Florida inmate says prison sold him $569 of music, then took it away

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Florida inmate William Demler says that since 2012, he has spent $569.50 on digital music via a proprietary digital music service sponsored by the Florida prison system. Demler listened to his music on a prison-sponsored music player he purchased for $99.95. Demler, who is serving a life sentence, says ads for the prison-sponsored service promised access to his music for his entire prison term.

But last year, the Florida Department of Corrections (FDOC) switched music vendors, and as a result, Demler lost access to his music collection. He was told that he'd need to buy the same songs again using the new system if he wanted to continue listening to them.

So Demler is suing the FDOC, arguing that the prison system broke its own promises and violated the US Constitution by depriving him of his music without compensation. He is seeking class-action status, allowing him to represent every prisoner in the Sunshine State who has lost access to the music.

"You'll always own it"

Many states sharply restrict inmates' access to mainstream technology products, then charge extra for low-quality proprietary alternatives. Last year, we covered the terrible video-calling products offered in some prisons. The Florida prison system has taken a similar approach to music.

Florida inmates are not allowed to have mainstream digital media players, and they can't buy music from mainstream online music stores. Instead, the Florida prison system cut a deal with a private company to provide custom-designed media players to prisoners. The program began in 2011 and was expanded to prisons statewide in 2014.

Inmates were charged $99.95 to $119.95 for a proprietary digital media player. Music was sold for $1.70 per song and stored in a proprietary, prison-specific cloud storage service. Prisoners could transfer purchased songs to their music players at any time. If prisoners owned more songs than they could fit on their music players at one time, they had the option to swap out songs. Prisoners could download a song to their music player an unlimited number of times.

Demler's lawsuit states that "between 2011 and 2017, FDOC sold nearly 6.7 million digital media files, at a cost of roughly

$11.3 million to prisoners and their families.”

According to the lawsuit, the ads for the service touted the ability to buy songs and keep them forever. “Once music is purchased, you’ll always own it,” one ad said.

Prisoners like Demler lost access to their music

But Demler says the FDOC broke that pledge. In 2018, Florida prisons switched vendors and confiscated the old music players. Prisoners who previously purchased the old music players had the option to get a new music players for free. Owners of the previous system were also offered a $50 credit to buy new music. But prisoners like Demler no longer had access to their old music.

The FDOC gave inmates the option to have their old music player sent to a friend or relative outside of prison. Alternatively, inmates could have music from their digital players burned to CD and have *that* shipped to a friend or relative.

Either of these options cost $24.95, and they would only save music that was on the device at the time it was turned in. More to the point, inmates bought music in the first place because they wanted to listen to it *while they were incarcerated*. This was a particularly bitter pill for Demler. He’s serving a life sentence, so the option to send his music player to a family member outside of prison is of little use to him (plus he says his closest relative is a 92-year-old uncle who has no use for the music).

According to the lawsuit, the FDOC practically admitted that the decision to deprive prisoners of their music collections was a cash grab. When prisoners filed grievances about their loss of music, the lawsuit said, the Department of Corrections

responded that the confiscations were “necessary” because “the download of content purchased from one vendor to another vendor’s device would negate the new vendor’s ability to be compensated for [its] services.”

Demler argues that the decision to take away his music collection violates the Fifth Amendment, which prohibits the government from taking anyone’s property without just compensation.

The Florida Department of Corrections responds

We asked the FDOC about this controversy, and here’s what the department told us:

> *In January 2018, the Department’s contract providing MP3 players for inmates expired. We procured an alternative contract to make updated technology available with features to enhance familial interactions, educational opportunities, and inmate well-being.*
>
> *Inmates in possession of an MP3 player had the option of retaining their purchases by sending the device, or its contents on a CD, to a non-prison address.*
>
> *Additionally, all inmates who had an outdated digital music player from the old contract were eligible to receive a new mini-tablet at no cost and received a $50 music credit.*
>
> *The old program began in 2011. It’s important to note, inmates with MP3 players who left our custody during the seven years of the contract would have retained their MP3 players and music upon their departure. About 30,000 inmates leave our custody each year.*

It seems like the obvious solution would be to give inmates

the option to load their old music on the new device. I’ve asked the FDOC why it didn’t do that and will update if the department responds.

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