

Dear Sir or Madam:

23May15

Enclosed are two CDs that were withheld from me on the basis that they did not come from an approved vendor.

Compact discs are governed by Ohio Administrative Code Section 5120-9-19, "Printed Materials." This administrative code contains no requirement for compact discs to come from an approved vendor.

There exists no list of approved vendors for compact discs. Therefore, absent a list of approved vendors, all compact discs come from unapproved vendors.

I have been through this process previously, while at OSP. When I finally got the situation ironed out, Central Office confirmed that there was no list of approved vendors for compact discs, and that compact discs merely had to come from a publisher or a distributor.

In this case, both compact discs came from distributors.

Staff here have presented to me that SOCF has decided not to permit compact discs from certain distributors. There exists no list of approved distributors, so this scheme for withholding compact discs on the basis of whether or not SOCF "likes" a distributor or not really then boils down to the institution opting to withhold discs whenever they feel like it. That's not consistent with the Ohio Administrative Code.

The problem arises that only the Ohio General Assembly (Ohio Senate, Ohio House of Representatives) have the constitutional authority to create laws. The Ohio General Assembly created the Ohio Administrative Code ~~is law created by the Ohio General Assembly~~. That law demands that prison officials permit me compact discs that originate from a publisher or distributor, and makes no exception for distributors that SOCF does not "like." The creation of such an exception, undertaken by SOCF, amounts to a re-writing of the law, which SOCF does not have the legal authority to do. It is the job of prison authorities to follow the laws written by the Ohio General Assembly and to enforce them, not to create their own.

SOCF creating their own exceptions to laws, absent authority granted by the Ohio General Assembly, constitutes a violation of the Separation of Powers doctrine.

I ask that you return the CDs to SOCF with the instruction that SOCF provide me the CDs as the Ohio Administrative Code requires.

Thank you.

Respectfully,

SEAN SUTAIN

c: Counsel Richard Kerger  
Senator Sandra Williams, CIIC

BEN,  
for posting.  
Also, please share with  
Kerger and Senator Williams.  
- Sean