

ONE-TWO PUNCH OF JUSTICE

I have planned to write a post about the Missouri Incarceration Reimbursement Act (MIRA) for some time now. But my continued battle with the Attorney General's office has prevented me--until recently when the Missouri Court of Appeals delivered a one-two punch, leaving the AG's office dazed and confused, scrambling for a foothold.

Under MIRA, the AG's office is entitled to seek reimbursement from a prisoner for past, present, and future costs of incarceration if the AG believes a prisoner has "sufficient assets to recover not less than ten percent of the estimated cost of care of [the prisoner] or ten percent of the estimated cost of care of [the prisoner] for two years, whichever is less, or has a stream of income sufficient to pay such amounts within a five year period." The cost of care for a prisoner is about \$14,000 per year.

In 2006, the AG's office filed a MIRA action against Ruby Worthy, a woman prisoner who was receiving hundreds of dollars a month in financial gifts from her male admirers, and using the money to support her children on the outside. However, the circuit court ruled that Worthy never had \$2,800 in her possession at one time, and that future gifts deposited into her account could not constitute a "stream of income," because an expectation of future gifts, or even a promise to make a gift, is a transaction without

consideration and unenforceable. Therefore an expectation or hope of future gifts could never be an "asset" under the MIRA statute because MIRA defines an "asset" as property "belonging to or due a prisoner."

Of course, the AG's office retaliated--with the help of then Governor Blunt--by instructing the Department of Corrections to immediately prohibit all prisoners from soliciting pen pals via mail or Internet. Prisoners were given a directive to remove ads and profiles from social networking sites as well as the kind of sites that help prisoners make connections with the outside world, such as [Write a Prisoner](http://www.writeaprisoner.com), [Friends Beyond the Wall](http://www.friendsbeyondthewall.com), [Write an Inmate](http://writeaninmate.com), [Craigslist](http://www.craigslist.com), [Prison Official](http://www.prisonofficial.com), [Cold Crib](http://www.coldcrib.com), [Ashley Madison](http://www.ashleymadison.com), and [Plenty of Fish](http://www.plentyoffish.com).

The Department of Corrections maintains that prisoners are not prohibited from receiving letters, cards, pictures, etc., from anyone who wishes to write to them. They are only prohibited from soliciting pen pals through ads or the Internet. Forty-seven other states allow prisoners to post ads without a problem. But because of the Ruby Worthy case, Missouri does not. I find the reasoning appalling.

Prisoners who refused to remove their ads were issued conduct violations, and others who exercised their First Amendment right via blogs were continuously harassed. See The Pariah's Syntax, a blog maintained by another Missouri prisoner.

A few prisoners challenged these restrictions, citing a violation of the First Amendment--but lost. The lower federal courts upheld DOC's safety-and-security argument, which claimed that the regulation prevents fraud and outweighs the benefits of prisoners exercising their First Amendment rights, despite a prior decision by the United States Supreme Court recognizing that "the weight of professional opinion seems to be that inmates' freedom to correspond with outsiders advances rather than retards the goal of rehabilitation."

This is true for most prisoners, all have an insatiable need to make a connection with someone in this big--often cold and uncaring--world; someone to help lift their spirit when their self-esteem is in the toilet, and their future looks dark and desolate.

And the confined are not alone, the need to feel a connection with another human being is universal, applying with equal force to those on the outside. For example, you see people on <i>CatFish: The TV Show</i> make fake profiles, allowing them to hook people

into online relationships, while hiding who they truly are, motivated by the fear of being rejected.

In two recent cases, *State ex rel. Koster v. Cowin* and *State ex rel. Koster v. Wadlow*, the Court held that the AG's office may not be reimbursed with assets that are unidentified and unknown at the time of the MIRA hearing--meaning the AG may not impose future costs for incarceration against a prisoner unless the money is shown to come from a current stream of income.

Before these two cases, the AG was allowed to take 90% of any money a prisoner received for future incarceration costs, including gifts sent from friends and family, for the duration of his or her incarceration, regardless whether the prisoner had remaining assets or not. These two judgments sent the State reeling, and put an end to an injustice.

Now on the eve of justice for myself, I have a hearing set for August 26, 2013, to resolve the MIRA action filed against me six years ago. My battle with MIRA has been a long, drawn-out process--three appeals and one chapter 7 proceeding. The nightmare started after my dad died, leaving a small estate. This is the usual situation for most MIRA victims. The only remaining question I have is "How will the AG's office retaliate this time?"