

KNOW YOUR RIGHTS: PRISON AND JAIL CONDITIONS

Basics: The Constitution “does not mandate comfortable prisons,” but neither does it permit inhumane ones.¹ In its prohibition of “cruel and unusual punishments,” the Eighth Amendment to the United States Constitution imposes duties on prison officials who must ensure that people in prison receive “adequate food, clothing, shelter, and medical care” and must take reasonable measures to guarantee prisoners’ safety.²

The Legal Standard: A prison official violates the Eighth Amendment when three requirements are met. First, the condition in question must pose a substantial risk of serious harm. Second, a prison official must have acted with “deliberate indifference” by *knowingly* disregarding a substantial risk of serious harm to a prisoner’s health or safety.³ Third, the prison official’s conscious disregard of the risk of harm must have caused an injury or must pose a risk of future injury.⁴

1. **A Substantial Risk of Serious Harm:** You must show that a prison official deprived you of a basic human need, such as shelter, food, exercise, clothing, sanitation, or hygiene. Restrictive or even harsh conditions are not enough to prove an Eighth Amendment violation unless they are extreme and pose an unreasonable risk of serious injury to your health or safety.⁵ The Eighth Amendment protects prisoners from current *and* future harm.⁶
2. **Deliberate Indifference:** Deliberate indifference is more difficult to prove than negligence. Under the deliberate indifference standard, you must show that a prison official actually *knew* prisoners were at risk of harm, and did not respond reasonably. You can prove that the official knew about the risk by showing that you told him/her about it. Or, you can show that the risk was so obvious that the official must have known about it. In determining whether a prison official has been deliberately indifferent to a risk of harm, a court may consider complaints or grievances filed and also prison records referring to the problem.⁷
3. **Causation:** You must show a link between the prison official’s action and the harm you suffered or will suffer.

¹ *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Chandler v. Crosby*, 379 F.3d 1278, 1289 (11th Cir. 2004).

⁶ *Helling v. McKinney*, 509 U.S. 25, 36-37 (1993).

⁷ *Farrow v. West*, 320 F.3d 1235, 1245 (11th Cir. 2003).

TYPES OF CONDITIONS:

Food: The Constitution requires that prisoners be provided “reasonably adequate food.”⁸ “A well-balanced meal, containing sufficient nutritional value to preserve health, is all that is required.”⁹ Consistently serving inadequate quantities of food may violate the Eighth Amendment.¹⁰ However, the fact that food “occasionally contains foreign objects” or is sometimes served cold does not amount to a constitutional deprivation.¹¹ Also, “[a] prison does not violate the Eighth Amendment by feeding prisoners a minimal amount of food for a limited number of days” where the person did not suffer physical harm as a result.¹²

Exercise & recreation: The United States Supreme Court has stated that prison officials “may” violate a prisoner’s Eighth Amendment rights when they deprive him of “a human need such as . . . exercise.”¹³ However, federal courts in Alabama and Georgia take a narrow view of the right to exercise. In 1999, the Eleventh Circuit Court of Appeals held that “the complete denial [to prisoners] of outdoor exercise, although harsh, [does] not violate the Eighth Amendment.”¹⁴ The case in which the Court of Appeals made this ruling was filed by two maximum-security prisoners who, between them, had many serious disciplinary offenses including escape attempts, stabbings, and the murder of a correctional officer. One of the men was denied all out-of-cell exercise for 8 years; the other for 2 years.¹⁵ The Court of Appeals held that it did not violate the Eighth Amendment to deny the men out-of-cell exercise time, where prison officials conducted daily cell-front medical inspections and provided prisoners with a booklet detailing proper methods of exercise while in confinement.¹⁶ In jails, deprivations of exercise for relatively short periods are usually upheld.¹⁷ Federal courts in other areas of the country have been far more protective of a prisoner’s right to exercise.¹⁸

Overcrowding: To prove that a prison or jail is unconstitutionally overcrowded, prisoners must show that overcrowding caused a serious deprivation of basic human needs, such as food, medical care, or sanitation.¹⁹ The Eleventh Circuit Court of Appeals has held that requiring prisoners to temporarily sleep on a table or on a mattress on the floor does not violate the Eighth

⁸ *Hamm v. DeKalb County*, 774 F.2d 1567, 1575 (11th Cir. 1985).

