



## Brown v. Johnson

387 F.3d 1344 (2004)

**Country:** United States

**Region:** Americas

**Year:** 2004

**Court:** 11th Circuit Court of Appeal

**Health Topics:** Health care and health services, HIV/AIDS, Infectious diseases, Medicines, Prisons

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment, Right to due process/fair trial, Right to health

### Facts

Plaintiff, a prisoner, filed suit alleging violation of the due process clause of the Fourteenth Amendment and of the Eight Amendment as a result of Defendants' withdrawing his prescribed medications.

Upon entry into Georgia State Prison, Plaintiff's medical records indicated he suffered from HIV and hepatitis. Plaintiff was prescribed medications for HIV and hepatitis ten months after he entered prison. Defendant, Dr. Presnell, stopped the prescribed treatment the following month, upon which Plaintiff suffered skin and scalp infections, pain, and fatigue. Plaintiff filed suit against Dr. Presnell and the Medical Administrator for the Georgia State Prison. He claimed that the indifference to his medical needs was a violation of the due process clause of the Fourteenth Amendment and the Eighth Amendment.

The Defendants claimed Plaintiff's allegations failed to demonstrate imminent danger of serious physical injury as the injuries alleged did not constitute serious injury, were too vague, and did not show that Plaintiff's treatment put him in imminent danger.

In July of 2003, the magistrate judge denied the petition to proceed in forma pauperis (i.e. without having to pay for court costs due to lack of funds) and dismissed the complaint without prejudice as Plaintiff already had three strikes for filing frivolous law suits. The judge found that the Prison Litigation Reform Act (PLRA) precluded a prisoner from proceeding in forma pauperis where the prisoner had already filed three or more frivolous lawsuits, unless the prisoner is in imminent danger of serious physical injury.

Plaintiff then attempted to amend his complaint to say that he was at risk of serious physical injury as his health would deteriorate and that the conditions would result in decreased life expectancy. The district court denied the amendment on the grounds that the PLRA precludes a prisoner from amending his complaint prior to a responsive pleading or order of dismissal. Plaintiff appealed that judgment.

### Decision and Reasoning

The Court reversed the lower court's decision and remanded the case for proceedings on the merits.

The Court held that Plaintiff had the right to amend his complaint under the Federal Rule of Civil Procedure 15(a). This rule allowed a party to amend a complaint one time as a matter of course before a responsive pleading is entered. The Court noted that the PLRA did not change this right and therefore Plaintiff was entitled to amend the complaint before the responsive pleading was filed.

The Court rejected the Defendants' argument that Plaintiff's amended complaint did not allege imminent danger of serious harm because the harm alleged was not serious, was too vague or was not imminent. Rather, the Court determined that the afflictions Plaintiff alleged (HIV, hepatitis, and the future afflictions he alleged he could also suffer) together constituted imminent danger of serious physical injury. Thus, Court held that Plaintiff's amended complaint could proceed despite the restrictions in the PLRA and Plaintiff's having filed three previous complaints.

The Court then considered the allegations of Defendants' deliberate indifference to Plaintiff's serious medical needs in light of the Eighth Amendment. The Court first noted that deliberate indifference to a prisoner's serious medical needs constitutes unnecessary and wanton infliction of pain in violation of the Eighth Amendment. To show such violation of the Eighth Amendment, the Court applied a two-prong test requiring

Plaintiff to prove a serious medical need and that the prison officials acted with deliberate indifference to such need. On the first prong, the Court held that Plaintiff's afflictions constituted serious medical needs. On the second prong, the Court held Defendants' continuing disregard of Plaintiff's afflictions constituted deliberate indifference.

## Decision Excerpts

Liberal­ly construed, Brown alleges a total withdrawal of treatment for serious diseases, as a result of which he suffers from severe ongoing complications, is more susceptible to various illnesses, and his condition will rapidly deteriorate. The defendants offer two rebuttals. The defendants argue that these allegations fail to allege imminent danger of serious physical injury because skin problems do not constitute serious injury and Brown's allegations of eye problems are too vague. The defendants also argue that, "although [Brown's] illness may ultimately lead to serious physical problems and even death, Brown's allegations do not show that his treatment puts him in imminent danger." These arguments fail. Although some of the specific physical conditions about which Brown complains may not constitute serious injury, the issue is whether his complaint, as a whole, alleges imminent danger of serious physical injury. Viewed together, the afflictions of which Brown currently complains, including his HIV and hepatitis, and the alleged danger of more serious afflictions if he is not treated constitute imminent danger of serious physical injury. • Page 1350.

"We must consider whether Brown states a valid claim under the Eighth Amendment. It is well established that 'deliberate indifference to serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain'... proscribed by the Eighth Amendment." Estelle v. Gamble, 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed.2d 251 (1976) (citation and footnotes omitted). A prisoner states a valid claim, under 42 U.S.C. section 1983, "whether the indifference is manifested by prison doctors in their response to the prisoner's needs ... or by prison guards in intentionally denying or delaying access to medical care ... or intentionally interfering with treatment once proscribed." • Page 1351.

"To show that a prison official acted with deliberate indifference to serious medical needs, a plaintiff must satisfy both an objective and a subjective inquiry." Farrow v. West, 320 F.3d 1235, 1243 (11th Cir.2003). First, the plaintiff must prove an objectively serious medical need. Id. Second, the plaintiff must prove that the prison official acted with deliberate indifference to that need. Id. • Page 1351.

"To establish that the prison official acted with deliberate indifference to a serious medical need, the prisoner Plaintiff must prove three facts: (1) subjective knowledge of a risk of serious harm, (2) disregard of that risk, and (3) by conduct that is more than mere negligence." • Page 1351.