



Harris v. Thigpen

941 F.2d 1495 (1991)

Country: United States

Region: Americas

Year: 1991

Court: 11th Circuit Court of Appeal

Health Topics: Health care and health services, Health information, HIV/AIDS, Infectious diseases, Informed consent, Prisons

Human Rights: Freedom from discrimination, Right to privacy

Facts

The Appellants brought this challenge to the constitutionality of an Alabama statute which authorized the Alabama Department of Correction's (DOC) policy of mandatory testing of all present and future Alabama state prisoners for HIV antibodies, as well as the forced segregation of HIV-positive inmates. Two classes were involved in the action: the Appellant class, which consisted of "all inmates or future inmates of the DOC," and a class intervening on behalf of the defendants, which consisted of non-HIV general population inmates opposing the relief sought.

The Appellants claimed that the mandatory testing and segregation policy violated their constitutional rights to privacy and due process, constituted cruel and unusual punishment and violated Â§ 504 of the Rehabilitation Act.

Decision and Reasoning

The court held that the DOC's policy of mandatory testing and segregation did not violate the HIV-positive inmates' constitutional right to be free from cruel and unusual punishment under the Eight Amendment. It held that the extent of the DOC's failure to provide adequate care did not amount to "deliberate indifference" to HIV-positive inmates' "serious medical or psychiatric needs," and thus the prisoners were not subject to cruel and unusual punishment. The court affirmed the Supreme Court decision in *Estelle v Gamble*, 429 U.S. 97 (1976), holding that not every claim by a prisoner that they have received inadequate medical treatment amounts to a violation of the Eighth Amendment.

The court also held, with reference to allegations of inadequate staffing for HIV units that the units were "not so understaffed as to manifest systemic deliberate indifference to HIV-positive inmates needs." It noted that AIDS was a new disease and that expertise was limited. The court did however recognize that correctional facilities must provide a minimum level of medical care, and that a lack of funds "will not excuse the failure of correctional systems to maintain a certain minimum level of medical service necessary to avoid the imposition of cruel and unusual punishment."

The court considered the medical treatment received by a particular HIV-positive inmate and held that, while it might have constituted malpractice, nothing in his course of treatment indicated "deliberate indifference." It explained that the inmate had received "at least tolerable and responsive medical treatment," which included "transfers to better, outside hospital facilities on several occasions; CAT-scans; blood monitoring and blood chemistry workups; active monitoring and treatment for diabetes; and the administration of a wide variety of antibiotics and medications, including AZT."

With reference to the psychiatric needs of HIV-positive prisoners, the court acknowledged the likelihood that the facility was not ideally staffed and that the quality of mental health care was perhaps substandard, but nevertheless held that it met "constitutional minima."

The court held that the DOC's policy of mandatory testing, segregation and involuntary disclosure of prisoners' HIV status did not violate the HIV-positive inmates' constitutional right to privacy under the Fourteenth Amendment. The court held that despite the fact that the testing and segregation policy resulted in involuntary disclosure of inmates' HIV status, it did not violate the constitutional right to privacy because it was rationally related to correctional goals. The court applied the "reasonable relationship" test from *Turner v. Safley*, 482 U.S. 78 (1987), which established that "the standard of review for evaluating prisoners' "

constitutional claims should be one of reasonableness.â€• The court balanced four factors:

Whether there was a valid, rational connection between the regulation and a legitimate government interest put forward to justify it;

Whether there were alternative means of exercising the asserted constitutional right that remained open to the inmates;

Whether and the extent to which accommodation of the asserted right would have an impact on prison staff, inmates and the allocation of prison resources generally;

Whether the regulation represented an exaggerated response to prison concerns.

The court concluded that the policy was rationally related to Alabama's legitimate correctional goals of reducing HIV transmission, reducing prison violence and maintaining institutional security.

The court also considered the interests of the non HIV-positive inmates, and concluded that the mandatory testing and segregation policy was not an "exaggerated response" to prison concerns in light of high risk behavior such as homosexual relations, IV drug use, tattooing, ear piercing, frequent fights, and blood spills, which, as evidenced by testimony, occurred regularly within the Alabama system.

The further held that the blanket exclusion of HIV-positive inmates from general prison population housing assignments, education, employment, recreation, dining, law library use, religious services, family visitation, transportation, sick call and canteen did not violate Â§ 504 of the Rehabilitation Act. However, the court remanded part of this issue to the District Court for further inquiry.

The Rehabilitation Act states that:

No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

Section 504 "prohibits a federally funded state program from discriminating against a handicapped individual solely on the basis of the individual's handicap."â€• The court considered whether Applicants had met the four elements of a Â§ 504 claim:

Whether they were handicapped within the meaning of the Act;

Whether they were otherwise qualified;

Whether they were excluded from programs or activities solely because of the handicap;

Whether the programs or activities from which they were excluded were operated by an agency that receives federal financial assistance.

As to the first element, the court held that the HIV-positive inmates were "handicapped" within the meaning of the Act as it was "clear that [the] correctional system treat[ed] the inmates such that they [were] unable, or perceived as unable, to engage in major life activities relative to the rest of the prison population."

With respect to the second element, the court held that further inquiry by the lower court was required to decide whether HIV-positive inmates were not "otherwise qualified" for each individual program or activity from which they were excluded and whether "reasonable accommodations would make the handicapped individual otherwise qualified."

