No. 23-1725

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

ROBERT DECKER,

Plaintiff-Appellant,

v.

KATHERINE SIREVELD, ET AL.,

Defendants-Appellees.

On Appeal from the United States District Court
for the Southern District of Illinois, No. 3:19-cv-00233 (Gilbert, J.)

BRIEF FOR APPELLEES

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STATEMENT OF JURISDICTION

The appellant's jurisdictional statement is complete and correct.

STATEMENT OF THE ISSUES

Plaintiff is a prisoner incarcerated in federal prison. The prison provides access to a range of legal materials, including as most relevant here documents that appear in the Federal Register that relate to the Bureau of Prisons. If prisoners want materials that are not included in the prison's legal library, there is no restriction on receiving them from friends or relatives. In this litigation, plaintiff contends that the prison had an obligation under the First Amendment to affirmatively provide access to the entire Federal Register. The questions presented are:

1. Whether the district court correctly granted summary judgment for the Bureau of Prisons.

2. Whether the district court abused its discretion when it denied plaintiff's motions for recruitment of counsel.

PERTINENT STATUTES AND REGULATIONS

Pertinent statutes and regulations are reproduced in the addendum to this brief.

STATEMENT OF THE CASE

A. Factual Background

To afford inmates a "reasonable opportunity" to litigate any claims in court, SA 210, the Bureau of Prisons offers legal reference materials and working space for the over 141,000 federal inmates in its custody, SA 210–242 (Bureau Program Statement 1315.07 (Nov. 5, 1999)); *see* Bureau of Prisons, *Population Statistics*, https://www.bop.gov/mobile/about/population_statistics.jsp (last updated Mar. 7, 2024). The Bureau instructs "[e]ach Warden" to establish a law library stocked with specified legal books and materials, SA 213, and to give inmates, including those confined in disciplinary segregation or administrative detention, SA 223, a "reasonable amount of time" to conduct research and prepare documents, SA 218. The Bureau also requires that the library be large enough to store books and contain sufficient desks for inmates to work. SA 215. "Since legal materials are expensive," each institution must also ensure the library is adequately supervised. *Id.*

The Bureau maintains a select list of required texts for the law libraries. Among other things, the main law libraries must contain the Supreme Court Reporter, the Federal Reporter, a complete set of the

United States Code, the United States Constitution, Black's Law Dictionary, various treatises and legal research handbooks, and the federal civil and criminal court rules. SA 232–239, 260. The libraries must also provide the Code of Federal Regulations, including all Bureau Program Statements that contain rules codified in the Code of Federal Regulations. *Id.* Generally, each institution must order its own publications and any necessary replacements. SA 213, 214, 218. In addition, the Bureau periodically updates the list of required materials based on the cost and utility of various publications. SA 211, 214.

The Federal Register is a daily publication of the federal government containing presidential proclamations, agency regulations, proposed rules, and notices from agencies inviting comment on various actions. SA 217. Each issue can be hundreds of pages long and includes materials from the dozens of agencies spanning the full range of federal government activity. *See, e.g.*, 89 Fed. Reg. 14043 (Feb. 26, 2024) (notice of request for approval of "study to understand knowledge and beliefs about translocation and release of wild pigs"); 89 Fed. Reg. 14495 (Feb. 27, 2024) (notice regarding an updated list of controlled carriers under the Shipping Act of 1984); 89 Fed. Reg. 14627 (Feb. 28, 2024)

(notice of public meeting of the Pacific Northwest National Scenic Trail Advisory Council).

Prison law libraries are required to maintain Federal Register materials related to the Bureau "to ensure that inmates have the opportunity to participate in the rulemaking process." SA 217. "Staff assigned to the institution['s] law libraries are to maintain paper copies of the Federal Register documents along with the most recent copy of the List of Federal Register Documents." SA 218. Staff members must also post the most recent copy of this list to inmate bulletin boards to "notify inmates that the documents are available." *Id.* Since 2012, the Bureau has also posted the relevant documents to an electronic bulletin board, a computer-based system that is accessible to all inmates for legal research. SA 207–208. Every time a proposed rule, interim rule, or final rule related to the Bureau is published in the Federal Register, it is posted to the electronic bulletin board and can be viewed by all inmates. *Id.*

Materials from agencies other than the Bureau are not posted to the electronic bulletin board. SA 209. At the same time, inmates are not barred from obtaining copies of the Federal Register or other legal

materials on their own. SA 209; *see* SA 219 ("An inmate may solicit or purchase legal materials from outside the institution.").

B. Prior Appeal

1. Robert Decker is a federal inmate incarcerated at the United States Penitentiary in Marion, Illinois. RSA 7. He was convicted in 2017 of two conspiracy offenses related to the distribution of controlled substances and to money laundering. *See* 21 U.S.C. § 846; 18 U.S.C. § 1956. He was sentenced to 140 months imprisonment. SA 207. Decker was incarcerated in the Federal Correctional Institution in Terre Haute, Indiana, from 2019 to 2022, SA 207, 209, and was then transferred to the United States Penitentiary in Marion, Illinois, where he remains today, RSA 7. He is scheduled for release in 2027. RSA 7.

2. In this litigation, Decker alleges that the Bureau unlawfully fails to supply the Federal Register to inmates in federal custody. SA 17–29. The district court dismissed Decker's complaint at the screening stage under the Prison Litigation Reform Act (PLRA). 28 U.S.C. § 1915A; SA 57–61, 70; *Decker v. Barr*, No. 19-cv-00233-JPG, 2020 WL 1955283 (S.D. Ill. Apr. 23, 2020). On appeal, this Court recruited counsel to represent Decker. SA 82, 83. After Decker filed his opening brief, the

government stated it would not file a response brief. SA 84. Without conceding the merits of Decker's claims, the government agreed dismissal at the PLRA screening stage was premature as the district court had improperly resolved a factual dispute in the government's favor. SA 84–85. This Court then vacated the district court's order and remanded for further proceedings. SA 87–90. *Decker v. Garland*, 841 F. App'x 1011 (7th Cir. 2021).

C. Current Appeal

1. On remand, Decker filed five motions seeking the recruitment of counsel. *See* SA 104–106 (first motion filed April 8, 2022); SA 148–163 (second motion filed June 15, 2022); SA 166–168 (third motion filed July 1, 2022); SA 171–172 (fourth motion filed July 11, 2022); SA 175–176 (fifth motion filed July 25, 2022).

