30 J. Legal Prof. 145

JOURNAL OF THE LEGAL PROFESSION
2005-2006

Student Commentary
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REPLACING PRISONERS' RIGHTS WITH DVDS: HOW A NEW SYSTEM IN GEORGIA DIMINISHES PRISONERS' ACCESS TO THE COURTS

Introduction

As of January 2004 Georgia state prisons stopped supplying state-funded attorneys to help prisoners file habeas appeals and challenges to prison conditions.[1] In their place, prisoners receive assistance "from state-supplied computers, librarians and paralegals."[2] The new system raises serious questions affecting the legal profession, involving both the adequacy of non-attorney legal services and whether such services will promote the practice of law by those outside the legal profession. Further, the new system could fail in both its goals of ensuring adequate prisoner access to the courts and in decreasing the state's financial burden of providing such access.

The Constitution protects the right of prisoners to access the courts.[3] States have "affirmative obligations" to ensure this right is protected.[4] Such "meaningful access to the courts" can be achieved in a variety of ways, including prisoner access to "adequate" law libraries[5] or a state provision providing prisoners' access to trained legal professionals.[6] Courts historically sought to employ a "hands off" approach to matters of prison administration, deferring to the expertise of the legislators and prison officials.[7] As the courts have increasingly recognized the constitutional rights of prisoners, however, the issue of whether inmates have meaningful access to the courts has been regularly contested in the judiciary.[8]

This Comment considers whether the Georgia program meets the constitutional requirement of meaningful access to the courts.[9] Next, the Comment considers whether the program will accomplish its goal of improving inmates' rights while cutting costs.[10] Finally, the Comment concludes ***146** with a discussion of some other pitfalls associated with the program, such as the possibility paralegals will be forced into the unauthorized practice of law.

I. The New Georgia System

The new Georgia system hopes to accomplish two goals. First, the program seeks to "provide inmates with better legal assistance overall."[11] The program also strives to lower the cost of legal assistance for inmates.[12] The new system would give inmates access to 170 computers equipped with DVDs containing court decisions, statutes, administrative rules and legal treatises.[13] Because of security concerns, however, prisoners will not have access to the internet, though some librarians and paralegals will help with research.[14] The new system, which will update the DVDs twice a year, seeks to provide "an updated, computerized version of the old-fashioned prison library."[15] Georgia joins Louisiana and Wisconsin as the third state to

provide computerized legal research for prisoners.[16] California is running a similar system on an experimental basis.[17]

II. Meaningful Access To The Courts

Beginning in the 1960s, courts began to consider complaints about conditions in the nation's prisons.[18] The courts began to recognize prisoners retain many of their constitutional rights during incarceration, and one such right is the right of access to the courts.[19] Though there is no express constitutional basis for the right of access to the courts, courts have asserted the right "emanates from several provisions of the Constitution, in particular, the First Amendment, the Privileges and Immunities Clauses of Article IV Section 2 and Section 1 of the Fourteenth Amendment, and the Due Process Clauses of the Fifth and Fourteenth Amendments."[20] The right does not, however, necessarily entail the right of access to an attorney.[21] Indeed, inmates generally do not have a constitutional right "to be represented by appointed counsel in civil cases."[22]

***147** The Supreme Court first recognized the right of access to the courts in Ex Parte Hull, in which the court held states and their officials cannot obstruct prisoners from exercising their right to seek a writ of habeas corpus.[23] In Johnson v. Avery, the Court suggested states could prohibit inmate "writ writers" from assisting other prisoners if inmates were provided "reasonable alternative[s]," like attorneys or advanced law students.[24] In Younger v. Gilmore, the Supreme Court upheld a lower court's decision that a California prison library containing only "basic codes and references" was insufficient and therefore violated prisoners' right of access to the courts. This was the Court's first attempt to define "reasonable alternatives."[25]

