

PSWH Secures Appellate Victory in Federal Civil Rights Action on Behalf of Delaware Inmate

RELATED ATTORNEYS

Brendan M. Walsh

News
8.25.16

In a precedential opinion issued August 17, 2016, the U.S. Court of Appeals for the Third Circuit held that a correctional facility's blanket strip search policy for inmates housed in isolation cells, which required all such inmates to be strip searched three times per day, was unconstitutional. The Third Circuit's decision should effectively end the practice and may open the door for further civil rights litigation by other inmates subjected to the policy.

Donald D. Parkell, an inmate at James T. Vaughn Correctional Center ("JTVCC") in Smyrna, Delaware, filed a civil rights action on May 17, 2010 in the United States District Court for the District of Delaware. Among other things, Mr. Parkell's suit challenged the policy at JTVCC that required all inmates in isolation to be subjected to a visual body cavity search three times per day, regardless of whether the inmates left their cells or had any human contact between searches. Mr. Parkell also alleged that the conditions of his confinement and the response to his medical needs following a fall and shoulder surgery were constitutionally deficient. Mr. Parkell represented himself before the District Court, and the District Court granted summary judgment to all defendants in February 2014. Mr. Parkell filed a notice of appeal shortly thereafter.

In February 2015, the Third Circuit appointed Brendan M. Walsh of Pashman Stein Walder Hayden, P.C. as counsel to represent Mr. Parkell on appeal. Following the submission of appellate briefs, Mr. Walsh and Suzanne M. Bradley argued the appeal in January 2016. In its precedential decision, the Court held that the prison's strip search policy was unconstitutional, finding that

. . . the particular search policy enforced in C-Building is not reasonably related to VCC's legitimate interests in detecting and deterring contraband, particularly given the significant intrusiveness of the thrice-daily visual body-cavity searches. The State Defendants are unable to articulate a single plausible theory as to how inmates in isolation in C-Building would have thrice-daily opportunities to smuggle in contraband from outside their cells or use unsupervised time in their locked cells to transform a harmless object into something dangerous. And we cannot imagine a plausible scenario ourselves. . . . When dangerous inmates are completely isolated in C-Building, it is the isolation that prevents the smuggling of contraband. Thrice-daily bodily searches have little, if any, value in that context unless the period of complete isolation has somehow been interrupted. . . . [T]he probability is vanishingly small that an inmate locked in a stripped-down isolation cell in C-Building, once searched, could then obtain contraband during a subsequent eight-hour period involving no human contact. As such, the intrusive thrice-daily searches are not a reasonable means of advancing VCC's legitimate interest in detecting and deterring contraband. . . . VCC's search policy sweeps too broadly with insufficient justification. VCC's security interests are not reasonably advanced by a blanket policy of frequently and intrusively searching inmates who have previously been thoroughly searched and held in a stripped-down isolation cell without human contact ever since.

Notwithstanding its decision that the prison's policy violated Mr. Parkell's Fourth Amendment rights, the Court affirmed the dismissal of Mr. Parkell's claims for money damages relating to the search policy, holding that he had failed to marshal sufficient evidence that the defendants he named in the lawsuit had sufficient personal involvement in the establishment of the policy, practice, or custom in C-Building. However, the Court explained that the lack of evidence showing personal involvement by the named defendants in past constitutional violations did not necessarily preclude Mr. Parkell from obtaining an injunction prohibiting prison officials from continuing the practice even though he is now housed in a different unit within JTVCC. To that end, the Court remanded to the district court for further factual development on whether the issue remains live under the capable-of-repetition exception to mootness. Additionally, the Court affirmed the district court's dismissal of Mr. Parkell's Eighth Amendment claims relating to conditions of confinement and medical needs, finding insufficient evidence to satisfy the "deliberate indifference" standard for those claims.

Regardless of whether the district court enters an injunction in Mr. Parkell's case regarding the strip search policy, the Third Circuit's strong language should effectively end the practice. The decision also opens the door for claims for money damages by other prisoners who were subjected to these unconstitutional searches. Mr. Walsh and Ms. Bradley are currently working to secure counsel admitted in the District of Delaware to represent Mr. Parkell upon remand to the district court.

Related news coverage:

<http://www.delawarelawweekly.com/home/id=1202765558625/Third-Circuit-Rules-Prisoner-Body-Cavity-Searches-Excessive-and-Unconstitutional?mcode=1202617074375&curindex=0&slreturn=20160724084932>

<http://www.delawareonline.com/story/news/2016/08/19/delaware-inmate-challenges-body-cavity-searches/88998724/>