In his first motion, Decker wrote, by hand, that he needed counsel because he was housed in a Special Housing Unit and could not use a "typewriter[] and/or a pen, copy machine or commissary to purchase anything to litigate this matter"; only had access to the law library computer for one-hour intervals once or twice a week; and his case was "straight forward" and could be settled. SA 104–106. He also stated he

had contacted seven different attorneys without success. SA 105. Citing *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (en banc), the district court rejected Decker's motion. RSA 1. The court was skeptical that Decker lacked access to writing materials (as he claimed), given his assertion in his motion that he "'wrote' to seven attorneys" seeking representation. RSA 1; *see also* SA 104–106 (Decker filing a handwritten motion); SA 17–54 (Decker submitting a typewritten complaint). The court nevertheless decided the motion on the grounds that Decker failed to show sufficient efforts to find counsel. RSA 1. Specifically, the court stated that Decker had provided no details about the attorneys or firms he tried to contact, the dates he contacted them, the services he requested, or the responses he received. *Id.*

In his second motion, Decker attached copies of his correspondence to various lawyers. SA 149–165. The district court determined that Decker had now shown a "reasonable effort[] to find counsel" but that he still failed to explain "why he requires an attorney to represent him." RSA 2. According to the court, Decker "has demonstrated his ability to competently represent himself by litigating the underlying action from start to finish, through an appeal, and on remand, despite being housed

in the [Communications Management Unit] with law library access that is limited to once or twice per week." *Id.* The court also stated Decker could seek an extension if he faced discovery delays. *Id.*

Decker filed his third and fourth motions for counsel. His third motion sought reconsideration of the prior denial. SA 166. In both motions, Decker contended he needed assistance because he was simultaneously litigating at least six other cases and had insufficient access to the law library computer to handle this particular one. *See* SA 166–168 (third motion); SA 171–172 (fourth motion); SA 171 ("It is virtually impossible to litigate this case properly when I have many other commitments."); *see also* SA 37 (noting Decker has six other cases pending in both state and federal court, including four alleging constitutional violations). Decker also stated he was still in the Special Housing Unit. SA 166. This time, Decker wrote that he could only use the law library computer for 30 minutes three times per week, during which time he must also shower. SA 166–167. He also complained of delays to his legal mail, SA 167–168, and of difficulty getting discovery, SA 171. In denying both motions, the district court noted that Decker's involvement in multiple other cases did not affect its analysis of

whether he was competent to litigate *this* particular matter. RSA 3. The court then incorporated the reasoning from its earlier orders in denying counsel. RSA 3, 4.

In his fifth motion, Decker asked the court to reconsider its prior denials. SA 175–176. Decker wrote: "I am going to attempt to show you how I am unable to litigate this case and how I have met the burdens of *Pruitt v. Mote* and 28 U.S.C. § 1915(e)(1)." SA 175. Decker again stated that he could not negotiate a settlement conference without counsel; that he had limited access to the law library computer and writing materials; and that he was simultaneously litigating multiple other cases, including one scheduled for trial in one month and another that had gone to trial and was now pending in the Seventh Circuit. SA 175–176. The district court denied his motion "on the same grounds" as before, adding: Decker "has not demonstrated the need for an attorney to represent him in this remanded matter. Plaintiff has competently represented himself to date." RSA 5. The court reminded Decker that he could seek an extension of time if needed. *Id.*

2. In 2022, the Bureau filed a motion for summary judgment. SA 192–204. For support, the Bureau attached a declaration from Sarah

Qureshi, a supervisory attorney with the agency who had previously worked in its regulatory development branch. SA 206. In her declaration, Qureshi explained that the agency uploads every Bureau-related document published in the Federal Register to the electronic bulletin board, which inmates can access through their law libraries. SA 207–208; *see* SA 243–254 (screenshots of electronic bulletin board). Qureshi also explained that because the Federal Register is a "*daily* publication," it would be "impractical and highly burdensome on limited BOP staffing resources to devote staff time and expense to post the entire Federal Register to the Electronic Bulletin Board each day." SA 208 (emphasis added). "This is especially true given the relatively low number of BOP documents published in the Federal Register." *Id.* For similar reasons, Qureshi noted, it would be "impractical, highly burdensome, and far exceed the BOP's limited budget and staffing resources to distribute paper copies of the entire publication to each BOP facility nationwide every day." *Id.*

Qureshi also acknowledged that Federal Register materials "pertaining to agencies other than the BOP" are not uploaded to the bulletin board. SA 209. But because "the Federal Register is publicly

available online, inmates are free to obtain copies of it on their own, for example by asking a friend, family member, or authorized legal representative to mail it to them, or by direct subscription." *Id.* And, regardless, "the Code of Federal Regulations is available in the Electronic Law Library to all inmates." *Id.*

The government also attached a declaration from Timothy Rodrigues, an attorney currently employed with the branch responsible for developing the Bureau's regulations. SA 259–260. Rodrigues confirmed the accuracy of Qureshi's statements. SA 260.

In his opposition, Decker clarified he only wanted the Federal Register "in the internet form," SA 282, and posited that because a free version of the publication was available online, it would be "very inexpensive" to develop a program by which the Federal Register could be updated "on its own," in real time, SA 279, 282. Decker also stated that he did not have anyone to obtain the Federal Register on his behalf, as third parties "will not become burdened" by his "repeated requests of research on a daily basis to obtain the Federal Register." SA 282.