In the landmark case Bounds v. Smith, inmates incarcerated in North Carolina prisons alleged "they were denied access to the courts in violation of their Fourteenth Amendment rights by the State's failure to provide legal research facilities."[26] In response to an order by the district court to develop a program to ensure the inmates' access to the courts, the state proposed the establishment of seven institutional libraries to which prisoners from around the state could be transported by appointment.[27] Respondents, who sought the establishment of libraries at every prison, challenged the proposal, but the district court found the state's proposal to be constitutionally sufficient.[28] The Court of Appeals for the Fourth Circuit "affirmed in all respects save one," finding the program discriminated against women prisoners, thereby ordering elimination of the discrimination.[29] The state petitioned for review and was granted certiorari by the Supreme Court.[30]

Writing for the majority, Justice Marshall began his analysis with the assertion that "[i]t is now established beyond doubt prisoners have a constitutional right of access to the courts."[31] The Court held prior decisions "did not attempt to set forth the full breadth of the right of access."[32] Likewise, the Bounds holding did not explicitly set out any concrete requirements for meaningful access to the courts, and instead left such decisions to state legislators and prison administrators, instead encouraging "local experimentation."[33] As possible alternatives to the establishment of adequate law libraries, the Court suggested:

> [T]he training of inmates as paralegal assistants to work under lawyers' supervision, the use of paraprofessionals and law students, either ***148** as volunteers or in formal clinical programs, the organization of volunteer attorneys through bar associations or other groups, the hiring of lawyers on a part-time consultant basis, and the use of full-time staff attorneys, working either in new prison legal assistance organizations or as part of public defender or legal services offices.[34]

Therefore, the Court's holding did not require adequate libraries in prisons, but included libraries as one of many constitutionally acceptable means of ensuring inmates' access to the courts.[35] Suggesting each system should be considered individually, the Court stated "[a]ny plan must be evaluated as a whole to ascertain its compliance with constitutional standards."[36] The phrase "meaningful access" became the touchstone for determining whether inmate access to legal resources was constitutionally sufficient.[37]

The Bounds holding was later construed narrowly in Lewis v. Casey.[38] The Court explicitly disclaimed several statements from Bounds, which "appear to suggest that the State must enable the prisoner to discover grievances, and to litigate effectively once in court."[39] Therefore, there is no requirement that the state aid the prisoner in formulating his substantive claim, but only "that inmates be able to prepare a complaint and put their grievances before the court in the first instance."[40] The Casey holding lessens the burden on states, emphasizing "'minimal access' to legal information would suffice for prisoners."[41] It is in this context the constitutional viability of the new system in Georgia must be considered.

As Bounds makes clear, "the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law."[42] This suggests that in a system which provides only library access, the library must be "adequate."[43] The Gilmore case found California prison libraries, which contained few California materials and hardly any federal materials, to be insufficient.[44] The Court emphasized the lack of federal materials would make filing writs of habeas corpus very difficult.[45] The new system in Georgia "will provide an updated, computerized version of the old-***149** fashioned prison library."[46] This comes at the expense of old-fashioned legal libraries, as the state has discontinued subscriptions to various legal resources.[47] The DVDs available for prisoners "contain court decisions, statutes, administrative rules and legal treatises."[48] Though it is not clear whether these resources will give an inmate a legitimate chance of prevailing on the merits of his case, such a program will likely rise to the minimal constitutional level enunciated in Casey.[49]

