Session 3: Section 1983 Claims against Prisons and Other Government Actions

April 8, 2025

1. Introduction to Prisoner Cases

a. **Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997** (PLRA)

i. Types of claims
   1. 1983, RLUIPA, etc.

ii. Frivolous claims (3 strikes)
   1. Prevents a prisoner from proceeding without full prepayment of the filing fee if he has had three or more cases dismissed as frivolous, malicious, or stating no claim for which relief may be granted.

   2. Where can you find the 3 strikes - 28 USC § 1915(g) amended the *in forma pauperis* statute to provide:

      > "In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is *under imminent danger of serious physical injury*."

   3. Imminent danger exception must be at the time files suit in district court – not at the time of the alleged incident that is the basis for the lawsuit.

   4. The Eleventh Circuit Court of Appeals has interpreted this statute to mean that a prisoner who has had three or more cases dismissed as meritless must pay the full filing fee at the time he initiates his lawsuit. *See* *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002); *Vanderberg v. Donaldson*, 259 F.3d 1321, 1324 (11th Cir. 2001).

   5. 1st Circuit – no cases on 3 strikes (that we could find)

iii. Exhaustion
   1. "[T]he PLRA's exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes, and whether they allege excessive force or some other wrong." *Porter v. Nussle*, 534 U.S. 516, 532 (2002).

   2. Dependent on individual institution's policies

      a. Look to DOC's grievance procedures – RI DOC 13.10-5

3. Doesn't apply to medical complaints at ACI. That is because at this time medical complaints are not grievable matters. If a grievance or administrative process is instituted for medical issues – then it would be subject to PLRA exhaustion.

4. Be careful as to what is a medical complaint and what is grievable as prison life – can be a fine line in some instances.

iv. Physical Injury

1. "[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).

2. "Although the First Circuit has not elaborated on what constitutes a physical injury, other courts have held that the physical injury "must be more than de minimus but need not be significant." A de minimis injury is the kind of injury that would not require a free world person to visit an emergency room, or have a doctor attend to, give an opinion, diagnosis and/or medical treatment for the injury." *Skandha v. Savoie*, 811 F.Supp. 2d 535 (D.MA. August 2011).

3. Question about whether this applies to Constitutional violations (i.e. First Amendment/Due Process claims), but that has not been clearly articulated by Supreme Court.

   a. *See Ford v. Bender*, No. CIV.A. 07-11457-JGD, 2012 WL 262532, at *14 (D. Mass. Jan. 27, 2012), vacated as moot, 768 F.3d 15 (1st Cir. 2014) ("For the reasons detailed below, this court agrees that the deprivation of constitutional rights can constitute compensable injuries regardless whether there are claims for mental and emotional harm.")

v. Attorneys' Fees

1. Two options:
   a. Declaratory or Injunctive Relief:
      i. Entitled to reasonable fee for proving an actual violation or enforcing relief ordered; but,

      ii. attys' fees in prisoners litigation, including under RLUIPA, are capped under 42 U.S. Code § 1997e(d)(1) ("No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18 [law.cornell.edu] for payment of court-appointed counsel"**).**

   b. Where Monetary Relief Granted:
      i. a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's

fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant. § 1997e(d)(2). The United States Supreme Court has interpreted this provision to require a district court to award the first 25% of a prisoner's judgment towards the payment of his attorney's fees.

2. And 18 U.S. Code § 3006A states: "Any attorney appointed pursuant to this section, or the attorney's law firm, or a bar association or legal aid agency or community defender organization which has provided the appointed attorney shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not exceeding $60 per hour for time expended in court or before a United States magistrate judge and $40 per hour for time reasonably expended out of court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a United States magistrate judge and for time expended out of court. The Judicial Conference shall develop guidelines for determining the maximum hourly rates." And section (d)(2) seems to set max amounts compensable to attys (although admittedly all of this is a bit convoluted).

3. When looking at first circuit, CJA_1_3_25_Memo_Re_Rates.pdf [ca1.uscourts.gov] seems to set the current hourly rate at $175 per hour (although this is for criminal matters, I cannot find civil, but arguably it would be similar).

