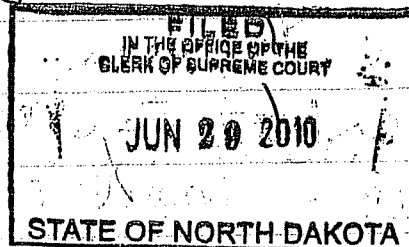


In the North Dakota Supreme Court  
Bismarck, North Dakota 20100200

Anthony Moore Petitioner, Petition For  
vs. a writ of  
Leann R. Bertsch, Respondent, Et al Prohibition

Case No.



This petition is verified by the petitioner and brought under the North Dakota Supreme Court Rule 8:10 Extraordinary Writ. There is no filing fee requirement.

The grounds for this particular petition is that the respondents have conceded to the tampering with the petitioner's outgoing mail on eight occasions, see accompanying exhibits identified as A through H.

The respondent's actions clearly violates the North Dakota Century Code 12.1-15-05.

The rejection of outgoing mail  
notices entitles the petitioner to  
money. The mail was private mail.  
The financial sanction of \$800.00  
(eight hundred dollars) ought to have  
the effect of a deterrent from such  
illegal mail tampering in the future.

Anthony Moore  
North Dakota State Prison  
PO Box 5521  
Bismarck, North Dakota 58506

June 26, 2010

Page 2 of 2



# REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:

ANTHONY MOORE AS

Inmate Number:

22547

Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

	The material contains threats or physical harm against any person or threats of criminal activity, blackmail or extortion.
	The material concerns sending contraband into or out of the institution.
	The material concerns escape plans.
X	The material concerns plans for activities in violation of institution rules. <i>Violation of Criminal Code 12.1-15-01</i>
	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
	The material contains personal sexually explicit photographs. (Number of Photos )
	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
	There is a court order restricting any communication between two parties or written to a victim.
	At the request of any parent or guardian regarding any minor in their care.
	The material portrays gangs or advocates gang behavior.
	The material tested positive for an illegal substance.
	The letter is being rejected until further investigation.
	The letter is being returned to the sender as unauthorized correspondence in accordance to the NDSP Mail Policy, as listed on Page 45-49, in the Inmate Handbook.
	There will be no drawings, artwork or designs on the outside of outgoing mail.
	No BILL ME LATER correspondence will be mailed.
	You will not be allowed to enter any contests, sweepstakes or any other games of chance.
	(magazine) will not be allowed as it promotes a violation of an institutional rule ( ).
	was received and is unauthorized material.
	Contains photograph that includes department staff.
	Solicits gifts of goods or money from a source other than family or persons on the offenders visiting list.

The above item will not be allowed in. You may either have it destroyed or mailed out, unless it is being held for further investigation. If you decide to have it mailed out, provide a self-addressed, stamped envelope. You have 30 days from the above date, after that, it will be disposed of. You will be given an opportunity to appeal, in writing, to the Warden/Deputy Warden or designee within 48 hours of receiving this notice.

Mail Clerk:

*Patrick Hanson, Deputy Warden*

Date:

8-27-09

X

*Letter addressed to Bismarck Tribune (Editor) Violating Criminal code 12.1-15-01*

Mail Clerk:

*[Signature]*

Date:

8-27-09

Exhibit W



Case 1:08-cv-01111  
REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:

ANTHONY MOORE AS

Inmate Number:

22547

Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

	The material contains threats or physical harm against any person or threats of criminal activity, blackmail or extortion.
	The material concerns sending contraband into or out of the institution.
	The material concerns escape plans.
X	The material concerns plans for activities in violation of institution rules. <i>Violation of ND (criminal code 12.1-15 (Defamation))</i>
	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
	The material contains personal sexually explicit photographs. (Number of Photos )
	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
	There is a court order restricting any communication between two parties or written to a victim.
	At the request of any parent or guardian regarding any minor in their care.
	The material portrays gangs or advocates gang behavior.
	The material tested positive for an illegal substance.
	The letter is being rejected until further investigation.
	The letter is being returned to the sender as unauthorized correspondence in accordance to the NDSP Mail Policy, as listed on Page 45-49, in the Inmate Handbook.
	There will be no drawings, artwork or designs on the outside of outgoing mail.
	No BILL ME LATER correspondence will be mailed.
	You will not be allowed to enter any contests, sweepstakes or any other games of chance.
	(magazine) will not be allowed as it promotes a violation of an institutional rule ( ).
	was received and is unauthorized material.
	Contains photograph that includes department staff.
	Solicits gifts of goods or money from a source other than family or persons on the offenders visiting list.

The above item will not be allowed in. You may either have it destroyed or mailed out, unless it is being held for further investigation. If you decide to have it mailed out, provide a self-addressed, stamped envelope. You have 30 days from the above date, after that, it will be disposed of. You will be given an opportunity to appeal, in writing, to the Warden/Deputy Warden or designee within 48 hours of receiving this notice.

Mail Clerk:

*Patrick Branson, DW*

Date:

*9-2-09*

Mail Clerk:

Date:

*Exhibit B*



# REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:

ANTHONY MOORE AS

Inmate Number:

22547

Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

<input type="checkbox"/>	The material contains threats or physical harm against any person or threats of criminal activity, blackmail or extortion.
<input type="checkbox"/>	The material concerns sending contraband into or out of the institution.
<input type="checkbox"/>	The material concerns escape plans.
<input checked="" type="checkbox"/>	The material concerns plans for activities in violation of institution rules. <i>Clearly violates chapter 12.1-15 of Criminal Code - Defamation</i>
<input type="checkbox"/>	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
<input type="checkbox"/>	The material contains personal sexually explicit photographs. (Number of Photos )
<input type="checkbox"/>	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
<input type="checkbox"/>	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
<input type="checkbox"/>	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
<input type="checkbox"/>	There is a court order restricting any communication between two parties or written to a victim.
<input type="checkbox"/>	At the request of any parent or guardian regarding any minor in their care.
<input type="checkbox"/>	The material portrays gangs or advocates gang behavior.
<input type="checkbox"/>	The material tested positive for an illegal substance.
<input type="checkbox"/>	The letter is being rejected until further investigation.
<input type="checkbox"/>	The letter is being returned to the sender as unauthorized correspondence in accordance to the NDSP Mail Policy, as listed on Page 45-49, in the Inmate Handbook.
<input type="checkbox"/>	There will be no drawings, artwork or designs on the outside of outgoing mail.
<input type="checkbox"/>	No BILL ME LATER correspondence will be mailed.
<input type="checkbox"/>	You will not be allowed to enter any contests, sweepstakes or any other games of chance.
<input type="checkbox"/>	(magazine) will not be allowed as it promotes a violation of an institutional rule ( ).
<input type="checkbox"/>	was received and is unauthorized material.
<input type="checkbox"/>	Contains photograph that includes department staff.
<input type="checkbox"/>	Solicits gifts of goods or money from a source other than family or persons on the offenders visiting list.

The above item will not be allowed in. You may either have it destroyed or mailed out, unless it is being held for further investigation. If you decide to have it mailed out, provide a self-addressed, stamped envelope. You have 30 days from the above date, after that, it will be disposed of. You will be given an opportunity to appeal, in writing, to the Warden/Deputy Warden or designee within 48 hours of receiving this notice.

