

BEFORE THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

AMERICAN CIVIL LIBERTIES UNION)	
OF EASTERN MISSOURI FUND, et al.,)	
Plaintiffs,)	
vs.)	Case No. 12AC-CC00692
MISSOURI DEPARTMENT OF)	
CORRECTIONS,)	
Defendant.)	

ORDER

The Court takes up the pending Motions for Summary filed by both sides. Being duly advised in the premises, the Court finds that the Plaintiffs' Motion for Partial Summary Judgment is well taken and sustains the same. The Court denies Defendant's Motion for Summary Judgment.

On the issue of waiver, the Court notes that the Defendant, although required by law to list the legal basis for its denials, neglected to include all basis it wished to claim. The Court finds that to be a waiver, even if the subsequent grounds asserted were valid. Failure to list all legal basis for non-production in the denial letter would be evidence of failure to comply with the law, even if the records were ultimately determined to be closed. In the instant cause, the Court finds the subsequent justifications to be insufficient.

The Defendant essentially argues that the "institutional security" exception to disclosure vitiates the entire scope of supposedly open public records, setting forth a "parade of horrors" should these documents get exposed to the light.. At the same time, the Defendant defends on the basis that the specific inmate involved could get copies of his own grievance papers, without restriction of their subsequent distribution, either voluntarily or involuntarily, because the inmate would be assuming the risk himself. This completely ignores the "institutional security" risks to

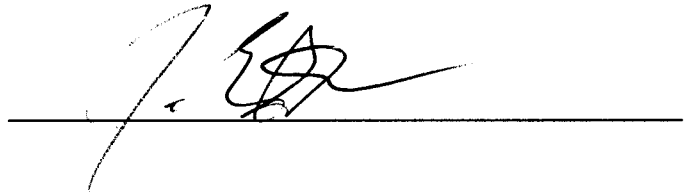
others claimed by the Defendant. Either it is or it isn't a concern. The Defendant cannot have it both ways.

There are no doubt parts of the requested records which are legitimately subject to redaction. Even the Plaintiffs acknowledge this fact.

Counsel for the Plaintiffs is directed to draft and submit to the Court for review a judgment with the above and their Motion for Partial Summary Judgment, in electronically editable form, within the next thirty (30) days, with a copy to the Defendant. The Defendant may comment on the proposed form.

The cause is placed on the May 30, 2014 law day at 9:00 am for status. Counsel may arrange a telephone conference in lieu of appearance, so long as same is completed at least 72 hours prior to the scheduled law day.

SO ORDERED this 22nd day of April, 2014.

A handwritten signature, appearing to be "J. EA", is written over a horizontal line.