuts in IDOC's favor because IDOC has proffered evidence that allowing inmates to have RPG and CCG materials can negatively affect inmates' rehabilitation. *Id.* And although Mr. Beckman may not have a "ready alternative" to the publications he seeks, because IDOC has provided

legitimate penological reasons for the ban, "it is quite difficult, if not impossible, to dream up a realistically implementable alternative policy" to the ban. *Id.*

**D. Photocopy Policy**

Mr. Beckman concedes that trying to prevent the introduction of contraband into IDOC facilities is a legitimate security interest. Dkt. 130 at 13. He provides no evidence to refute IDOC's concerns that individuals seeking to mail drugs to IDOC facilities could pretend to be commercial entities to evade the photocopy requirement. Thus, the first factor weighs heavily in IDOC's favor.

As to the second factor, Mr. Beckman has alternative means of obtaining photographs in color: he can purchase magazines or books with pictures in color. *See Jackson v. Frank*, 509 F.3d 389, 392 (7th Cir. 2007) (subscribing to a magazine that may have color pictures of Jennifer Aniston is a reasonable alternative to allowing inmates to purchase individual, commercial photographs of her). Mr. Beckman believes that IDOC can resolve the problem of the poor-quality black-and-white copies by purchasing color copiers for copying pictures, but he has introduced no evidence of the price differential between making copies in color and copies in black and white. Thus, the third and fourth factors, which consider the impact on IDOC's resources and the availability of alternative remedies, cut in IDOC's favor, too. *Id.*

Weighing the *Turner* factors, the Court concludes that Mr. Beckman has not met his burden to prove that IDOC's Correspondence Policy as it relates to the three challenged policies violates his First Amendment rights. Because he

has not succeeded on the merits of his claim, the Court need not examine the other factors of whether he is entitled to injunctive relief.

## IV.
## Conclusion

For the foregoing reasons, Mr. Beckman's motion for summary judgment, dkt. [120], is **denied**, and Defendant's motion for summary judgment, dkt. [124], is **granted**.

Some of Mr. Beckman's confiscated materials are being held at IDOC's Central Office, where Commissioner Reagle's office is maintained. Dkt. 122 at 2.[2] Mr. Beckman has **30 days** from the issuance of this Order to communicate with counsel for Ms. Reagle and determine the disposition of those materials. Counsel for Ms. Reagle shall file a notice within **45 days** confirming that the materials have been removed from the Central Office and handled in a manner consistent with the Correspondence Policy. Final judgment will issue in a separate entry.

**SO ORDERED.**

Date: 9/18/2023

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

[2] Review of those materials was not necessary for the Court's resolution of the motions for summary judgment.

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