The limited access to librarians and paralegals for research assistance may also be sufficient to satisfy the bare constitutional requirement. Once again, the issue hinges on whether the new system constitutes "adequate assistance from persons trained in the law."[50] The Bounds decision suggests acceptable methods of assuring meaningful access to the courts other than adequate libraries might include the use of lawyers, paraprofessionals, law students and even the training of inmates as paralegal assistants to work under the supervision of lawyers.[51] Further, the required qualifications of those who are "trained in the law" are minimal. Those considered paralegals are not necessarily persons with formal legal training, much less a full two-year degree.[52] To the contrary, the term refers to "intelligent laypeople who can write coherent English and who have had some modicum of exposure to legal research and to the rudiments of prisoner-rights law."[53] As for the definition of "adequate assistance," the requirement seems to be only that assistance rise to the level of "the ability to file a legally sufficient claim."[54] Though it is not clear exactly, it appears in the Georgia system paralegals are paid professionals.[55] This allows the inference "paralegals" are not "prison paralegals," prisoners who receive some limited legal training while incarcerated to assist other inmates. Thus, assuming there are enough paralegals to assist inmates within a reasonable timeframe, the hiring of paralegals alone would probably meet the low constitutional requirement for access to the courts.[56] The requirement that assistance be given within a reasonable timeframe is also fairly lenient.[57] Accordingly, since both the computerized library system used in Georgia and the assistance of ***150** paralegals would probably be constitutional if implemented separately, the two systems taken together surely provide constitutionally adequate access to the courts.

III. Is The New System Better For Inmates?

Though it is probable the new Georgia system is constitutionally acceptable, the question remains whether the system will actually increase the overall welfare of state prisoners. Proponents of the system assert it is cutting edge, pointing out Georgia is one of only three states to provide inmates with computerized research.[58] Proponents say the state-funded attorneys were often not available and inmates would rather handle legal matters themselves.[59] Statistics show the nonprofit law firm that worked with inmates received more than 10,600 contacts from inmates in the third quarter of 2003 alone.[60] Over a seven-year period, the firm represented 275 prisoners and won cases for 125.[61]

On the other hand, critics of the new system feel it will be a step backward for the legal rights of inmates.[62] J. Michael Cranford, a solo practitioner in Macon who chairs the state bar association's criminal law section is one such critic. He feels the system assumes ''someone in prison who probably doesn't have a high school education has the ability to properly do computer research—and that is not going to happen."[63]

The new system will be a step backward for inmates' welfare for four primary reasons. First, inmates' limited computer skills will hinder their opportunity to conduct meaningful and effective legal research. Second, access to licensed attorneys may aid the state's efforts to rehabilitate prisoners, unlike impersonal DVDs. Third, the new system will actually reduce the availability of assistance by legal professionals. Finally, the effectiveness of the paralegals will be limited by the nature of their work.

First, inmates do not have meaningful access to the courts without useful research. A 2003 study by the United States Department of Justice found 68% of state prison inmates did not earn a high school diploma.[64] Further, "[w]hile incarcerated, prisoners are not encouraged to develop the skills they need to better understand the criminal justice system and their own cases."[65] In order to comply with its constitutional requirement of ensuring inmates' right of access to the courts, prisons must provide assistance to inmates who are for reasons of ignorance or illiteracy unable to perform ***151** legal research, even

where the prison has an adequate law library.[66] This means whether Georgia chooses old-fashioned libraries or computerized libraries, the state has an affirmative duty to provide assistance to ignorant or illiterate inmates, which constitute a significant portion of the prison population.[67] In this way, the new system will have little effect on prisoners' access to the courts.

The new system will make meaningful research more difficult for the inmates, however, because it requires them to navigate computer programs. Though there will be some librarians and paralegals to provide assistance, expecting a mostly uneducated population of prisoners to smoothly maneuver through computer programs is unrealistic at best. As J. Michael Cranford stated, "[t]hat's like the prison saying we're going to give you a can of soup to eat, but we're not going to give you a can opener to eat it with."[68] Without a doubt, computer skills are extremely low in a prison population where only 11.4% of the inmates have had even some formal education beyond the high school level.[69] Further, inmates' access to research facilities is limited due to time constraints.[70] Since prisoners have a fairly short amount of time to conduct research, learning to use a relatively sophisticated system could have a significant negative impact on the prisoners' meaningful access to the courts. Inmates could spend more time actually learning how to use the new system than conducting research.