3. The court granted summary judgment in favor of the government. RSA 6–19, 20; *Decker v. Garland*, No. 19-cv-233-JPG, 2023 WL 2743584 (S.D. Ill. Mar. 31, 2023). As relevant here, the district court rejected Decker's claims that he is entitled to the entire Federal Register, including non-Bureau materials. The court first held the Bureau's actions passed First Amendment scrutiny under *Turner v. Safley*, 482 U.S. 78 (1987), which held that a prison "regulation is valid if it is reasonably related to legitimate penological interests," *id.* at 89. RSA 14. The court credited Qureshi's statement that it would be "impractical and highly burdensome" for the Bureau to upload an electronic version of the Federal Register every day, and it noted that Decker was free to obtain the publication on his own. *Id.* (quotation marks omitted). The court also rejected Decker's unsupported, "broad and vague suggestions" about the ease with which the Bureau could create a self-updating online platform to host the Federal Register. RSA 14–15. And, citing *Jackson v. Frank*, 509 F.3d 389 (7th Cir. 2007), the court concluded that the Bureau has a "legitimate penological interest" in not engaging in "burdensome" and "cost prohibitive actions." RSA 14, 15. Given the deference courts must pay prisons in assessing

prison policies, RSA 15, the court held that the Bureau's decision was rationally related to the agency's legitimate penological interests, RSA 17.[1]

The court then considered whether Decker's First Amendment rights were even implicated in this case, notwithstanding its earlier holding that, regardless, the agency's actions pass *Turner* scrutiny. Specifically, the court stated it was "not convinced that Decker's claims implicate" the First Amendment "because BOP does not prevent Decker from obtaining a complete copy of the Federal [R]egister; it simply does not provide him with a complete copy." RSA 17–18. Because Decker is freely permitted to read and access the Federal Register from other sources, the court reasoned that there was no First Amendment restriction on his conduct. RSA 18.

[1] For similar reasons, the court rejected Decker's Administrative Procedure Act claim. RSA 17. The court also rejected Decker's due process claim, and it rejected his claim regarding Federal Register materials relating to the Bureau of Prisons on the ground that Decker does, in fact, have access to Bureau-related materials. RSA 12, 19. Decker does not challenge any of those determinations on appeal. *See Duncan v. Wisconsin Dep't of Health & Family Servs.*, 166 F.3d 930, 934 (7th Cir. 1999) (arguments not discussed in an opening brief on appeal are deemed abandoned).

4. Decker filed a notice of appeal and requested pro bono counsel. SA 323–328. This Court granted his request. SA 329.

SUMMARY OF ARGUMENT

1. The First Amendment does not require the government to provide permanent access to the daily Federal Register. Under governing law, prison regulations are constitutional if they are reasonably related to legitimate penological interests. Courts applying this standard have upheld a number of prison policies restricting inmates' conduct, including rules limiting the sending and receiving of mail, barring the possession of certain items, or restricting meetings with fellow inmates.

In this case, however, Decker brings a First Amendment challenge that is predicated on the government's failure to *affirmatively* provide him with a daily publication that he is permitted to obtain himself. Decker points to no case, and the government is aware of none, in which a court has recognized such an expansive First Amendment right. Decker wants to read and comment on the Federal Register, and no Bureau policy prevents him from obtaining the publication and doing so on his own. Moreover, the Bureau's decision regarding the contents of its law library is rationally related to its stated interest in conserving

limited staff resources. This Court has already upheld more restrictive prison policies asserting similar economic justifications. Under binding circuit precedent, it should do the same here.

2. The district court reasonably exercised its discretion in denying Decker's requests for recruitment of counsel. In a world where the demand for representation exceeds the supply of volunteer lawyers, courts cannot recruit counsel for every litigant who seeks such assistance. As a result, district courts may, in their discretion, deny motions to recruit counsel if the litigant is competent to handle his particular case. The record here amply supports the determination that Decker was competent to do so. Unlike cases in which this Court has deemed counsel necessary, Decker brings a straightforward claim and asserts no intellectual or educational limitation that would hamper his ability to represent himself in court. Indeed, his filings throughout this litigation have been coherent, well-organized, and responsive to the district court's orders, and have accurately cited to the governing law. In light of this record, there is no basis for this Court to second-guess the district court's determination that recruitment of counsel was not warranted.

STANDARD OF REVIEW

This Court reviews de novo a district court's grant of summary judgment. *Van den Bosch v. Raemisch*, 658 F.3d 778, 785 (7th Cir. 2011).

Denials of motions to recruit counsel are reviewed for abuse of discretion. *Mejia v. Pfister*, 988 F.3d 415, 418 (7th Cir. 2021). A reviewing court does not ask whether it would have recruited a volunteer lawyer in the first instance, but "'whether the district court applied the correct legal standard and reached a reasonable decision based on facts supported by the record'" as available to the court at the time of the denial. *Eagan v. Dempsey*, 987 F.3d 667, 681 (7th Cir. 2021) (citation omitted).

ARGUMENT

I. The First Amendment does not require prison officials to supply inmates with the daily Federal Register.

A. Prison inmates have limited First Amendment rights.

When evaluating a constitutional claim brought by an inmate, courts recognize the dual reality that prisoners do not lose their constitutional rights when they are behind prison walls and that those rights may be

restricted based on the necessities of prison administration. Thus, while prisoners retain their rights under the First Amendment, including the right to free speech and the right to petition the government, courts have recognized that those rights "must be exercised with due regard for the 'inordinately difficult undertaking' that is modern prison administration." *Thornburgh v. Abbott*, 490 U.S. 401, 407 (1989).

In *Turner v. Safley*, 482 U.S. 78 (1987), the Supreme Court adopted a "unitary, deferential standard for reviewing prisoners' constitutional claims" that was sensitive to this delicate balance. *Shaw v. Murphy*, 532 U.S. 223, 229 (2001). Under this standard, "[w]hen a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." *Id.* (quoting *Turner*, 482 U.S. at 89). Courts applying *Turner* first consider whether there is a "valid, rational connection between the regulation and the legitimate government interest put forward to justify it." *Jackson v. Frank*, 509 F.3d 389, 391 (7th Cir. 2007) (citing *Turner*, 482 U.S. at 89–90). Relevant factors may also include whether there are "alternative means to exercise the right," "the impact that

accommodating the right will have on prison resources," and "the absence of alternatives to the prison regulation." *Id.*

In adopting this rule, the Supreme Court was sensitive to the realities of prison administration. It expressly rejected applying strict scrutiny, reasoning that such an "inflexible" approach would subject every prison-related "administrative judgment . . . to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand." *Turner*, 482 U.S. at 89. The Court also eschewed "a 'least restrictive alternative' test: prison officials do not have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint." *Id.* at 90–91; *see Thornburgh*, 490 U.S. at 411 (*Turner* "rejected the costs of a 'least restrictive alternative' rule as too high."). Instead, if the plaintiff can point to an alternative that accommodates his rights "at *de minimis* cost to valid penological interests," a court may consider that simply as evidence the challenged regulation does not satisfy the reasonable-relationship standard. *Turner*, 482 U.S. at 91.

