

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**HEATHER ANN THOMPSON, PH.D.,**

Plaintiff,

v.

**ANTHONY J. ANNUCCI**, as Acting  
Commissioner, New York State Department of  
Corrections and Community Supervision;  
**RAYMOND C. GRINNELL**, as Coordinator of  
Special Subjects, Department of Education, New  
York State Department of Corrections and  
Community Supervision

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT**

**PRELIMINARY STATEMENT**

1. This action seeks to enjoin the New York State Department of Corrections and Community Supervision's ("DOCCS") refusal to allow incarcerated New Yorkers to read Professor Heather Ann Thompson's Pulitzer-Prize winning book, *Blood in the Water: The Attica Prison Uprising of 1971*.

2. Some fifty years on from the uprising, *Blood in the Water* offers the most comprehensive historical account ever written of the events at Attica. Since its publication in 2016, *Blood in the Water*, which relies on firsthand accounts and previously unavailable government records of the uprising, has garnered widespread acclaim for its contribution to the corpus of American historical literature, winning the Pulitzer and Bancroft Prizes, among others.

3. Yet beyond that contribution, Professor Thompson sees another vital role for *Blood in the Water*: its unique capacity to educate and inform the more than 30,000 people currently

incarcerated in New York prisons on core aspects of a shared history that government officials in New York have sought for decades to obscure.

4. People incarcerated in multiple other states have had the opportunity to access *Blood in the Water*, benefiting from the historical perspective it offers, as well as the book's key insights into the importance of recognizing the humanity of incarcerated individuals and the consequences of an inhumane criminal justice system.

5. But not in New York, where Defendants, state prison officials purporting to act under a media censorship program, have barred incarcerated people from accessing *Blood in the Water*, blocking Professor Thompson herself from sharing the book with people in state prisons and denying her the opportunity to contest this censorship.

6. Drawing on more than a decade of meticulous research by Professor Thompson, *Blood in the Water* today occupies centerstage in our understanding of what happened at Attica, offering singular insight into a defining moment in American history. Professor Thompson seeks to share *Blood in the Water* with the incarcerated New Yorkers who stand to benefit most from that insight. The Constitution gives her that right.

7. Professor Thompson brings this action under the First and Fourteenth Amendments to the United States Constitution. She seeks declaratory and injunctive relief requiring that Defendants permit her to send *Blood in the Water* to individuals in Defendants' custody and provide her with proper notice of any decision to censor the book.

#### **JURISDICTION AND VENUE**

8. This Court had subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343(a)(3) because the matters in controversy arise under 42 U.S.C. § 1983.

9. Venue properly lies in the Southern District of New York under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this cause of action occurred in prisons within the Southern District of New York.

### **PARTIES**

10. Plaintiff HEATHER ANN THOMPSON, PH.D. is a professor and historian at the University of Michigan. After more than a decade of research, in 2016, Professor Thompson authored *Blood in the Water*.

11. Defendant ANTHONY J. ANNUCCI is and was, at all times relevant to this Complaint, the Acting Commissioner of DOCCS. Defendant Annucci has final responsibility for the development and execution of DOCCS policies and practices. Specifically, he has the authority to direct the head of the Division of Education to reverse a censorship determination. He is sued in his official capacity. At all times relevant to this Complaint, he was acting under color of state law.

12. Defendant RAYMOND C. GRINNELL is and was, at all times relevant to this Complaint, the Coordinator of Special Subjects for the Division of Education at DOCCS. In this capacity, Defendant Grinnell oversees the Central Office Media Review Committee and has decision-making authority regarding censorship determinations made by DOCCS. He is sued in his official capacity. At all times relevant to this Complaint, he was acting under color of state law.

## STATEMENT OF FACTS

### I. Professor Heather Ann Thompson's Pulitzer Prize-Winning Book *Blood in the Water*

13. Professor Thompson is a Professor of History, Afro-American and African studies at the Residential College at the University of Michigan.

14. As a historian and scholar of criminal justice, Professor Thompson devoted a decade of research and writing to the non-fiction book entitled *Blood in the Water: The Attica Prison Uprising of 1971*, a historical account of the 1971 uprising at New York's Attica Prison.

15. Although *Blood in the Water* is not the first piece of media to describe the Attica uprising, it is the most comprehensive and complete record of the events available to the public. This is due, in part, to the materials unearthed by Professor Thompson's research, as well as her thorough analysis of the years before the event and the subsequent investigation and legal proceedings that followed.