The court noted that the third and fourth elements were undisputed, these being that HIV-positive inmates were "excluded from programs or activities solely because of the handicap," and that the programs or activities from which they were excluded were "operated by an agency that receive[d] federal financial assistance."

The court also remanded the issue as to whether exclusion from use of the law library infringed the HIV-positive inmates' constitutional right of access to courts under the First or Fourteenth amendment.

Decision Excerpts

"It is [] clear that prisoners are guaranteed the right under the eighth amendment to be free from deliberate indifference by correctional institutions to their serious physical or psychological needs." 941 F. 2d, p. 1505.

"[T]aken individually or together, the cases at most evidence isolated incidences of medical malpractice. We simply cannot agree with the plaintiffs that the treatment received by the inmates in question was so inadequate as to manifest the kind of "conscious or callous indifference" necessary to raise the DOC's perhaps

negligent care of certain AIDS-infected prisoners to violations of a constitutional magnitude.â€• 941 F. 2d, p. 1506.

â€œMeasured against constitutional minima, the record regarding [a representative inmate] seems to evidence at least tolerable and responsive medical treatment â€” transfers to better, outside hospital facilities on several occasions; CAT-scans; the administration of a wide variety of antibiotics and medications, including AZT; blood monitoring; blood chemistry workups; active monitoring and treatment for diabetes. In short, whatever [this inmateâ€™s] course of treatment indicates, it is not deliberate indifference.â€• 941 F. 2d, p. 1507.

â€œ[W]e agree with appellants that the lack of knowledge of certain primary care physicians . . . relating to some seemingly basic terminology about the diagnosis, prophylaxis, monitoring, and treatment of HIV infection is disturbing . . . [But this] would not serve to justify deliberate indifference to Alabama seropositive inmates' serious medical needs if such were the case.â€• 941 F. 2d, p. 1508.

â€œ[W]e are troubled by and reject any suggestion in the court's reasoning that a state's comparative wealth might affect an HIV-infected prisoner's right to constitutionally adequate medical care. We do not agree that â€”financial considerations must be considered in determining the reasonablenessâ€™ of inmates' medical care to the extent that such a rationale could ever be used by so-called â€”poor statesâ€™ to deny a prisoner the minimally adequate care to which he or she is entitled. [.] Minimally adequate care usually requires minimally competent physicians. It may also sometimes require access to expensive equipment, e.g. CAT scanners or dialysis machines, or the administration of expensive medicines. Once again, although we are reluctant to interfere in a state system's course of treatment of its inmates, we will not ignore the presence of an eighth amendment violation. Such a violation could well be present if the care received by the prisoners, when measured against general professional standards, rose to such a level of gross incompetence that it manifested deliberate indifference.â€• 941 F. 2d, p. 1509.

â€œWe are aware that systemic deficiencies in medical care may be related to a lack of funds allocated to prisons by the state legislature. Such a lack, however, will not excuse the failure of correctional systems to maintain a certain minimum level of medical service necessary to avoid the imposition of cruel and unusual punishment.â€• 941 F. 2d, p. 1509.

â€œ[T]his circuit has recognized that a failure of a correctional system to provide basic psychiatric and mental health care can constitute a claim of deliberate indifference to the serious medical needs of inmates.â€• 941 F. 2d, p. 1509.

â€œ[W]hile the desirability and wisdom of providing AIDS education and counseling to seropositive prisoners, and indeed to the general prison population, is undeniable, we are frankly uncomfortable measuring with a constitutional yardstick the attempts of a correctional institution to achieve these ends. A correctional system's refusal to respond medically to specific psychiatric disorders and conditions that accompany the presence of HIV infection, such as AIDS-related dementia, could constitute grounds for alleging an eighth amendment violation. But much of the inadequacy in dealing with seropositive inmates' mental health needs alleged by appellants seems to be focused also on the DOC's deficient efforts to provide ongoing education and counseling to help HIV-positive inmates deal with issues of impending death, depression, despair, and stigmatization; that is, plaintiffs have also attacked as â€”cruel and unusualâ€™ the system's failure to provide the resources and preventive therapy necessary to retard the general psychological deterioration of inmates afflicted with a vicious, always fatal disease. This is not a frivolous claim, nor is it an unsympathetic one. It does strike us, however, as more akin qualitatively to the types of systemic inadequacies that federal courts have been ill-suited and justifiably reluctant to entertain as evils of constitutional consequence.â€• 941 F. 2d, pp. 1510-11.

â€œThe mental, physical, and emotional status of individuals, whether in or out of custody, do deteriorate and there is no power on earth to prevent it.... We decline to enter this uncharted bog. If the State furnishes its prisoners with reasonably adequate food, clothing, shelter, sanitation, medical care, and personal safety, so as to avoid the imposition of cruel and unusual punishment, that ends its obligations under Amendment Eight. The Constitution does not require that prisoners, as individuals or as a group, be provided with any and every amenity which some person may think is needed to avoid mental, physical, and emotional deterioration.â€• 941 F. 2d, p. 1511.

â€œWe [.] believe and assume arguendo that seropositive prisoners enjoy some significant constitutionally-protected privacy interest in preventing the non-consensual disclosure of their HIV-positive diagnoses to other inmates, as well as to their families and other outside visitors to the facilities in question.â€• 941 F. 2d, p. 1513.