For the same reasons, courts reviewing a prison regulation are instructed to "accord substantial deference to the professional judgment

of prison administrators, who bear a significant responsibility for defining the legitimate goals of a corrections system and for determining the most appropriate means to accomplish them." *Overton v. Bazzetta*, 539 U.S. 126, 132 (2003); *see Shaw*, 532 U.S. at 229 (recognizing the "'complex and intractable'" problems faced by prisons and the fact that courts are "'ill equipped'" to address them (citation omitted)). "The burden, moreover, is not on the State to prove the validity of prison regulations but on the prisoner to disprove it." *Overton*, 539 U.S. at 132; *see Jackson*, 509 F.3d at 391. This burden is "heavy": Prisoners must "overcome the presumption that the prison officials acted within their 'broad discretion.'" *Shaw*, 532 U.S. at 232; *see also Mays v. Springborn*, 575 F.3d 643, 649 (7th Cir. 2009) (per curiam) (deference that courts afford prisons is substantial enough to permit "seeming inconsistencies" between the prison regulation and the asserted penological objectives).

B. The Bureau did not violate Decker's First Amendment rights.

Decker asserts an expansive First Amendment claim that alleges a constitutional violation based not on any policy *restricting* Decker's

conduct, but instead on a purportedly unlawful failure of the government to affirmatively provide certain reading materials. Accordingly, the government conduct at issue here is much less intrusive than the conduct at issue in the vast majority of prisoner free-speech cases. And even in those cases, the prison's more restrictive policies were generally upheld under the deferential *Turner* standard.

Here, the Bureau has a legitimate penological interest in conserving its scarce resources, and it is rational for the agency to decide to provide inmates with Federal Register materials from the Bureau but not with Federal Register materials from other agencies. The Bureau is best positioned to allocate its resources, and a contrary ruling would not only interject the judicial system into that decision—something the Supreme Court expressly wanted to avoid in *Turner*—but it would also subject the government to potentially limitless reading requests from inmates across the federal system.

1. Decker identifies no policy restricting him from accessing the Federal Register, and there is no First Amendment obligation to affirmatively provide that resource.

Time and again, courts reviewing First Amendment prisoner challenges have considered the constitutionality of specific policies that *proscribe* specific conduct. For example, the Supreme Court has evaluated—and upheld—policies that restrict what mail prisoners can send, *Procunier v. Martinez*, 416 U.S. 396 (1974) (upholding prison policy of censoring outgoing mail), as well as what mail they can receive, *Thornburgh*, 490 U.S. 401 (upholding policy of screening incoming publications). The Court has also reviewed—and, again, upheld—policies restricting certain prison labor union activity, *Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119 (1977); the types of senders permitted to mail hardbound books to pretrial detainees, *Bell v. Wolfish*, 441 U.S. 520 (1979); inmate-to-inmate correspondence, *Turner*, 482 U.S. 78; family visits for certain types of prisoners, *Overton*, 539 U.S. 126; and access to otherwise-available newspapers, magazines, and personal photographs for especially dangerous inmates, *Beard v. Banks*, 548 U.S. 521 (2006). Similarly,

this Court has evaluated—and upheld—policies restricting certain inmate conduct, such as the type of mail inmates can send, *Koutnik v. Brown*, 456 F.3d 777 (7th Cir. 2006) (confiscating mail containing a swastika and reference to the Ku Klux Klan), or the type of mail they can receive, *Jackson*, 509 F.3d 389 (banning possession of individual, commercial photographs); *Van den Bosch v. Raemisch*, 658 F.3d 778 (7th Cir. 2011) (refusing to deliver an article the inmate had written).

This case presents a far weaker claim of an intrusion on constitutional rights than the ones discussed above. Decker's claim is not about being denied access to the Federal Register; instead, it is about the Bureau's not affirmatively including the Federal Register in the long list of materials it already provides to inmates. *See* SA 232–239, 260. No Bureau policy prohibits Decker from reading the Federal Register and commenting on its contents. RSA 18. To the contrary, the Bureau explicitly declared inmates "are free to obtain copies of [the Federal Register] on their own." SA 209; *see* SA 260.

The government is not aware of any cases in which a court has found a First Amendment violation, grounded in free speech or the right to petition the government, based on a failure to affirmatively provide

some material that the inmate is permitted to acquire on his own. To the extent that courts have reviewed analogous claims, they have rejected them. *Cf. Van Poyck v. Singletary*, 106 F.3d 1558, 1559–60 (11th Cir. 1997) (per curiam) ("The First Amendment does not compel prison officials to provide indigent prisoners with unlimited free postage and materials for non-legal mail."); *Johnson v. Goord*, 445 F.3d 532, 534 (2d Cir. 2006) (per curiam) (same); *Hershberger v. Scaletta*, 33 F.3d 955 (8th Cir. 1994) (same); *Pickus v. U.S. Bd. of Parole*, 543 F.2d 240, 241, 245 (D.C. Cir. 1976) (no due process requirement for federal inmates to comment orally on proposed Parole Board rules, even though some prisoners may lack the writing skills for effective communication).

This makes good sense. It may be more difficult, as a practical matter, for prisoners to exercise all kinds of constitutional rights because of the constraints that are a natural and inevitable consequence of incarceration. Decker cannot go to a public library, for example, to access the Federal Register there. But that does not mean that prisons have an affirmative obligation to provide materials that free citizens would be obligated to obtain on their own.

Recognizing that there is no free-floating right of the type Decker asserts, however, does not mean an inmate seeking access to a particular legal resource is without recourse. Prisons provide robust legal libraries in part out of a recognition that prisoners have a constitutional right to bring certain types of legal actions—principally challenges to their "'conviction, sentence, or prison conditions.'" *Ortiz v. Downey*, 561 F.3d 664, 671 (7th Cir. 2009) (citation omitted). Prisoners attempting to assert these access-to-courts challenges can argue that they have been impermissibly impaired from bringing such a claim because of shortcomings in the prison's law library or legal assistance program. *See Lewis v. Casey*, 518 U.S. 343, 351 (1996). But Decker does not advance an access-to-courts claim, and there is no basis for his argument that he has a constitutional right to a more comprehensive prison library for reasons unconnected to any particular legal claim.

