JAIL LEGAL ISSUES

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DUTY TO PROTECT
&
CONDITIONS OF CONFINEMENT

Personal Safety (Duty to Protect)
Food (Special Diets)
Clothing
Shelter (Ventilation, Lighting)
Sanitation - Hygiene
Safety
Exercise
Over Crowding
Medical Attention

STATE LAW

JAIL ADMINISTRATOR STATUTORY DUTIES

The jailer is charged with the following statutorily mandated duties:

(1) To receive and **safely keep** convicts on their way to the state or federal penitentiary;

T.C.A. §§ 41-4-104, 41-4-105

JAIL ADMINISTRATOR STATUTORY DUTIES

(2) To file and keep safe under the sheriff's direction the mittimus or process by which a prisoner is committed or discharged from jail;

T.C.A. § 41-4-106

JAIL ADMINISTRATOR STATUTORY DUTIES

(3) **To provide support** to the prisoners and to determine within his discretion what type of precautions to take for guarding against escape and to prevent the importation of drugs;

T.C.A. § 41-4-108

JAIL ADMINISTRATOR STATUTORY DUTIES

(4) **To furnish adequate food and bedding**;

T.C.A. § 41-4-109

See also Leach v. Shelby County Sheriff, 891 F.2d 1241, 1247 (6th Cir. 1989) (Tennessee law provides that the sheriff has a duty to provide adequate food and bedding, maintain cleanliness and provide toiletries and showers.)

JAIL ADMINISTRATOR STATUTORY DUTIES

(5) Enforce cleanliness in the jail, keep the jail clean, and remove all filth from each cell once every 24 hours;

T.C.A. § 41-4-111

JAIL ADMINISTRATOR STATUTORY DUTIES

(6) Furnish the necessary apparatus for shaving once a week and provide bathing facilities separate for males and females;

T.C.A. § 41-4-111

JAIL ADMINISTRATOR STATUTORY DUTIES

(7) Furnish hot and cold water, clean and sufficient bedding, and laundering once a week to those prisoners who are not able to provide such for themselves.

T.C.A. § 41-4-111

JAIL ADMINISTRATOR STATUTORY DUTIES

(8) Convey letters from prisoners to their counsel and others, and to admit persons having business with the prisoner.

T.C.A. § 41-4-114

JAIL ADMINISTRATOR STATUTORY DUTIES

A violation of any of the provisions of T.C.A. §§ 41-4-108 — 41-4-116, whether by the sheriff or by any person selected as jailer or guard by the sheriff, is a Class A misdemeanor.

T.C.A. § 41-4-117

CONSTITUTIONAL LAW

Eighth Amendment

Fourteenth Amendment

EIGHTH AMENDMENT
CRUEL & UNUSUAL PUNISHMENT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

14TH AMENDMENT DUE PROCESS CLAUSE

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.

Miller v. Calhoun County, 408 F.3d 803, 812-813 (6th Cir. 2005).

Although the Eighth Amendment's protections apply specifically to post-conviction inmates, the Due Process Clause of the Fourteenth Amendment operates to guarantee those same protections to pretrial detainees as well.

Where any person acting under color of state law abridges rights secured by the Constitution or United States laws, including a detainee's Eighth and Fourteenth Amendment rights, 42 U.S.C. § 1983 provides civil redress.

DESHANEY V. WINNEBAGO COUNTY DEPT. OF SOCIAL SERVICES

489 U.S. 189, 109 S.CT. 998, 103 L.ED.2D 249 (1989).

[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs - *e.g.,* food, clothing, shelter, medical care, and reasonable safety-it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.

Newman v. State of Alabama, 559 F.2d 283 (5th Cir. 1977).

"The Eighth Amendment to the Constitution of the United States, reinforced by the Fourteenth Amendment, prohibits the imposition of cruel and unusual punishment."

"It is much too late in the day for states and prison authorities to think that they may withhold from prisoners the basic necessities of life, which include **reasonably adequate food, clothing, shelter, sanitation, and necessary medical attention**."

Newman v. State of Alabama, 559 F.2d 283 (5th Cir. 1977).

"If the State furnishes its prisoners with **reasonably adequate food, clothing, shelter, sanitation, medical care, and personal safety**, so as to avoid the imposition of cruel and unusual punishment, that ends its obligations under Amendment Eight."

FARMER V. BRENNAN

511 U.S. 825, 114 S.CT. 1970, 128 L.ED.2D 811 (1994).

EIGHTH AMENDMENT

The Amendment also imposes duties on these officials, who must provide humane conditions of confinement; prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must "take reasonable measures to guarantee the safety of the inmates."

Antonelli v. Sheahan, 81 F.3d 1422 (7th Cir. 1996).

In order to violate the Eighth Amendment, the condition of confinement must be a denial of "basic human needs" or "the minimal civilized measure of life's necessities."

Butler v. Fletcher, 465 F.3d 340 (8th Cir. 2006).

Deliberate indifference is the appropriate standard of culpability for all claims that prison officials failed to provide pretrial detainees with adequate food, clothing, shelter, medical care, and reasonable safety.

Hooks v. Howard, 2010 WL 1235236 (N.D. N.Y. 2010).

A claim alleging that the plaintiff's conditions of confinement violate the Eighth Amendment must satisfy both an objective and subjective requirement - the conditions must be “sufficiently serious” from an objective point of view, and the plaintiff must demonstrate that prison officials acted subjectively with “deliberate indifference.”

