In the United States District Court
For the District of Colorado

Civil Action No. 14-cv-00245-MSK-MJW

Reverend Matt Hale,
Plaintiff,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JUN 27 2018
JEFFREY P. COLWELL
CLERK

v.

Federal Bureau of Prisons,
Defendant.

Reply in Support of Motion for Relief from Judgment (Doc. 229)

Reverend Hale finally received the Defendant's response to his motion for relief from judgment — docket entries 233 and 234 — on June 19, 2018, fifteen days after they were filed. The Defendant's response fails for several reasons.

First, the representation which the Defendant made to this Court in its motion for summary

judgment said, in plain English, that "Hale will be allowed to have the [Creativity] books" (Doc. 186 at 135; bottom pagination) and that representation on its part in no way limited the number of books in question to a mere eight total as the Defendant is trying to get away with now. As a matter of fact, there are a total of thirteen Creativity books and the Defendant was aware of that fact when it made its representation to the Court because Hale had testified to that effect during his deposition. Thus, according to the Defendant's representation, Hale is allowed to have all thirteen books in his cell, quite plainly. In sum, "Creativity books" means Creativity books. The representation which it made to this Court said nothing about an eight book caveat. The Court should therefore reject the Defendant's belated attempt to impose such a caveat now. If the Defendant is bound by what it told this Court, it is bound, plain and simple, by the actual terms of what it said. Its attempt to manufacture new terms after the

fact should be rejected.

Second, and even more importantly, the Defendant attempts to evade the dispositive fact here that it took Hale's Creativity books and it is the taking of those books at all which shows that they are under threat by the Defendant contrary to its representation and that there is a case or controversy here. Since the Defendant took his Creativity books, a threat to those books clearly exists and since there is that threat, a live case or controversy exists, and since a live case or controversy exists, the Defendant has rendered this case no longer moot by its own actions. The Defendant's actions in taking the books clearly demonstrate that there is a threat posed to Hale's retention of his Creativity books contrary to the representation that it had made to this Court and thus the case is no longer moot. All of the discussion of why it took his Creativity books from him is irrelevant to the fact that it made a representation to this Court and failed

to honor that representation.

Notably, the Defendant does not claim that Hale had "use[d] the books and the information contained in them in a manner that might disrupt the safety and security of the institution" (Doc. 186 at 135; bottom pagination) which was the sole caveat to the Defendant's representation that he would be allowed the Creativity books. Therefore, according to the Defendant's own representation to this Court 1) they never should have been taken from him and 2) all of them should be returned. The Defendant took his Creativity books in case he was doing something wrong, found nothing, and failed to bring them back. The Defendant therefore violated its representation to this Court according to its plain terms. Instead of returning all of his Creativity books to him in response to his motion and assuring the Court and Hale that they would not be taken again — actions which perhaps could have defeated this motion — the Defendant kept the books. The threat to the books could thus not be

more clear. It is the Defendant which has the Creativity books at this point, not Hale. The supposed "eight book limit" is irrelevant because it was in no way part of the representation which the Defendant made to this Court. Speaking of that representation, there can be no doubt that it formed the basis for why the Court ruled in the Defendant's favor on Claim Five on mootness grounds (see Doc. 212 at 31-32). Hale, right now, does not have the books which the Defendant had represented, in clear and unambiguous terms, that he would be allowed to have. Period.

The prospect that the Defendant will take his books is thus no longer "speculation" (Id at 31) since the Defendant did in fact take his books. To be blunt, the Defendant goofed up here: it took Hale's books in clear violation of its representation to the Court and relief from the judgment which was based upon that representation is appropriate accordingly. Either the Defendant's word means something or it doesn't. Its actions here

prove that it doesn't, and that a case or controversy remains.