⁹ *Id.*

¹⁰ *Hutto v. Finney*, 437 U.S. 678 (1978) (upholding remedial order where prisoners in isolation were fed fewer than 1,000 calories per day and were losing weight); *Walker v. Powell*, 2007 WL 4303766 (N.D. Fla. Dec. 10, 2007) (unpublished) (finding plaintiff’s claims were sufficient to go before a jury where plaintiff alleged that meals were “watered down,” nutritionally inadequate, and caused plaintiff to lose 40 pounds in 2 years).

¹¹ *Hamm v. DeKalb County*, 774 F.2d 1567, 1575 (11th Cir. 1985).

¹² *Hernandez v. Florida Dep’t of Corr.*, 281 Fed. Appx. 862, 865 (11th Cir. 2008) (unpublished) (finding no Eighth Amendment violation where prison official denied a person lunch for five months since the person was given two daily meals and did not suffer any physical harm).

¹³ *Wilson v. Seiter*, 501 U.S. 294, 304 (1991).

¹⁴ *Bass v. Perrin*, 170 F.3d 1312, 1317 (11th Cir. 1999).

¹⁵ *Id.* at 1315.

¹⁶ *Id.* at 1317 n. 7 (finding that sleeplessness, mood swings, and loss of muscle tone from denial of outdoor exercise did not qualify as “serious harm” for Eighth Amendment purposes).

¹⁷ *Wilson v. Blankenship*, 163 F.3d 1284, 1291-94 (11th Cir. 1998) (denial of outdoor exercise for two and a half months did not violate the Constitution, even though jail dayroom had only 15 square feet per person for exercise).

¹⁸ *Thomas v. Ponder*, 2010 WL 2794394 (9th Cir. 2010) (holding that denial of out-of-cell exercise for 14 months was sufficiently serious to support an Eighth Amendment claim); *French v. Owens*, 777 F.2d 1250, 1255 (7th Cir. 1985) (holding that “[l]ack of exercise may certainly rise to a constitutional violation. Where movement is denied and muscles are allowed to atrophy, the health of the individual is threatened and the state’s constitutional obligation is compromised.”).

¹⁹ *Hamm v. DeKalb County*, 774 F.2d 1567, 1575 (11th Cir. 1985).

Amendment where the conditions weren't imposed arbitrarily.²⁰ On the other hand, the same court found that detainees did show a constitutional violation where a jail was at double its capacity, detainees routinely slept on the floor in crowded cells, and detainees "were confined to their cells round the clock" and "not allowed outside of their cells for any activity."²¹

Temperature & ventilation: Lengthy exposure to extreme heat or cold may violate the Eighth Amendment.²² In considering whether extreme temperatures violate the Eighth Amendment, courts will consider both the severity of the temperature and the length of time it lasts.²³ To make a successful claim, a prisoner must show an unreasonable risk of serious damage to his health; a showing of discomfort, even if "severe," is not enough.²⁴ To give an example, the Eleventh Circuit Court of Appeals recently rejected a prisoner's Eighth Amendment claim based on his exposure to temperatures between 80 and 86 degrees all day during the summer in Florida. The ventilation system was held sufficient where temperatures were mostly in the 80s; temperatures only climbed into the 90s about 9 percent of the time in the summer months; and there were no temperature readings over 100 degrees.²⁵ On the other hand, the Fifth Circuit Court of Appeals upheld a trial court's order forcing a Mississippi prison to improve conditions where inadequate heating and ventilation was one of many problems causing prisoners to become ill.²⁶

Sanitation: Extremely poor physical conditions may violate the Eighth Amendment where the conditions pose an unreasonable risk of serious damage to a prisoner's health or safety. Some courts in Georgia and Alabama, however, have found that even very unpleasant conditions do not rise to the level of a constitutional violation.²⁷

Restraints: In *Hope v. Pelzer*, 536 U.S. 730 (2002), the United States Supreme Court found an "obvious" Eighth Amendment violation where, despite the clear lack of an emergency situation, Alabama prison officials knowingly subjected a prisoner to unnecessary pain by fastening him to a hitching post, with his arms raised above shoulder height for a 7-hour period in the sun, without bathroom breaks. To give another example, a federal court in Alabama held that a jail detainee stated a constitutional claim after he was handcuffed in an uncomfortable position for three days to a grate in the floor that served as a toilet.²⁸ "Causing a man to live, eat and perhaps sleep in close confines with his own human waste is too debasing and degrading to be permitted."²⁹

²⁰ *Id.*; see also *Alfred v. Bryant*, 2010 WL 1881064 (11th Cir. May 12, 2010) (unpublished) (sleeping on a steel bed without a mattress for 18 days did not violate Eighth Amendment).

