

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted August 28, 2024*

Decided 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,
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-JPH-MKK

James Patrick Hanlon,
Judge.

ORDER

Christopher Beckman sued the Indiana Department of Correction to enjoin enforcement of policies that restrict him from receiving certain printed materials through the mail. The district court ruled against Beckman at summary judgment, and

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

we affirm because, on this record, a reasonable factfinder could not conclude that the Department's policies lack a legitimate penological justification.

While incarcerated at Indiana's Wabash Valley Correctional Facility, Beckman submitted to the mailroom a list of publications related to role-playing games or collectable-card games, asking if the materials were permitted under the prison's policies. Prison staff said the materials would be considered contraband, so Beckman did not order them. But he later ordered other materials for role-playing games, as well as a biography about an adult film star, pornographic magazines and catalogues, and magazines and photographs with sexual content (but not nudity). In keeping with Department policy, the prison reviewed these materials and confiscated everything except some of the photographs; it made black-and-white copies of those, retained the originals, and gave the copies to Beckman.

In a third amended complaint under 42 U.S.C. § 1983, Beckman sued the Department's Commissioner, Christina Reagle, in her official capacity, asserting that the Department's policies violated the First Amendment. He sought to enjoin enforcement of three policies: the prohibition of role-playing or collectible-card game materials, a ban on materials containing nudity or sexually explicit content, and the substitution of black-and-white copies for original photographs. During the litigation, Beckman was transferred to Indiana State Prison, where he continued to order materials that the mailroom staff confiscated for violating these Department policies.

Both parties moved for summary judgment. With its motion, the Department submitted an affidavit from Andy Dunigan, the Department's policy manager. Dunigan attested that sexually explicit materials incited sexual aggression, particularly against female guards, and hindered the rehabilitation of sex offenders who might gain access to other prisoners' materials. He also opined that role-playing games encouraged gang activities because they promote rigid, hierarchical structures. Further, Dunigan asserted that role-playing and collectible-card games encouraged obsessions with escape, weapons, and violence or could otherwise lead prisoners to ignore staff. Finally, Dunigan said that the prison provided only copies of all photographs to prevent drugs from entering prisons via paper laced with illicit substances. The only evidence Beckman submitted in support of his motion were several black-and-white copies of the photographs with sexual material, meant to show the poor quality of the copies. Beckman otherwise generally disagreed with Dunigan's assessments, offering anecdotes and his opinion in support.

The district court then granted the Department's motion for summary judgment and denied Beckman's, concluding that Dunigan's affidavit adequately justified the Department's policies and that Beckman's unsworn personal opinions could not create a triable issue of fact when weighed against that evidence.

While the summary-judgment motions were pending, Beckman had moved for sanctions because staff at Indiana State Prison destroyed some of his confiscated mail even though counsel for the Department had instructed them to "preserve all material the Department ... has confiscated." Counsel asserted that this was an accident and submitted an affidavit from the mailroom supervisor attesting that staff misunderstood counsel's instruction as being backward-looking only. The district court concluded that Beckman had not shown bad faith and denied sanctions for spoliation of evidence.

On appeal, Beckman first challenges the denial of an injunction against enforcement of the Department's policies restricting access to sexually explicit materials, role-playing and collectible-card game materials, and original copies of photographs. It is unclear whether Beckman intended to bring a facial or as-applied challenge. But because facial challenges are disfavored, *see Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2397, 2409 (2024), and because Beckman makes some arguments suggesting the policies should not be applied to him and the materials he ordered, we will understand him to raise an as-applied challenge. To determine if the Department's policies violate Beckman's rights under the First Amendment, we consider whether (1) the policies are rationally connected to a legitimate government interest; (2) he can still exercise the asserted right in some fashion; (3) reducing restrictions will adversely affect guards, other inmates, and the allocation of prison resources; and (4) there are "ready alternatives" to the challenged policies. *See Turner v. Safley*, 482 U.S. 78, 89–91 (1987).

1. Materials Containing Nudity or Sexually Explicit Content

To start, no reasonable factfinder could conclude that the Department's policy restricting materials containing nudity or sexually explicit content was irrational or unconnected to a legitimate government interest. Prisoner rehabilitation and the prevention of violence against prison staff are legitimate penological interests. *See Overton v. Bazzetta*, 539 U.S. 126, 129, 133–34 (2003). Dunigan attested that in his professional judgment, the policy furthers both. Indeed, we have previously held that reducing sexual harassment of female prison guards can justify restricting materials containing nudity. *See Payton v. Cannon*, 806 F.3d 1109, 1110 (7th Cir. 2015). Once the Department provided a plausible explanation for this policy, the burden was on

Beckman to present evidence calling that explanation into question. *See Singer v. Raemisch*, 593 F.3d 529, 536–37 (7th Cir. 2010). He presented nothing but his opinion and anecdotes to illustrate that the policy sweeps too broadly and is ineffective. This cannot overcome the “substantial deference” we must accord to “the professional judgment of prison administrators.” *Overton*, 539 U.S. at 132; *see also Singer*, 593 F.3d at 536–37.

