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Letter from Loretto

On February 7, I gave my first press interview since the prison administration reneged on our halfway house deal: They would put me in for nine months halfway house and I would stop writing Letters from Loretto, decline all media interviews, and withdraw two formal complaints against staff.

As you know from my previous letters, that agreement is no longer in effect, so on the 7th I spoke at length with Dean Sirigos and Demetrios Tsakas of The National Herald, the oldest, largest, and most highly-respected Greek-American newspaper in the country. We spent more than two hours together, and we discussed issues ranging from halfway house time to terrorism, drones, and Afghanistan. (The journalists had gone through the formal approval process weeks in advance, were approved, and arrived during normal business hours, as instructed.)

Three hours after the interview ended, I was sitting in the TV room with my friend, former colleague, and cellmate Dave, when another prisoner approached us and said, "Guys, the cops are tearing up your room." We walked back to our room and, sure enough, two corrections officers (CO) were going through all of our possessions. I thought it was an odd coincidence, but I just shrugged. I didn't have any contraband, so I lost nothing.

The very next night, Dave and I went for a walk around the outdoor basketball court. When we walked back into the housing unit, another prisoner approached us and said, "Hey, the cops

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are tearing you guys up again." We couldn't get to our cubicle because the gate at the head of the hall was locked. A half hour later, the COs opened it and allowed us back in. This shakedown was different than the previous day's. (And I should note that in the previous year I had been shaken down a total of three times until the interview.) My locker door was left wide open (my cellmates' lockers were closed and locked.) Photos of my children were thrown on the floor. My mail was strewn all over the bed. And my books were tossed on a nearby chair.

I approached a CO and complained. Retaliation is one thing, I said, but this was just plain disrespectful. "Sorry," was the response. "We were just following orders." My cellmates also were disrespected. This shakedown was very thorough, and they had all lost property. One of my cellmates, a 40-ish African-American whom I like, respect, and consider a friend, made an important point. "Don't you see what they're doing? They're trying to make us mad with these shakedowns so that we'll turn on you." He imagined a conversation: "Let's piss off the big black guy so he pressures Kiriakou to stop writing and doing interviews." My cellmate urged me to "keep up the fight. Keep telling people what it's like in here." I promise to do that.

The issue here is not the bother and inconvenience of shakedowns. The COs are within their rights to shake us down whenever they want. The issue is retaliation and censorship, which are illegal. A senior prison official told me months ago that there have been active discussions about putting me in

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"diesel therapy" for the rest of my sentence. Diesel therapy is when a prisoner is transferred from one prison to another all across the country via prison van, bus, or "Conair" plane, never staying in any one prison long enough to receive telephone, email, mailing, or visitation privileges. I could move to a different prison every week for the rest of my sentence and still not hit them all.

In the meantime, my family and attorneys wouldn't even know what time zone I was in. This would obviously be retaliation for Letters from Loretto and my press interviews, but the BOP could easily make up a lie that it was related to a "bedspace" issue or for my own "safety." Still, it would stink of retaliation for the exercise of my Constitutional right to freedom of speech. I'm fortunate that my attorneys, among Washington's best, are willing to sue individual BOP employees, as well as the BOP as an organization, to ensure that such an assault on my rights doesn't take place. BOP officials should keep in mind what the Supreme Court said about diesel therapy in *Frazier v. Dubois*:

1210. -Transfers

Although prisoners enjoy no constitutional right to remain in particular institution, prison officials do not have discretion to punish inmate for exercising his First Amendment rights by transferring him to different institution. *Frazier v Dubois* (1990, CA10 Kan) 922 F.2d 560

Similarly, I have a Constitutional right against retaliation, as the Supreme Court set forth in *Bloch v. Ribar* and in *Skoog v. County of Clackamas*:

460. Retaliation

Plaintiffs had First Amendment right to criticize public official's performance of his duties, and in action alleging retaliation by official against plaintiffs due to their exercise of their First Amendment rights, it was sufficient for them to allege injury in form of embarrassment, humiliation, and emotional distress. *Bloch v Ribar* (1998, CA6 Ohio) 156 F.3d 673, 1998 FED App 294P

Right exists to be free of police action for which retaliation is but-for cause even if probable cause exists for that action. *Skoog v County of Clackamas* (2006, CA9 Or) 469 F.3d 1221 (criticized in *Baldauf v Davidson* (2007, SD Ind) 2007 US Dist LEXIS 53924)

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These cases are freely available in the prison law library. Perhaps prison officials should acquaint themselves with them. Maybe they could also look up *Largent v. Texas*, which prohibits censorship:

306. Censorship

Any regulation which makes dissemination of ideas depend upon approval of distributor by official constitutes administrative censorship in extreme form, and, subject to certain exceptions, any regulation which subjects communications to license infringes right of free speech. *Largent v Texas* (1943) 318 US 418, 87 L Ed 873, 63 S Ct 667

Where do we go from here? First, understand that any monolithic bureaucracy will tend toward corruption without proper oversight. There is an internal "administrative remedy" process that's a joke. You write a complaint and they tell you to go screw yourself. Calling for an Inspector General investigation is also a joke. An Inspector General could make an entire career of investigating where the money from the inmate trust fund goes (where did that new flat screen TV in the CO medical lounge, especially during sequestration, come from?) The only alternative is to go to the top: BOP Director Charles Samuels.

Director Samuels worked his way up after starting as a line CO, moving up through the ranks to warden, and then on to Washington to lead the BOP. Certainly he knows the difference between right and wrong. Certainly he wouldn't want his employees to violate the law (as I've documented in these letters.) Certainly he wouldn't want his people's actions ^{sh}highlighted in a press investigation.

Join me in writing Director Samuels and in demanding an

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end to these illegal and unconstitutional actions by his staff. We have to put our foot down and say, "Enough!"

I'll let you know how things develop.

Best regards,

John

PS: I wanted to thank Rep. Jim Moran (D-VA), who sent a second letter to Director Samuels last week saying,

"As you will recall, I sent a letter last September requesting that the Department of Justice grant my constituent, John Kiriakou, at least 9 months of halfway house time. Despite the fact that 12 months of halfway house is well within BOP guidelines, I am disappointed to learn that John's return to society may be unnecessarily delayed. Thus, I am writing to reiterate the importance of John's release to a halfway house as soon as possible so that he can be a father to his five children and resume productive contributions to society."

Rep. Moran is a 12-term Congressman and a member of the House Appropriations Committee, which controls the BOP budget.

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An addendum: About 12 hours after I wrote this Letter from Loretto, I was called to the Special Investigative Service (SIS) office. The CO there handed me an envelope containing the first 20,000 words of a book Dave and I are writing about our experiences here. I hadn't even realized it was missing since the shakedown. The SIS CO said that the CO who had shaken me down had determined that the manuscript "made threats against staff." He said he, too, had read it and believed that it did NOT contain any threats to staff. (The allegation was patently absurd, in any event.) He returned it to me in its entirety, although he most likely made a copy.

In one last swipe at my civil rights and my Constitutional right to freedom of speech, the shakedown CO tried to remove my desk from the wall and confiscate it. After all, if I have no desk, I can't write Letters from Loretto, right? After a while he gave up. The bolts were stripped and wouldn't budge. (It was a temporary respite, though. The CO issued a work order to chip it off the wall. I had to go to the unit manager, who promised that the desk would not be removed.)

These crude, amateurish attempts to deprive me of my rights don't originate with a low-level CO. They come from higher up, from officials who should know better. But I have the Constitution in my corner, and I won't stop fighting.