



**LGIT'S COMMANDER'S LOG
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Inmates do not have an absolute constitutional right to law libraries or legal assistance; however, they do have the constitutional right of access to the courts. Accordingly, local detention centers must provide the means by which inmates can meaningfully access the courts, and law libraries are one of several ways to do so.

QUESTION: Does an inmate have an abstract, freestanding right to a law library or legal assistance?

ANSWER: No. However, inmates do have a constitutional right of access to the courts. Local detention centers can provide inmates access to the courts through law libraries and/or alternative resources affording inmates basic legal assistance.

**CASE: *William G. Harden v. Scott Bodiford, Administrator, et al.*
United States Court of Appeals for the Fourth Circuit (unpublished)
Decided August 11, 2011**

In this unpublished opinion, the United States Court of Appeals for the Fourth Circuit considered an inmate's constitutional right of legal access to the courts. The facts in the case established that from June 2007 to October 2007, and for eight days in March, 2008, William G. Harden was a pretrial detainee in the Greenville County (South Carolina) Detention Center. Subsequent to his release, Harden filed suit against the Detention Center's administrator and others alleging, in part, that his right of access to the courts was denied because the Detention Center had no law library or any alternative resources for detainee legal assistance. He claimed that without a law library or other legal assistance, he was not able to determine that he had a claim for involuntary servitude (arising from alleged forced work assignments as a "pod" worker) until after his release. As a result of an oversight, the Defendants failed to address this claim in their motion for summary judgment. In response to the Defendants' motion, Harden realleged his claims and added that while he was in administrative segregation in March, 2008, he was unable to research and file a motion to set aside his convictions or a notice of appeal in the same criminal cases.

The federal trial court granted the Defendants' Motion for Summary Judgment on the ground that Harden had been able to file his lawsuit upon his release. The court, however, did not specifically address Harden's allegations that he had been unable to challenge his criminal convictions while he was incarcerated. As a result, Harden asked the court to reconsider its decision but the court refused. Harden appealed.

The U.S. Court of Appeals for the Fourth Circuit disagreed with the trial court and sent the case back to the federal trial court for further proceedings. It did so because the trial court had not fully

addressed the substance of Harden's claim, which included allegations of actual damage resulting from the denial. The court observed that inmates advancing denial of access to the courts claims cannot rely on conclusory allegations but must instead allege an actual injury or specific harm or prejudice that has resulted from the denial. Harden had done so by alleging that he was imprisoned on improper bench warrants erroneously issued based on an alleged failure to appear. His lawsuit also contained the allegation that the illegal incarceration lasted for a period of months, and that, if he had been given access to a law library or other means of legal assistance, he would have determined that he could challenge the bench warrants and, as a result, would have spent a shorter time in jail. Harden's specific allegations, combined with the failure of the Defendants to challenge them or the trial court to take them into account, compelled the appellate court to return the case for further proceedings.

NOTE: In practice, and reality, inmate access to the courts is afforded by law libraries and/or other means of access to legal materials (examples of "other means" include the Lexis "Premise" database, the availability of counsel or other persons trained in the law, and the Library Assistance to State Institutions ("LASI") service). "Meaningful" access to the courts is the key. Meaningful does not mean that detention centers must guarantee prisoners the ability to litigate every imaginable claim they can perceive. To the contrary, prisoners need only be afforded the means by which to challenge their sentences, directly or collaterally, or the conditions of their confinement through civil rights claims. Finally, as this case makes clear, an inmate cannot establish actual injury in a denial of access case simply by establishing that his prison's law library or legal assistance program is subpar in some theoretical sense; instead, the inmate must, as Harden did, go one step further and demonstrate that the alleged shortcomings in the library or legal assistance program actually hindered or prevented his efforts to pursue a legal claim.

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