Third, it is obviously untrue that "Hale's books were returned to him" (Doc. 233 at 3) and the fact that the Defendant would make such a plainly false statement just goes to show how loose with the truth it really is. It further shows that its representations cannot be trusted. In point of fact, the Defendant still has the forty odd books that it took from him, has refused to return them, and has refused to even let him mail them home despite his repeated requests. Indeed, it is not an exaggeration to say that the Defendant's employees seem to be holding them hostage at this point; after all, if they won't give them back and won't let Hale mail them out, what else can one call it? On that note, the only reason why Hale signed the inventory which the Defendant attached to its response (Doc. 233-1 at 27-28) is that the Defendant's employees insinuated that they would destroy his books

if he didn't. That was therefore hardly an act of free will. Hale felt obliged to protect his books from harm, especially the books of his Creativity religious faith, though the Defendant's employees were set upon carting them away. Furthermore, the reason why Hale "chose" Nature's Eternal Religion as the only Creativity book among the eight (Doc. 233 at 3) is because he expected and expects to prevail on this motion or on the appeal of this case, with all of the Creativity books being returned to him as a consequence. He expected and expects the Defendant to be bound by its representation. Therefore his choice of only one Creativity book among the eight means only that he expects to win.

The fact that the Defendant's employees are [redacted] currently holding some forty of Hale's books hostage — including his Creativity books — is further evidence of the fact that his Creativity books are under threat contrary to the representation which the Defendant had made to this Court. Hale is not "free to have

his literature in his cell" (Doc. 212 at 31) at this time.

Lastly, though irrelevant to his motion, it is the Defendant which "misrepresents the situation" here (Doc. 233 at 1), not Hale. Never, since Hale first arrived at ADX in April 2005, has staff ever enforced an eight book limit on its prisoners within their cells; the idea that the Defendant is 'just enforcing the rules' is therefore untrue. The Defendant's actions here are therefore an enforced "policy of one," designed merely to harass Hale within his prison cell for whatever reason. Furthermore, the second attempted justification for the Defendant's actions — that his "property was temporarily seized to address a potential security threat" (Id at 2) — is, in Hale's judgment, an after-the-fact concoction. He is only hearing of that assertion now and that assertion is, on its face, ridiculous. He writes books for the outside world. The book in question here is a book of philosophy, a subject which requires total candor and truth and which

does not permit duplicity or concealment. There is no reason therefore to believe that Hale would present his frank opinion on various matters in a book while secretly "planing, advocating, or encouraging criminal or disruptive actions" within the confines of his solitary prison cell (Doc. 233 at 2) — with whom only God knows. Indeed, Hale has been above-board with what he believes in his entire life, unlike the subterfuge and furtiveness which is exhibited by the Defendant's employees as a matter of course. What the Defendant really seems to have a problem with here therefore is honesty and it thinks that Hale should be harassed and harmed for expressing such honesty accordingly. That itself, however, will just buy it another lawsuit. The Defendant would prefer that its prisoners be stupid, herdlike, enslaved beasts who moo the party line but Hale is simply not interested in living that kind of life. He is going to have freedom of speech whether the Defendant likes it or not.

Speaking of honesty — or actually the lack thereof — counsel for the Defendant lies when she says that Hale "wrote about his desire for violence against Christians and those he labeled 'non-white refugees.'" (Doc. 233 at 2). Rather, for the sake of rhetorical argument in what is, after all, a work of philosophy, he said that he, personally, wants to machine gun the boats of the invaders of our country — which one would think every patriot would want to do — and beat the bride and groom of interracial marriages upon their heads with the Christian cross which is wrongly being used today to sanctify those marriages. So what? That's what you call freedom of speech. There is no advocacy of criminal activity by others whatsoever. Indeed, Hale deliberately used the word "personally" (Doc. 234 at para. 10) so that the violence-obsessed employees of the BOP would not get the stupid and confused idea that he was "advocating or encouraging criminal actions" by others or

"sanctioning criminal actions" by others with his words (Doc. 233 at 2). Rather, in order to drive home the point that he was trying to make — that these are natural sentiments for people to have absent the racially-destructive influence of the Christian religion upon their minds — he talked about what he, as a non-Christian, would personally like to do and the idea that such discussion has to be censored or restricted is ridiculous. It is not Hale's fault that the Defendant's employees do not know how to read and would rob his words of their proper context. It is not Hale's fault that the minds of the Defendant's employees are themselves in chains and that they grossly misread and misinterpret his straightforward and constitutionally protected language accordingly. If Hale were to write a novel in which violence occurs as part of the plot, would the Defendant try to ban it too?

