

Restricted Access: A Crime in Punishment

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What a pitiful creature. I shifted in my chair attempting to clear the old man from my peripheral vision—desperately attempting to concentrate on my research. His pleas and attempts to compromise with the Law Library staff employee only intensified, so I shifted back again to look at the old man in the wheelchair. Pitiful, is what I had thought when I saw him as I walked in thirty minutes earlier. His long patchy snow white hair and beard looked unkempt; his state issued blues were worn and wrinkled; the glasses perched on his nose were held together with tape; and his pale wrinkled skin seemed to be peeling. The man had to be close to 70, and to make matters worse; he sat in an old dusty wheelchair. It was from this wheelchair, that I then realized, the old man was struggling to look over the tall counter to talk to the lady sitting at her desk—about four feet behind the counter. My own research interrupted and momentarily forgotten, I sat and observed what I had been trying to ignore.

The Law Library in this facility, and in most institutions, is the size of a regular classroom. There is a tall counter that separates the room in two; one side contains 3-4 rows of bookshelves, to which direct access is restricted; and the other half is a small standing area, lined with a long table against the wall on one side and a shorter table along the other. The long table is occupied by a handful of computers, while the short research table is empty. Surprisingly, the room is big enough to hold enough books to fill the air within with that distinct smell that distinguishes a library. It was from the short table that I observed the back and forth between the old man and the lady behind the desk—behind the counter.

What struck me immediately was the woman's indifference and complete disregard for the man's handicap. As he craned his neck over the counter to talk to the woman; she remained in her chair, simply brushing off his requests, all the while sitting behind her desk and only glancing at him occasionally over the computer monitor in front of her. Despite the

cool air-conditioned air in the room; the man was perspiring. I wondered: where was her common decency? Gripped with sudden dismay; I heard myself whisper: "Who does that?" He was no longer a pitiful creature in my mind's eye; he was a poor old man begging an awful person for a photocopy. I realized my eyes were squinting and my ears burned. I was mad. I was now riveted to the scene before me. The more I heard and observed, the more I fumed. His request was simple, and as far as I could discern, it was necessary. When submitting writs, motions, or discovery; one set of copies will not suffice. In addition to the court; a copy must be served on the District Attorney or Attorney General, and anyone who has litigated while incarcerated will also tell you: Never send out your only copy. A copy or original for personal record is crucial for obvious reasons. Ignoring his pleas and repeated requests for an additional copy; the complaint turned to content, but after a few minutes the man seemed to tire, probably from the physical exertion of just trying to talk over the counter. He sighed and spun his wheelchair around, defeated. I gathered my belongings and held the door open for him as he wheeled himself out. I was disgusted. Disgusted with the employee, and disgusted with myself. There was nothing constructive that I could've done. Like the old man; I too am a prisoner.

Almost a year has passed, and I've avoided the Law Library. I have sought alternative sources to satisfy any minor legal inquiries; but nevertheless, today I had no choice but to resort to the library. The only way to avoid the 3-4 week wait for an appointment to access legal resources is to make our way to the small library window outside during morning recreational yard, which in this facility—if we're lucky, is ran about twice a week for each block, Monday through Friday. Of course, it is even trickier if your job assignment is from 8am-3pm, Monday through Friday, as is my case. I managed to get myself there this morning. I needed two sets of copies for a Notice and Request for Ruling on an overdue motion pertaining to a Prop. 47 petition/application. I was cheerful this morning. I had a great night's sleep; I actually enjoyed my breakfast; I reveled in the fact that I had completed my summer semester college courses the day before; and someone told me a joke that was so dumb, it was hilarious. I laughed until the joke was just plain dumb. I was full of optimism.

I arrived at the window, and all seemed well. My exchanges with the mentioned employee were cordial and pleasant. I filled out the necessary forms for photocopies, and patiently waited. When the copies were handed to me through the tiny window, there was only one set, not the two I had requested. I spent the next few minutes hunched over explaining to her, through the tiny window, the necessity of the second copies. I was precise and unambiguous. After a while she relented, and agreed to the second copy. This gave me time to flip through the single copy, and with an almost comical sense of dread sinking in, I realized the copy was incomplete. What ensued was a futile debate about content, and what she opined should not be included in a court submission; therefore, she would not copy. She would not copy original diplomas, transcripts, laudatory chronos, self-help certifications, or significant institutional program participation chronos to be used as supporting documents demonstrating positive conduct. This, despite my explanation of the pertinence of conduct in the decision making process for the particular petition.

A Prop. 47 application ruling/decision is based on two parts: the technical qualification under the law; and the discretionary part, where conduct is taken into consideration. When the court requests an inmates "conduct record", it is reasonable to conclude that the holding agency will submit any and all disciplinary records; the negative conduct. The burden falls on the petitioner to offset any potential negative influence on the discretionary decision making process by submitting any and all records demonstrating positive conduct. Short of drawing her a picture, I plead my case, not in front of a judge, but before this stubborn woman. The entire time, there was a nagging question in the back of my mind: What good is this so called "access to the courts", if the process and outcome is hindered by a state employee anyways? Furthermore, if policy prohibits Law Library personnel from giving legal advice, what gives them the right to dictate what the petitioner submits to the court? Efforts to conserve copy toner, as a pretext, should be unacceptable. It was disconcerting peering through the tiny window while she read through my legal work and evaluated its content. If an institution employee's opinion supersedes the petitioner's, in terms of supplementary submissions that are relevant from the petitioner's perspective, and the restriction imposed based on that opinion has an adverse or diluting effect; neutrality has ceased to exist. Despite my protests, I realized that exploring this question with this

individual would get me nowhere. She has a reputation among the prison population as uncompromising, even if the simplest request has its merits.

My back ached from hunching over to maintain eye contact. The sun was beaming, and as predicted in the forecast; the temperature climbed to the mid-nineties. The sweat beaded down my brow; the heat exacerbating my displeasure. Thirty minutes at the window felt like two hours, and despite being 34, not 70, I could no longer argue in that position and keep my sanity. I straightened up; dropped my shades back down over my eyes; smoothed the front of my shirt and pants with my hand; and turned around to walk away, defeated. I walked through the yard clutching my incomplete copies, feeling disgusted once again. I wondered: Does the cruelty lie only within that employee, or is the true source of that cruelty the policies she invokes? Lost in thought, I decided it was both. I caught my reflection in the slim window on my way into my cell; despite my clean and composed appearance, I couldn't help but smirk and murmur to myself: "What a pitiful creature".