4. *Doe v. Mass DOC*, 2019 US Dist Lxi 112313 (July 8, 2019) held in a FN:
    a. Because Plt inmate Doe obtained partial relief under other statutes, including the Americans with Disabilities Act (ADA), the PLRA cap does not apply. *See Rodriguez v. Cty. of Los Angeles*, 891 F.3d 776, 808 (9th Cir. 2018) ("[T]he PLRA attorney's fees cap does not apply even to federal law claims for which attorney's fees *are* available under 42 U.S.C. § 1988, as long as those claims are brought under statutes with their own attorney's fee provisions") (emphasis in original); *Beckford v. Irvin*, 60 F. Supp. 2d 85, 88 (W.D.N.Y. 1999) ("The PLRA does not limit the award of attorney's fees to a prevailing plaintiff whose award is authorized under a statute separate from § 1988.").

vi. Cases –

1. *Sosa v Mass DOC*, 8- F.4th 15 (1st Cir. 2023)
As a civil action with respect to prison conditions for purposes of the Prison Litigation Reform Act (PLRA), 18 U.S.C.S. § 3626(g)(2), a pursuit of a preliminary injunction must also navigate the particular requirements for prospective relief established by that statute. The PLRA defines prospective relief broadly as all relief other than compensatory monetary damages. 18 U.S.C.S. § 3626(g)(7). Where a plaintiff in a prison-conditions case seeks prospective relief so defined,

the PLRA bars the allowance of the requested relief unless it is narrowly drawn, extends no further than necessary to correct the violation of the plaintiff's Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. 18 U.S.C.S. § 3626(a)(1)(A).

2. *Vidot v. RIDOC*, 2024 US Dist. Lexis 171067 (9/23/24) The PLRA provides that the court shall not enter a temporary restraining order or preliminary injunction unless it finds that the injunctive relief is "narrowly drawn, extend[s] no further than necessary to correct the harm the court finds requires preliminary relief, and [is] the least intrusive means necessary to correct that harm." 18 U.S.C. § 3626(a)(2). Further, the court considering an interim injunction "shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief."

vii. Does not apply to habeas petitions prosecuted in Fed Ct

b. Section 1983 Defendants

i. Suing the State

1. 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).

2. The same limitation applies with respect to § 1983 claims for damages — but not injunctive relief — against state officials named in their official capacities. *See Will*, 491 U.S. at 70-71, n. 10.

    a. Thus, can sue for injunctive relief against the State by suing individuals in their official capacities.

ii. Suing Individuals in Individual Capacities

1. In seeking monetary damages must sue individuals under Section 1983

2. Can often be the most challenging aspect of liability to identify and sue the correct individuals, such as correctional officers, nurses, doctors, supervisors, etc.

3. Can use Rhode Island John Doe Statute
    a. R.I. Gen. Laws § 9-5-20, Rhode Island's so-called "John Doe" statute, which provides: "[w]henever the name of any defendant or respondent is not known to the plaintiff, the summons and other process may issue against him or her by a fictitious name… and if duly served, it shall not be abated for that cause, but may be amended with or without terms as the court may order."

    b. "Rhode Island courts have held that the tolling provisions of § 9-5-20 apply only when the name of the 'John Doe' defendant is unknown to the plaintiff." *Longwolf v. Wall*, No. CV 17-00431-WES, 2018 WL 5085703, at *3 (D.R.I. Oct. 18, 2018), *report*

and recommendation adopted, No. CV 17-431 WES, 2019 WL 5677673 (D.R.I. Nov. 1, 2019) (citing *Sola v. Leighton*, 45 A.3d 502 (R.I. 2012)). U.S.D.C. for District of Rhode Island held that "a plaintiff must act with 'reasonable diligence' to determine the name of the 'John Doe' defendant." *Id.* (quoting *Delight W. v. Hill-Rom Co.*, No. K.C. 2003-0175, 2005 WL 2101413, at *4 (R.I. Super. Aug. 29, 2005).

c. Reasonable diligence is probably around 4-6 months, but it is fact specific.

2. Most Common Prison Claims:

a. 8th Amendment Cruel and Unusual Punishment

i. Cruel and Unusual Punishment

1. "Today the Eighth Amendment prohibits punishments which, although not physically barbarous, '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) (citations omitted).

2. "But conditions that cannot be said to be cruel and unusual under contemporary standards are not unconstitutional. To the extent that such conditions are restrictive and even harsh, they are part of the penalty that criminal offenders pay for their offenses against society." *Id.* at 347.