It is untrue that Hale has ever

sanctioned criminal actions against non-whites (Doc. 233 at 2). It is untrue that his words have ever advocated or encouraged criminal actions (Id). These are falsehoods which Hale is obliged to refute. That said, the notion that writings can themselves "cause harm to others" (Id at 3) is an idea which flies in the face of the values upon which this country was founded and is about as un-American as it gets. Writings don't "cause" anything. Again, people are just mindless cattle as far as the Defendant's employees are concerned, without any will of their own. Books "cause" them to do things and so we had better ban those books!

In any event, if we are going to talk about books which (supposedly) "incite violence" (Doc. 236 at 2) or "cause harm to others" (Doc. 233 at 3), why don't we talk about the book which has "incited" more violence and "caused" more harm to others on this planet than probably all of the other books put together, the Christian Bible?

whereas not one person, ever, has committed an act of violence based upon the words that Hale has written — and the Defendant has provided zero evidence to the contrary — countless millions of people have committed violence based upon what the Christian Bible has to say. So, Hale rejects the Defendant's mindset on these matters in its entirety. If the Christian Bible — a book practically saturated with blood — is not going to be censored, his books, absolutely tame by comparison, are not going to be censored either. The Defendant is not going to suffocate Hale's literary free speech without a fight.

In any event, it is the Defendant's mischaracterizations and outright lies about his book which compels Hale to address what it actually has to say and what it is about because, according to the Defendant's own reasoning, defense counsel Susan Prose has just "incited violence" by (falsely) claiming that he had expressed "his desire for violence" in his book! In other words, by making

the false claim that Hale "wrote about his desire for violence against Christians and... non-white refugees" in his book, the Defendant has effectively communicated to his supposed "followers" that he wants them to commit violence against these people when that is simply not the case at all. Hale therefore has little choice but to repudiate defense counsel's assertion of desired violence on his part in toto. He wants no violence against anybody, contrary to what defense counsel would have his "followers" believe. This situation just goes to show how stupid censorship can be. The Defendant claims that Hale wants violence with his book — a claim that is utterly untrue — and yet by claiming that it has "incited" the very violence it supposedly is so worried about.

For the foregoing reasons, the Defendant's arguments fail to rebut the plain fact that the Defendant violated its representation to this Court that Hale would get to keep his Creativity books. Relief from the judgment

as to Claim Five is therefore appropriate. Hale regrets that he had to defend himself and his book at such length from the outrageous accusations of the Defendant's employees but it was necessary that he elucidate fully as to why they are unjust. As for the Defendant's motion for order to restrict access (Doc. 236), no further response on Hale's part in addition to what he has already filed (Doc. 237) is necessary.

I hereby swear under penalty of perjury pursuant to 28 U.S.C. sec. 1746 that the foregoing is true and correct to the best of my knowledge and belief.

Respectfully sworn and submitted,

Rev. Scott Hale

June 21, 2018

Rev. Matt Hale
15177-424
U.S.P. - Max.
P.O. Box 8500
Florence, CO 81226-8500

Certificate of Service

I hereby certify that on June 22, 2018 I served the foregoing document upon the following via U.S. mail, postage fully prepaid:

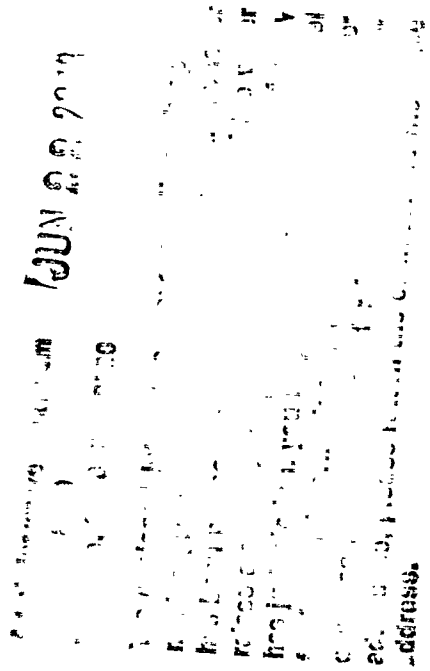
Susan Prose, Atty. for Defendant
Asst. U.S. Attorney
1801 California Street, Suite 1600
Denver, CO 80202

Rev. Matt Hale
Plaintiff

U.S. Penitentiary MAX
P.O. Box 8500
Florence, CO. 81226-8500

Special Mail

Office of the Clerk
United States District Court
901-19th St. Room A105
Denver, CO 80294-3589

Mailed 6-22

Special Mail