

Civil Rights Litigation under 42 U.S.C. § 1983 Session III: Prison Litigation

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Brenda Baum, Esq.

- Brenda has been practicing law in the State of Rhode Island since 1994.
- After working a few years for an insurance defense firm, she moved to the Civil Division of the Office of the Attorney General in 1997.
 - Brenda served as an Assistant Attorney General and Civil Deputy Chief for 20 years. Her primary focus was the defense of the State of Rhode Island, State agencies and employees in cases before the USDC-RI and RI State Courts; but also worked in the areas of consumer advocacy, insurance, health care, and false claims cases.
- In September 2023, Brenda became part of the in-house legal team at the Department of Corrections.

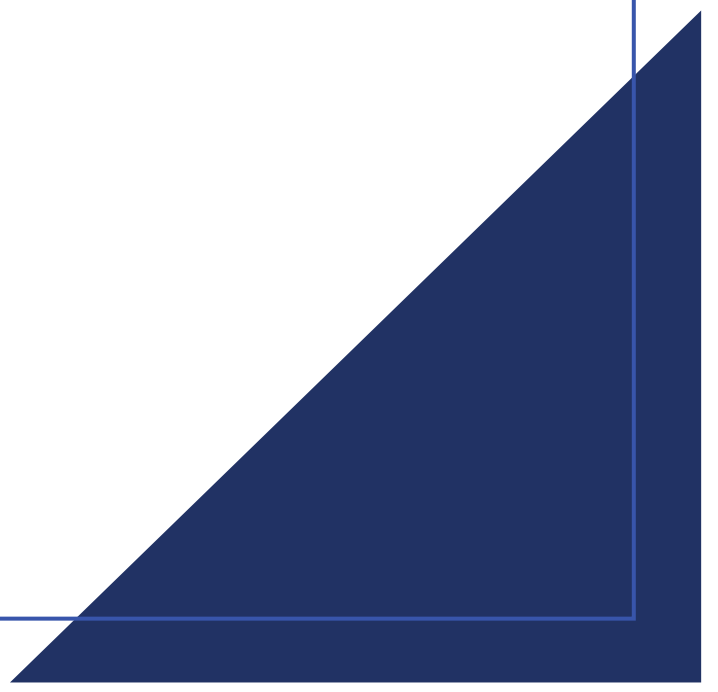
Chloe Davis, Esq.

- Chloe has been practicing law in the State of Rhode Island since 2014.
 - She has been practicing civil rights law at Sinapi Law Associates, Ltd since 2019 and became the supervising attorney of the civil rights practice in March 2023.
 - In the civil rights practice, she represents plaintiffs with claims against local police departments for 1st and 4th Amendment Violations and against the RIDOC for 8th Amendment and ADA violations.
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Prison Litigation Topics

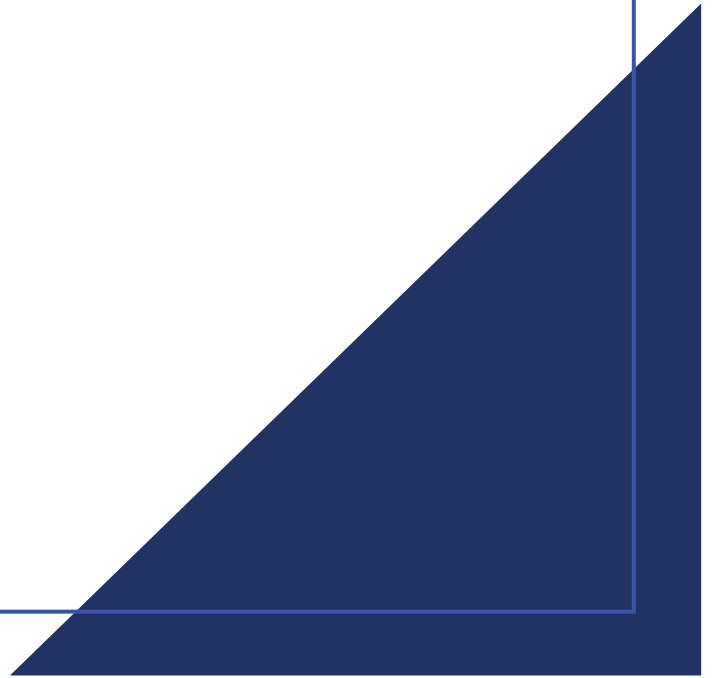
- PLRA
- Section 1983 Defendants
- Most Common Prison Claims:
 - 8th Amendment Claims – Cruel and Unusual Punishment
 - Conditions of Confinement
 - Excessive Force
 - Inadequate Medical Care
 - Religious Exercise
 - Due Process

Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997

- Frivolous Claims (3 Strikes)
 - Exhaustion of Administrative Remedies
 - Physical Injury
 - Attorneys fees
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PLRA: Frivolous Claims


- Frivolous Claims Dismissed
- Three Strikes – no waiver of fee



PLRA: Exhaustion of Administrative Remedies

- Applies to 1983 claims, “or any other federal law” w/r/t “prison conditions”
- Individual institution’s policies
 - i.e., Grievance Procedures, RI DOC 13.10-5
 - No grievance for medical at RIDOC

PLRA: Physical Injury

- “[n]o Federal civil action may be brought by a prisoner confined in a jail, prison, or other corrections facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury . . .” § 1997e(e).
 - More than de minimus
 - Circuit Split – Whether applies to First Amendment/Due Process claims
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PLRA: Attorneys Fees

- For injunctive/declaratory relief:
 - Reasonable fees incurred in proving actual violation or enforcing relief ordered
 - hourly rate cannot be greater than 150 percent of the hourly rate established under section 3006A of Title 18
- If fees authorized by 42 U.S.C. § 1988 (1983, RLUIPA) and monetary damages awarded:
 - 25% of damages award applied to satisfy fees
 - If attorney's fees not greater than 150% of judgment, excess paid by Defendant

Section 1983 Defendants

- Suing the State
 - States and their agencies are not considered “persons” within the meaning of § 1983 and thus cannot be held liable for damages or injunctive relief under the statute. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989).
 - Does not apply to suits for injunctive relief
- Suing Individuals
 - Sued in individual capacities
 - John Doe Statute, R.I. Gen. Laws § 9-5-20

8th Amendment Claims

- Cruel and Unusual Punishment Standard:
 - “prohibits punishments which ... ‘involve the unnecessary and wanton infliction of pain,’ or are grossly disproportionate to the severity of the crime. Among ‘unnecessary and wanton’ inflictions of pain are those that are ‘totally without penological justification.’” *Rhodes v. Chapman*, 452 U.S. 337, 346 (1981).
- Must prove “unquestioned and serious deprivations of basic human needs”
- Examples of basic human needs:
 - Food, clothing, shelter, medical care, reasonable safety, warmth, exercise, sanitation, personal hygiene, sleep

8th Amendment: Unconstitutional Conditions

- Deliberate Indifference Standard:
 - A prison official can be found reckless or deliberately indifferent if “the official knows of and disregards an excessive risk to inmate health or safety ...” *Farmer v. Brennan*, 511 U.S. 825 (1994).
- Examples:
 - Inadequate ventilation
 - Failure to provide heat in winter
 - Excessive noise
 - Inoperable plumbing services

8th Amendment: Prolonged Segregation

- RIDOC adopted revised policy July 2023
 - Inmate Discipline:
 - capped at 30 days in DCU
 - OOC: 2 hrs daily (1-15 days); 3 hrs daily (16-30 days)
 - Behavioral Health checks
 - Conditions of Confinement
 - Restorative Housing Program
- *Morris v. Travisono*
 - Currently Being Revisited

8th Amendment: Excessive Force

- Deliberate Indifference Standard
 - Objective Prong
 - Prove: the alleged wrongdoing is objectively 'harmful enough'
 - Subjective Prong
 - Whether force applied in good faith effort to maintain discipline or maliciously and sadistically for purpose of causing pain. *Whitley v. Albers*, 475 U.S. 312, 320–21 (1986).
 - *Whitley* Factors
 - Extent of threat
 - Need for force
 - Extent of injury
 - Efforts to temper severity of response

8th Amendment: Failure to Protect

- Deliberate Indifference Standard:
 - Objective Prong:
 - Prison official must be aware of facts from which inference of a substantial risk could be drawn
 - Subjective Prong:
 - Must actually draw inference of substantial risk
- Known risk can relate to either assailant or victim

8th Amendment: Inadequate Medical Care

- Color of Law:
 - “states must provide medical care to those in custody. . . A state may not escape § 1983 liability by contracting out or delegating its obligation to provide medical care to inmates.” *Carl v. Muskegon County*, 763 F.3d 592, 595-98 (6th Cir. 2014).
- Applies to Correctional or Medical Staff
- Deliberate Indifference Standard
 - Much higher than medical malpractice/negligence
 - Dispute over type of medical care not 8th Amendment claim