16. Prior to Professor Thompson's research, state officials concealed key documents related to the state's disproportionate and unjust response to the uprising. These documents remained off-limits for almost 40 years. Law enforcement personnel and New York state officials fought hard to prevent the disclosure of this material as it would expose the truths of the state's deeply flawed and violent retribution in the aftermath of the uprising, which was itself a response to inhumane conditions inflicted by the state.

17. Thankfully, Professor Thompson was granted access to key documents uncovering revealing truths about the Attica uprising and its aftermath.

18. In addition to these efforts, Professor Thompson spent over ten years conducting comprehensive research to compile the most accurate account of the events in, and surrounding, the Attica uprising. Through that decade-long process, Professor Thompson conducted extensive

interviews with former DOCCS corrections officers, survivors, and their family members. She also spent years reviewing government materials, including records that have never been disclosed to the public.

19. As a result of her exhaustive research, Professor Thompson describes the events that transpired at Attica through the perspectives of all those involved, including prison guards, incarcerated people, family members of both guards and incarcerated people, government officials, and members of the public.

20. The book opens with an epigraph containing reflections from a National Guardsman, a New York State Trooper, a corrections officer, and a man incarcerated at Attica.

21. The book recounts how parents learned of their sons' deaths via telegram or radio and how a guard's wife was brought to a church basement to identify her husband's body.

22. The book also speaks of moments of goodwill between individuals incarcerated at Attica and guards, describing how one prisoner carried an injured guard to the prison gate to summon help and how another group formed a circle of protection around particularly unpopular officers.

23. This wealth of information, facts, and first-hand accounts make *Blood in the Water* essential reading for incarcerated individuals who seek to gain an understanding of the history of the state system prison where they reside.

24. As a result of the book's distinguished character and its contribution to the documented history of the United States, Professor Thompson has won numerous honors and awards, including the 2017 Pulitzer Prize in History, the 2017 Bancroft Prize in American History and Diplomacy, the 2017 Ridenhour Book Prize, the 2017 New York County Bar Association Law

and Literature Prize, the 2016 New York City Bar Association Award, and the 2017 J. Willard Hurst Award in Socio-History.

25. *Blood in the Water* was additionally selected as a 2016 National Book Award Finalist and appeared on the notable book lists of many publications, including the *New York Times* Most Notable Books of 2016 and the *Seattle Times* Top Ten Non-Fiction of 2017, amongst numerous others.

26. *Blood in the Water* was named a finalist for the *Los Angeles Times* Book Prize in History and the Silver Gavel Award from the American Bar Association. Additionally, *Blood in the Water* was named on the Best Human Rights Books of 2016 list and received starred reviews from *Library Journal*, *Kirkus*, and *Publishers Weekly*.

27. The book has also garnered acclaim from a range of publications and professionals. For example, Michelle Alexander—law professor, civil rights lawyer, and author of the *New York Times* bestseller *The New Jim Crow*—describes *Blood in the Water* as “extraordinary.”

28. *Blood in the Water*’s groundbreaking contribution to contemporary insight into key moments in American history has ensured critical acclaim and a wide audience for the book.

29. But Professor Thompson has a more profound goal for *Blood in the Water*: to ensure the book reaches the broadest possible readership, including incarcerated people, whom she views as the book’s most important audience. In service of this goal, for years, Professor Thompson has sent her book to incarcerated individuals across the country, and she plans to continue doing so.

## **II. DOCCS Maintains A Censorship Program for Books that It Deems Objectionable.**

30. Although DOCCS purports to allow incarcerated individuals to access a “wide range” of printed materials, Defendants maintain a media review system, which they routinely use to censor reading materials whose content they deem objectionable.

31. DOCCS's "Media Review" policy is embodied in Directive #4572, which describes DOCCS's process for reviewing and censoring books and other media.

32. Directive #4572 contains "standards," which guide DOCCS's censorship decisions.

33. Any publication that is sent to a DOCCS facility and deemed to be in violation of the media review standards is referred to the Media Review Process.

34. Directive #4572 provides a two-tier system of review, with a Facility Media Review Committee ("FMRC") at each DOCCS facility making initial censorship decisions, and DOCCS's Central Office Media Review Committee ("COMRC") deciding appeals of FMRC decisions.

