



David A. Clarke Jr.  
Sheriff

## Milwaukee County Sheriff's Office **NEWS RELEASE**

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FOR IMMEDIATE RELEASE  
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### Federal Court of Appeals (Chicago) Affirms Ruling Against Inmate Who Claimed Constitutional Deprivations



**MILWAUKEE** - Last week, a three-judge panel (Flaum / Williams / Hamilton), in the United States Court of Appeals for the Seventh Circuit ruled, in the case Davonte Love v. David A. Clarke Jr., et al., to uphold the prior ruling of Federal Judge William C. Griesbach, Milwaukee, in favor of Sheriff Clarke.

“The media loves to report on the initial filings of these frivolous claims that are nothing more than allegations, and contain no evidence. Rarely do they report on how the court rules, unless the ruling is in favor of the defendant,” said Sheriff Clarke.

Inmate Love, who is currently serving a 20-year prison sentence in the Wisconsin State Prison (WSP) system for a 2nd degree Sexual Assault (2011CF004672), has a lengthy history of acts of Criminal Damage to Property and Interfering with Fire Fighting Equipment for pulling sprinkler heads in the detention areas of the Milwaukee County Jail (MCJ) while in that facility. They were referred for criminal prosecution, issued, and read-in at the time of sentencing on his other crimes.

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This case, on appeal from the United States District Court for the Eastern District of Wisconsin, began after Love had been convicted for a prior crime of substantial battery, and faced trial for sexual assault. The trial court found that he had attempted to dissuade the victim from testifying and ordered that his phone, visitation, and mail privileges at the MCJ be rescinded, “with the exception of any communication to his attorney,” to prevent him from further intimidating witnesses (a charge for which he was subsequently convicted (2012CF000669) receiving an additional 2 years.)

Sheriff Clarke ordered his MCJ officers to strenuously enforce the order by moving Love to the jail’s maximum-security areas as he awaited trial, and limited his contact with outsiders. Love responded by filing a Federal lawsuit claiming that the restrictions inhibited his access to educational and recreational programs and religious services, depriving him of his constitutional rights.

The district court in Milwaukee granted summary judgment in favor of Sheriff Clarke and other MCSO officials, ruling that the MCSO personnel were entitled to quasi-judicial immunity for enforcing a state court order. On appeal, the Chicago panel affirmed, noting “...*The correctional staff who limited Love to contacting only his attorney are entitled to absolute immunity for enforcing the precise terms of a valid court order.*”

The panel further noted that “...*none of the restrictions mentioned in Love’s complaint or other filings (namely, a lack of education programs, religious services, and recreation time) deprived him of a constitutional right. We have explained that convicted prisoners enjoy no freestanding constitutional right to educational or rehabilitative programs...and a lack of religious services in itself is not a substantial burden on religious practice. Finally, although a long deprivation of out-of-cell exercise can violate the Eighth Amendment...Love did not dispute the defendants’ evidence that he was generally allowed one hour per day of recreation time while on maximum custody status, which satisfies constitutional norms...*”

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