8th Amendment: Inadequate Medical Care

- Deliberate Indifference Standard:
 - Objective Prong:
 - Knowledge of Serious Medical Need
 - Subjective Prong:
 - Prison staff “deliberately indifferent” to that need
 - Substantial delay or denial of care
- Examples:
 - Medical staff orders treatment; correctional staff fail to provide
 - Medical staff receive complaint and take no action

ADA: Inadequate Medical Care Analogous Claims

- Americans with Disabilities Act and Rehabilitation Act claims:
 - State agencies may be held liable under Title II of the ADA and Section 504 of the Rehabilitation Act for discrimination against state prisoners. *See United States v. Georgia*, 546 U.S. 151, 159 (2006); *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 20910 (1998).
- Plaintiff must show he/she was:
 - Qualified individual with a disability
 - Excluded from participation or denied benefits of services, programs, or activities
 - “by reason of his/her disability”

ADA: Inadequate Medical Care

- Failure to provide medical care or medical accommodations (bottom bunk, wheelchair, hearing devices, etc.) states a straightforward ADA claim
- Failure to provide a reasonable accommodation theory -
 - “due to the [plaintiff inmate]’s” disability, he/she, needs an individualized change to the [prison’s] facially neutral policies, practices or procedures if he/she is to effectively access some opportunity”; but
 - the prison unjustifiably failed to make that change.

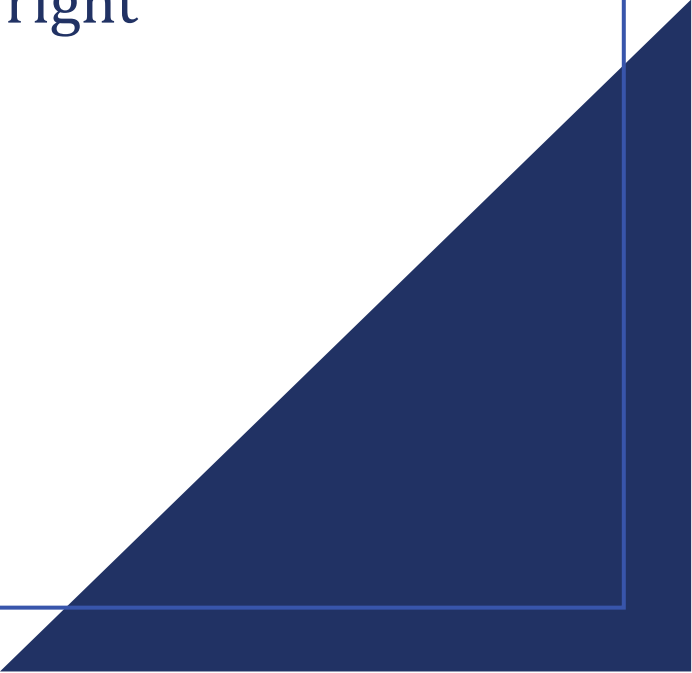
Religious Exercise: 1st Amendment

- First Amendment Rights
 - A prison regulation that restricts an inmate's 1st Amendment right is permissible if it relates to a legitimate penological interest put forward to justify it.
 - Do alternative means to exercise the religious right exist;
 - Impact that accommodating the religious right would have on prison resources;
 - Absence of alternatives to the prison reg.
- *Turner v. Safley*, 482 U.S. 78 (1987) (4 factor test)

Religious Exercise: RLUIPA

- Prohibits the imposition of a “substantial burden” on an inmate’s “religious exercise” unless prison officials can demonstrate that the imposition of such a burden:
 - is in furtherance of a compelling governmental interest; and
 - is the least restrictive means of furthering that compelling interest.

Other First Amendment Rights

- Right to petition government for redress of grievances
 - Prison officials may not retaliate for exercising this right
 - Right to marriage
 - Rights related to legal mail
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Due Process Claims

- Disciplinary Hearings
 - Minimal Due Process Standard – “some evidence”
- Pretrial Detainees
 - Entitled to a different standard for excessive force claims
 - “a pretrial detainee must show only that the force purposely or knowingly used against him was objectively unreasonable.” *Kingsley v. Hendrickson*, 576 U.S. 389, 396–97 (2015)
 - “pretrial detainees (unlike convicted prisoners) cannot be punished at all, much less ‘maliciously and sadistically.’” *Id.* at 400.

Questions? Contact Us

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