

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DOMINIQUE BRISKER,

Plaintiff,

v.

No. 3:21-cv-882

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

Defendants.

Complaint for Damages

Introduction

1. Dominique Brisker was placed in a restrictive housing cell at Miami Correctional Facility beginning in August of 2020 for more than 30 days. For all but his first three days in the cell its broken cell window was completely obstructed by a sheet of metal. For the entirety of his stay the one light in the cell was broken. The cell was therefore dark. He suffered physical injuries in the cell because he fell in the dark and he frequently walked into objects in the cell that he could not see. The conditions of his confinement represent cruel and unusual punishment and caused Mr. Brisker 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. Dominique Brisker is an adult who is currently 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. Prisoners in restrictive housing spend all their time in their cells, except when they are released for shower or 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.

10. The restrictive housing cells contain a single window to the outside and a solitary light fixture that supplies the only light in the cell.
11. The door to the cell is solid with a very small window.
12. Prisoners at Miami Correctional Facility have, in the past, broken both the outside window and the light fixture in many of the restrictive housing cells.
13. At all relevant times defendants Hyatte and Payne were aware that many of the restrictive housing cells had broken windows and no operable light source. Yet, these obvious problems were not remedied.
14. Defendant Hyatte and Payne's solution to the broken windows was not to replace the windows, but in some cells to cover the windows with sheet metal so that no light came through the windows.
15. Many of the cells in the restrictive housing unit did not have operational lights and had windows covered with sheet metal.
16. Defendant Hyatte and Payne were aware that prisoners were being placed into cells without lights and with windows covered by metal plates.
17. In August of 2020, Mr. Brisker was placed into A-409, a cell in the restrictive housing unit at Miami Correctional Facility.
18. The cell had no working light, and at the time that Mr. Brisker was placed into the cell the window in the cell was broken out, exposing the cell to the elements.
19. Mr. Brisker had no role in breaking the light or window.

20. Three days after Mr. Brisker was placed into the cell the broken window was covered by a sheet of metal, such that no light came into the cell through the window.

21. Mr. Brisker had a tablet and television, but they gave off very little light.

22. Although there was a small window in his otherwise solid cell door the light coming through it was dim and the cell always remained extremely dark. His cell was in a corner and there was very little light coming in from the area immediately outside of the cell.

23. It was so dark in the cell that Mr. Brisker could not see anything in front of his face as he walked in the cell.

24. Because it was so dark, on one occasion as he walked towards the door he tripped over the toilet because he could not see it and his head hit the door and then the floor as he fell. In addition to injuring his head, the fall injured his neck, head, and leg. He filled out a medical slip and received medical attention.

25. Because it was so dark, he also fell out of his bed and cut his head.

26. Additionally, Mr. Brisker repeatedly ran into his toilet and bed in the dark, sustaining repeated injuries to his legs.

27. In addition to being dark, Mr. Brisker's cell was extremely hot because the air conditioning was not operating.

28. In addition to causing him physical injuries, the darkness caused him to have emotional problems. He completely lost focus and found himself unable to do every day

simple tasks and his thoughts were extremely unstable. He suffered anxiety and stress and continues to have flashbacks about being in the dark cell.

29. Mr. Brisker was placed into the cell for more than 30 days.

30. During the time that he was housed in the cell Mr. Curtis was not released for recreation and was released only infrequently for showers.

31. He had no cell mate.

32. Placing a person in prolonged, isolated darkness for an extended period is a form of torture.

33. On August 10, 2020, Mr. Brisker sent a Request for Interview form stating "I'm requesting to be placed into another cell due its steel place over my window and I have no cell light or intercom. I can't see nothing or even contact the pod officer when I need something Please move me ASAP."

34. In the past, Mr. Brisker had been instructed by staff that he needed to file a Request for Interview form to try to resolve a grievance and that he would be given a formal grievance form if the matter was not resolved.

35. The matter was not resolved, and he was not given a formal appeal form.

36. He asked Caseworker Hamrick and a correctional officer for a form to file a grievance.

37. They told him to file a grievance through this tablet. However, there was no grievance form on the tablet. Instead, there was an opportunity to file a complaint with the DOC Ombudsman Bureau, which he did.

38. He never received the grievance form that would have allowed him to pursue the grievance he raised on the Request for Interview form.

39. Inasmuch as he never received the formal grievance form that he had requested, he could not proceed with the grievance process. He therefore exhausted all grievance remedies that were available to him.

40. Defendants Hyatte and Payne denied Mr. Brisker the minimal civilized measures of life's necessities by subjecting him to darkness and dangerous conditions in the cell.

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

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

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

Claim for relief

44. The actions of defendant Hyatte and Payne in allowing plaintiff to be held in a cell with a blocked window, no light, and dangerous and filthy conditions, 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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