Neither can questioning the sincerity of the Department’s justifications for banning materials depicting nudity or sexually explicit content. Beckman notes that the Department does not prohibit all materials containing nudity or violence: It allows inmates to order publications displaying nudity in an educational or incidental manner, as well as the Bible and other religious texts, which contain violence. But “inconsistent results are not necessarily signs of arbitrariness or irrationality.” *Munson v. Gaetz*, 673 F.3d 630, 636–37 (7th Cir. 2012) (quoting *Thornburgh v. Abbott*, 490 U.S. 401, 417 n.15 (1989)). Whatever the superficial similarities, there are significant differences between sexually explicit magazines and educational or religious texts within a prison setting. And Beckman makes no effort to explain why distinguishing between them is irrational (indeed, his argument would support banning more material, not less).

The other *Turner* factors also weigh in favor of the policies. As to the second factor—whether the prisoner has alternative means of exercising their right—Beckman is still free to order materials with sexual content, as long as there are no pictorial depictions of nudity or sexually explicit acts. As to the third *Turner* factor, Dunigan attested that exceptions to the policy could increase sexual violence toward prison guards. Finally, Beckman asserts that as a ready alternative to the ban, the Department should just enforce its policies prohibiting harassment of staff. But he presented no evidence that the Department does not already punish prisoners who harass staff, or that doing so more zealously would be as effective at reducing sexual harassment as the ban on sexually explicit materials. *See Singer*, 593 F.3d at 539–40.

2. Role-Playing and Collectible-Card Games

As for the Department’s restrictions on role-playing and collectible-card game materials, the evidence again supports summary judgment for the Department. In *Singer*, we held that prison officials could ban role-playing games and related materials out of concern that the games encouraged development of gangs and fostered obsessions with escaping and violence. *Id.* at 535–40. Here, Dunigan explained similar concerns and pointed to one more—that inmates could become engrossed in the games and ignore directions from prison staff. His professional judgment on matters of inmate behavior and prison safety is entitled to deference. *Overton*, 539 U.S. at 132. And

Beckman did not contradict these plausible justifications with reliable evidence; his opinions do not qualify. *See Payton*, 806 F.3d at 1110.

The other *Turner* factors also favor the Department on this policy. Beckman does not contest that other tabletop games are available, and he offers no ready alternative that also would serve the Department's legitimate interests. Indeed, because prison safety and inmate rehabilitation underlie the role-playing and collectible-card game bans, "it is quite difficult, if not impossible, to dream up a realistically implementable alternative policy that would serve [the Department's] interests with similar efficacy and efficiency." *Singer*, 593 F.3d at 539–40.

3. Photocopying Mail

Summary judgment for the Department was also warranted with respect to the Department's practice of providing only copies of the photographs to Beckman and withholding the originals. Beckman concedes that the policy serves an important interest—combatting the introduction of drugs into prisons. He mainly argues that there are less restrictive ways to accomplish this goal. For example, the prison could make color photocopies or test the mail for drugs. But he offers no evidence to show that these accommodations would not affect the prison system's financial resources (the third *Turner* factor). Indeed, we have found providing copies of mail to be a desirable alternative to blanket prohibitions on receiving certain types of mail. *See Lindell v. Frank*, 377 F.3d 655, 660 (7th Cir. 2004).

To the extent Beckman argues that the prison staff's treatment of his mail did not conform to the policies or state law, his point is immaterial. Violations of state law or agency policies are "completely immaterial as to the question of whether a violation of the federal constitution has been established." *McCottrell v. White*, 933 F.3d 651, 668 (7th Cir. 2019) (citations omitted).

Finally, Beckman argues that the district court should have sanctioned the Department for spoliation of evidence because prison staff destroyed some of his mail, but the district court did not abuse its discretion in denying his motion. A court must make a finding of bad faith—that the offending party destroyed evidence "for the purpose of hiding adverse information"—before imposing sanctions for spoliation. *Bracey v. Grondin*, 712 F.3d 1012, 1019 (7th Cir. 2013). And here, the prison's mailroom supervisor attested that staff destroyed mail received later because defense counsel told them to "preserve all material the Department ... has confiscated." (Emphasis added). Beckman argues that because the email said "all," staff surely knew that they needed to

retain mail regardless of when it was confiscated. But this ignores the second half of the instruction, which was phrased in the past tense and could reasonably be interpreted as a directive not to destroy what already had been confiscated. The court was well within reason to credit the Department's explanation for the mistake.

AFFIRMED