Second, the use of attorney assistance can aid in the state's efforts to rehabilitate prisoners. In a national survey of state corrections commissioners, prison wardens and treatment directors, "80% felt legal services provide a safety valve for inmate grievances, reduce inmate power structures and tensions from unresolved legal problems, and contribute to rehabilitation by providing a positive experience with the legal system."[71] The Bounds opinion goes on to reason "[i]ndependent legal advisors can convince inmates that other grievances against the prison or the legal system are ill-founded, thereby facilitating rehabilitation by assuring the inmate that he has not been treated unfairly."[72]

While the use of computer programs will frustrate the highly uneducated prisoners, the use of paralegals in place of attorneys will add to their frustration. Though the Bounds opinion does not state a preference for attorneys over other legal professionals, common sense dictates inmates will ***152** be more apt to trust the professional opinions of attorneys than those of paralegals. This is especially true where the "paralegals" did not participate in an actual two-year training course.[73] If the paralegals are not sufficiently qualified or are unable to assist the prisoners due to a heavy caseload, the prisoners will feel their rights have been disregarded.[74] Therefore, the replacement of attorneys with paralegals will cause prisoners to lose faith in the legal system, undermining the state's efforts to rehabilitate prisoners in this fashion.

Third, the new system will actually reduce the availability of prisoner access to legal professionals. The Center for Prisoners' Legal Assistance, an Alpharetta, Georgia, law firm provided attorneys to assist Georgia prisoners prior to 2004.[75] According to Craig Cascio, the center's director, prisoners contacted the firm 10,600 times during three months in 2003.[76] Cascio described the firm as "a clearinghouse for all their legal questions," helping the inmates prepare their own motions as well as filing legal papers on prisoners' behalf.[77] The firm used six attorneys to address legal matters for the inmates.[78] In contrast, the new system plans to hire at least four paralegals to serve the needs of the inmates.[79] Apart from the obvious differences in the training and experience between lawyers and paralegals, paralegals are also limited in their actions.[80] According to Bill Amideo, chief legal counsel for Georgia's corrections department, the paralegals' job will be "to show how stuff works, how to do research but they won't say 'do this' or 'don't do that.' They can't do that legally."[81] Further, the paralegals will not be able to give legal advice, a function that makes the attorneys so valuable to the prisoners.[82] Therefore, because the paralegals are fewer in number, have less experience and training, and are limited in their capacity to give legal advice, they will not be an equal substitute for the lawyers they replace.

Finally, the paralegals who assist prisoners will be less effective than other paralegals. Paralegals normally work closely with attorneys who can field their questions and supervise their work.[83] In the new Georgia system, ***153** the paralegals will be unsupervised by attorneys; in essence, out of their normal work environment.[84] This is not to say paralegals cannot make intelligent decisions, but the inmates will inevitably ask questions the paralegal is unequipped to answer. Without attorneys to turn to, the paralegals will become the ultimate decision-makers, which is arguably beyond the legal limit of their authority.[85] This will create a balancing act in which paralegals must act independently without overstepping the limits of their legal authority. Because of the danger of their quasi-legal advice crossing into the realm of the unauthorized practice of law,[86] paralegals may be timid in performing their duties, and therefore less effective.

IV. Will The Georgia System Effectively Cut Costs?

As mentioned, one of the two primary goals of Georgia's new system is cost cutting.[87] Bill Amideo, chief legal counsel for

Georgia's corrections department, estimates a savings of $300,000 to $400,000 annually.[88] Amideo concedes, however, the ''savings might be significantly less if the corrections department winds up hiring more paralegals than anticipated."[89] Arizona has undertaken a system in which the state has begun dismantling legal libraries, opting to hire paralegals instead. Arizona claimed the change would save money, but "they soon spent an equivalent amount on such paralegal firms, leading some to suspect that the state's goals related more to discouraging prisoner lawsuits than to saving money."[90] A failure by the state of Georgia to save taxpayer money could lead to similar suspicions, and could further undermine prisoner confidence in the legal system.