2. The Bureau's decisions about the contents of its prison libraries readily pass constitutional muster under *Turner*.

As noted above, the only Bureau policy at issue here is a determination regarding the contents of the prison's law library—in particular, the policy that affirmatively gives inmates Federal Register

materials from the Bureau but not from other agencies. That policy is reasonably related to legitimate penological interests. *Turner*, 482 U.S. at 89.

As an initial matter, this Court has recognized that a prison's "economic interest in saving staff resources" is a legitimate penological interest. *Jackson*, 509 F.3d at 391. The district court reached the same conclusion, *see* RSA 15, and Decker does not dispute this point on appeal.

In *Jackson*, this Court upheld a policy that prohibited inmates from possessing individual, commercially published photographs, even though inmates could still possess photographs published in magazines. 509 F.3d at 390. As a justification, the prison relied on resource constraints, explaining that individual, commercially published photographs often contained forbidden content such as nudity and gang signs and that it was too labor-intensive for staff members to review each photograph individually for prohibited content. *Id* at 390–91. The prison thus adopted a blanket ban on all such photographs. *Id.* The prison still permitted inmates to possess photographs from magazines, however, because the contents of a magazine were easier to predict and

therefore easier for staff members to screen. *Id.* at 391. Though the inmate argued that this blanket ban on individual, commercially published photographs did not advance the prison's stated fiscal interest, as the prison would still have to screen magazines, this Court disagreed. Given the evidence that the prison could "more easily, and at less cost, process magazines than it can stand-alone commercial photographs, a rational connection exists between the policy and preserving resources." *Id.* at 391–92.

Decker's claim is significantly weaker than the claim rejected in *Jackson*. Unlike *Jackson*, this case does not involve a restriction on the materials a prisoner can possess or access, but rather just a determination about which materials the prison will affirmatively provide—a crucial distinction that cuts sharply against Decker's claim. Moreover, as in *Jackson*, Decker has an "alternative means of exercising his right"— subscribing to the Federal Register or asking third parties to send him a copy. 509 F.3d at 392. Decker's argument that this alternative is unrealistic as applied to him also echoes the claims rejected in *Jackson*, which held that "prisons are only obligated to 'make reasonable efforts' to accommodate First Amendment rights,"

not to find perfect alternatives for every potential litigant. *Id.* (citation omitted); *see Overton*, 539 U.S. at 135 ("Alternatives . . . need not be ideal, . . . they need only be available."); *see also* Br. 30–34; SA 282 (asserting a lack of funds and contacts to send him the Federal Register).

Moreover, if anything, the burden that honoring the inmate's request would impose on prison resources is more direct here than in *Jackson*. In *Jackson*, the effect on prison resources came indirectly, in the form of a perceived need to screen materials and an assessment of the comparative difficulty of screening different types of materials. Here, the effect is direct: Decker seeks to compel a prison employee to divert energy from some other task to upload the daily Federal Register to the electronic bulletin board (or, as he argued in district court, to devise and maintain an automated solution to accomplish the same thing). It is common sense that such a requirement would tax the prison's resources, but, in any event, the Bureau has stated in a sworn declaration that it would be too burdensome to task staff members with uploading every issue of the entire Federal Register on a regular basis. SA 208.

The fact that Decker asserts that it takes just "three clicks" to download a single issue of the Federal Register, and later upload it to the inmate bulletin board, does not make the Bureau's decision irrational. Br. 24–26; *see* Br. 26 (asserting his plan would save the agency money). Though it is true that downloading just *one* copy of the Federal Register might require only a few clicks, what Decker seeks is not just one isolated copy of that publication. Instead, Decker requests the permanent provision of *every* copy of the Federal Register that is published every single day. Recurring permanent tasks like this are not de minimis. Indeed, this Court has expressly drawn a distinction between a request for recurring benefits and a request for a one-time accommodation. *See Riker v. Lemmon*, 798 F.3d 546, 556 (7th Cir. 2015) (refusing to "equate[] Ms. Riker's one-time request to enter the prison to participate in a marriage ceremony with a request for general visitation rights").

And, in any event, it is undisputed that Decker's approach would require the Bureau to assign at least *some* staff members to this additional recurring task. To the extent Decker's challenge would then center on whether this additional expenditure of resources is

reasonable, the law is clear that it is the *prison* that gets to decide that question—not the courts. *See Jackson*, 509 F.3d at 391 (emphasizing that "courts 'must accord substantial deference'" to prison officials, who are primarily responsible for "'defining the legitimate goals of a corrections system and for determining the most appropriate means to accomplish them'" (quoting *Overton*, 539 U.S. at 132)). Here, the Bureau has already explained it is not feasible to devote additional resources to this recurring task. SA 208. Under *Turner*, that explanation is enough.

Decker's suggestion that the Bureau's declarations in this case were somehow inadequate is refuted by the very cases on which he relies. Br. 22–23. In *Shimer v. Washington*, 100 F.3d 506 (7th Cir. 1996), this Court made clear that, in light of the court's "limited" inquiry, all the prison needed to do was "provide the court with something—an affidavit from a prison official setting out the policy and the reasons for it," for example, to substantiate its asserted justifications. *Id.* at 510. The Bureau has plainly met that burden here. The problem in *Shimer* was that the record included only the prison regulations (which did not contain the challenged policy) and an affidavit from a prison official

"stat[ing] only the policy, with no illumination as to its purpose." *Id.* The connection between the policy and its justification was also not otherwise obvious. *Id.* This case presents no similar problem: the Bureau has explained why and how its policy preserves its resources, and the connection between the policy and the justification is, in any event, self-evident.

Finally, Decker's theory has no limiting principle. If granted, Decker's request for the daily Federal Register on First Amendment grounds could subject the government to potentially limitless requests for various reading materials based on the idiosyncratic preferences of inmates seeking to participate in various corners of the federal government, no matter how tangential the resource is to the inmate's interests or legal case. But the law is clear that decisions about a prison law library's materials lie with the prison. In this case, the Bureau made a rational decision to provide its own Federal Register materials, but not materials pertaining to the dozens of other federal agencies. This Court should not interfere with that decision.

II. The district court did not abuse its discretion when it denied Decker's motions for recruitment of counsel, and in any event, Decker was not prejudiced.