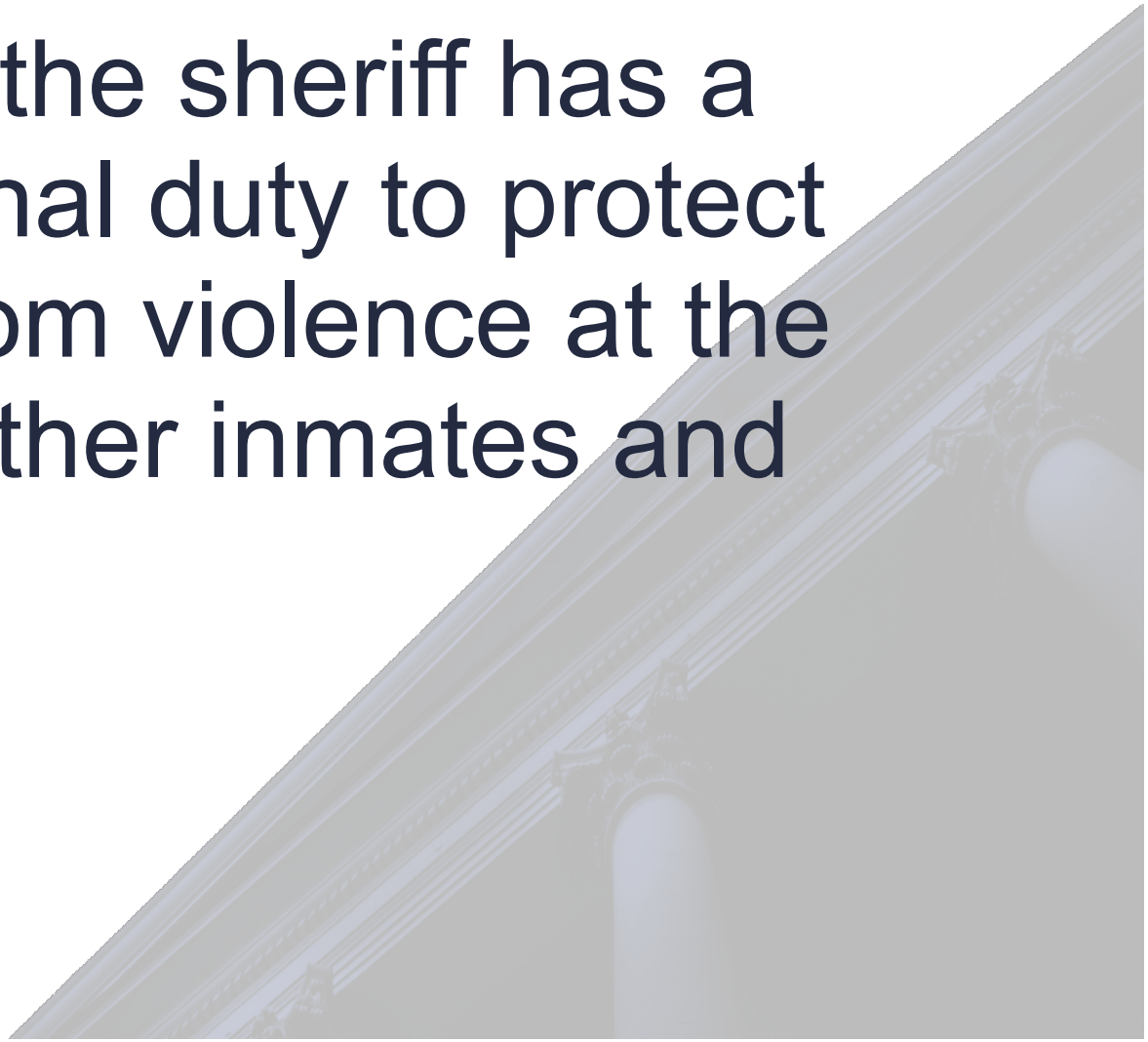
Duty to Protect

Duty to Protect

Under the common law the sheriff and his jailer have a duty to treat prisoners "kindly and humanely." *See State ex rel. Morris v. National Surety Co*., 39 S.W.2d 581 (Tenn. 1931); *Hale v. Johnston*, 203 S.W. 949 (Tenn. 1918).

Duty to Protect

Moreover, the sheriff has a constitutional duty to protect inmates from violence at the hands of other inmates and guards.



Duty to Protect

"[W]hen the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being."

DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189, 199-200, 109 S.Ct. 998, 1005, 103 L.Ed.2d 249 (1989).

FARMER V. BRENNAN,
511 U.S. 825, 114 S.CT. 1970, 128 L.ED.2D 811 (1994).

LANDMARK CASE

- Male inmate who had undergone estrogen therapy, breast implants and failed testicle removal surgery
- Housed in male correctional facility
- Dressed provocatively, smuggled in hormonal drugs
- Segregation 2 times, once for safety reasons
- Transferred for disciplinary reasons to federal prison and placed w/o objection in general population
- Alleges within 2 weeks he's raped and beaten

Farmer v. Brennan

While the United States Constitution "does not mandate comfortable prisons," neither does it permit inhumane ones, and it is now settled that "the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment."

In its prohibition of "cruel and unusual punishments," the Eighth Amendment places restraints on prison officials, who may not, for example, use excessive physical force against prisoners.

Farmer v. Brennan

Duty to Protect
Reasonable Measures

Under the Eighth Amendment's prohibition of "cruel and unusual punishments," prison officials must "take reasonable measures to guarantee the safety of the inmates."

Farmer v. Brennan

DUTY TO PROTECT

"[P]rison officials have a duty ... to protect prisoners from violence at the hands of other prisoners."

Having incarcerated "persons [with] demonstrated proclivit[ies] for antisocial criminal, and often violent, conduct," having stripped them of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials are not free to let the state of nature take its course.

Farmer v. Brennan

Gratuitous Violence

Prison conditions may be "restrictive and even harsh," but gratuitously allowing the beating or rape of one prisoner by another serves no "legitimate penological objectiv[e]," any more than it squares with "'evolving standards of decency.'"

Being violently assaulted in prison is simply not "part of the penalty that criminal offenders pay for their offenses against society."

Farmer v. Brennan

Not All Injuries Result In Liability

It is not, however, every injury suffered by one prisoner at the hands of another that translates into constitutional liability for prison officials responsible for the victim's safety.

Farmer v. Brennan

The Test
Basis for Constitutional Liability

A prison official violates the Eighth Amendment only when two requirements are met.

(1) Substantial Risk of Serious Harm (the prisoner suffered “sufficiently serious harm”); and

(2) Culpable State of Mind (correctional officials were “deliberately indifferent” to the safety of the inmate).

Farmer v. Brennan

The **objective component** of the test requires the existence of "a substantial risk of serious harm."

This objective requirement ensures that the deprivation is sufficiently serious to amount to a deprivation of constitutional dimension.

Farmer v. Brennan

The **subjective component**, by contrast, requires a showing that the prison official possessed "a sufficiently culpable state of mind." (deliberate indifference)

This subjective requirement ensures that "only the unnecessary and wanton infliction of pain implicates the Eighth Amendment."

Farmer v. Brennan

FIRST – Objective Test
Substantial Risk of Serious Harm

First, the deprivation alleged must be, objectively, "sufficiently serious," a prison official's act or omission must result in the denial of "the minimal civilized measure of life's necessities."

For a claim (like the one here) based on a failure to prevent harm, the inmate must show that he is incarcerated under conditions posing **a substantial risk of serious harm**.

Farmer v. Brennan

Objective Test – Examples

Serious Harm or Substantial Risk of Serious Harm

A prisoner can establish exposure to a sufficiently serious risk of harm "by showing that he belongs to an identifiable group of prisoners who are frequently singled out for violent attack by other inmates"

If, for example, prison officials were aware that inmate "rape was so common and uncontrolled that some potential victims dared not sleep [but] instead ... would leave their beds and spend the night clinging to the bars nearest the guards' station."

Farmer v. Brennan

Second – Subjective Test
Culpable State of Mind

The second requirement follows from the principle that "only the unnecessary and wanton infliction of pain implicates the Eighth Amendment."

To violate the Cruel and Unusual Punishments Clause, a prison official must have a "sufficiently culpable state of mind."

In prison-conditions cases that state of mind is one of "deliberate indifference" to inmate health or safety.

Farmer v. Brennan

Deliberate Indifference

Recklessly Disregarding Risk

While deliberate indifference entails something more than mere negligence, it is clear that it is satisfied by something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result.

It is, indeed, fair to say that acting or failing to act with deliberate indifference to a substantial risk of serious harm to a prisoner is the equivalent of **recklessly disregarding that risk**.

Farmer v. Brennan

Subjective Test – Knowledge

Knowingly or recklessly disregarded the substantial risk of serious harm by failing to take reasonable measures to abate the risk

- Aware of the risk from the facts, and
- Drew the inference that risk existed
- Action or inaction caused the harm

Farmer v. Brennan

Finding Liability

[A] prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an excessive risk to inmate health or 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

Failing to Take Reasonable Measures

[A] prison official may be held liable under the Eighth Amendment for denying humane conditions of confinement only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.

Farmer v. Brennan

Subjective Test - Knowledge

- Knew or drew inference of harm
- Knew or drew inference that actions or inactions would consciously disregard the harm
- Knowledge is a “Question of Fact”
- Circumstantial evidence is relevant
- Current conduct and attitude affects availability of Prospective Relief

Farmer v. Brennan

Circumstantial Evidence

Whether a prison official had the requisite knowledge of a substantial risk is a question of fact subject to demonstration in the usual ways, including inference from circumstantial evidence, and a factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.

