

## **SAVE: Coalition to Stop Abuse and Violence Everywhere**

### **Top Harmful Results of the “Physical Injury” Requirement of the PLRA**

1. Two men were forced to spend twenty-four hours in an isolation cell meant for one person. The cell did not have a toilet but had a drain that could be flushed from outside the cell by the guards. The drain became clogged with the men’s feces. They attempted to unclog it using a paper plate but the drain became more clogged. When the men tried to urinate in the drain their urine splattered on the walls of the cell. At one point one of the men became nauseous from the smell and attempted to vomit in the drain. The men requested help from the guards repeatedly. The guards attempted to flush the drain but it did not work. The guards then sprayed water into the cell through an opening at the bottom of the door. This only served to spread the sewage throughout the cell. The men requested a mop but were never given one. The men had to eat lunch and dinner in the cell and were provided no means of washing their hands or their eating utensils. The court held that whether or not there was an Eighth Amendment violation the men could not recover because they did not have a physical injury.
2. A guard attacked a man. During the attack the man was struck in the head with an iron bar, punched in the back and had his neck twisted. The court, while acknowledging that it was unfortunate that force was used against the man, held that the injuries he sustained were *de minimis* and dismissed the suit under the PLRA.
3. A man injured his teeth. The nurse who attended him noticed that he had a jaw injury and recorded that he stated his pain was a 10 on a scale of 1 to 10. The nurse added him to a list of patients to be seen by a dentist. Even though the man had two broken teeth and an exposed nerve, no dentist saw him for nearly 3 weeks. The court dismissed the claim for lack of physical injury.
4. Prisoners were forced to stand in the exercise yard in the rain while the prison was searched. They were then forced to stay in the dining hall for twelve hours and were not permitted to use the bathroom. The men were given a bucket to urinate in but had nowhere to defecate. One man defecated on himself and was then forced to sleep in his own feces. The court stated that the plaintiff did not allege more than a *de minimis* injury and dismissed the action.
5. Prison officials took a man’s epilepsy medication and refused to return it. The court dismissed the lawsuit partially due to a lack of “physical injury.”
6. A man was placed for seven days in a holding cell with only a wooden bench and no running water, toilet, sink, bed, mattress, soap or toothbrush. He was forced to urinate and defecate on the floor, in Styrofoam trays or in cups. He was not allowed to shower the entire time. The court dismissed the action due to lack of physical injury.
7. A man was arrested for theft of property and held in jail for 76 days before he was brought before a judge for his first appearance. The court cited *Hayes v. Faulkner County* where the court found that failing to take a defendant before a judge for 38 days “shocks the conscience.” But the court held the man could receive only nominal damages because he had not suffered physical injury.
8. A man pled guilty to resisting arrest and was sentenced to one day in jail and given credit for time served. County officials were then directed to transfer him to another county in response to a writ issued for him. Before the transfer took place, officials lost the man’s transfer order and the man was held unlawfully for four months. Court held that the man’s claim was barred because he did not have a physical injury.

## ***References***

1. *Alexander v. Tippah County Mississippi*, 351 F.3d 626 (5th Cir. 2003). This case was decided at summary judgment, which means that all the facts were assumed in favor of the plaintiffs; there were no findings of fact because the suit was dismissed prior to trial.

2. *Wallace v. Brazil*, No. 7:04-CV-187-R, 2005 WL 4813518 (N.D. Tex. 2005). This case was decided at summary judgment, which means that all facts were assumed in favor of the plaintiff; there were no findings of fact because the suit was dismissed prior to trial.

3. *Giddings v. Valdez*, No. 3:06-CV-2384-G, 2007 WL 1201577 (N.D. Tex. 2007). This case was dismissed with prejudice as frivolous after a screening by a magistrate judge in accordance with 28 U.S.C. § 1915A(b); there were no findings of fact because the suit was dismissed prior to trial.

4. *Brooks v. Delta Correctional Facility*, No. 4:07CV107-P-B, 2007 WL 2219303 (N.D. Miss. 2007). This case was dismissed for failure to state a claim upon which relief could be granted; there were no findings of fact because the suit was dismissed prior to trial.

5. *Thompson v. Carter*, 284 F.3d 411 (2d Cir. 2002). This case was dismissed for failure to state a claim upon which relief could be granted; there were no findings of fact because the suit was dismissed prior to trial.

6. *Lopez v. S.C.D.C.*, No. 3:06-2512-PMD-JRM, 2007 WL 2021875 (D.S.C. 2007). This case was dismissed for failure to state a claim upon which relief could be granted; there were no findings of fact because the suit was dismissed prior to trial.

7. *Scott v. Belin*, No. 1:05-cv-01100, 2007 WL 2390383 (W.D. Ark. 2007). This case was decided at summary judgment, which means that all the facts were assumed in favor of the plaintiff, but there were no findings of fact because the suit was dismissed prior to trial.

8. *Colby v. Sarpy County*, No. 8:04CV52, 2006 WL 519396 (D. Neb. 2006). This case was decided at summary judgment, which means that all the facts were assumed in favor of the plaintiffs, but there were no findings of fact because the suit was dismissed prior to trial.