Under federal law, a court "may request an attorney to represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1). This authority is discretionary. There is no constitutional or statutory right to counsel in civil cases; instead, "courts must be careful stewards of the limited resource of volunteer lawyers." *Watts v. Kidman*, 42 F.4th 755, 764 (7th Cir. 2022) (citation omitted). In a world where the demand for pro bono representation far exceeds the supply of available lawyers, courts deciding whether to recruit counsel must ask themselves whether "*this* particular prisoner-plaintiff, among many deserving and not-so-deserving others, should be the beneficiary of the limited resources of lawyers willing to respond to courts' requests" under section 1915(e)(1). *McCaa v. Hamilton*, 893 F.3d 1027, 1036 (7th Cir. 2018) (Hamilton, J., concurring) (emphasis added).

A. Recruitment-of-counsel law reflects the realities of pro bono representation.

In *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (en banc), this Court established the framework for determining when to recruit pro bono counsel under section 1915(e)(1). Under this approach, courts ask two

questions: "(1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Id.* at 654. For the second prong—the only one at issue here—the question "is not whether a lawyer would present the case more effectively than the pro se plaintiff," but "whether the difficulty of the case—factually and legally—exceeds the particular plaintiff's capacity as a layperson to coherently present it to the judge or jury himself." *Id.* at 655. Relevant factors include the litigant's literacy, communication skills, educational level, litigation experience, intellectual capacity, and psychological history, as well as the factual and legal difficulty of the case. *Id.* at 655–56. There are no categorical rules governing this assessment. The determination is an individualized one, and ultimately, "the decision belongs to the district court." *Id.* at 656.

This Court has recently clarified that district courts may, in the course of exercising their discretion, consider the underlying merits of a plaintiff's claim. *Watts*, 42 F.4th at 766. As this Court recognized, cases brought by indigent prisoners "hit the federal docket in droves."

Id. at 763; *see id.* (identifying over 3,000 prisoner civil rights and conditions-of-confinement cases filed in the Seventh Circuit in 2022). Recruiting counsel for one litigant thus "reduce[s] the likelihood that other persons will receive adequate legal assistance." *Id.* (citation omitted). At the same time, "[l]egal time is scarce," *id.* (quotation marks omitted), and even in meritorious cases, the expenses incurred in taking depositions or procuring expert testimony can "easily surpass" the value of the relief being sought, *id.* at 764 (quoting *McCaa*, 893 F.3d at 1036 (Hamilton, J., concurring)). "For *Pruitt's* framework to be a truly practical one," *id.* at 763, district courts must "engage in 'closer scrutiny . . . of the merits and what is at stake in a case'" before recruiting pro bono counsel, *id.* at 764 (alteration in original).

In applying *Pruitt*, this Court has "earmarked particular circumstances" that pose special challenges to pro se litigants and warrant careful attention as to whether counsel should be recruited. *Eagan*, 987 F.3d at 683. These special circumstances include: (1) requests for counsel at advanced phases of litigation, such as discovery or trial; (2) cases raising constitutional claims involving the state of mind of the defendant, such as Eighth Amendment deliberate

indifference claims; (3) cases involving complex medical issues; and (4) cases where a prisoner-plaintiff is transferred to a new facility and may no longer have access to relevant witnesses, documents, or defendants. *Id.* Again, however, a court's discretionary decision is broad. Though the presence of these factors might signal unique complexities in a given case, it does not guarantee the recruitment of counsel. *See, e.g.*, *Perry v. Sims*, 990 F.3d 505 (7th Cir. 2021) (upholding denial of counsel in case presenting Eighth Amendment deliberate indifference and medical issues); *Mejia v. Pfister*, 988 F.3d 415 (7th Cir. 2021) (same for Eighth Amendment deliberate indifference claim); *Watts*, 42 F.4th 755 (same for claim involving medical issues).

B. The district court reasonably exercised its discretion when it denied Decker's motions for recruitment of counsel.

The district court reasonably applied the governing standard here. Unlike the vast majority of cases in which this Court has reversed a district court judgment regarding the recruitment of counsel, Decker's case does not involve complicated factual determinations involving the state of mind of the defendant. Nor has Decker demonstrated obvious signs of incompetence; to the contrary, he has produced coherent filings

and faithfully followed instructions from the district court. On appeal, Decker provides no basis to second-guess the district court's determination that recruitment of counsel was not warranted.

1. Decker's claims are straightforward and require little factfinding. *See* SA 105 (Decker describing his case as "straight [f]orward"); SA 278 (Decker describing his case as "simple"). The only even arguably relevant factual issue in dispute is the degree to which Decker's request, which would require the Bureau to regularly upload every issue of the Federal Register, burdens the agency's resources. This is not a complex question and, as discussed above, the precise degree of burden is in any event unlikely to affect the ultimate legal conclusion given the deference afforded to prison officials in this area.

Moreover, unlike Eighth Amendment deliberate indifference claims that require analysis of a defendant's state of mind, Decker's claims do not turn on the "'subtle appreciation of legal causation'" or, in cases brought by state prisoners, "'the duties imposed upon state prison officials'" under the Constitution. *Santiago v. Wells*, 599 F.3d 749, 761 (7th Cir. 2010) (citation omitted); *see James v. Eli*, 889 F.3d 320, 327–28 (7th Cir. 2018) ("When it comes to nuanced legal issues like deliberate

indifference, even a relatively sophisticated litigant may find it difficult to identify and present the right type of evidence." (alterations omitted) (quoting *Pruitt*, 503 F.3d at 664 (Rovner, J., concurring))).

Nor do his claims involve any factfinding into "complex medical issues," an area that "pose[s] special issues" for pro se litigants because it involves specialized knowledge and can require expert testimony to interpret. *Eagan*, 987 F.3d at 683; *see Santiago*, 599 F.3d at 761; *Perry*, 990 F.3d at 513; *Henderson v. Ghosh*, 755 F.3d 559, 566 (7th Cir. 2014) (reversing denial of counsel where pro se inmate could not interpret lab results to show his kidney disease was improperly treated and, as an inmate, "lacked the ability to engage a medical expert"). And Decker has never alleged he was transferred to a new facility and thereby deprived of access to crucial witnesses, documents, or defendants, another circumstance that this Court has identified as an indicator of complexity. *See Eagan*, 987 F.3d at 683.