Mail Clerk:

*Patrick Benson AS*

Date:

*1-4-10*

Mail Clerk:

*Clearly meets "governmental" or "criminal" intent to violate the law.*

Date:

*The mail is not allowed to be mailed out by Anthony Moore - AS*

*Exhibit C*



# REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:

ANTHONY MOORE AS

Inmate Number:

22547

Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

	The material contains threats or physical harm against any person or threats of criminal activity, blackmail or extortion.
	The material concerns sending contraband into or out of the institution.
	The material concerns escape plans.
	The material concerns plans for activities in violation of institution rules. INMATE HAND BOOK PAGE 20 A-53 YOUR LETTERS TO (UNITED STATES DEPARTMENT OF VETERAN AFFAIRS), (GAME AND FISH), (DETENTION AND REMOVAL OFFICE) ARE NOT BEING SENT OUT AND WILL BE DESTROYED DUE TO THE CONTENTS OF THE LETTER.
	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
	The material contains personal sexually explicit photographs. (Number of Photos )
	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
	There is a court order restricting any communication between two parties or written to a victim.
	At the request of any parent or guardian regarding any minor in their care.
	The material portrays gangs or advocates gang behavior.
	The material tested positive for an illegal substance.
	The letter is being rejected until further investigation.
	The letter is being returned to the sender as unauthorized correspondence in accordance to the NDSP Mail Policy, as listed on Page 45-49, in the Inmate Handbook.
	There will be no drawings, artwork or designs on the outside of outgoing mail.
	No BILL ME LATER correspondence will be mailed.
	You will not be allowed to enter any contests, sweepstakes or any other games of chance.
	(magazine) will not be allowed as it promotes a violation of an institutional rule ( ).
	was received and is unauthorized material.
	Contains photograph that includes department staff.
	Solicits gifts of goods or money from a source other than family or persons on the offenders visiting list.

The above item will not be allowed in. You may either have it destroyed or mailed out, unless it is being held for further investigation. If you decide to have it mailed out, provide a self-addressed, stamped envelope. You have 30 days from the above date, after that, it will be disposed of. You will be given an opportunity to appeal, in writing, to the Warden/Deputy Warden or designee within 48 hours of receiving this notice.

Mail Clerk:

AMBER

Date:

1-12-2010

Mail Clerk:

Date:

Exhibit D

Samothy Schuetzle  
North Dakota State Prison  
Bismarck, North Dakota 58506

C-516  
PW Branson

2  
Exhibit  
You have no authority to tamper with my outgoing mail. Every single article of private outgoing mail is sent open, read, copied, critically sealed with transparent tape and on the last est 3 occasions confiscated and/or destroyed. The lastest, as you are aware of, transpired on January 12, 2010. Those envelopes were addressed to the United States Veteran Affairs, Home and Sisk, Detention and Removal Office / Immigration Customs Enforcement. I demand that those envelopes be sent back to me today or sent out. The latter is preferred. Your actions and decisions are unlawful.

Anthony - I don't know what you are talking about so I'm forwarding this to DW Branson.  
January 19, 2010  
Anthony Moore

1-17-10  
Anthony - I was assigned to screen your mail based on your continued practice of making false claims and to the point of actually violating the state laws. You received several rejection notices stating exactly what rules or laws you have violated. You have clearly established a habitual history of abusing the mail rules and policies. We contacted the States Attorney's Office and received clear direction on how to deal with your abuse and we are simply following those directives. Your actions clearly reach the level of interest needed to conduct such screening - Pat Branson

**INMATE REQUEST**

NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
PRISONS DIVISION  
SFN 11245 (08-2007)

Exhibit 2

To	Ms. Amber Shewer Mail Room	Date	January 17, 2010
Nature of Request (give complete details)			
Dear Ms. Shewer: Will you send back to me at once the rejected outgoing mail to the North Dakota Board of Nursing, dated for January 4, 2010. The envelope and contents of three individual complaints. Thanks.			
Response			
Due to the contents of the letter, you will not be receiving the letter back. Any further questions can be directed to D.W. Branson. 1/7/2010 Amber			
Job Assignment	Cell House W & 16		
Name	Anthony Moore	Inmate Number	22547

**INMATE REQUEST**

NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
PRISONS DIVISION  
SFN 11245 (08-2007)

