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United States v. Wyandotte County Jail
Prisons and Prisoners' Rights

Attached are briefs of cases which contain law which is relative to the areas of prisons and prisoners' rights. They cover the following areas:

1. obligations on part of the prison authorities to provide for the safety and health of the prisoners;

2. some of the constitutional rights of the prisoners and the source of these rights;

(a) first amendment right of freedom of religion;

(b) expansion of the writ of habeas corpus.

Additional cases involving the writ of habeas corpus (and the Eighth Amendment) will be forwarded to you by mail. We will also research cases involving 18 U.S.C. 242 of the Civil Rights Act of 1964, a criminal section which deals with agents of the state.

A brief narrative concerning the selected cases will be mailed along with the Eighth Amendment cases.

cc: ✓Records
Chrono
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Inv. File (Rm. 1619)

OBLIGATIONS OF PRISON AUTHORITIES

Kusah v. McCorkle, 100 Wash. 318, 170 P 1023 (1918)

Facts:

While the plaintiff was lawfully incarcerated in the Thurston county jail in the State of Washington, he was attacked, cut, and stabbed with a knife by an insane inmate who was then confined to the same cell with the plaintiff. When the insane inmate was taken into custody he was not searched. He was placed in jail with the plaintiff and several other prisoners. A fight broke out and the plaintiff was stabbed by insane prisoner.

Issue:

Whether or not the sheriff is liable for alleged negligence in the performance of his duty or for the performance by his deputy in regards to the detention of the insane suspect?

Holding:

The Supreme Court of Washington ruled that the sheriff, both by statute and at common law, owed a direct duty to any prisoner in his custody to keep him in health and free from harm. The sheriff was held to be liable for any resulting injury to the prisoner.

As for the sheriff being responsible for the omission of his deputy, the court said:

> The sheriff, being responsible for reasonable care in the selection of his deputies, is responsible also for the negligence of his deputy as such. The acts or omissions of Gifford as deputy were the acts or omissions of McCorkle as sheriff.

The court also cited other cases: South v. Maryland, 18 How. 396, 15 L.Ed. 433; Ex parte Jenkins, 25 Ind. App. 532, 58 N.E. 560; and State of Indiana ex rel. Tyler v. Gobin, 94 Fed. 48 (7th Cir. 1899). The general rule in all these cases was that in order to hold an officer in charge of a jail or prison liable for an injury inflicted upon one prisoner by another prisoner, there must be two essential elements:

(1) knowledge on the part of such officer that such injuries will be inflicted, or good reason to anticipate the danger;

(2) there must be negligence in failing to prevent the injury.

In all these cases there are statutory provisions. It appears that the presence of a statute is vital to determining the liability of the officer in charge of the prison.

However, it should be mentioned that the court mentions that the statutory provisions cited in its decision are but declarations of the common law.

See also:

Logan v. United States, 144 U.S. 263 (1892).

Kansas Statutory Law

19-1902 Inspection

The judge of the district or criminal court and the county attorney shall during each term of the district or criminal court make personal inspection of the county jail as to the sufficiency thereof for the safekeeping of prisoners, their convenient accommodation and health, and shall inquire into the manner in which the same has been kept since the last term, and make report in writing to the board of county commissioners of the county; and whenever any grand jury shall be in session in any county, it shall be the duty of such jury to make inspection and report to the county commissioners touching the same matters; and it shall be the imperative duty of the county commissioners to issue necessary orders, or cause to be made the necessary purchases or repairs, in accordance with the recommendation of the grand jury.

19-1903 Sheriff to keep jail

The sheriff of the county by himself or deputy shall keep the jail, and shall be responsible for the manner in which the same is kept. . . . He shall supply proper bread, meat, drink and fuel for the prisoners.

FREEDOM OF RELIGION

Howard v. Smyth, 365 F.2d 428 (4th Cir. 1966)

Facts:

This case involves a petition for release from maximum security where the plaintiff had been for four years.

Howard, the plaintiff, was placed in maximum security as a result of having requested the opportunity to worship publically according to the tenents of the Black Muslim religion. Also when requested by prison officials, he refused to disclose the names of the other prisoners for whom he spoke in making the request. As a consequence he was moved to the maximum security ward without a hearing.

Issue:

Was there a violation of the prisoner's constitutional right to freedom of religion?

Holding:

The court held that the broad disciplinary powers of prison officials may not be exercised to discipline a prisoner who merely expresses a desire to worship according to his own dictates.

The court further stated that it would not condone the arbitrary imposition of such serious disciplinary action where the alleged offensive conduct bears so close a relationship to first amendment freedoms.

Judgment was reversed in favor of plaintiff.

Other cases involving "freedom of religion" and the Black Muslims are:

Pierce v. LaVallee, 293 F.2d 233 (2nd Cir. 1961)

Banks v. Haverner, 234 F. Supp. 27 (E.D. Va. 1964)

Brown v. McGinnis, 10 N.Y. 2d 531, 180 N.E. 2d, 791 (1962)

Cooper v. Pate, 378 U.S. 546 (1964) held that restrictions based solely on religion are invalid.

Desmond v. Blackwell, 235 F. Supp. 246 (M.D. Pa. 1964) upheld the refusal to allow prisoners to receive inflammatory religious material.

Fulwood v. Clemmer, 206 F. Supp. 370 (D. D.C. 1962) held that restrictions based solely on religion are invalid.

FREEDOM OF RELIGION

Sewell v. Pegelow, 291 F.2d 196 (4th Cir. 1961)

Facts:

The plaintiffs were Black Muslins seeking injunctive relief against alleged denials of constitutional rights because of their religion. They charged that they were put in isolation and deprived of institutional privileges, including medical attention solely because of their religion.

