

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

RUSSELL K. OGDEN, BEATRICE HAMMER,	)	
and JOHN SMITH, on behalf of themselves and	)	
a class of persons similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 16-cv-2288
	)	<b>CLASS ACTION</b>
PETE FIGGINS, in his official capacity as	)	
Sheriff for Wilson County, Kansas,	)	
	)	
Defendant.	)	

**PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

Plaintiffs, by and through undersigned counsel, move to certify this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2) and D. Kan. Rule 23.1(b) and in support state:

1. Plaintiffs’ Class Action Complaint (“Complaint”) and Memorandum of Law in Support of Plaintiff’s Motion for Class Certification (“Memorandum of Law”) have been filed contemporaneously with this Motion.

2. Plaintiffs challenge defendant’s policy and practice of forbidding inmates of the Wilson County Correctional Facility (the “Jail”) and their parents, children, spouses, relatives, friends and other correspondents from sending letters enclosed in envelopes to and from the Jail (“Postcard-Only Mail Policy”). Instead, Jail inmates and their outside correspondents must write all of their correspondences on pre-paid U.S. Postal postcards. The only exception to this Postcard-Only Mail Policy applies to “Legal Mail,” which is not defined, but includes mail sent from an attorney’s office. Moreover, the Postcard-Only Mail Policy does not afford either the sender or the intended recipient of any rejected communication with any notice of, reasons for, or opportunity to challenge, the Jail’s censorship of their protected speech.

3. This policy impermissibly restricts the ability of inmates and their outside correspondents from exercising their rights to communicate in writing, as well as their due process rights, in violation of the First and Fourteenth Amendments to the U.S. Constitution.

4. As class relief, named plaintiffs Ogden, Hammer, and Smith seek declaratory and injunctive relief enjoining defendant, his agents and employees, and all other persons in concert therewith, from continuing to implement and enforce the Postcard-Only Mail Policy.

5. This action satisfies all the prerequisites for maintenance of a class action as set forth in Federal Rules of Civil Procedure 23(a) and (b)(2) (for injunctive relief). Plaintiffs move to certify a class of all current and future outside correspondents who wish to write full-length letters to, and/or receive full-length letters from, inmates in the Wilson County Correctional Facility and who are subject to or affected by the defendant's Postcard-Only Mail Policy.

WHEREFORE, as more fully argued in Plaintiffs' attached Memorandum of Law, Plaintiffs respectfully request that the court (1) find that the proposed class meets the requisites of Federal Rules of Civil Procedure 23(a) and (b)(2); (2) certify this action as a class action with the proposed class as defined above; (3) appoint Plaintiffs Ogden, Hammer and Smith as class representatives for the proposed class; (4) appoint undersigned counsel as Class Counsel pursuant to Federal Rule of Civil Procedure 23(g); and (5) grant all other and further relief that the Court deems equitable and just.

Respectfully submitted,

/s/ Joshua A. Glickman \_\_\_\_\_

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Attorneys for the Plaintiff

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system on April 28, 2016, and will be hand-delivered to defendant along with the Complaint and summons.

*/s/ Stephen Douglas Bonney*