3. Prisoners must demonstrate "unquestioned and serious deprivations of basic human needs" to make out an 8th Amendment Violation. *Id.*

4. Supreme Court has identified following basic human needs:
   a. Food, clothing, shelter, medical care, reasonable safety, warmth, and exercise

5. Lower courts have also identified:
   a. sanitation, personal hygiene, and sleep

ii. Unconstitutional conditions

1. Deliberate Indifference Standard:
   a. 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).

2. Examples:
   a. Inadequate ventilation can violate 8th Amendment

   b. Failure to provide heat in winter

i. HOWEVER, many courts have denied 8th amendment violations in claims for failure to provide A/C in southern states

c. Excessive noise can inflict pain without penological purposes; but inmates are not entitled to a noise-free environment

d. Prisons must have functional plumbing services
   i. Inoperable plumbing can contribute to risk of waterborne diseases and vermin

   ii. Inmate allegation that for six full days he was confined in a pair of shockingly unsanitary cells, the first of which was covered nearly floor to ceiling in "massive amounts" of feces and the second of which was frigidly cold and equipped with only a clogged floor drain to dispose of bodily wastes, and was left to sleep naked in sewage, violated the Eighth Amendment's prohibition on cruel and unusual punishment. *Taylor v. Riojas*, 592 U.S. 7 (2020).

      1. BUT Supreme Court had to reverse 5th Circuit's grant of QI to officers

iii. Prolonged segregation

1. No longer occurs at the ACI, according to policy.

2. To emphasize that - in July 2023 Department issued revised policies on
   a. Inmate discipline

      i. Cap of 30 days in DCU

      ii. OOC – 2 hrs daily 1-15 days, 3 hrs 16-30

      iii. Behavioral health involvement.

   b. Conditions of Confinement

   c. Restorative Housing Program

      i. 3 Step Program

3. Morris v. Travisono, 310 F. Supp 857, 859 (D.R.I. 1970).
a putative class action[1] was filed on behalf of inmate Joseph Morris and similarly situated inmates alleging that the Department violated their constitutional rights through deficient classification and disciplinary processes and certain "qualities" of prison life.

[1] The class was certified by the Federal Court.

4. History succinctly recounted by U.S. District Court Judge John McConnell, Jr. in *Paiva v. R.I. Department of Corr*ections, 498 F. Supp 3d 277 (D.R.I. 2020).

5. Cases consolidated – in mediation

iv. Excessive force

1. Deliberate Indifference Standard – objective and subjective prongs

2. "The objective prong of this analysis requires an injured party to show that 'the alleged wrongdoing is objectively 'harmful enough' to establish a constitutional violation.'" *Segrain v. Duffy*, 118 F.4th 45, 56 (1st Cir. 2024).

    a. "The Supreme Court has made clear that it is the force used, and not the injury incurred, that is the focus of the objective prong analysis." *Id.*

3. The subjective prong of the Eighth Amendment excessive force analysis "turns on 'whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.' " *Whitley v. Albers*, 475 U.S. 312, 320–21 (1986).

    a. "Whitley factors," include:

        i. the extent of the threat to the safety of staff and inmates, as reasonably perceived by the responsible officials,

        ii. the need for the application of force,

        iii. the relationship between the need and the amount of force that was used,

        iv. the extent of the injury inflicted, and

        v. any efforts made to temper the severity of a forceful response.

v. Failure to protect

1. Prison officials have an obligation to take reasonable measures to protect inmates from assault by other inmates, including sexual assault

2. Deliberate Indifference Standard:

    a. Must show that prison official "[knew] of and disregard[ed] an excessive risk to inmate health and safety; the official must both be aware of facts from which the inference could be drawn that

a substantial risk of serious harm exists, and he must also draw the inference." *Farmer v. Brennan*, 511 U.S. at 837.

b. It is not enough to show that officer *should* have known about a risk

    i. *See Mendez v. Walker*, 110 F.Supp. 2d 209 (W.D.N.Y. 2000) (Court rejected argument that officer should have known of risk when inmate's previous assault was written in the logbook and officer should have read it)

c. Known risk can relate to either assailant or victim

    i. E.g. identifying an inmate who has assaulted other inmates before or has a particularly violate history (risk as assailant) vs. placing sex offender in an unsupervised holding cell (risk as victim)

vi. Inadequate medical care

1. Color of Law

    a. Whether medical provider is state employee or private contractor, generally they are considered liable under Section 1983

    b. "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).

