

MODEL OUTLINE

Xenophanes v. Hospital/Dr. Vectrove

Jurisdiction - Columbia

Clients - X

NB=50% each

Motion For Summary Judgment - Violation of Religious Freedom Rights-X v. Dr & Hospital

- Dr V & hospital personnel violated X's religious freedom rights
- X = an inmate convicted of forgery under his 'birth' name BH
- X converted while in prison to the oracle of Delor
- One tenant is that plaintiff must adopt a single Greek name, discarding forever any other non-religious name
- X means "all things are arisen from earth & water"
- *- X is now his official "religious name" & has been added to his "birth name" on all prison records making it his "official" name
- X's religious beliefs are legit & his cult is legit estab.
- X had recurring back pain & was taken to the hospital for Dx
- *- Because his previous medical records were under his birth name, H staff insisted he wear an I.D. bracelet with birth name "BH"
- *- X refused/to do so violates religious principals/ he was denied Tx

Complaint

- See facts supra - no material issue of dispute
- D & H not help because wouldn't put on bracelet with old name
- Plaintiff explained religious belief to Drs & told them CCC had accepted plaintiff as X & had added this name to his file
- Dr V said X must wear bracelet with both names
- Plaintiff pleaded that that would be blasphemy
- *- Rejected plea for free independent religious choice to worship God
- X should be treated the same as others who change their names, i.e., married, divorced, etc.
- *- Can't do what God forbids

GOOD

Ali v. Dixon (1990)

R-When a prison regulation infringes on an inmate's constitutional rights, the regulation is valid in the considered jdmt of prison admin if it is rea related to a legitimate penological interest

A-Factors

1. Valid rational connection between the regulation & a legit gov't interest put forth to justify it
 2. Alt means of exercising the claimed rights that remain open to inmate
 3. Impact accommodation of the right will have on guards & other inmates & on allocation of resources generally
 4. Absence of ready alternatives to prison admin is evidence of the reasonableness of a prison regulation
- "Administrative nightmare" insufficient

BAD

Sosebee v. Murphy (1986)

R-SJ is to be rendered when there is no genuine issue as to any material fact & the moving party is entitled to a jdmt as a matter of law

A-Here, a dispute as to medical condition. Deliberate indifference states a cause of action

Closing Argument: Format page 4
8th Amendment Violation - X v. Warden

- Charges Warden with "cruel & unusual punishment" for denying access to out-of-cell Px exercise for several months
- Seeks order requiring access 3x per week one hr per day
- CCC respond that administration & other reasons justify keeping X in his cell during this period

*See Transcript - X's Testimony

- *- X has been assigned to AS at his request in an attempt to protect him from poss Px attack from other inmates
- X in AS for 8 months/incarcerated 4 years
- *- Before AS, X exercised everyday at least 1 hour per day
- It made him feel good, alive, back getting better/felt like a human being
- Other inmates followed some program
- *- With AS, almost no Px at all/hardly ever out of our cell
- Only outdoors 1x week in last 6 months/no indoor recreation
- *- Few chances to play ball, lift weights/has reduced back condition/has HA/stiff muscles/getting flabby/flu symptoms/terrible shape/more back trouble/can't do exercise recommended by Dr.
- *- Always depressed/feeling defeated getting more disciplinary infractions
- Have filed many grievances/all turned down

Cross

- X c/o back pain for 6 or 8 months in AS(on days when no back pain, could have exercised if available)
- Was given crutches/ordered to bed rest
- In April, X offered opportunity to return to general population/refused because of threats/good as dead if returned

GOOD

Rule 39C

R- Advisory jury has same effect on trial as if by jury

Hall v. Williams (1992)

Two part test for 8th amendment claim

R1-Objective - Was deprivation sufficiently serious?

R2-Subjective - Were the prison officials deliberately indifferent to the conditions?

A1-Objective - Exercise is an identifiable human need. Prisoners have a constitutional right to it. Look to totality of circumstances. Duration of deprivation is an essential element

A2-Subjective – Intent. Need proof of deliberate indifference by prison officials to the plaintiff's basic need for regular exercise, i.e., where prison officials were aware of the objectively cruel conditions & failed to remedy them. Long duration of condition=establish knowledge & intent. Retaliation?

Mitchell V. Rice (1989)

R-Complete deprivation of exercise for an extended period of time violates the 8th Amendment except where circumstances based on totality of circumstances.

A-Totality of circumstances include:

1. overall duration of incarceration,
2. length of time prisoners are locked in cell,
3. practical opportunities for prison to provide increased exercise opportunities.

Unusual circumstances:

1. disciplinary needs,
2. no other feasible exercise arrangements,
3. mere assertion of necessity by guards insufficient

BAD

Affidavit of Dr. Y

- X refused to wear bracelet because it would be blasphemy to be identified by any other name but X
- *- Dr told X that hospital enforced Insurance Co. regulations by requiring patients to wear ID bracelets
- Prison accepted name but hospital had its own rules
- *- Dr V asked the hospital committee to waive the bracelet rule/denied because plaintiff had multiple dept records under BH name/advised plaintiff/plaintiff continued to refuse
- Reason for rule: To reduce risk that hospital Tx him inappropriately because of record confusion of difference in finding records
- *- To alter name on records creates substantial risk loss of information, life threatening/increases cost, dangerous, expensive precedent
- Name substitution costs 87 hours when H is having deep cuts

Warden

- Repeat that X in AS to protect him
- *- Confirms that inmates in AS are to have outside exercise opportunity 3 days per week/1 hour per day unless circumstances prohibiting activity such as weather, insufficient personnel/prison disturbance/lockdown, etc.
- *- Admits general population has almost 2x exercise opportunities due to staffing needs & resources
- AS requires more staff for security reasons so decreased Pt opportunity
- *-Warden has no personal knowledge that AS exercise regulations have been followed
- Warden says its had 3x per week except if exceptions supra
- AS cell smaller than others 9' x 71/2' with a bunk, wash sink & toilet
- AS can't use gym for security reasons

M. Braggi - AS Correctional Officer

- 15 years at prison
- Confirms rules AS 3x week, 1 hour except where circumstances interfere supra
- *-No knowledge that exercise period cancelled for any other reason
- Says PE done 3x week unless exception exists

Repeat - Exceptions=inclimate weather

- *-staff shortage-sickness, doing reports

1st/15th

- disturbances including lockdowns
- *- Cancelled to punish because plaintiff annoyed or irritated guard? No!
- *- Staff take off I 7 sick days a year/3-4 guards per shift
- 6-10 days PE cancelled due to shortage in last 6 months
- 6 or so days cancelled due to weather
- 9 days cancelled for disturbance
- No records 10 show more than 1x per week for last 6 months/says based on experience, must be more