Farmer v. Brennan

Circumstantial Evidence - Example

[I]f an Eighth Amendment plaintiff presents evidence showing that a substantial risk of inmate attacks was "longstanding, pervasive, well-documented, or expressly noted by prison officials in the past, and the circumstances suggest that the defendant-official being sued had been exposed to information concerning the risk and thus 'must have known' about it, then such evidence could be sufficient to permit a trier of fact to find that the defendant-official had actual knowledge of the risk."

Farmer v. Brennan

Current Conduct & Attitude

"[T]he subjective factor, deliberate indifference, should be determined in light of the prison authorities' current attitudes and conduct," their attitudes and conduct at the time suit is brought and persisting thereafter.

Farmer v. Brennan

Defenses to Liability

- Unaware of obvious risk
- Reasonable response (even if harm is not avoided)
- Current attitudes and conduct
- Rule 68 Offer of Judgment (settlement offer)

Farmer v. Brennan

Defenses to Liability

- **Unaware of obvious risk**
  - Prison officials who lacked knowledge of a risk cannot be said to have inflicted punishment.
  - However, the officials must prove that they were unaware even of an obvious risk to inmate health or safety.

Farmer v. Brennan

Defenses to Liability

- **Unaware of obvious risk**
  - "Prison officials might show that they did not know of the underlying facts indicating a sufficiently substantial danger and that they were therefore unaware of a danger, or
  - that they knew the underlying facts but believed (albeit unsoundly) that the risk to which the facts gave rise was insubstantial or nonexistent."

Farmer v. Brennan

Defenses to Liability

- **Reasonable response (even if harm is not avoided)**

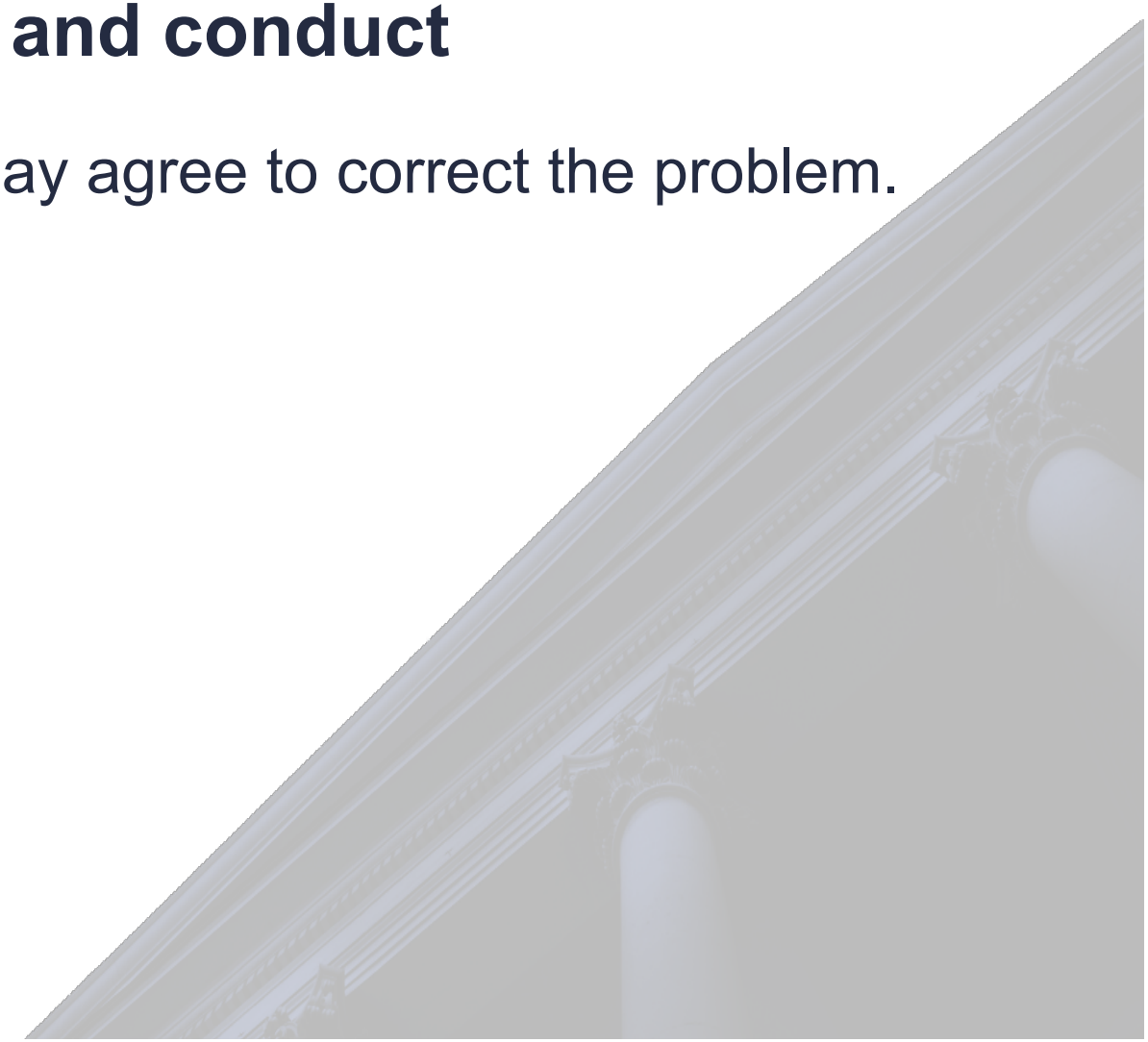
  - "In addition, prison officials who actually knew of a substantial risk to inmate health or safety may be found free from liability if they responded reasonably to the risk, even if the harm ultimately was not averted."

  - Whether one puts it in terms of duty or deliberate indifference, prison officials who act reasonably cannot be found liable under the Cruel and Unusual Punishments Clause.

Farmer v. Brennan

Defenses to Liability

- **Current attitude and conduct**
  - Prison officials may agree to correct the problem.



Conditions of Confinement

COURT CASES

Nutritionally Adequate Food

Keenan v. Hall,
83 F.3d 1083 (9th Cir. 1996).

Adequate food is a basic human need protected by the Eighth Amendment.

While prison food need not be “tasty or aesthetically pleasing,” it must be “adequate to maintain health.”

Nutritionally Adequate Food

Nicholson v. Choctaw County,
498 F.Supp. 295 (S.D. Ala. 1980).

The failure to properly prepare and serve nutritionally adequate food to inmates who are unable, due to their confinement, to seek alternative sources of nutrition can constitute a violation of the inmates' Eighth and Fourteenth Amendment rights.

Nutritionally Adequate Food

Leach v. Dufrain,
103 F.Supp.2d 542 (N.D. N.Y. 2000).

[A]llegations of Eighth Amendment violations requires Plaintiff to show that the food served to inmates is nutritionally inadequate, and that it is served under conditions that present an immediate danger to the health and well-being of those inmates.

Nutritionally Adequate Food

Adams v. Kincheloe, 743 F.Supp. 1393 (E.D. Wash. 1990).

Food served to inmates is deficient under constitutional standards, even when nutritionally complete, if it is prepared under conditions so unsanitary as to make it unwholesome and threat to health of those inmates who consume it.