35. Per Directive #4572, if more than eight pages of a publication are deemed to violate one or more of the Directive #4572's media review standards, the entire publication must be withheld from the individual. If eight or fewer pages of a publication are deemed to have violated the Media Review Guidelines, those pages can simply be redacted, and the publication can be sent to the recipient.

36. The FMRC at each DOCCS facility is composed of a Chairperson, who is responsible for overseeing the FMRC, as well as other facility staff, such as librarians, chaplains, and security personnel.

37. Upon a publication's arrival at the corresponding DOCCS facility, Directive #4572 requires that the facility's FMRC notify individuals if the book is undergoing review by the FMRC due to perceived violations of the Directive.

38. If the FMRC determines that a publication violates the media review standards, it is required to notify the intended recipient of the publication of their denial and provide an opportunity to appeal the FMRC decision to the COMRC.

39. Directive #4572 requires that the intended recipient and the original sender of the publication be notified of any determinations made through the Media Review Process.

**III. Defendants Routinely Block People Incarcerated in DOCCS Facilities from Reading *Blood in the Water*.**

40. Since *Blood in the Water*'s publication in 2016, Defendants have consistently and repeatedly levied their Media Review policy to bar the book from DOCCS facilities across the State.

41. Many incarcerated individuals—including those at Attica, Bedford Hills, Eastern, Franklin, Great Meadow, Mohawk, Orleans, Otisville, Southport, and Ulster Correctional Facilities—have been blocked from receiving or otherwise accessing *Blood in the Water*.

42. On around a dozen occasions, the COMRC has considered appeals of FMRC decisions to censor *Blood in the Water*.

43. On each of these occasions, the COMRC has affirmed an FMRC decision censoring *Blood in the Water*, ensuring that incarcerated individuals who wish to receive and read *Blood in the Water* have been prevented from doing so.

44. In upholding the censorship of *Blood in the Water*, the COMRC has relied exclusively on a single basis: that the book violates Guideline E of Directive #4572, which prohibits materials that “advocate expressly or by clear implication, acts of disobedience” towards “law enforcement officers or prison personnel.”

45. Of *Blood in the Water*'s 571 pages, the COMRC has identified just a small fraction that it purports run afoul of Guideline E. Yet DOCCS has used its objections as the basis for banning *Blood in the Water* in its entirety. And the material on these pages does not even conceivably contain any express or implied advocacy of disobedience against law enforcement personnel.

**IV. Defendants Have Repeatedly Blocked Professor Thompson from Sending *Blood in the Water* to People Incarcerated at DOCCS Facilities.**

46. Among other instances of their censorship of *Blood in the Water*, Defendants have repeatedly blocked Professor Thompson herself from sending *Blood in the Water* to people in DOCCS facilities. In so doing, Defendants have, without exception, declined to notify Professor Thompson of these censorship decisions, thereby violating DOCCS's own policies and depriving Professor Thompson of the ability to contest these decisions.

47. In February 2019, Professor Thompson sent a copy of *Blood in the Water* via Amazon to Lenny Emiliano who was at the time housed at Attica Correctional Facility.

48. After unexpectedly failing to receive the book that Professor Thompson had sent him, Mr. Emiliano inquired with various correctional officers. Only then did he learn that Attica's FMRC had blocked Professor Thompson's attempt to send Mr. Emiliano *Blood in the Water*.

49. On April 17, 2019, following an appeal by Mr. Emiliano, the COMRC affirmed the Attica FMRC's decision, blocking Mr. Emiliano from receiving *Blood in the Water*.

50. Similarly, in February 2020, Professor Thompson sent *Blood in the Water* through Amazon to John Lennon while he was housed at Sing Sing Correctional Facility.

51. Mr. Lennon, an incarcerated journalist, requested the book because he was planning to write an article about the Attica uprising.

52. In or around, March 2020, Sing Sing's FMRC blocked Mr. Lennon from receiving the book. As a result, Mr. Lennon was unable to gain a fuller understanding of the Attica uprising and could not access the information he needed to finish his article.

53. In each of these instances, DOCCS declined to notify Professor Thompson of any decision by DOCCS officials to block Messrs. Emiliano and Lennon from receiving the copies of *Blood in the Water* that she sent to them. Nor, on information and belief, did DOCCS provide any

such notice to Amazon, through which Professor Thompson sent the book, or Pantheon Books, the book's publisher.

