

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KWIN BOES,

Plaintiff,

v.

No. 3:21-cv-666

WARDEN WILLIAM HYATTE, in his
individual capacity;
DEPUTY WARDEN GEORGE PAYNE, JR.,
in his individual capacity,

Defendants.

Complaint for Damages

Introduction

1. Kwin Boes was placed in a restrictive housing cell at Miami Correctional Facility in March of 2021 for approximately one month, even though the only window in the cell was completely obstructed by a sheet of metal and even though the one light in the cell was broken and even though exposed, live, electric wires hung from the ceiling. This left Mr. Boes and a cell mate in complete darkness. It was also extremely cold as the metal over the window was not sealed. Defendants were aware of the conditions under which Mr. Boes suffered yet allowed him to remain in dangerous darkness. He suffered injuries while confined to the cell. The confinement represented cruel and unusual punishment

and caused Mr. Boes damages for which defendants are liable. Defendants are also liable for punitive damages.

Jurisdiction, venue, cause of action

2. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

Parties

5. Kwin Boes is an adult who is confined to the Miami Correctional Facility in Miami County, Indiana, following conviction of criminal offenses.
6. William Hyatte is the duly appointed Warden of the Miami Correctional Facility and is sued in his individual capacity.
7. George Payne, Jr., is the duly appointed Deputy Warden of the Miami Correctional Facility and is sued in his individual capacity.

Facts

8. The Miami Correctional Facility contains a restrictive housing unit where prisoners are placed as the result of disciplinary sanctions or for administrative purposes.
9. The cells in restrictive housing are generally for one prisoner only, although occasionally two prisoners share a cell.

10. Prisoners in restrictive housing spend all their time in their cells, except when they are released for showers or solitary recreation that occurs at most for five one-hour periods each week but, in reality, frequently occurs less often. Other than that, they are isolated, alone, in their cells.

11. The restrictive housing cells contain a single window to the outside and a solitary light fixture that supplies the only light in the cell.

12. The door to the cell is solid with a very small window.

13. Prisoners at Miami Correctional Facility have, in the past, broken both the outside windows and the light fixtures in many of the restrictive housing cells.

14. At all relevant times defendants were aware that many of the restrictive housing cells had broken windows and no operable light source. Yet, these obvious problems were not remedied.

15. Defendants' solution to the broken windows was not to replace the windows, but to cover the windows with sheet metal so that no light came through the windows.

16. Many of the cells in the restrictive housing unit did not have operational lights and had windows covered with sheet metal.

17. Defendants were aware that prisoners were being placed into cells without lights and with windows covered by metal plates.

18. In March of 2021, Kwin Boes was placed into a restrictive housing cell at Miami Correctional Facility for a month.

19. During that month he had a cellmate in the restrictive housing cell.
20. The restrictive housing cell had a broken window and a broken, non-operational, overhead light, although the wires that went to the broken light fixture hung from the ceiling.
21. Mr. Boes had no role in the breaking of the window or light.
22. The broken window had been covered with a piece of sheet metal so that no light came through it.
23. The sheet metal was not sealed in any way and therefore let in snow and rain.
24. The cell was extremely cold.
25. Although there was a small window in the otherwise solid door to Mr. Boes's cell, there was very little light that came through into his cell.
26. Neither Mr. Boes nor his cellmate had a television or tablet or any light source.
27. The cell was therefore extremely dark at all times.
28. It was difficult to move around the cell without hitting the bed and other objects in the cell. This was made particularly difficult because there were two people in the dark cell.
29. Because it was so dark and he could not see, Mr. Boes walked into objects in his cell on a number of occasions. This caused him injury and was painful.
30. It was painfully cold in the cell as well.

31. Mr. Boes was allowed out of the cell every other day for a shower for approximately 15 minutes. This was the only time he was regularly allowed out of the cell. He received no recreation.

32. While in the cell, Mr. Boes filed a grievance complaining of the conditions of his cell.

33. After he was removed from the cell, he received a response from someone at the facility rejecting the grievance because it raised multiple issues. However, the only issues that Mr. Boes raised concerned the conditions of his cell. His grievance was proper.

34. The rejection of the grievance did not allow for an appeal from the decision.

35. To appeal a grievance determination, the prisoner must be provided an appeal form. Inasmuch as Mr. Boes did not receive such a form, he could not appeal the grievance rejection.

36. Mr. Boes has therefore fully exhausted all grievance remedies available to him.

37. Placing a person in prolonged, isolated darkness for an extended period is a form of torture as is placing someone in an extremely cold environment.

38. Defendants denied Mr. Boes the minimal civilized measures of life's necessities by subjecting him to darkness in a cell and by subjecting him to extreme cold in the cell.

39. Plaintiff has been damaged by defendants' actions and inactions.

40. Defendants acted maliciously or with reckless disregard of plaintiff's rights and are liable for punitive damages.

41. At all times defendants acted and failed to act under color of state law.

Claim for relief

42. Defendants' actions and inactions in allowing plaintiff to be held in darkness in a restrictive housing cell and the conditions imposed on plaintiff in the cell violated plaintiff's Eighth Amendment rights.

Request for relief

Plaintiff therefore requests that this Court:

1. accept jurisdiction of this case and set it for hearing at the earliest opportunity.
2. award plaintiff his damages.
3. award punitive damages against defendants.
4. award plaintiff his costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988.
5. award all other proper relief.

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