Nutritionally Adequate Food

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

The state must provide an inmate with "nutritionally adequate food that is prepared and served under conditions which do not present an immediate danger to the health and well being of the inmates who consume it."

"[T]he state health code, while not establishing 'constitutional minima,' [are] relevant in making a finding regarding the constitutionality of existing conditions."

Nutritionally Adequate Food

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

- Unsanitary conditions in the kitchen.
- The physical plant is old, outdated, and poorly maintained.
- Kitchen equipment is in a state of disrepair.
- Rotting food remains on floors which are not readily cleanable due to their deteriorated condition.
- Sanitation deficiencies are compounded by a highly irregular and ineffective cleaning program.
- The floors, walls, windows, and food storage shelves throughout the food service area are soiled with dirt and rodent droppings.

Nutritionally Adequate Food

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

- The walls of the walk-in coolers where food is stored have mold growing on them.
- Floor fans used to circulate the air cause dust and lint to be blown over the food preparation and dishwashing areas.
- Rodent and insect infestation is extensive.
- Inmate workers are not given basic instruction on food protection and food service sanitation.
- Food items are stored on the floors of walk-in storage compartments and food is often left uncovered allowing the rodents and roaches to contaminate it.

Nutritionally Adequate Food

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

- Food products which can support food borne diseases are not properly stored and are often left out at room temperature.
- Food preparation surfaces and cooking equipment are not properly cleaned and therefore provide areas for significant bacterial growth.
- Food, when it is being served to inmates, is kept at substandard temperatures due to the improper use of the available equipment.
- The Colorado Department of Health found that substantial deficiencies existed in the food service facilities and refused to issue a Certificate of Inspection.

Nutritionally Adequate Food

Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

- Mr. Gordon, an expert in the field of environmental health, sanitation, and safety, concluded that "the food service represents imminent danger to the health and well-being of the inmates consuming food in that operation."

- The Court concluded that the record amply supported the district court's findings and conclusions that the conditions in the food service areas were unsanitary and "have a substantial and immediate detrimental impact upon the health of the inmate population."

Nutritionally Adequate Food

Antonelli v. Sheahan, 81 F.3d 1422 (7th Cir. 1996).

Inmate's allegations of rancid and nutritionally deficient food at jail were sufficient to state § 1983 claim.

Keenan v. Hall, 83 F.3d 1083 (9th Cir. 1996).

Inmate allegation that the food was "spoiled, tampered with, cold, raw, [and failed] to meet a balanced nutritional level," and that the water was "Blue/Green in Color and Foul Tasting," was sufficient to make his food and water claim a disputed issue of material fact not subject to summary judgment.

Nutritionally Adequate Food

Harrison v. Moketa/Motycka,
485 F.Supp.2d 652 (D. S.C. 2007).

[M]erely serving food cold does not present a serious risk of harm or an immediate danger to the health of an inmate. Plaintiff fails to establish that the potential harm of which he complains-the growth of bacteria on cold food-is inevitable, or even possible.

Specialized Diets

There are two instances when corrections officials must provide inmates with a specialized diet.

First, corrections officials must provide an inmate with a specialized diet when the inmate's medical condition requires one.

Second, corrections officials may be required by the 1st Amendment to honor an inmate's dietary restrictions due to the inmate's religious beliefs.

Specialized Diets – Medical Needs

Massey v. Hutto, 545 F.2d 45 (8th Cir. 1976).

Massey alleged that he suffered from bleeding ulcers for which he required medication and a special diet; that he had informed the prison authorities of this condition but had been denied the necessary medication and diet; and that he had been locked up for days at a time with no food he could eat.

The Court stated that the allegations contained in Massey's complaint, if proven, could give rise to a finding of deliberate indifference. The Court found that Massey's medical records did not provide a basis for characterizing his claim as reflecting a mere disagreement over proper medical treatment.

Specialized Diets – Medical Needs

Gerber v. Sweeney, 292 F.Supp.2d 700 (E.D. Pa. 2003).

When Gerber arrived at the prison, his blood pressure was found to be elevated and poorly controlled. As part of a treatment regimen, prison doctors prescribed Gerber a special diet. This diet required him to, among other things, drink three glasses of milk daily, consume copious amounts of liquids and have daily servings of juice.

While in the segregation unit of the prison, instead of being given milk and juice, Gerber was provided with milk and juice substitutes in the form of cheese and fruit. Gerber had unlimited access to water in his cell.

Specialized Diets – Medical Needs

The Court found that Gerber was not denied an adequate diet when cheese and fruit were substituted for milk and juice upon the advise of a dietitian. Gerber could not show that the substitutions were inadequate and thus could not show he suffered a "serious deprivation."

The food substitutions in the segregation unit menu were necessitated by a prison security measure and steps were taken by those trained and qualified to do so to ensure that the substitutions were of comparable nutritional and caloric content. Hence, no deliberate indifference.

The Court noted that Gerber's hypertension improved while he was in the segregation unit.

Gerber v. Sweeney, 292 F.Supp.2d 700 (E.D. Pa. 2003).

Specialized Diets – Religious Needs

Kahane v. Carlson, 527 F.2d 492 (2nd Cir. 1975).

Federal prison was required to provide Orthodox Jewish prisoner with diet sufficient to maintain prisoner in good health without violating Jewish dietary laws, but court would not mandate specific items of diet.

Specialized Diets – Religious Needs

Shaheed-Muhammad v. Dipaolo, 393 F.Supp.2d 80 (D. Mass. 2005).

Prison officials who provided prisoner with a pork-free diet but allegedly refused his request for the vegetarian diet purportedly required by his Muslim religion were not entitled to qualified immunity on prisoner's § 1983 claim for violation of his rights under the free exercise clause of the First Amendment.

It was well established at the time of the alleged deprivation that prisoners retain their First Amendment rights inside prison walls.

An objectively reasonable official would have known that he could not impinge on those rights unless his actions were reasonably related to legitimate penological interests.

Adequate Shelter

Grubbs v. Bradley,
552 F.Supp. 1052 (M.D. Tenn. 1982).

The Eighth Amendment requires states to furnish its inmates with reasonably sanitary conditions, reasonably adequate ventilation, hygienic materials, and utilities (i.e., hot and cold water, light, heat, plumbing).

Other courts have held that adequate shelter must include adequate provisions for fire safety.

Adequate Shelter

Grubbs v. Bradley,
552 F.Supp. 1052 (M.D. Tenn. 1982).

Constitutionally adequate housing is not denied simply by uncomfortable temperatures inside cells, unless it is shown that the situation endangers inmates' health.

Similarly, high levels of noise are not, without more, violations of the Eighth Amendment.

As noted by the Supreme Court in *Rhodes,* the Constitution simply does not require complete comfort.

Sanitary Conditions

Grubbs v. Bradley, 552 F.Supp. 1052 (M.D. Tenn. 1982).

The Eighth Amendment requires the maintenance of reasonably sanitary conditions in prisons, especially in the housing, food preparation and service areas.

In general, conditions must be sanitary enough so that inmates are not exposed to an unreasonable risk of disease.

Inmates must be furnished with materials to keep their cells clean and for the maintenance of personal hygiene.

Sanitary Conditions

Jones v. Stine, 843 F.Supp. 1186 (W.D. Mich. 1994)

"Where reasonably sanitary conditions are not maintained, an Eighth Amendment violation may be sustained."

Mere denial of cleanser and disinfectant found not to violate the Eighth Amendment where inmate had access to running water, a sponge and weekly access to a mop and duster.