To	Amber Shewer Mail Room	Date	January 1, 2010
Nature of Request (give complete details)			
Place one forty four cent postage stamp on outgoing mail and send out today and inform me of how much is left of the 4 dollar monthly credit.			
Response			
Board of Nursing Did not go out. See attached Rejection from D.W. Branson 1/6/09 Amber.			
Job Assignment	Cell House W & 16		
Name	Anthony Moore	Inmate Number	22547

Exhibit





# REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:

ANTHONY MOORE AS

Inmate Number:

22547

Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

<input type="checkbox"/>	The material contains threats or physical harm against any person or threats of criminal activity, blackmail or extortion.
<input type="checkbox"/>	The material concerns sending contraband into or out of the institution.
<input type="checkbox"/>	The material concerns escape plans.
<input checked="" type="checkbox"/>	The material concerns plans for activities in violation of institution rules. <i>(forwarding mail)</i>
<input checked="" type="checkbox"/>	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
<input type="checkbox"/>	The material contains personal sexually explicit photographs. (Number of Photos )
<input type="checkbox"/>	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
<input type="checkbox"/>	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
<input type="checkbox"/>	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
<input type="checkbox"/>	There is a court order restricting any communication between two parties or written to a victim.
<input type="checkbox"/>	At the request of any parent or guardian regarding any minor in their care.
<input type="checkbox"/>	The material portrays gangs or advocates gang behavior.
<input type="checkbox"/>	The material tested positive for an illegal substance.
<input type="checkbox"/>	The letter is being rejected until further investigation.
<input type="checkbox"/>	The letter is being returned to the sender as unauthorized correspondence in accordance to the NDSP Mail Policy, as listed on Page 45-49, in the Inmate Handbook.
<input type="checkbox"/>	There will be no drawings, artwork or designs on the outside of outgoing mail.
<input type="checkbox"/>	No BILL ME LATER correspondence will be mailed.
<input type="checkbox"/>	You will not be allowed to enter any contests, sweepstakes or any other games of chance.
<input type="checkbox"/>	(magazine) will not be allowed as it promotes a violation of an institutional rule ( ).
<input type="checkbox"/>	was received and is unauthorized material.
<input type="checkbox"/>	Contains photograph that includes department staff.
<input type="checkbox"/>	Solicits gifts of goods or money from a source other than family or persons on the offenders visiting list.

The above item will not be allowed in. You may either have it destroyed or mailed out, unless it is being held for further investigation. If you decide to have it mailed out, provide a self-addressed, stamped envelope. You have 30 days from the above date, after that, it will be disposed of. You will be given an opportunity to appeal, in writing, to the Warden/Deputy Warden or designee within 48 hours of receiving this notice.

Mail Clerk:

*Pat Hanson, Deputy Warden*

Date:

*5-25-10*

Mail Clerk:

*Asked State Librarian to forward mail to ND Tourism Department.*

Date:

*Exhibit 2*



# REJECTION OF MAIL

Department of Corrections and Rehabilitation/Prisons Division  
(12/2005)

Inmate Name:	ANTHONY MOORE AS	Inmate Number:	22547
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Mail came in for you that did not meet inmate correspondence regulations. After review, the mail has been rejected for the following reason(s):

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<input type="checkbox"/>	The material concerns sending contraband into or out of the institution.
<input type="checkbox"/>	The material concerns escape plans.
<input checked="" type="checkbox"/>	The material concerns plans for activities in violation of institution rules. <i>Violation of ND Criminal Code.</i>
<input type="checkbox"/>	The material is in a language other than English, and the offender is not on the limited English proficiency list, or in code and the staff reviewer does not understand its contents.
<input type="checkbox"/>	The material contains personal sexually explicit photographs. (Number of Photos )
<input type="checkbox"/>	The material contains information, which, if communicated, would create a clear and present danger of violence and physical harm to any human being or has demonstrably caused violence.
<input type="checkbox"/>	The material advocates racial, religious, or national hatred in such a way so as to create a serious danger of violence in the institution.
<input type="checkbox"/>	Once something goes out of the institution, it can not come back in. See your inmate handbook, page 66, section A
<input type="checkbox"/>	There is a court order restricting any communication between two parties or written to a victim.
<input type="checkbox"/>	At the request of any parent or guardian regarding any minor in their care.
<input type="checkbox"/>	The material portrays gangs or advocates gang behavior.
<input type="checkbox"/>	The material tested positive for an illegal substance.
<input type="checkbox"/>	The letter is being rejected until further investigation.
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Mail Clerk:	<i>Deputy Warden Pat Ramsey</i>	Date:	<i>5-25-10</i>
	<i>Mail He was sending out to Chief Game Warden</i>		
Mail Clerk:		Date:	

