

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

March 23, 2011

Stanley Glanz
Sheriff
500 S Denver Ave
Tulsa, OK 74103-3838

Re: Rejection of Atheist Reading Material by County Employees

Dear Sheriff Glanz:

I am writing on behalf of a concerned citizen and other members of the Freedom From Religion Foundation (FFRF) to alert you to a serious constitutional rights violation. FFRF is a national nonprofit organization with over 16,000 members across the country including nearly 150 members in Oklahoma, as well as a Tulsa FFRF chapter. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that employees at the David L. Moss Criminal Justice Center (Justice Center) returned a book on February 17, 2011 that was sent to an inmate. It is our further understanding that the Justice Center allows inmates to receive paperback copies of books that are religious in nature sent directly from the distributor. Our complainant informs us that he sent *The Little Book of Atheist Spirituality* and *The Atheist's Way* to a friend who is being housed in the Justice Center on two different dates in February via the online book distributor Amazon.com. We understand the first book that was sent, *The Little Book of Atheist Spirituality*, was returned to the sender on February 14. When the book was returned, our complainant contacted the Justice Center and was informed of your policy. According to our complainant, he was also informed that the chaplain determines which books meet the policy requirements. It is our understanding that a paperback copy of *The Atheist's Way* was returned on February 17.

It is a fundamental principle of Establishment Clause jurisprudence that the government cannot in any way promote, advance, or otherwise endorse religion. Therefore, it is inappropriate for employees of the Justice Center to reject a book on atheism while allowing books of a religious nature. A policy that allows for the acceptance of religious books while rejecting all others demonstrates an endorsement and preference for religion over non-religion. In addition, allowing the chaplain to determine if books are of a religious nature also carries with it the risk that the Justice Center will endorse a preference for one religion over another, or

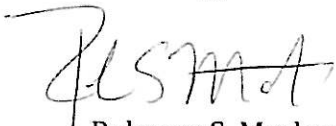
religion over non-religion. This violates the First Amendment of the United States Constitution.

Furthermore, a book on atheism might be considered religious in that it takes a position on the existence of a "divine being." See *Kaufman v. McCaugherty*, 419 F.3d 678, 682 (2005) ("Without venturing too far into the realm of the philosophical, we have suggested in the past that when a person sincerely holds beliefs dealing with issues of "ultimate concern" that for her occupy a "place parallel to that filled by ... God in traditionally religious persons," those beliefs represent her religion."). In fact, the Tenth Circuit treated atheism as a religion for First Amendment purposes in *Wells v. City and County of Denver*. 257 F.3d 1132, 1152 (2001). When viewed in this light, the paperback copy of *The Atheist's Way* sent by our complainant should not have been rejected for failure to adhere to the Justice Center's policy.

Finally, it is understandable that the Justice Center would attempt to maintain order and security within the inmate population by rejecting books that are violent or promote rebellious behavior. However, *The Atheist's Way* attempts to "reestablish the primary role of personal responsibility in the realms of ethics and meaning." http://www.theatheistsway.com/learn_aw.html. This objective can hardly be classified as likely to disrupt the order or endanger the security of the Justice Center.

We request that you commence an immediate investigation into the allegations herein and take the appropriate steps to ensure that this does not happen again. We also ask that you give training to Justice Center employees that will ensure books such as *The Atheist's Way* are given to their intended recipients and adopt a written policy to that effect. We request confirmation in writing as to the action taken so that we may notify our complainant.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. S. Markert', written in a cursive style.

Rebecca S. Markert
Staff Attorney