



## ***LGIT'S COMMANDER'S LOG***

**March 2010**

**Force, rather than injury, is the relevant inquiry in an inmate's excessive force lawsuit**

**QUESTION:** **Can an inmate who alleges only a minor injury proceed with an excessive force lawsuit against a corrections officer?**

**ANSWER:** **A showing of "significant" injury is not a requirement of an inmate's excessive force lawsuit. Instead, courts will focus primarily on why force was used, and not the injury sustained.**

**CASE:** ***Wilkins v. Gaddy*, Supreme Court of the United States  
Decided February 22, 2010**

In this case, a North Carolina state prisoner sued a corrections officer for using excessive force. The prisoner alleged that he was "maliciously and sadistically" assaulted by the corrections officer without any provocation. He claimed that the officer, apparently angered by his request for a grievance form, threw him to the ground and then punched, kicked, kneeled, and choked him until another officer intervened. As a result of the force used, the prisoner alleged that he sustained multiple injuries including "a bruised heel, lower back pain, increased blood pressure, as well as migraine headaches and dizziness." The prisoner further claimed to have suffered "psychological trauma and mental anguish including depression, panic attacks and nightmares of the assault." He did not allege that he had sought medical attention for any of his alleged injuries. The United States District Court dismissed the prisoner's lawsuit because the prisoner alleged only *de minimis* (minimal or minor) injuries. The prisoner requested reconsideration of the dismissal, claiming that he had received medical treatment and had been prescribed medication for his headaches and back pain, as well as for depression. He attached medical records purporting to corroborate his injuries and course of treatment to his motion to reconsider. The district court, however, denied the prisoner's request. The prisoner's appeal to the United States Court of Appeals for the Fourth Circuit was unsuccessful. The prisoner then asked the Supreme Court of the United States to review his case, and the Court agreed to do so.

The Supreme Court reversed the judgment entered below. In doing so, the Court determined that in order for a prisoner to state or plead an excessive force claim, it is not necessary for the prisoner to allege that he or she has sustained a "significant" injury (e.g., one that requires medical attention or leaves permanent marks). Simply stated, a "significant injury" is not a threshold requirement for stating an excessive force claim." The judicial inquiry is not whether a certain type of injury was sustained but "whether the force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." The Court, however, continued that the absence of serious injury is not irrelevant to the constitutional inquiry. The extent of the injury sustained by a prisoner or detainee is one factor

that may suggest whether the use of force could plausibly have been thought necessary in a particular situation. The extent of the injury may also provide some indication of the amount of force applied. In sum, the Court concluded that injury and force are “imperfectly correlated” and the focus of any judicial review must be on the force and the need for it, and only secondarily, the injury allegedly suffered by the prisoner or detainee.

**NOTE:** Despite the ruling in this case, the standard that an inmate must prove in an excessive force case remains high. The inmate must prove not only that an assault actually occurred but also that it was carried out maliciously and sadistically rather than as part of a good faith effort to maintain or restore discipline. Consequently, the maxim that not “every malevolent touch by a prison guard gives rise to a federal cause of action” still stands. As such, an inmate who complains of a push or shove that causes no discernible injury almost certainly fails to state a valid excessive force claim.

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