The need for a greater number of paralegals is a distinct possibility, considering the department "plans to hire at least four paralegals to assist inmates."[91] These four paralegals would be used to assist Georgia's prison population of more than 48,000 inmates, or some 12,000 inmates for each paralegal.[92] Assuming 68 percent of the prisoners do not have high school diplomas, more than 38,000 relatively uneducated inmates could be attempting to decipher complex legal matters on unfamiliar computer software.[93] This mass confusion will demand readily available assistance. Not all of the state's inmates will concurrently pursue claims which entitle them to access ***154** research materials, but the inadequacy of only four paralegals is obvious. The law firm that provided state-funded attorneys prior to implementation of the new system, the Center for Prisoners' Legal Assistance, dealt with over 10,600 contacts in a three-month period.[94] This volume would easily overwhelm four paralegals. If the state does not hire more paralegals, the inmates' meaningful access to the courts—which the state must provide—will suffer because of the large number of claims by a largely uneducated prison population. On the other hand, if the state employs more paralegals, the savings will quickly erode.[95]

Second, the savings generated by the use of attorneys more than outweighs the salaries paid to retain them. The law firm employed by the state received an annual fee of $1.1 million for its six attorneys.[96] In seven years, the firm won 125 inmate cases, according to its director, Craig Cascio.[97] Cascio estimates the firm has saved Georgia taxpayers $17.7 million in incarceration costs by correcting 590 sentences, or more than $2.5 million per year.[98] It is difficult to imagine four paralegals, librarians, and computer software saving more than $2.5 million per year. Consequently, due to both the possible need for the state to hire more paralegals than anticipated and the loss of the savings created by the law firm, Georgia's new system may actually cost more than the previous system.

V. Other Pitfalls Associated With The New System In Georgia

Georgia's new system could cause another problem by forcing paralegals into the unauthorized practice of law. This is a major concern, "evidenced by the fact that six of the twelve canons of the NALA's (National Association of Legal Assistances) Code of Ethics and Professional Responsibility specifically address this issue."[99] Even Bill Amideo, chief legal counsel for Georgia's corrections department and a major supporter of the new system, expressed concern about the possibility of the unauthorized practice of law by paralegals.[100]

The question of what exactly constitutes the unauthorized practice of law by paralegals is difficult to answer. The activities of a paralegal do not constitute the practice of law if limited to work of a preparatory nature, such ***155** as legal research, investigation, or the composition of legal documents. Such work equips the licensed attorney-employer to carry a given matter to a conclusion through his or her own examination, approval, or additional effort.[101] Further, it is well-settled a paralegal may not give legal advice, consult, offer legal explanations, or make legal recommendations.[102] In practice, however, there can be a fine line between permissible and impermissible activities in which a paralegal may legally engage. Although the analysis is fact driven, there are certain circumstances where paralegals are in particular danger of overstepping their legal boundaries. These situations often arise when paralegals fill out legal forms, work without the supervision of an attorney, make final decisions, or explain terms of art.[103] These problems could easily emerge in the Georgia system.

Though seemingly innocent, the mere act of filling out forms can involve the unauthorized practice of law by a paralegal. For example, in Monroe v. Horwitch, the court noted "'[p]reparation of instruments, even with preprinted forms, involves more than a mere scrivener's duties' and, therefore, constitutes the practice of law."[104] Such a situation, in which an inmate asks a paralegal how to fill out a form, is certain to arise. Some critics of Georgia's new system worry particularly about what paralegals will do when this occurs,[105] as this situation could easily trap the unwary.

Another perilous situation arises from paralegals working without direct supervision by attorneys, which is the plan under the new system in Georgia.[106] One way for paralegals to avoid engaging in the unauthorized practice of law is to be supervised by

an attorney.[107] One court specifically held a paralegal, whether independent or employed full-time by a firm, does not engage in the unauthorized practice of law as long as he or she works under adequate supervision from an attorney.[108] When paralegals work without supervision by an attorney, the situation can arise where the paralegal makes ultimate decisions. Typically, the work of a paralegal is supervised by one or more attorneys,[109] who are the proper final decision-makers. This is another situation in which paralegals must be careful. Even though the prisoner's question may be easily answered, the paralegal must not answer if doing so would amount to legal advice.[110] In one case, a bankruptcy court held that because attorneys failed to supervise paralegals, the paralegals ***156** were making final decisions on the handling of important legal issues, which constituted the unauthorized practice of law.[111]