Conditions of confinement are so deficient as to constitute cruel and unusual punishment only where an inmate is denied "the minimal civilized measure of life's necessities.

Hygiene

Brown v. Brown, 46 Fed.Appx. 324 (6th Cir. 2002).

Any inconvenience that prisoner suffered due to his inability to purchase personal hygiene and toiletry items for several months because of unlawful hold on his account did not demonstrate a condition of confinement that fell beneath the minimal civilized measure of life's necessities, and therefore did not violate Eighth Amendment.

Hygiene

Lunsford v. Bennett, 17 F.3d 1574 (7th Cir. 1994).

Delay in providing inmates with requested hygiene supplies for approximately a 24- hour period found not to violate the Eighth Amendment where the record contained no evidence indicating that inmates' cells were unusually dirty or unhealthy, or that health hazards existed.

Adequate Ventilation

Hoptowit v. Spellman,
753 F.2d 779 (9th Cir. 1985).

The lack of adequate ventilation and air flow can violate the minimum requirements of the Eighth Amendment if it undermines the health of inmates and the sanitation of the jail.

Board v. Farnham,
394 F.3d 469 (7th Cir. 2005).

While courts have recognized that a constitutional right to adequate ventilation exists, it does not assure the right to be free from all discomfort.

Adequate Ventilation

Gibson v. Ramsey,
2004 WL 407025, *7 (N.D. Ill. 2004).

"Inadequate ventilation, usually in combination with other factors, may give rise to an Eighth Amendment claim. **However, the problem must be extreme.**"

"Conditions such as poor ventilation, or dry air, do not fall below 'the minimal civilized measure of life's necessities,' absent medical or scientific proof that such conditions exposed a prisoner to diseases or respiratory problems which he would not otherwise have suffered."

Adequate Lighting

Hoptowit v. Spellman,
753 F.2d 779 (9th Cir. 1985).

"Adequate lighting is one of the fundamental attributes of 'adequate shelter' required by the Eighth Amendment."

Lighting at the penitentiary violated the Eighth Amendment where the evidence showed that the lighting was so poor that it was inadequate for reading and caused eyestrain and fatigue and hindered attempts to ensure that basic sanitation was maintained.

Adequate Lighting

Dawson v. Kendrick,
527 F.Supp. 1252 (S.D. W.Va. 1981).

"Inadequate lighting has been recognized in a variety of contexts as constituting cruel and unusual punishment violative of the Eighth Amendment when, in the absence of a valid governmental interest, it unnecessarily threatens the physical and mental well-being of prisoners."

Adequate Plumbing

Jones v. City and County of San Francisco, 976 F.Supp. 896 (N.D. Cal. 1997).

Such conditions as poor plumbing and sewage systems rise to the level of a constitutional violation where they appear "in such disrepair as to deprive inmates of basic elements of hygiene and seriously threaten their physical and mental well-being."

Adequate Plumbing

Dawson v. Kendrick,
527 F.Supp. 1252 (S.D. W.Va. 1981).

Finding antiquated, neglected and unsanitary state of the plumbing and the plumbing fixtures was both punitive and violative of the 14th Amendment rights of the pretrial detainees and the Eighth Amendment rights of the convicted inmates.

Further finding that conditions constituted a breach of county officials statutory duties under state law to keep the jail in a “clean, sanitary and healthful condition” and in “constant and adequate repair.”

Hot & Cold Running Water

Benjamin v. Fraser,
343 F.3d 35 (2d Cir. 2003).

Although some showers at city jails provided water that was either too hot or too cold, such plumbing problems were not sufficiently pervasive to amount to violation of pretrial detainees' due process rights.

Hot & Cold Running Water

White v. Nix, 7 F.3d 120 (8th Cir. 1993).

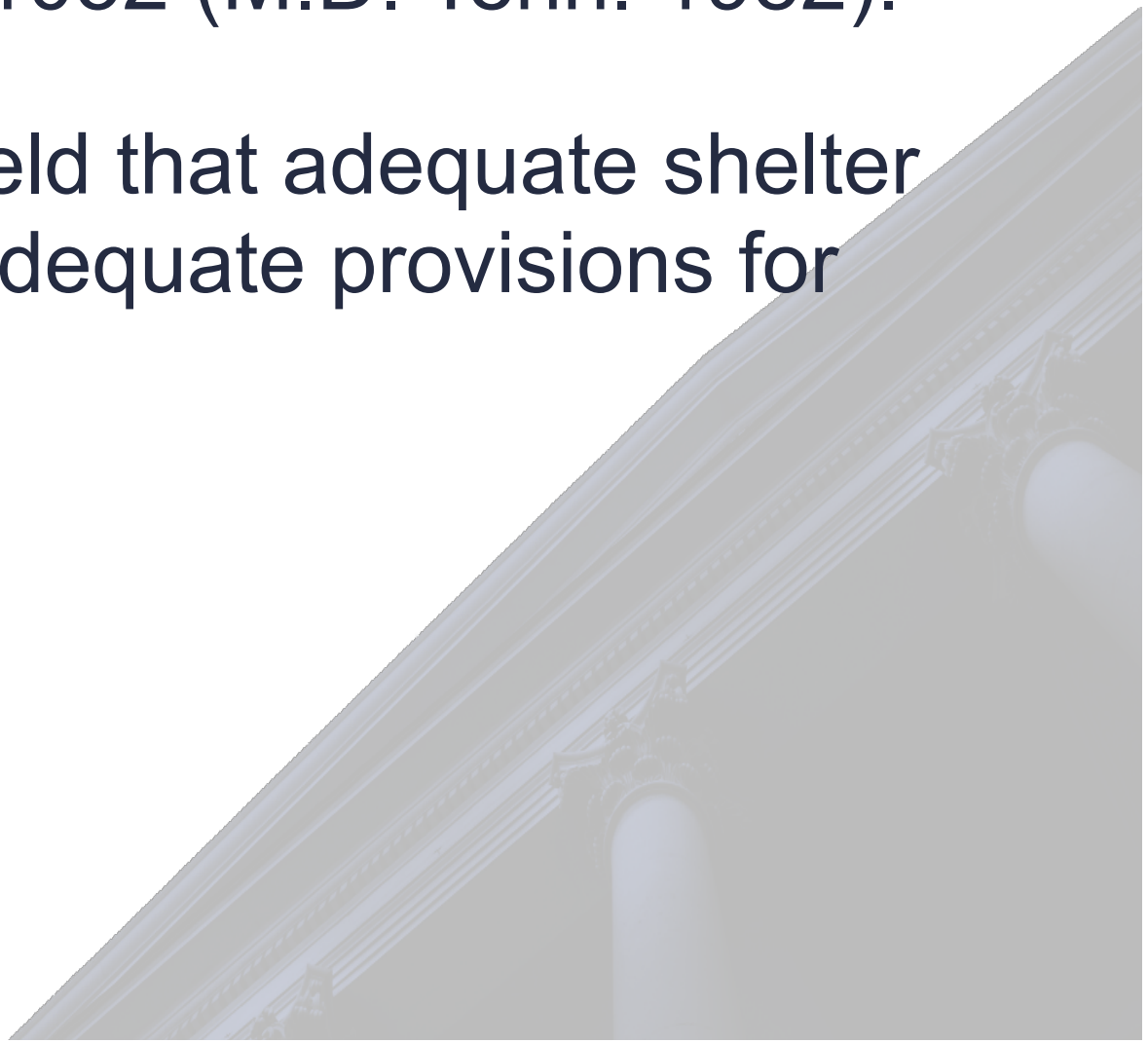
Confinement of state inmate in "screened" prison cell for 11 days when he was issued disciplinary notice was not cruel and unusual punishment so as to deprive inmate of his Eighth Amendment rights.