As a result, Decker's claims do not remotely resemble those that would be characterized as complex for purposes of recruitment-of-counsel law. Again, "[t]he question is not whether a lawyer would present the case more effectively than the pro se plaintiff; if that were

the test, district judges would be required to request counsel for every indigent litigant." *Pruitt*, 503 F.3d at 655 (quotation marks omitted). Instead, the question is whether the plaintiff "appears competent to litigate his own claims, given their degree of difficulty" and the types of "tasks that normally attend litigation." *Id.* (emphasis omitted). And here, unlike with complex medical issues or state-of-mind analysis, laypeople can understand basic cost-benefit justifications and provide commonsense responses to any such asserted interest. It does not take technical expertise or specialized knowledge—legal or otherwise—to engage in such a dialogue.

Given the straightforward nature of Decker's claims, the district court did not abuse its discretion in deciding that Decker was competent to litigate this particular case. Indeed, Decker's filings bear none of the signs of incompetence that have governed this Court's recruitment-of-counsel jurisprudence—a stark contrast to the plaintiff in *Pruitt*, whose plainly incompetent filings animated this Court's holding. For example, in *Pruitt*, the plaintiff's filings contained numerous spelling and grammatical errors, including a 16-line run-on sentence in which the first word of each line was capitalized. 503 F.3d at 651–52, 651 n.4.

Moreover, the plaintiff appeared unable to follow or even comprehend basic instructions designed to help pro se litigants request certain forms of relief. *Id.* at 650. For example, in his motion for court-appointed counsel, the plaintiff copied instructional form language directly into his filing, writing that he "'respectfully moves this court, pursuant to his legal claim, you should ask at this point that counsel be required to read your documents, consult with me, and amend my petition.'" *Id.* Elsewhere, he also wrote: "'I have sought institutional review of this matter through the proper grievance procedures before this action was filed, at this point, state what, if any, action was taken on, concerning my grievances.'" *Id.* The record also showed the plaintiff had "just above" the educational level of a sixth grader. *Id.* at 651.

Pruitt's filings raised serious—and obvious—red flags about his competence to litigate that case. Indeed, Pruitt's inclusion of instructional language demonstrated an inability to follow basic directions, raising significant questions about his ability to advocate for himself in court. In reversing the district court's denial of counsel, this Court rested its holding on these "serious educational and forensic shortcomings." *Pruitt*, 503 F.3d at 660. Specifically, it highlighted

Pruitt's "'jumbled'" and "'difficult to decipher'" complaint, as well as "written and oral communications reflecting Pruitt's confusion and general low functioning, and educational testing indicating Pruitt's skills were equivalent to that of a sixth grader." *Id.* at 659 n.14. It considered these indicators of incompetence so obvious that it was "implausible" the district court would have found Pruitt competent had it actually considered the question. *Id.* Cases reversing a denial of counsel under *Pruitt* have taken the same approach, faulting the district court for failing to consider intellectual or mental deficiencies that were either plain from the face of the filings or affirmatively raised by the plaintiff. *See, e.g.*, *Dewitt v. Corizon, Inc.*, 760 F.3d 654, 658 (7th Cir. 2014) (abuse of discretion to ignore "the challenges that Dewitt, as a blind and indigent prisoner with a tenth-grade education and no legal experience" faced in litigating case raising deliberate indifference with regard to medical treatment); *Eagan*, 987 F.3d at 686 & n.33 (same for plaintiff with documented psychiatric issues, including schizoaffective disorder, in case raising deliberate indifference with regard to medical treatment).

By contrast, Decker's filings are coherent, written in complete sentences, generally use correct spelling and punctuation, and include citations to the relevant authorities. *See* SA 17–40 (fourth amended complaint); SA 104–176 (recruitment motions citing to *Pruitt* and 28 U.S.C. § 1915(e)(1)); SA 276–286 (response to government's summary-judgment motion correctly recognizing the prevailing standard and other authorities); *see also Perry*, 990 F.3d at 514 (no abuse of discretion to deny counsel for plaintiff whose brief "recognized the issues presented," was "well-organized with numbered headings and a coherent substantive analysis," and "identified controlling legal authority"). Moreover, Decker's filings are responsive to instructions, demonstrating a level of comprehension and engagement completely at odds with the plaintiff in *Pruitt*. For example, when the district court denied Decker's first motion for failing to show adequate efforts to find counsel, RSA 1, Decker immediately filed a new motion with copies of the relevant correspondence, which the district court then accepted as adequate. SA 148, 149–165; *see* RSA 2; *see also Mejia*, 988 F.3d at 419 (upholding denial of counsel for plaintiff whose filings demonstrated he was "capable of comprehending and navigating the litigation process").

Relatedly, Decker has never alleged any educational, intellectual, or psychological limitation that undermines his ability to represent himself—in stark contrast to the plaintiffs in cases in which this Court has deemed counsel to be necessary. *See, e.g.*, *Walker v. Price*, 900 F.3d 933, 935–36 (7th Cir. 2018) (counsel needed for plaintiff with an IQ of 76, mental health issues, and grade-school level of comprehension); *Pruitt*, 503 F.3d at 650–51 (same for plaintiff with sixth-grade educational level); *McCaa*, 893 F.3d at 1030 (same for plaintiff with fifth-grade education and serious mental illness); *Eagan*, 987 F.3d at 673, 678, (same for plaintiff with eighth-grade education and psychiatric illnesses, including schizophrenia and bipolar disorder); *Henderson*, 755 F.3d at 565 (same for plaintiff with low IQ, "functional illiteracy," and fifth-grade education); *Dewitt*, 760 F.3d at 658 (same where plaintiff was blind with a tenth-grade education); *Pennewell v. Parish*, 923 F.3d 486, 492 (7th Cir. 2019) (same where plaintiff was legally blind with mental health problems).

Moreover, Decker had prior litigation experience. He was litigating multiple other cases around the country, some of which also raised constitutional claims; had gone to trial in 2021; and had another case

scheduled for trial. SA 166–167, 175–176. Litigation history is an indicator of competence. *Pruitt*, 503 F.3d at 655. This is true even if the inmate had counsel in his prior cases, as Decker did in his earlier appeal here (even though the district court incorrectly stated otherwise in one of its orders). *See* RSA 2 (district court inaccurately stating Decker represented himself "from start to finish, through an appeal"); *Mejia*, 988 F.3d at 419 (plaintiff's litigation history, which included "at least one prior case going to trial, albeit with appointed counsel," weighed in favor of competence). Separately, if Decker's other litigation activities made it harder for him to meet filing deadlines, the court repeatedly stated that he could seek an extension. RSA 2, 5.