2. Deliberate Indifference to Medical Needs:

    a. "[D]eliberate indifference to serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain, proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed. Regardless of how evidenced, deliberate indifference to a prisoner's serious illness or injury states a cause of action under § 1983."

        i. *Estelle v. Gamble*, 429 U.S. 97, 104–05 (1976) (internal citations omitted).

        ii. Quintessential case on deliberate indifference to medical needs.

    b. Deliberate Indifference Standard:

i. To make out a case under this standard "a plaintiff must satisfy both a subjective and objective inquiry." *Perry v. Roy*, 782 F.3d 73, 78 (1st Cir. 2015).

ii. "[T]o prove an Eighth Amendment violation, a prisoner must satisfy both of two prongs: (1) an objective prong that requires proof of a serious medical need, and (2) a subjective prong that mandates a showing of prison administrators' deliberate indifference to that need." *Kosilek v. Spencer*, 774 F.3d 63, 82 (1st Cir. 2014).

iii. A medical need is serious if it "has been diagnosed by a physician as mandating treatment" or "is so obvious that even a 5 lay person would easily recognize the necessity for a doctor's attention." *Kosilek*, 774 F.3d at 82.

3. Analogous Claims

a. Americans with Disabilities Act (ADA) and Rehabilitation Act

i. 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).

ii. Plaintiff must show he/she was:

1. a "qualified individual with a disability";

2. "excluded from participation in, or denied the benefits of a public entity's services and programs, or activities or was otherwise discriminated against"; and

3. This "exclusion, denial of benefits, or discrimination was by reason of his/her disability."

iii. Protects anyone with a disability, as defined by the Act, to have equal access to programs, activities, or services of prison, including medical care

iv. Failure to provide medical care or medical accommodations (bottom bunk, wheelchair, hearing devices, etc.) states a straightforward ADA claim

v. Failure to provide a reasonable accommodation theory -

1. "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

2. the prison unjustifiably failed to make that change.

vi. Whether a modification is reasonable is a fact specific inquiry, which "considers, among other factors, the effectiveness of the modification in light of the nature of the disability in question and the cost to that organization that would implement it."

vii. Not reasonable if would "result in a fundamental alteration of [the service provided by the public entity] or impose an undue burden."

viii. Circumstances of a prison are different than a school, office or factory. "[S]ecurity concerns …are highly relevant to determining the feasibility of the accommodations that disabled prisoners need in order to have access to desired programs and services."

ix. Prison officials are not required to perform the plaintiff inmate's specific requested accommodation so long as the accommodation that is provided is "reasonable."

x. Cases:
1. *Sosa v. Massachusetts Dep't of Corr.*, 80 F.4th 15 (1st Cir. 2023).
2. *Kiman v. New Hampshire Dep't of Corr.*, 451 F.3d 274, 284 (1st Cir. 2006)
3. *Melise v. Coyne-Fague*, 17-cv-490-MSM-PAS
4. *Feeney v. Mici*, 2021 U.S. Dist. Lexis, 266792, 2021 WL 11660406 (D. Mass. Jan. 22, 2021); *Feeney v. Mici*, No. CV 20-10425-PBS, 2022 WL 20439023 (D. Mass. Sept. 2, 2022)

xi. Not subject to PLRA attorneys' fees restrictions.

b. Religious Exercise

i. First Amendment Rights

1. 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.

2. Do alternative means to exercise the religious right exist;

3. Impact that accommodating the religious right would have on prison resources;

4. Absence of alternatives to the prison reg.

ii. Religious Land Use and Institutionalized Persons Act

1. 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:

    a. is in furtherance of a compelling governmental interest; and

    b. is the least restrictive means of furthering that compelling interest.

2. "Religious exercise" includes any exercise of religion, whether or not compelled by or central to a system of religious beliefs.

3. RLUIPA does not preclude a prison from inquiring into the sincerity of the inmate's professed religion

4. Once the Plaintiff inmate has established a prima facie case, the prison must demonstrate that the policy is the least restrictive means of serving a compelling government interest.