54. In fact, DOCCS has *never* provided notice to Professor Thompson of any FMRC or COMRC decision to censor *Blood in the Water*.

55. Without exception, Defendants have denied Professor Thompson the notice required by DOCCS's own media review policy, thereby depriving her of any meaningful opportunity to contest the censorship of copies of *Blood in the Water* she has attempted to send to people in New York prisons.

56. Professor Thompson has a sincere and strongly held desire to continue sending copies of *Blood in the Water* to people at DOCCS facilities around New York State. She believes that incarcerated people—especially those in New York prisons—are a uniquely important audience for the historical account *Blood in the Water* offers and the message she intends the book to convey.

57. By censoring *Blood in the Water* and blocking her from sharing the book in New York prisons, Defendants have stripped Professor Thompson's book of an essential aspect of its communicative value.

**V. Defendants' Censorship of *Blood in the Water* Deprives Incarcerated People of Access to Core Protected Speech on a Matter of Profound Public Concern.**

58. Defendants' censorship has far-reaching implications for the more than 30,000 people incarcerated in New York prisons, whom the ban on *Blood in the Water* deprives of the ability to benefit from the book's perspective and message, effectively excluding them from a conversation of profound public concern that directly impacts their lives.

59. For example, between 2018 and 2019, DOCCS repeatedly denied access to *Blood in the Water* to Kevin Mays, who was formerly incarcerated at Otisville Correctional Facility.

60. During his decades-long sentence of incarceration, Mr. Mays transformed himself by reflecting on his past and his place in society. He attributes this personal growth to access to books on the criminal justice system, specifically those that represent the perspectives of the incarcerated.

61. Mr. Mays first heard of *Blood in the Water* through WNYC—an NPR affiliate—where he heard Professor Thompson speak about her book on the Brian Lehrer Show.

62. As an administrative law clerk in the prison law library for over 20 years, Mr. Mays considers himself a “voracious reader.” While incarcerated, Mr. Mays had frequently requested and received books from his wife. He was particularly interested in reading *Blood in the Water* because it had similar themes to other books he had read that greatly impacted him, such as *The New Jim Crow* by Michelle Alexander, *Just Mercy* by Bryan Stevenson, *Blood in My Eye* by George Jackson, and *Soledad Brother* by George Jackson.

63. After learning that DOCCS’s policy purports to allow incarcerated individuals broad access to reading materials, he was hopeful that *Blood in the Water* would enable him to learn more about the Attica uprising. He saw the opportunity to read *Blood in the Water* not only as a chance for academic enrichment but also as a deeply personal experience: Mr. Mays himself was previously incarcerated at Attica and wanted to understand more about an uprising that had taken place at the very facility where he was once held.

64. Thus, in August 2018, Mr. Mays asked his wife to send him a copy of *Blood in the Water*, but access was ultimately denied by the FMRC.

65. In early March 2019, Kevin Mays again requested that his wife purchase and send him another copy of *Blood in the Water*. In April 2019, Mr. Mays received notice that the FMRC had denied the book for a second time.

66. As a result, Mr. Mays was deprived of the comprehensive historical account that only *Blood in the Water* can provide, denying him valuable perspective and insight into the prison system in which he was confined for over a decade of his life.

67. Initially optimistic to learn about such a significant historical event, Mr. Mays felt dejected when he learned that DOCCS had blocked his access to the book simply because he is incarcerated. Mr. Mays' example is far from unique. Social science research has long confirmed that access to information plays a critical role in enabling incarcerated people to better their lives, and that arbitrary bans on books discussing civil rights issues in American prisons contribute to a sense of alienation among incarcerated people.

68. Even DOCCS itself has recognized the harmful and isolating impact that censoring books have on incarcerated people. In a September 2021 retrospective on the 50th anniversary of the Attica uprising, Defendant Annucci boasted of the “positive” changes that DOCCS has implemented to its media review policies in response to the Attica uprising. Annucci specifically took note of DOCCS's more liberal book policy designed to combat the isolation incarcerated people felt due to restrictive book bans.

#### **VI. Other State Prison Systems Around the Country Allow Incarcerated People to Read *Blood in the Water*.**

69. There is no evidence that *Blood in the Water*'s presence in correctional facilities—either in New York or in facilities across the country—has ever caused disruptions or safety concerns between officers and incarcerated persons.