Cell was equipped with toilet, sink with hot and cold water, bed, and table, and was wired for cable television, although furniture was bolted to floor and screen wire mesh covered bars of cell.

Fire Safety

Grubbs v. Bradley,
552 F.Supp. 1052 (M.D. Tenn. 1982).

Courts have held that adequate shelter must include adequate provisions for fire safety.



Fire Safety

Jones v. City and County of San Francisco, 976 F.Supp. 896 (N.D. Cal. 1997).

Inmates “have the right not to be subjected to the unreasonable threat of injury or death by fire and need not wait until actual casualties occur in order to obtain relief from such conditions.”

Here the county failed to reasonably respond to fire safety risks in the jail. The Court held that the risks constituted punishment in violation of pretrial detainees’ 14th Amendment rights.

Fire Safety

Nicholson v. Choctaw County,
498 F.Supp. 295 (S.D. Ala. 1980).

County officials' failure to correct the fire safety violations as ordered by the state fire marshal violated inmates' Eighth and 14th Amendment rights.

Clothing

Chandler v. Baird, 926 F.2d 1057 (11th Cir. 1991).

The inmate was confined in a cell with no clothing except undershorts and with a plastic-covered mattress without bedding. The temperature in the cell was alleged to be as low as 60 degrees. The inmate contended that he sometimes slept huddled with a roommate, sleeping between two mattresses.

The prison officials said that the cell was controlled by the same thermostat that controlled areas of the prison occupied by nurses and no one else complained about the temperature. They acknowledged, however, that the other people in these areas were fully clothed.

The Court vacated a grant of summary judgment for the prison officials and sent the case back to the district court for trial.

Clothing

Maxwell v. Mason,
668 F.2d 361 (8th Cir. 1981).

Confinement in isolation without adequate clothing or bedding supports an Eighth Amendment claim: "clothing is a 'basic necessity of human existence.'"

Exercise

Gins v. South Louisiana Correctional Center, 2008 WL 4890884 (W.D. La. 2008).

Inmate complained that he was denied outdoor recreation during his 30-day confinement in lock-down.

Exercise is one of the "basic human needs" protected by the Eighth Amendment. Prisons should provide regular exercise opportunities because "[i]nmates require regular exercise to maintain reasonably good physical and psychological health."

An extended deprivation of exercise opportunities may violate an inmate's Eighth Amendment rights. Under the Eighth Amendment, prison officials must, at a minimum, provide an adequate opportunity for exercise-whether indoors or outdoors.

Exercise

Claims such as that advanced herein by the plaintiff must be evaluated on a case-by-case basis. In order to determine whether an inmate is being afforded an adequate opportunity to exercise, the court must generally consider a series of factors, including:

(1) the size of the inmate's cell;

(2) the amount of time the inmate spends locked in his cell each day, and

(3) the overall duration of his confinement.

Exercise

Here, plaintiff alleged no injury resulting from this relatively short period of time that he was denied outdoor exercise opportunities. **Since he alleged no injury resulting from This alleged deprivation of exercise, he failed to state a claim for which relief may be granted**.

Gins v. South Louisiana Correctional Center, 2008 WL 4890884 (W.D. La. 2008).

Exercise

Cammon v. Bell, 2008 WL 3980469 (S.D. Ohio 2008).

In this case, plaintiff's complaint fails to state a claim for relief under the Eighth Amendment. "[A] total or near-total deprivation of exercise or recreational opportunity, *without penological justification*, violates Eighth Amendment guarantees."

In evaluating denial of exercise claims under the Eighth Amendment, the Court considers factors such as size of the cell, opportunity for contact with other inmates, time per day expended outside the cell, justifications for denial of the right to exercise, physical or psychological injuries resulting from a lack of exercise, and a particularized need for exercise.

Exercise

Prisoners are not entitled to the same amount of exercise per day, nor is there an across-the-board constitutional minimum of daily exercise to avoid an Eighth Amendment violation.

Here, plaintiff was found guilty of encouraging other inmates to riot, resisting staff orders, and removing his handcuffs. His actions resulted in injury to prison staff.

Even if the recreation restriction exceeded the original punishment by twenty-four days, the overall restriction was justified to punish plaintiff's misconduct and to discourage further dangerous and inappropriate behavior on his part.

The safety of prison staff and other inmates is a legitimate penological purpose.

Exercise

This Court, as well as others, have upheld recreation restrictions imposed as a punishment under similar circumstances.

In addition, plaintiff does not allege he suffered any physical or psychological injuries as a result of the restriction, nor does he allege a particularized need for recreation. The complaint also indicates he had out-of-cell time at least once a day.

Considering the totality of the factors cited above, plaintiff's complaint fails to state a claim for relief under the Eighth Amendment.

Cammon v. Bell,
2008 WL 3980469 (S.D. Ohio 2008).

Overcrowding

Rhodes v. Chapman,
452 U.S. 337, 101 S.Ct. 2392 (1981).

Overcrowding is not a *per se* constitutional violation.

Wilson v. Seiter,
501 U.S. 294, 111 S.Ct. 2321 (1991).

A claim alleging that the "overall conditions" of confinement are inadequate cannot give rise to an Eighth Amendment violation when no specific deprivation of a single human need exists.

Overcrowding

Stevenson v. Whetsel, 52 Fed.Appx. 444 (10th Cir. 2002).

The county's placement of three pretrial detainees in a jail cell designed for two did not violate the detainee's due process rights.

The court held that the detainee could not recover damages for injuries allegedly sustained due to prison overcrowding absent a showing that the overcrowding resulted in the denial of the minimal civilized measure of life's necessities, or that prison officials were aware that overcrowding created excessive risks to inmate safety.

Overcrowding

Stevenson v. Whetsel, 52 Fed.Appx. 444 (10th Cir. 2002).

[O]vercrowding alone is not "sufficiently serious" to establish a constitutional violation.

Stevenson has not demonstrated that placing three inmates in a cell designed for two denied him the minimal civilized measure of life's necessities.

He has not alleged that the situation led to "deprivations of essential food, medical care, or sanitation."

Nor has he alleged facts allowing an inference that conditions rose to the level of "conditions posing a substantial risk of serious harm."

Conditions of Confinement

Middlebrook v. Tennessee,
2008 WL 2002521 (W.D. Tenn. 2008).

When addressing Eighth Amendment claims, courts must examine "all of the prison's conditions and circumstances, rather than isolated conditions and events."

In some circumstances, "the totality itself may amount to an eighth amendment violation, but there still must exist a specific condition on which to base the Eighth Amendment claim."

Conditions of Confinement

Middlebrook v. Tennessee,
2008 WL 2002521 (W.D. Tenn. 2008).

"Some conditions of confinement may establish an Eighth Amendment violation "in combination" when each would not do so alone, but only when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need such as food, warmth, or exercise....".

MEDICAL CARE

HEADLINES YOU DON'T WANT TO SEE

County Jail Sued Over Response to Stroke
SUIT ALLEGES JAILERS IGNORED INMATE, FAMILIES' PLEAS

Jail Medical Neglect Suit Cost $1.8 million

Some Nashville Inmates Sue Over Medical Care
They accuse provider of denying treatment

Disfigured as Prisoner, Man Accepts $300,000
Man contracted a flesh-eating bacteria

State OKs Settlements for Inmates with Hepatitis C

ESTELLE V. GAMBLE
1976

The Eighth Amendment's proscription of the failure to provide medical care to prisoners was delineated by the United States Supreme Court in *Estelle v. Gamble,* 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976), as follows:

An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met.

