

IN THE UNITED STATES DISTRICT COURT
OF THE STATE OF HAWAII

RICHARD KAPELA DAVIS, MICHAEL HUGHES, DAMIEN KAAHU, ROBERT A. HOLBRON, JAMES KANE, III, and ELLINGTON KEAWE,

Plaintiffs,

v.

NEIL ABERCROMBIE, in his official capacity as the Governor of the State of Hawaii; TED SAKAI, in his official capacity as Director of the Hawaii Department of Public Safety; CORRECTIONS CORPORATION OF AMERICA,

Defendants.

CIV. NO. 11-00144 LEK/BMK

DECLARATION OF DANIEL M. GLUCK AND EXHIBIT 1

DECLARATION OF DANIEL M. GLUCK

I, Daniel M. Gluck, hereby declare:

1. I am the Senior Staff Attorney with the American Civil Liberties Union of Hawaii. The American Civil Liberties Union of Hawaii is dedicated to protecting the fundamental freedoms enshrined in the United States and Hawaii State Constitutions.

2. I am duly licensed to practice before Hawaii State Courts and the United States District Court for the District of Hawaii.

3. I make this Declaration based on my personal knowledge and am competent to testify to the matters discussed herein.

4. Attached hereto as Exhibit 1 is a true and correct copy of a letter dated April 7, 2009 from Tommy Johnson, then Deputy Director for Corrections for the State of Hawaii, to me.

5. The ACLU of Hawaii receives hundreds of complaints a year regarding prison conditions, including many complaints regarding conditions at the Corrections Corporation of America's Saguaro Correctional Center. Since I joined the ACLU of Hawaii in 2007, my office has received multiple complaints from prisoners, attorneys, and others that CCA staff members will stand next to prisoners when those prisoners are on the phone with their attorneys. My office has also received numerous complaints that prisoners are threatened with retaliation, and/or are retaliated against, for things they have said during these telephone calls.

6. I visited the Saguaro Correctional Center in February 2009, and spent five days meeting with prisoners about conditions at the facility. Prior to that visit, I had made clear that I was an attorney and that these meetings were intended to be confidential. Prior to my arrival at the facility, an attorney for CCA (with whom I had been exchanging e-mails for purposes

of arranging the logistics of my visit) sent me an e-mail stating that she would be “in attendance” when I met with prisoners.

7. On Friday, February 20, 2009, I arrived at the facility and was directed by CCA staff and the attorney for CCA with whom I had been corresponding to an unused library with two tables, approximately four feet apart from one another, where I was to conduct my private meetings with the prisoners.

8. When we arrived at the library for the meetings, the CCA attorney explained that she intended to sit in the library at one of the tables – approximately four feet from where I would be sitting – during the meetings. There is no question that, had she done so, she would have been able to see and hear the entirety of these confidential discussions. I objected to her proposal, and was ultimately able to conduct the meetings without further interference.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of October, 2012, in Honolulu, Hawaii.

/s/ Daniel M. Gluck
DANIEL M. GLUCK