2. Decker cites no case involving remotely comparable circumstances in which the denial of a motion for recruitment of counsel has been held to be an abuse of discretion. To the contrary, the cases on which he relies involved complex medical issues and expert testimony, plaintiffs with severe intellectual disorders or educational limitations, or both. *See Eagan*, 987 F.3d at 686, 693 (prisoner with schizophrenia and bipolar disorder asserting claim of deliberate indifference to his medical needs that might require expert testimony); *James*, 889 F.3d at 330

(prisoner asserting claim of deliberate indifference that presented complex medical issues requiring an expert to interpret x-rays and CT scans from multiple medical centers); *McCaa*, 893 F.3d at 1030, 1033 (prisoner with "serious mental illnesses" and "a fifth-grade reading level" raising deliberate indifference claim); *Santiago*, 599 F.3d at 762–63 (deliberate indifference claim requiring evidence of state of mind where prisoner did not have ready access to witnesses because he had been transferred); *Dewitt*, 760 F.3d at 658 (deliberate indifference claim involving complex medical matters); *Pennewell*, 923 F.3d at 491–92 (deliberate indifference claim involving complex medical matters where prisoner was "legally blind and required visual aids to read and write" and whose "experience as a blind inmate had caused his mental health to deteriorate"); *Walker*, 900 F.3d at 936 (prisoner with IQ of 76 and "grade-school level of comprehension"); *Pruitt*, 503 F.3d at 650, 651 (prisoner with sixth-grade education and demonstrated inability to write and understand instructions); *Henderson*, 755 F.3d at 565 (prisoner with fifth-grade education and IQ of 64 whose filings had been prepared by another inmate).

The only factor Decker has in his favor is that his claims had proceeded to the discovery stage. But there is no categorical rule that every case that reaches discovery requires recruitment of counsel, especially when every other relevant factor counsels against recruitment. To the contrary, this Court has affirmed a denial of recruitment of counsel even when a case proceeded all the way to trial, going so far as to hold that it is "well within the judge's discretion to decide to overlook [a plaintiff's] slips [with discovery] and help him rather than try to recruit counsel." *Mejia*, 988 F.3d at 419. The district court acted well within its discretion to deny the motion for recruitment here, where the underlying claim involved little fact-finding or technical expertise, as discussed above.

Decker is likewise mistaken to suggest that the district court inadequately explained its reasoning. *See* Br. 44–54. Though "the district court could have added more detail to some of the orders denying his requests for the appointment of counsel," the record before the district court makes it clear that the court "applied the correct legal standards" and "exercised its discretion on rationales reasonably supported by the record." *Perry*, 990 F.3d at 514. No more is required.

See also McCaa, 893 F.3d at 1037 (Hamilton, J., concurring) (requiring district court judges to "write too much in explaining their decisions in these high-volume cases, which can involve, as this one did, multiple requests" would "come too close to finding, as a practical matter, a presumptive right to counsel in some categories of civil cases," when this Court has "consistently denied that such a right, or even a presumption, exists").

Ultimately, Decker's requests for counsel centered on ordinary resource constraints that are inherent in prison life. Decker wrote that he lacked access to certain writing equipment, was afforded insufficient access to the law library computer, suffered delays in his legal mail, and that he was litigating too many other cases simultaneously to devote enough time to this particular one. SA 104–106, 166–168, 171, 175–176. These complaints do not involve innate competence issues, but rather a lack of access to certain resources or sufficient free time for legal research—something that is likely true of nearly every incarcerated individual. To the extent some of these issues created delays in Decker's legal proceeding, the district court told him repeatedly that he could seek an extension. RSA 2, 5. Faced with a

"choice about how best to allocate scarce resources," the district court thus "committed no abuse of discretion in undertaking this difficult and unfortunate calculus." *Mejia*, 988 F.3d at 420.

C. Decker was not prejudiced by the denials of his motions to recruit counsel.

The district court's judgment can be affirmed on the independently adequate (though related) ground that Decker cannot show prejudice from the failure to recruit counsel. To show prejudice, the plaintiff must demonstrate a "reasonable likelihood" that the presence of counsel would have made a difference in the outcome of the litigation. *Pruitt*, 503 F.3d at 659 (emphasis omitted). Answering this question "depends upon a totality-of-the-circumstances review of the proceedings as a whole." *Id*. at 660.

Decker cannot demonstrate prejudice because, even with counsel, there was no factual dispute he could have created to survive summary judgment. As discussed above, Decker's claims fail as a matter of law because he has no constitutional right to demand that prison officials expend time and resources on a recurring basis to provide him with the particular materials he seeks. *See supra* Part I.B. Under *Turner*, the

prison officials' determination that such expenditure of time and resources was unwarranted is adequate to justify that decision. No further factual development would alter that reality.

On appeal, Decker asserts that he would have developed the factual record regarding the ostensibly "low costs of posting the Federal Register PDF to the electronic bulletin board." Br. 59. But as a factual matter, he does not and cannot dispute that honoring his request would require the expenditure of at least some time and resources on a recurring basis. And as a legal matter, he does not and cannot dispute the level of discretion afforded to prison officials in making determinations of this kind. His request for counsel to conduct a deposition of prison officials essentially amounts to a request to try and convince the agency that providing the daily Federal Register would *not* be "impractical" or "highly burdensome." SA 208. In addition to the independently dispositive point that the district court did not abuse its discretion in declining to appoint counsel for this purpose, on the merits, no efforts of counsel could have altered the legal conclusion that the prison's determination about the contents of its law library were

"reasonably related to legitimate penological interests." *Turner*, 482 U.S. at 89.

CONCLUSION

For the foregoing reasons, the judgment of the district court should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 9,209 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Century Schoolbook 14-point font, a proportionally spaced typeface.

s/ Caroline W. Tan
Caroline W. Tan

ADDENDUM

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28 U.S.C. § 1915

§ 1915. Proceedings in forma pauperis

(e)(1) The court may request an attorney to represent any person unable to afford counsel.