

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNELLE B. JOHNSON,  
Appellant,  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS,  
Respondent.

No. 43861

FILED

FEB 02 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order denying injunctive relief. Sixth Judicial District Court, Pershing County; John M. Iroz, Judge.

Appellant Donnelle Johnson filed a complaint for injunctive relief, alleging that certain policies of the Nevada Department of Corrections (NDOC) violated his constitutional right of access to the judicial process. Specifically, Johnson alleged that prison policies limiting the number and type of envelopes provided to inmates effectively prevented him from pursuing a full array of legal and constitutional remedies. The district court denied Johnson's request and this appeal followed.<sup>1</sup>

---

<sup>1</sup>With respect to appellant's October 17, 2006 "memorandum to the court," any relief requested therein is denied. In reviewing district court orders on appeal, we may not consider matters outside of the record on appeal, see Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981); accordingly, to the extent appellant alleges post-appeal events, we have not considered those allegations in resolving this appeal.

Furthermore, we construe appellant's January 9, 2007 "surrebuttal" as requesting us to consider that document as a reply to respondent's  
*continued on next page . . .*

NRS 33.010(1) authorizes an injunction when it appears from the complaint that the plaintiff is entitled to the relief requested and at least part of the relief consists of restraining the challenged act. Before a preliminary injunction will issue, the applicant must show “(1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy.”<sup>2</sup> The determination whether to grant or deny a preliminary injunction is within the district court's sound discretion and will not be disturbed absent an abuse of discretion or unless it is based on an erroneous legal standard.<sup>3</sup>

The state of Nevada has a constitutional obligation to provide prisoners with “meaningful access to the courts.”<sup>4</sup> Although prison officials have discretion in determining which methods will be used to provide meaningful access, the chosen method must “give prisoners a

---

*... continued*

response, which we have done. Accordingly, we deny respondent's January 11, 2007 motion to strike the January 9 document.

<sup>2</sup>S.O.C., Inc. v. The Mirage Casino-Hotel, 117 Nev. 403, 408, 23 P.3d 243, 246 (2001).

<sup>3</sup>University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004).

<sup>4</sup>See Bounds v. Smith, 430 U.S. 817, 824-25 (1977) (discussing the scope of prisoners' rights to access the courts at state expense).

reasonably adequate opportunity to present claimed violations of fundamental constitutional rights to the courts.”<sup>5</sup>

NDOC regulations permit indigent inmates to request legal supplies—including pens, paper, legal pads, envelopes, and carbon paper.<sup>6</sup> These supplies are issued based upon legitimate inmate needs on a case-by-case basis.<sup>7</sup> Inmates are also permitted to purchase additional items at the prison canteen. Johnson asserts that prison officials arbitrarily and unconstitutionally refused to provide him with needed envelopes, thereby hindering his access to the judicial process. We disagree.

As the Ninth Circuit has noted, there are no established minimum requirements governing the basic legal supplies a prison must provide to inmates.<sup>8</sup> Instead, courts perform a case-by-case analysis to determine whether the individual plaintiff has been denied access to the judicial process.<sup>9</sup> In analyzing similar cases, other courts have ruled that prison policies limiting inmates to four envelopes in a month<sup>10</sup> or one envelope per week<sup>11</sup> do not unconstitutionally restrict access to the courts.

---

<sup>5</sup>Id. at 825; see also Dziedzic v. Goord, 664 N.Y.S.2d 1022, 1023 (Sup. Ct. 1997).

<sup>6</sup>A.R. 722.04 (1.2.1.2-5).

<sup>7</sup>Id. at (1.2.2).

<sup>8</sup>Sands v. Lewis, 886 F.2d 1166, 1169 (9th Cir. 1989).

<sup>9</sup>Id.; see also King v. Atiyeh, 814 F.2d 565, 568 (9th Cir. 1987).

<sup>10</sup>Robbins v. South, 595 F.Supp. 785, 789 (D.Mont. 1984).

<sup>11</sup>Nichols v. Harmon, 2004 WL 318692 (Ark.), at \*1.

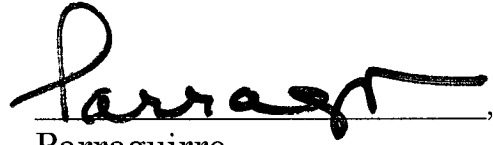
The record indicates that, between July and October 2003, Johnson sent 365 pieces of legal mail. As the district court noted, many of these mailings were directed to non-court entities. According to prison records, Johnson was able to purchase over 100 envelopes during this period and received dozens more free of charge in his housing unit. We are thus satisfied that Johnson had access to sufficient envelopes to file necessary court documents. As a result, we conclude that the NDOC regulations at issue in this appeal did not infringe upon Johnson's constitutional right of access to the courts. Thus, the district court acted within its discretion in denying Johnson injunctive relief.<sup>12</sup>

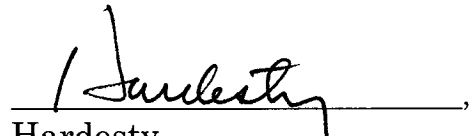
---

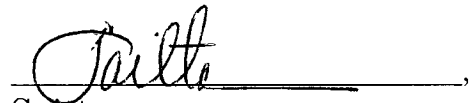
<sup>12</sup>We do not consider Johnson's claim that the \$100 copy debt limit invidiously discriminates against indigent inmates because Johnson has failed to allege any current or prospective injury suffered as a result of this policy. See Lewis v. Casey, 518 U.S. 343, 351 (1996) (holding that to state a claim for denial of access to the courts, an inmate must demonstrate actual prejudice to pending or contemplated litigation, e.g., having a case dismissed, being unable to file a complaint, or missing a court-imposed deadline.)

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. John M. Iroz, District Judge  
Donnelle B. Johnson  
Attorney General Catherine Cortez Masto/Carson City  
Pershing County Clerk