The Court of Appeals reversed a District Court decision and granted a hearing to the plaintiffs. The Court did not decide the merits of the case.

Issue:

Do prisoners have federally protected constitutional rights?

Holding:

The Court ruled that certain rights and privileges of citizenship are withdrawn from prisoners. However, a prisoner does not lose all of his civil rights, nor does he forfeit the protection of the law. The Court cited Siegel v. Ragen, 88 F. Supp. 996 (1950) which stated:

> the fact that plaintiffs are incarcerated in a penitentiary under convictions for felonies, does not deprive them of the right to invoke the provisions of the Civil Rights Act.

FREEDOM OF RELIGION

Sostre v. McGinnes, 334 F.2d 906 (2nd Cir. 1964)

Facts:

This was an action by inmates of a state prison in New York for relief against interference with their practice of the Muslim religion. Plaintiffs complained that they were denied certain rights with respect to the practice of their religion, including the right to attend together congressional worship, the right to communicate with ministers of their faith and to have their ministers visit the prison, and the right to have various religious publications and to carry these publications outside their cells.

The Court of Appeals reversed the judgment of the district court and remanded the case with instructions to retain jurisdiction pending action by state authorities.

Issue:

Is the right of freedom of religion an absolute right of a prisoner?

Holding:

The court again recognized the right of freedom of religion for prisoners. However, in this case the court applied the "clear and present danger" test to the fact situation and concluded that the radical and separatist teachings and philosophy of the Black Muslims were an imminent and grave disciplinary threat to the peace and well-being of the entire prison.

The issue in the case was not whether or not the Black Muslims should be allowed religious freedom, but under what limitations protective of prison discipline they should be permitted to have these rights.

WRIT OF HABEAS CORPUS

Coffin v. Reichard, 143 F.2d 443 (6th Cir. 1944)

Facts:

Plaintiff, a federal prisoner, originally had received a suspended sentence and was placed on probation. Approximately one year later his probation was revoked and his suspended sentence set aside. Plaintiff was ordered by the court to serve the original sentence in a U. S. Public Health Service Hospital in Lexington, Kentucky.

In defense, the plaintiff claimed that when he originally pleaded guilty he was physically ill and mentally incapable of discussing his defense or his plea intelligently with his appointed attorney. He also claimed that a confession was obtained from him while being held incommunicado and before he had been allowed to see his attorney or any member of his family. While in the U. S. Public Health Service Hospital, he suffered bodily harm and injuries and was subjected to assaults, cruelties and indignities from guards and his co-inmates.

Holding:

The Court ruled that the U. S. government has the absolute right to hold prisoners for offenses against it but it also has the correlative duty to protect them against assault or injury from anyone while they are in prison. A prisoner is entitled to the writ of habeas corpus when, though lawfully in custody, he is deprived of some right to which he is lawfully entitled even in his confinement, the deprivation of which serves to make his imprisonment more burdensome than the law allows or curtails his liberty to a greater extent than the law permits.

According to this decision, a prisoner retains all the rights of an ordinary citizen except those expressly, or by implication, taken away from him by law. Even though the law takes away his liberty and imposes a duty of servitude and discipline for his regulation and that of other prisoners, it does not deny his right to personal security against unlawful invasion.

Finally, the court states that:

> The judge is not limited to a simple remand or discharge of the prisoner, but he may remand with directions that the prisoner's retained civil rights be respected, or the court may order the prisoner placed in the custody of the Attorney General of the United States for transfer to some other institution.

The Court of Appeals reversed and remanded to the district court with directions to file plaintiff's petition for a writ of habeas corpus and to appoint counsel to represent the plaintiff.

See:

United States ex rel. Westbrook v. Randolph, 259 F.2d 215 (7th Cir. 1958) held that through a writ of habeas corpus a court need not discharge the prisoner, but may hold him pending a new trial. It also made it clear that the writ is no longer limited to testing the legality of the incarceration.

CRUEL AND UNUSUAL PUNISHMENT

Jordan v. Fitzharris, 257 F. Supp. 674 (N.D. Cal. 1966)

Facts:

Plaintiff claims to have been unconstitutionally subjected to cruel and unusual punishment. He had been confined in a 6' x 8' cell without furnishings, toilet facilities, or interior light. The cell was not cleaned regularly and there was no way he could clean himself.

Issue:

Was this treatment cruel and unusual punishment in violation of the Eighth Amendment?

Holding:

The court established three basic criteria for the existence of "cruel and unusual punishment:"

(1) does the punishment shock the general conscience or is it intolerable to fundamental fairness;

(2) is the punishment greatly disproportionate to the offense;

(3) does the punishment go beyond what is necessary to achieve a legitimate penal aim.

The court cites cases which state that usually the administrative responsibility of prisons rest with their officers and not with the courts. But when prison authorities fail, the courts may intervene; Talley v. Stephens, 247 F. Supp. 683 (E.D. Ark. 1965); Fulwood v. Clemmer, 206 F. Supp. 370 (D. D.C. 1962); Gordon v. Garrson, 77 F. Supp. 477 (E.D. Ill. 1948); Lee v. Tabash, 352 F.2d 970 (8th Cir. 1965).

The court stated that if the defendants continued to use the so-called "quiet" or "strip" solitary confinement cells, they would have to supply the basic requirements necessary to life and a degree of cleanliness compatable with elemental decency.

The court does not set out precise procedures that have to be adopted as minimal. Instead, the court says that if the prison manuals are followed, the minimal standards as required by the Eighth Amendment would be met.