*Exhibit H*



**NORTH DAKOTA**  
**Department of Corrections**  
**& Rehabilitation**

**Central Office**

PO Box 1898 • 3100 Railroad Avenue

Bismarck, ND 58502-1898

(701) 328-6362 • Fax (701) 328-6651

TDD 1-800-633-6888 • TTY Voice 1-800-366-6889

John Hoeven, Governor  
Leann K. Bertsch, Director

June 14, 2010

Anthony Moore, DOCR #22547, SID #141598  
North Dakota State Penitentiary  
P.O. Box 5521  
Bismarck, ND 58506-5521

RE: Grievance Appeal

Dear Mr. Moore:

You submitted a step 2 grievance appeal form stating "this grievance is of serious nature" dated May 17, 2010, claiming Warren Emmer is instructing Pat Branson to open your outgoing private mail. I do not find this to be an issue meeting the criteria for direct filing with my office, as you have filed grievances on mail issues through regular institutional channels in the past without adverse effects. Your grievance is being returned without action. If this is a matter that is still of concern, you may file a step 1 grievance according to the procedures outlined in the inmate handbook.

Sincerely,

A handwritten signature in black ink, appearing to read "Leann Bertsch".

Leann Bertsch,  
Director

cc: Case History File

*Exhibit 1*

**DEBRA SIMENSON**  
**CLERK OF DISTRICT COURT**

Burleigh County Courthouse  
P.O. Box 1055  
Bismarck, ND 58502-1055  
Phone: 701-222-6690

June 23, 2010

Anthony Moore  
P. O. Box 5521  
Bismarck, ND 58506

RE: Anthony Moore vs Leann Bertsch, et al

Dear Mr. Moore:

Enclosed please find the documents you sent for filing and a copy of the Application to Proceed In Forma Pauperis which as been denied by Judge Wefald on June 22, 2010. If you want the case filed you will have to pay the \$80 filing fee.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Debra Simenson".

Debra Simenson  
Clerk of District Court

enc.



**CERTIFICATE OF SERVICE BY MAIL**  
DEPARTMENT OF CORRECTIONS & REHABILITATION  
PRISONS DIVISION  
SFN 50247 (Rev. 04-2001)

RECEIVED BY CLERK  
SUPREME COURT

JUN 29 2010

STATE OF NORTH DAKOTA )  
 ) SS.  
COUNTY OF BURLEIGH )

The undersigned, being duly sworn under penalty of perjury, deposes and says: I'm over the age of eighteen years and on the 26 Day of June, 20 10, 2 M, I mailed the following:

Petition for a writ of Mandamus  
Petition for a writ of Prohibition

by placing it/them in a prepaid envelope, and addressed as follows:

Leann K. Bertsch  
3100 Railroad Avenue  
Bismarck, North Dakota 58504

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

JUN 29 2010

STATE OF NORTH DAKOTA

and depositing said envelope in the Mail, at the NDSP, P.O. Box 5521, Bismarck, North Dakota 58506-5521.

AFFIANT Anthony Moore

P.O. Box 5521  
Bismarck, North Dakota 58506-5521

Subscribed and sworn to before me this 26<sup>th</sup> day of JUN, 20 10.

Notary Public

Steve Rogalla

My Commission Expires On

STEVE ROGALLA  
Notary Public  
State of North Dakota  
My Commission Expires Aug. 15, 2014