Finally, a mere explanation of the meaning of certain legal terms can amount to the unauthorized practice of law. At least one court has held providing clients with definitions of legal terms of art, in connection with preparing legal documents, amounts to legal advice.[112] Clearly, given the low educational level of the average prisoner and the complexity of certain legal concepts, this situation could arise in Georgia's new system.[113]

VI. Conclusion

The new system in Georgia raises serious concerns about the status of the legal profession in the state. Implementation of the new system will not only lower the level of competent legal advice given to inmates, but may also force paralegals into the unauthorized practice of law. Allowing paralegals to give legal advice is unethical and could undermine the credibility of the entire legal profession.

Furthermore, the unique situation of incarceration has profound ramifications on individual rights. Though incarceration significantly infringes on individual rights, it has been said "no 'iron curtain"' separates prisons and the constitution; rather, "we have insisted that prisoners be accorded those rights not fundamentally inconsistent with imprisonment itself or incompatible with the objectives of incarceration."[114] One such constitutionally guaranteed right is the right of access to the courts—a right given to the free and incarcerated alike. The Court has ensured inmates have "meaningful access to the courts" by requiring that states assume certain "affirmative obligations."[115] Such obligations require prison authorities to assist inmates in the preparation and filing of meaningful papers through the provision of "adequate law libraries or adequate assistance from persons trained in the law."[116] The new system in Georgia effectively replaced the old-fashioned prison library with a computerized prison library, and replaced state-funded attorneys with state-funded paralegals. The system hopes to improve inmates' access to the courts and cut costs.[117] Although likely rising to the minimal standards for meaningful access to the courts required by the constitution, the new system will accomplish neither objective. Moreover, the new system will actually impede the prisoners' overall welfare, while increasing ***157** the cost to taxpayers. Therefore, Georgia's new system should be monitored closely, if not abandoned altogether.

Footnotes

1 Steve Seidenberg, Replacing Lawyers with DVDs: Georgia Prisons Give Inmates Paralegal Aid, Computer Access for Their Cases, 3 No. 1 A.B.A. J. E-REPORT 3 (2004).

2 Id. at 1.

3 Bounds v. Smith, 430 U.S. 817 (1977).

4 Id. at 824.

5 Id. at 830.

6 Id. at 831.

[7] James M. Hill, An Overview of Prisoners' Rights: Part I, Access to the Courts Under Section 1983, 14 ST. MARY's L.J. 957, 959 (1983).

[8] Id. at 973-74.

[9] Id.

[10] Seidenberg, supra note 1, at 1.

[11] Id.

[12] Id.

[13] Id. at 2.

[14] Id.

[15] Seidenberg, supra note 1, at 2.

[16] Id. at 2.

[17] Id.

[18] Hill, supra note 7, at 959.

[19] J. William Snyder, Jr., Inmate Access to Prison Computers for Legal Work and the Right of Access to the Courts: Bryant v. Muth, 72 N.C. L. REV. 1692 (1994).

[20] Id. at 1703.

[21] Knop v. Johnson, 977 F.2d 996, 999 (6th Cir. 1992), cert. denied, 507 U.S. 973 (1993).

[22] Hill, supra note 7, at 981.

[23] 312 U.S. 546 (1941), reh'g denied, 312 U.S. 716 (1941).

[24] 393 U.S. 483, 490-91 (1969).

[25] See Gilmore v. Lynch, 319 F. Supp. 105 (1970).

[26] 430 U.S. 817, 818 (1977).

[27] Id. at 819.

[28] Id. at 820-21.

[29] Id. at 821 (stating women prisoners are afforded less accessibility to legal research facilities than men under the plan).

[30] Id.

[31] Bounds, 430 U.S. at 821.

[32] Id. at 824.

[33] Id. at 832.