In the worst cases, such a failure may actually produce physical “torture or a lingering death,” the evils of most immediate concern to the drafters of the Amendment.

In less serious cases, denial of medical care may result in pain and suffering which no one suggests would serve any penological purpose.

ESTELLE V. GAMBLE

The infliction of such unnecessary suffering is inconsistent with contemporary standards of decency as manifested in modern legislation codifying the common-law view that "(i)t is but just that **the public be required to care for the prisoner, who cannot by reason of the deprivation of his liberty, care for himself**."

Deliberate Indifference

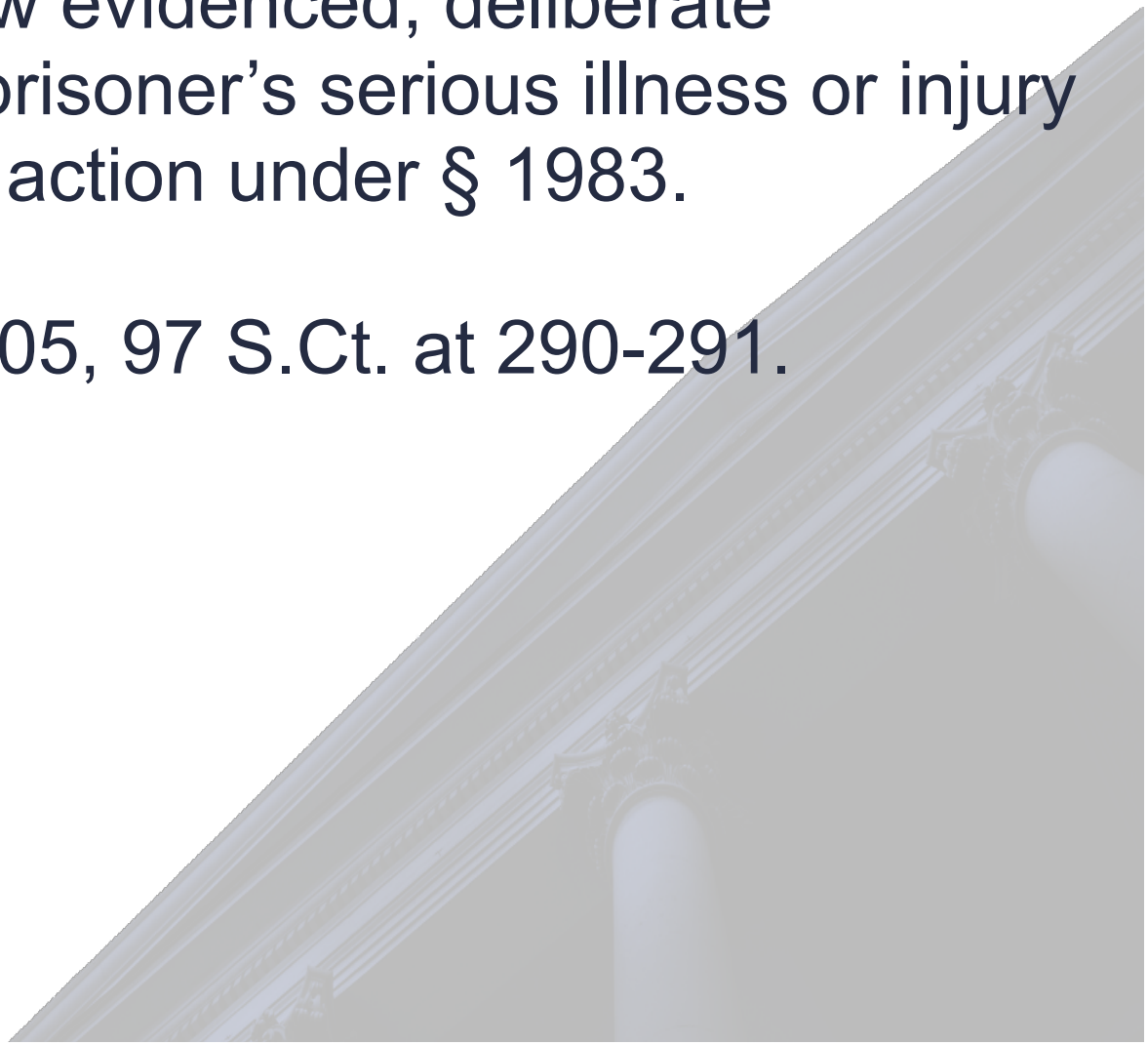
“Deliberate indifference” by prison officials to an inmate's serious medical needs constitutes “unnecessary and wanton infliction of pain” in violation of the Eight Amendment's prohibition against cruel and unusual punishment.

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.

ESTELLE V. GAMBLE

Regardless of how evidenced, deliberate indifference to a prisoner's serious illness or injury states a cause of action under § 1983.

Estelle at 103-105, 97 S.Ct. at 290-291.



ESTELLE V. GAMBLE

Conditions for Liability

* Serious medical need exists

* Defendant had knowledge of the need

* Defendant deliberately or intentionally acted or refused to act

* Defendant's conduct caused harm

Newman v. State of Alabama,
559 F.2d 283, 286, 291 (5th Cir. 1977)

"It is much too late in the day for states and prison authorities to think that they may withhold from prisoners the basic necessities of life, which include reasonably adequate food, clothing, shelter, sanitation, and **necessary medical attention**."

FARMER V. BRENNAN

511 U.S. 825, 114 S.CT. 1970, 128 L.ED.2D 811 (1994)

DELIBERATE INDIFFERENCE THE STANDARD

The Supreme Court has adopted a mixed objective and subjective standard for ascertaining the existence of deliberate indifference in the context of the Eighth Amendment:

FARMER V. BRENNAN

[A] prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an excessive risk to inmate health or 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

The **objective component** of the test requires the existence of a "sufficiently serious" medical need.

The **subjective component**, by contrast, requires a showing that the prison official possessed "a sufficiently culpable state of mind in denying medical care."

FARMER V. BRENNAN

Deliberate indifference requires a degree of culpability greater than mere negligence, but less than "acts or omissions for the very purpose of causing harm or with knowledge that harm will result."