70. In 2017, the California Department of Corrections and Rehabilitation allowed Professor Thompson to visit San Quentin State Prison in 2017 to discuss *Blood in the Water* and record a podcast of the event.

71. Professor Thompson has also successfully sent copies of *Blood in the Water* to individuals incarcerated in North Carolina.

72. Multiple state prison systems maintain updated lists of banned publications. An analysis of these publicly available lists shows that California, Colorado, Connecticut, Florida, Louisiana, Michigan, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, and Wisconsin do not include *Blood in the Water* on these lists.

73. There have been no reported incidents of *Blood in the Water* causing either misconduct or incitement in any of these states or their facilities.

74. In February 2020, the former Chief of Operations of the Illinois Department of Corrections reported the following regarding *Blood in the Water*.

In particular, [*Blood in the Water*] does not in any way “blatantly encourage” or “overtly advocate” violence or disruption. It does not “encourage,” “instruct,” or “facilitate” criminal activity, and is not otherwise detrimental to the security or mental health of inmates or prison staff or the good order of the facility. If anything, Professor Thompson’s book would tend to discourage prison riots by its description of the severe negative consequences to inmates and staff resulting from the Attica uprising . . . . In my career, I have never seen violence at a correctional facility that could be linked to the allowance in a prison of a published historical analysis such as [*Blood in the Water*]. . . . [A]ccess to books and publications, particularly those of the quality of Ms. Thompson’s book, facilitate order in prison facilities by providing an outlet and relief from inmate idleness[,]. . . [and] promotes healthy discussion of issues relevant to inmates.

**VII. DOCCS Permits Access to a Number of Books with Similar Themes But Which Are Unrelated to the Attica Uprising.**

75. While censoring *Blood in the Water*, DOCCS permits access to an array of other publications that, like *Blood in the Water*, depict life in prison and the complexities of the criminal justice system.

76. Examples of books permitted at DOCCS facilities include *Soledad Brother: The Prison Letters of George Jackson*, a book written by a prisoner-activist, describing the brutality

and racism in the California prison system; *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, which details the broad injustices of the policing and prison systems in the United States as an extension of slavery and post-Reconstruction attempts to further subjugate people of color; and *Just Mercy: A Story of Justice and Redemption*, which provides a defense attorney's perspective on the failures of the criminal justice system.

77. These books, like *Blood in the Water*, contain thoughtful critiques of the prison system and its treatment of incarcerated individuals, yet DOCCS has concluded that these publications, which do not deal with the Attica uprising specifically, are permissible.

78. Publications such as "Jailbreak exposes prison's vulnerability," an article that describes the circumstances that allowed a prisoner to escape from a California penitentiary, and "Testimonies of Torture in New Jersey Prisons," a collection of testimonies of different forms of torture in New Jersey prisons, have been explicitly permitted at DOCCS's facilities after the Media Review Board found that they did not violate the Media Review guidelines.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Violation of the First Amendment – 42 U.S.C. § 1983**

79. Defendants' conduct, as alleged herein, violates Plaintiff Thompson's rights under the First Amendment to the United States Constitution.

80. Defendants' actions directly and proximately caused the violations of Plaintiff's constitutional rights and their resulting injuries.

**SECOND CLAIM FOR RELIEF**

**Violation of the Fourteenth Amendment – 42 U.S.C. § 1983**

81. Defendant's conduct, as alleged in this Complaint, violates Plaintiff Thompson's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

82. Defendants' actions directly and proximately caused the violations of Plaintiff's constitutional rights and their resulting injuries.

**REQUEST FOR RELIEF**

Plaintiff respectfully requests that the Court:

- A. Assume jurisdiction over this action;
- B. Declare that Defendants' conduct, as alleged in the Complaint, violates Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution.
- C. Permanently enjoin Defendants from continuing to violate the United States Constitution, forbidding them from preventing the distribution of Plaintiff's book, *Blood in the Water*, in the New York prison system.

- D. Permanently enjoin Defendants to provide prompt notice to Plaintiff of the fact of and basis for any decision to censor any copy of *Blood in the Water* that she attempts to send to individuals in Defendants' custody;
- E. Award Plaintiff her reasonable costs and attorney's fees arising out of this litigation pursuant to 42 U.S.C. § 1988; and
- F. Grant any other relief this Court deems appropriate.

Dated: March 31, 2022  
New York, New York

Respectfully submitted,

/s/

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