[34] Id. at 831.

[35] Id. at 828.

[36] Bounds, 430 U.S. at 832.

[37] Jessica Feierman, Creative Prison Lawyering: From Silence to Democracy, 11 GEO. J. ON POVERTY L. & POL'Y 249, 264-65 (2004) (citing Bounds v. Smith, 430 U.S. 817, 830 (1977)).

[38] 518 U.S. 343, 354 (1996).

[39] Id.

[40] Torres v. Edgar, No. 98 C 3747, 1999 WL 160066, at *3 (N.D. Ill. Mar. 12, 1999).

[41] Feierman, supra note 37, at 264.

[42] 430 U.S. 817, 828 (emphasis added).

[43] Id.

[44] Younger v. Gilmore, 404 U.S. 15 (1971).

[45] Snyder, supra note 19, at 1701.

[46] Seidenberg, supra note 1; see also Feierman, supra note 37, at 267 ("Almost immediately after the Casey decision was announced, correctional institutions began reducing prisoner access to law libraries, with Arizona leading the way. California, Idaho and

Georgia have also reduced or dismantled their prison libraries since then.").

47 Feierman, supra note 37, at 267-68.

48 Seidenberg, supra note 1.

49 Feierman, supra note 37, at 264 (asserting that "minimal access" would be sufficient for inmates).

50 Bounds v. Smith, 430 U.S. 817, 828 (1977) (emphasis added).

51 Id. at 830-31.

52 Knop v. Johnson, 977 F.2d 996, 1006 (6th Cir. 1992).

53 Id. at 1006.

54 Morrow v. Harwell, 768 F.2d 619, 623 (5th Cir. 1985).

55 Seidenberg, supra note 1, at 1 (suggesting the state's savings might be less if the state "winds up hiring more paralegals than anticipated.").

56 Bounds v. Smith, 430 U.S. 817, 831 (1977).

57 Id. at 819 (holding a three to four week wait for library use for those prisoners not facing court deadlines was sufficient to ensure reasonable access to the courts).

58 See supra notes 16-17 and accompanying text.

59 Id at 1-2.

60 Id at 2.

61 Feierman, supra note 37, at 268.

62 Seidenberg, supra note 1, at 2.

63 Id. at 2 (quoting J. Michael Cranford).

64 Caroline Wolf Harlow, Education and Correctional Populations, Bureau of Justice Statistics Special Report, Jan. 2003, at 1, available at http:// www.ojp.usdoj.gov/bjs/pub/pdf/ecp.pdf.

65 Feierman, supra note 37, at 268.

[66] Hill, supra note 7, at 980 (citing Wolff v. McDonnell, 418 U.S. 539, 570 (1974)); Wade v. Kane, 448 F. Supp. 678, 684 (E.D. Pa. 1978); Bounds v. Smith, 430 U.S. 817, 822-24 & n.10 (1977)).

[67] Feierman, supra note 37, at 267. Feierman cites a 1990-91 study showing that 17.2% of incoming prisoners had a reading level below sixth grade, and a 1989 study which showed 35% of the adult prison population had a reading level of seventh grade or below. Id. at n.110.

[68] Seidenberg, supra note 1, at 2.

[69] United States Department of Justice, Bureau of Justice Statistics, Special Report: Education and Correctional Populations, Jan. 2003, available at http://www.ojp.usdoj.gov/bjs/pub/pdf/ecp.pdf.

[70] Bounds v. Smith, 430 U.S. 817, 819-21 (1977) (holding that waiting three to four weeks for one day of research did not violate constitutionally guaranteed right of access to the court).

[71] Id. at 830 n.18 (citation omitted).

[72] Id. at 831.

[73] See supra notes 52-54 and accompanying text.

[74] Feierman, supra note 36, at 267 ("In Arizona, among the paralegals hired by the state, at least one group was not sufficiently trained for the job, with forged paralegal degrees supporting their application for the contract.") (citation omitted).