²¹ *Moore v. Morgan*, 922 F.2d 1553, 1555, n. 1, 1558 (11th Cir. 1991).

²² *Chandler v. Crosby*, 379 F.3d at 1278, 1294 (11th Cir. 2004).

²³ *Id.*

²⁴ *Hernandez v. Florida Dep't of Corr.*, 281 Fed. Appx. 862, 866 (11th Cir. 2008) (unpublished).

²⁵ *Chandler*, 379 F.3d at 1297-98 (noting that cells were ventilated and prisoners were not exposed to direct sunlight).

²⁶ *Gates v. Collier*, 501 F.2d 1291 (5th Cir. 1974).

²⁷ *Sturdivant v. Lovette*, 2009 WL 3415368 (S.D. Ala. Oct. 20, 2009) (unpublished) (finding no Eighth Amendment violation where jail detainee was confined for 28 days in an 8' x 4' cell without a bunk, running water, or lights, and with a hole on the floor for human waste that overflowed onto the floor); *White v. Marshall*, 2008 WL 4826283, *3, *8-9 (M.D. Ala. 2008) (unpublished) (holding that the plaintiff's confinement for 30 days in a strip cell with only a drain in the floor for urinating, cold sandwiches three times a day, no clothing except for a paper gown, no mattress for 24 days, no blanket, no wash basin, no personal hygiene items, no lights, no ventilation, and no shower or exercise for 14 days were not deprivations of "the minimal civilized measures of life's necessities.").

²⁸ *Cotney v. Bowers*, 2006 WL 2772775, *8 (M.D. Ala. Sept. 26, 2006) (unpublished).

²⁹ *Id.*

Smoke/Asbestos: The United States Supreme Court has held that exposure to secondhand smoke may violate the Constitution where the exposure is so severe that it poses an unreasonable risk of serious damage to future health.³⁰ Prison officials may avoid liability for secondhand smoke exposure by adopting and enforcing a non-smoking policy.³¹ The Eleventh Circuit Court of Appeals has held that forcing a prisoner “to remain in a dormitory when the dormitory atmosphere was filled with friable asbestos” would violate the Eighth Amendment.³²

Statute of Limitations: In Georgia and Alabama, civil rights claims brought under 42 U.S.C. § 1983 are subject to a 2-year statute of limitations, but violations of state law may have earlier limitations periods and notice requirements.³³

Exhaustion of Grievance Procedure: Under the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997(e), no legal action may be brought “with respect to prison conditions” under section 1983 or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility “until such administrative remedies as are available are exhausted.” In other words, if the prison/jail you are in has a grievance process, you must complete the grievance process before filing a lawsuit raising federal claims.

Resources: You may request a free copy of *The Jailhouse Lawyer’s Handbook: How to Bring a Federal Lawsuit to Challenge Violations of Your Rights in Prison* by writing to The Center for Constitutional Rights at: Jailhouse Lawyers Handbook c/o The Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, NY 10012.

Please Note: This document focuses on cases from the federal courts in Alabama and Georgia. The law is always evolving. The date at the bottom of this page indicates when this information sheet was last updated.

³⁰ *Helling v. McKinney*, 509 U.S. 25, 36-37 (1993) (prisoner’s cellmate smoked five packs per day)

³¹ *Kelley v. Hicks*, 400 F.3d 1282, 1285 (11th Cir. 2005) (finding no Eighth Amendment violation where Coffee County Correctional Facility had a no-smoking policy in place, where prisoners caught smoking inside were disciplined, and where plaintiff did not present evidence that ventilation was inadequate).

³² *Powell v. Lennon*, 914 F.2d 1459, 1463 (11th Cir. 1990).

³³ Section 1983 of Title 42 of the United States Code (“42 U.S.C § 1983”) is part of the Civil Rights Act of 1871. This provision is the primary means of remedying constitutional violations by state actors. The provision was enacted to prevent post-Civil War racial violence in the Southern states. Section 1983 provides a mechanism for seeking redress for an alleged deprivation of a person’s federal constitutional and federal statutory rights by persons acting under color of state law.