5. Courts have identified compelling government interests in a prison context – staff and prisoner safety, stopping the flow of contraband, maintaining order and discipline. A certain degree of discretion given to decisions of prison officials.

6. Examples of claims –

    a. Some prisons banned the growing of beards, types of worship, diets, different religions, headwear, etc.

7. No individual liability (different from 1983 cases)

8. No monetary damages – narrowly tailored injunctive relief.

9. *Cutter v. Wilkinson*, 544 U.S. 709 (2005) (court held that RLUIPA does not violate the Establishment Clause of the First Amendment, and does not elevate religious accommodation above safety and security concerns; it appropriately balances the interests, considering that Section 3 covers state-run institutions-mental hospitals, prisons, and the like-in which the government exerts a degree of control unparalleled in civilian society and severely disabling to private religious exercise)

10. *Wilson v. RIDOC*, CA No. 1:25-cv-00058, filed on February 13, 2025 (alleges that High Security Center has violated RLUIPA by preventing Muslim inmates from practicing Ramadan, engaging in communal prayer, accessing Imam, and violated Equal Protection by allowing Christian inmates to engage in such activities)

c. Other Governmental Actions

i. Other First Amendment Rights

1. *Turner v. Safley*, 482 U.S. 78 (1987) (established four factor test to evaluate whether prison regulations impermissibly impinge constitutional rights)

2. Right to petition government for redress of grievances:

    a. Prisoners "undoubtedly ha[ve] a First Amendment right 'to petition the government for the redress of grievances, and prison officials may not retaliate against prisoners for the exercise of that right.' " *Brown v. Corsini*, 657 F. Supp. 2d 296, 305 (D. Mass. 2009).

3. Legal Mail:

    a. "To state a claim upon which relief can be granted for interference with legal mail, an inmate must demonstrate that prison officials " 'regularly and unjustifiably interfered with [his] incoming legal mail,' " or, if the incidents of tampering are few, inmates must provide specific allegations of invidious intent or actual harm." *Davis v. Goord*, 320 F.3d 346, 351 (2d Cir. 2003) (citations omitted).

    b. *See Donovan v. Magnusson*, No. CIV. 04-102-B-W, 2005 WL 757585, at *1 (D. Me. Mar. 11, 2005) (concluding that inmate's First Amendment rights were violated but finding factual dispute over liability of supervisors).

ii. Due Process

1. Disciplinary Hearings
    a. Burden of proof in an inmate discipline hearing is very different standard than a criminal case (beyond a reasonable doubt) or civil case (preponderance of the evidence).
    b. Minimal due process standard:
        i. the discipline board/hearing officer's decision should be upheld if:
            1. "there is any evidence in the record that could support the conclusion reached;"
            2. "some evidence" standard may be satisfied with indirect or meager evidence, and that evidence may be susceptible to more than one logical interpretation;" and
            3. "The record is not so devoid of evidence that the findings of the discipline board[/hearing officer] were without support or otherwise arbitrary."
    c. *Wolff v. McDonnell*, 418 U.S. 539 (1974).

d. *Superintendent Massachusetts Correctional Institution v. Hill*, 472 US 445 (1985)
e. *Cipriano v. Fed. Bureau of Prisons*, C.A. No. 17–377-WES, 2017 U.S. Dist LEXIS 215112, 2017 WL 6942439 (D.R.I. Dec. 6, 2017) (M.J. Sullivan) ("I find that BOP's discipline procedures were consistent with the requirements of the Fifth Amendment's Due Process clause. Specifically, I find that: (1) Petitioner received advance written notice of the violation that was adequate for due process purposes; (2) Petitioner was afforded an opportunity to call witnesses and present evidence, but declined to do so; and (3) Petitioner was provided a detailed and specific written statement describing the evidence considered and the reasons for imposing discipline. Further, I find that the DHO decision was supported by considerably more than the constitutionally-required "some evidence," even if evidence to which he claims he was denied access is disregarded.").

2. Pretrial Detainees Subject to Different Standard for Excessive Force Claims

    a. "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)

    b. "the Due Process Clause protects a pretrial detainee from the use of excessive force that amounts to punishment." *Id.* at 397

    c. "pretrial detainees (unlike convicted prisoners) cannot be punished at all, much less 'maliciously and sadistically.'" *Id.* at 400.

iii. Equal Protection

1. Covered by Sonja Deyoe in Session II.