[75] Carlos Campos, Prisons to Drop Inmate Lawyers; Computer Access, Paralegals Cheaper, THE ATLANTA JOURNAL-CONSTITUTION, Nov. 30, 2003, at 1.

[76] Id.

[77] Seidenberg, supra note 1 at 2.

[78] Campos, supra note 75.

[79] Id.

[80] See NATIONAL ASS'N OF LEGAL ASSISTANTS, MODEL STANDARDS AND GUIDELINES FOR UTILIZATION OF LEGAL ASSISTANTS, available at http:// www.nala.org/98.htm.

[81] Seidenberg, supra note 1.

[82] Campos, supra note 75.

[83] NATIONAL ASS'N OF LEGAL ASSISTANTS, supra note 79, Guideline 3, cmt. ("Attorneys should delegate work to legal assistants and provide appropriate instruction and supervision concerning the delegated work.").

84 See MODEL RULES OF PROF'L CONDUCT R. 5.3 cmt. 1 (2004) ("The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.").

85 In re Hessinger & Associates, infra note 111.

86 MODEL RULES OF PROF'L CONDUCT R. 5.5 (2004).

87 Seidenberg, supra note 1, at 1.

88 Id. at 1.

89 Id.

90 Feirman, supra note 36, at 267.

91 Campos, supra note 75.

92 See Georgia Department of Corrections, available at http:// www.dcor.state.ga.us/GDC/OffenderStatistics/jsp/OffStatsResults.jsp.

93 BUREAU OF JUSTICE STATISTICS, UNITED STATES DEP'T OF JUSTICE, supra note 69.

94 Seidenberg, supra note 1, at 1.

95 See National Association of Legal Assistants, 2004 National Utilizations of Compensation Survey Report (2004), at http:// www.nala.org/survey_table.htm (In a 2003 survey of paralegals, 89% reported an annual salary of more than $30,000, while 59% reported an annual salary of more than $40,000.).

96 Campos, supra note 75, at 1.

97 Id.

98 Id.

99 Edward James Peterson, III, Ethical Considerations for Law Clerks and Paralegals, 23 J. LEGAL PROF. 235, 239 (1998-99).

100 Seidenberg, supra note 1, at 1. (Amideo described paralegals' jobs as "to show how stuff works, how to do research but they won't say 'do this' or 'don't do that.' They can't do that legally.").

101 In re Easler, 272 S.E.2d 32-33 (S.C. 1980).

102 Doe v. Condon, 532 S.E.2d 879, 882 (S.C. 2000).

103 In re Easler, 272 S.E.2d 32-33.

[104] 820 F. Supp. 682, 686 (D. Conn. 1993) (quoting State v. Buyers Service, Co., 357 S.E.2d 15, 17 (S.C. 1987)).

[105] Seidenberg, supra note 1.

[106] Id.

[107] MODEL STANDARDS AND GUIDELINES FOR UTILIZATION OF LEGAL ASSISTANTS, Guideline 3, cmt (2004) ("Attorneys should delegate work to legal assistants and provide appropriate instruction and supervision concerning the delegated work .").

[108] Peterson, supra note 99, at *243.

[109] MODEL RULES OF PROF'L CONDUCT R.5.5 (2004).

[110] Seidenberg, supra note 1.

[111] In re Hessinger & Associates, 192 B.R. 211, Bankr. L. Rep. (CCH) ¶ 76917 (N.D. Cal. 1996).

[112] Matter of Bright, 171 B.R. 799 (Bankr. E.D. Mich. 1994).

[113] United States Department of Justice, Bureau of Justice Statistics, at http://www.ojp.usdoj.gov/bjs/pub/pdf/ecp.pdf (finding 68% of state prison inmates did not earn a high school diploma).

[114] Hudson v. Palmer, 468 U.S. 517, 523 (1984).

[115] Bounds v. Smith, 430 U.S. 817, 824 (1977).

[116] Id. at 828 (though these are not the only two constitutional means of ensuring that inmates have access to the courts).

[117] Seidenberg, supra note 1.

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