The Objective Component
Sufficiently Serious Medical Need

Obvious to a lay person

or

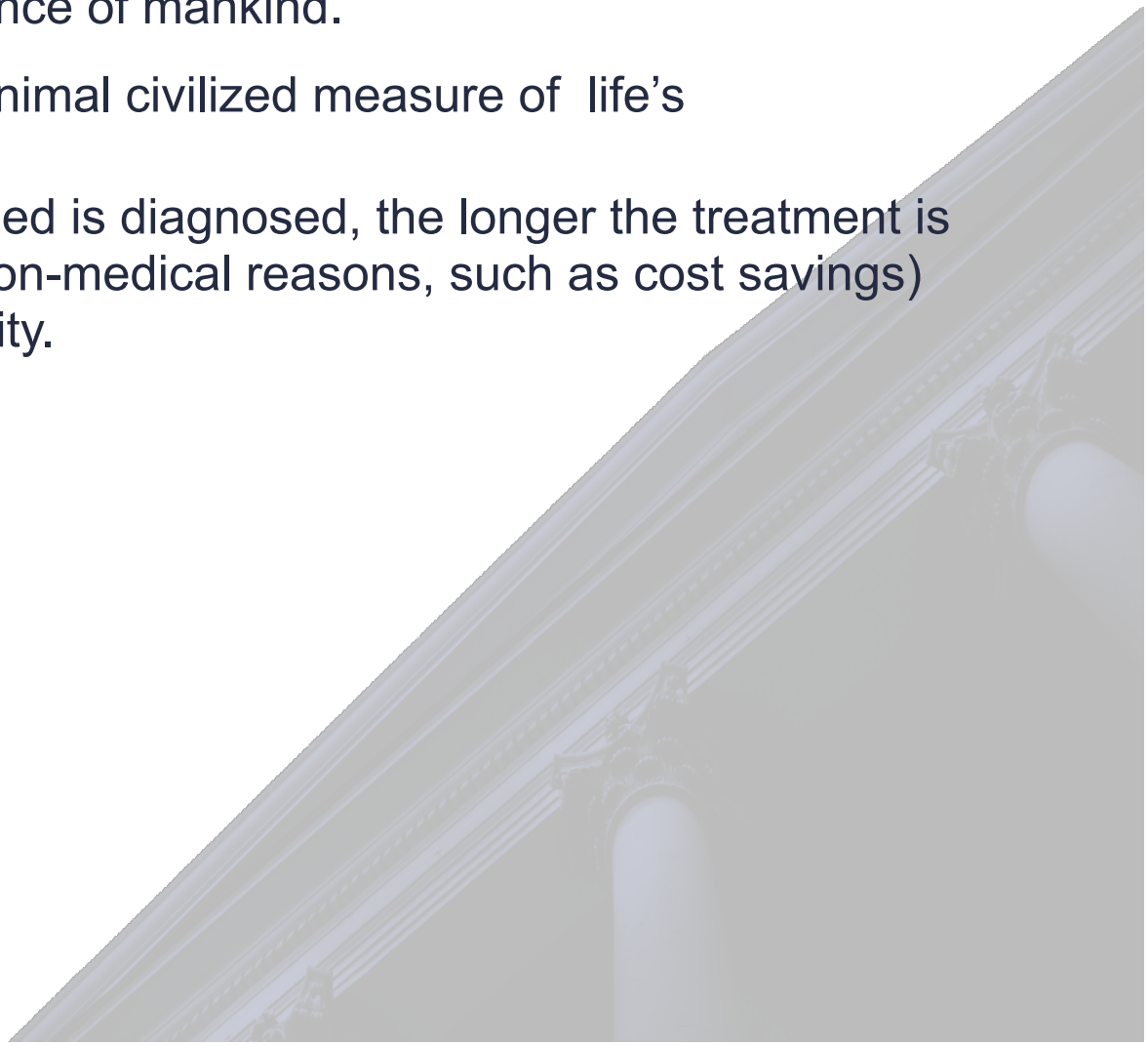
Diagnosed by a doctor

The Objective Component
Sufficiently Serious Medical Need

- "I know it when I see it."
- Urgency
- Extreme pain
- Potential for death
- Degeneration (a process by which a tissue deteriorates)

The Objective Component Sufficiently Serious Medical Need

- "Repugnant to the conscience of mankind."
- "Deprive inmates of the minimal civilized measure of life's necessities."
- Once a serious medical need is diagnosed, the longer the treatment is postponed (especially for non-medical reasons, such as cost savings) the greater the risk for liability.



The Subjective Component
Knowledge

- Knew or drew inference of need
- Knew or drew inference that actions or inactions would consciously disregard need
- Knowledge is a “Question of Fact”
- Circumstantial evidence is relevant
- **ACTION or INACTION CAUSED HARM**

Eighth Amendment Applicable to the States

"The right to adequate medical care is guaranteed to convicted federal prisoners by the Cruel and Unusual Punishment Clause of the Eighth Amendment, and is made applicable to convicted state prisoners and to pretrial detainees (both federal and state) by the Due Process Clause of the Fourteenth Amendment."

Johnson v. Karnes, 398 F.3d 868, 873 (6th Cir. 2005).

Cognizable Claim

"Medical malpractice does not become a constitutional violation merely because the victim is a prisoner."

"In order to state a cognizable claim, a prisoner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs."

Estelle, 429 U.S. at 106, 97 S.Ct. at 292.

Cognizable Claim

A plaintiff must prove “objectively that he was exposed to a substantial risk of serious harm," and that "jail officials acted or failed to act with deliberate indifference to that risk,” which requires actual knowledge and deliberate disregard.

Victoria W. v. Larpenter, 369 F.3d 475, 483 (5th Cir. 2004) (citation omitted).

Defenses to Liability

"Mere negligence, mistake or difference of medical opinion in the provision of medical care to prisoners do not rise to an Eighth Amendment deprivation under the *Estelle standard."*

Dawson v. Kendrick, 527 F.Supp. 1252, 1306 (D.C. W.Va. 1981).

Defenses to Liability

Officials are “entitled to rely on the professional judgment of trained medical personnel with regards to a prisoner's medical history and the need for medical care.”

Miltier v. Beorn, 896 F.2d 848, 854-855 (4th Cir. 1990).

Defenses to Liability

Where the necessity for treatment would not be obvious to a lay person, the medical judgment of a physician, even if grossly negligent, is not subject to second-guessing in the guise of an Eighth Amendment claim for deliberate indifference to an inmate's serious medical needs.

Mata v. Saiz, 427 F.3d 745 (10th Cir. 2005).

Defenses to Liability

"A prisoner's difference of opinion with prison physicians regarding the type of treatment he should receive does not rise to the level of a constitutional violation."

Rauh v. Ward, 112 Fed.Appx. 692, 695 (10th Cir. 2004).

What Inmates Are Not Entitled To

Inmates are not entitled to “unqualified access to health care.”

Hudson v. McMillan, 503 U.S. 1, 9, 112 S.Ct. 995, 1000, 117 L.Ed.2d 156 (1992).

Nor are they entitled to a medical program that caters to their every whim.

Meadows v. Woods, 1994 WL 267957, *2 (W.D. Tenn. 1994).

What Inmates Are Not Entitled To

"Although the Constitution does require that prisoners be provided with a certain minimum level of medical treatment, it does not guarantee to a prisoner the treatment of his choice."

Jackson v. Fair, 846 F.2d 811, 817 (1st Cir.1988).

What Inmates Are Not Entitled To

"The right to treatment is ... limited to that which may be provided upon a reasonable cost and time basis and the essential test is one of medical necessity and not simply that which may be considered merely desirable."

Bowring v. Godwin, 551 F.2d 44, 47-48 (4th Cir. 1977).

What Inmates Are Not Entitled To

"The Constitution does not command that inmates be given the kind of medical attention that judges would wish to have for themselves....”

Dean v. Coughlin, 804 F.2d 207, 215 (2d Cir.1986).

Standard of Care

Under the Eighth Amendment, the standard of care for inmates does not include the most sophisticated care that money can buy, but only that which is reasonably appropriate within modern and prudent professional standards in the field of medicine and health.

Feliciano v. Gonzalez, 13 F.Supp.2d 151, 208 (D.C. P.R. 1998).

Caveat

Budgetary constraints do not justify the intentional withholding of necessary medical care.

Jones v. Johnson, 781 F.2d 769, 770-72 (9th Cir. 1986).