LGIT'S COMMANDER'S LOG
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WARDENS AND DETENTION CENTER SUPERVISORS MAY BE HELD LIABLE WHEN THEIR SUBORDINATES VIOLATE AN INMATE'S FEDERAL CIVIL RIGHTS

QUESTION: CAN A WARDEN OR OTHER DETENTION CENTER SUPERVISOR BE HELD LIABLE IN A FEDERAL CIVIL RIGHTS LAWSUIT WHEN THEIR SUBORDINATES VIOLATE AN INMATE'S FEDERAL CONSTITUTIONAL RIGHTS?

ANSWER: YES. EVEN IF HE OR SHE WAS NOT INVOLVED IN THE SUBORDINATE'S ACTION THAT CAUSED THE VIOLATION, THE WARDEN OR SUPERVISOR CAN BE HELD LIABLE IF (1) THE WARDEN OR SUPERVISOR HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE THAT HIS OR HER SUBORDINATES WERE ENGAGED IN CONDUCT THAT POSED "A PERVASIVE AND HIGH RISK" OF CONSTITUTIONAL INJURY TO INMATES; (2) THE WARDEN'S OR SUPERVISOR'S RESPONSE TO THAT KNOWLEDGE WAS SO INADEQUATE AS TO SHOW "DELIBERATE INDIFFERENCE"; AND (3) THERE WAS AN "AFFIRMATIVE CAUSAL LINK" BETWEEN THE WARDEN'S OR SUPERVISOR'S INACTION AND THE CONSTITUTIONAL INJURY TO THE INMATE.

CASE: ***Sadler v. Young, 325 F. Supp. 2d 689 (W.D. Va. 2004), rev'd on other grounds, 118 Fed. Appx. 762 (4th Cir. Jan. 5, 2005).***

In a recent case, Chief Judge Jones of the United States District Court for the Western District of Virginia revisited the legal principles governing the liability of wardens and other prison supervisory officials in inmate suits brought under 42 U.S.C. § 1983, a federal civil rights statute. In *Sadler v. Young*, decided on July 21, 2004, a prisoner sued Virginia state prison officials after correctional officers placed him in five-point restraints for 48 hours as punishment for an infraction. His wrists, ankles, and chest were strapped to his prison bed with plastic restraints after he slapped food from a tray onto a guard. The prisoner offered no resistance as he was placed in the restraints. He was bound face-up, and was dressed only in his undershorts. He was temporarily released from the restraints only six times during the following nearly two-day period, for approximately 15 minutes each time, to use the toilet and eat. As a result of being restrained, the inmate alleged that he suffered from nightmares and became claustrophobic in small spaces. He further claimed that the restraints had aggravated a previous injury to his wrist.

As a result of this application of force, the prisoner sued not only the correctional officers who placed him in the restraints, but also the warden, who did not participate in the decision to use five-point restraints, but who was responsible for the overall operation of the prison. The warden also had reviewed the grievance filed by the prisoner after his release from confinement, and had determined that the officers had complied with prison policy.

During the litigation, the warden claimed that he was not liable for the constitutional violations arising from the prisoner's confinement because he was not involved in the decision to restrain him or to keep him restrained. Relying on precedent in the Fourth Circuit, the federal judicial circuit which encompasses Virginia and Maryland, the court rejected the warden's contention. The court reiterated that a warden or other supervisory official may be held liable under 42 U.S.C. § 1983 for the actions of their subordinates if the prisoner can show: (1) that the supervisor had actual or constructive knowledge that subordinates were engaged in conduct that posed "a pervasive and high risk" of constitutional injury to similarly situated prisoners; (2) that the supervisor's response to that knowledge was so inadequate as to show "deliberate indifference to or tacit authorization of the alleged offensive practices"; and (3) that there was "an affirmative causal link" between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff.

Under this legal standard, in order for an inmate to prove that a warden knew that his subordinates were acting in a manner that posed a "pervasive" and "unreasonable" risk of harm to the inmates' constitutional rights, the inmate must prove that the subordinates' high risk conduct was widespread, or at least had been used on several different occasions. An inmate may prove "deliberate indifference" if he can establish that the warden or other supervisor failed to take corrective action despite documented and widespread abuses of inmates by staff.

In the *Sadler* case, the court concluded, "no reasonable jury would doubt that [the warden] knew that his subordinates were engaged in conduct that posed 'a pervasive and high risk' of constitutional injury to inmates." This conclusion was based on evidence of eight other instances at the prison in which inmates had been placed in five-point restraints for periods of 48 hours although they had not engaged in any dangerous or disruptive behavior while being placed in the restraints. The warden had reviewed the corresponding "Serious Incident Report" pertaining to each incident. The court also concluded that the warden had demonstrated "deliberate indifference" by taking no disciplinary action against any officer for misusing five-point restraints. Finally, the court found that the warden's inaction had played a role in causing the prisoner's constitutional injuries.

NOTE: Although the court in *Sadler* observed that "[it] is right that we give prison administrators considerable leeway in handling disruptive inmates", it also understood that, at the time of the events, the Commonwealth of Virginia's policy on the "Use of Restraining Devices" at correctional facilities permitted the restraint of an inmate solely

for security purposes and only with the warden's authorization. The Virginia policy provided that "[a]ny restraints applied within a cell should be removed if the inmate's dangerous or disruptive behavior has subsided and it has been determined [that] the inmate no longer poses a threat to himself or others." In light of this policy, the court was satisfied that the warden had knowingly allowed his subordinates to engage in unconstitutional conduct. The warden had repeatedly failed to take any action against the offending officers although he had knowledge that the policy was being misused. In light of the law in the Fourth Circuit, it is critical that supervisory officials take prompt corrective action in response to any instance where they learn, directly or indirectly, of violations of official policy.

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