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Criminal Justice Issues and Prisoners' Rights

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by Beth Broyles | November 30, 2012

On November 27, in aruling that may have wider implications for the use and abuse of soliary confinement in American prisons, a Massachusetts inmate wona longstandingcase against the prison that illegally held him in segregation, as well as the Massachusetts Commissioner of Corrections.The Supreme Judicial Court of Massachusetts found that the Souza-Baranowski Correctional Center (SBCC) in Shirley, Massachusetts had violated inmate Edmund LaChances constitutional due process rights whenit held him insolitary confinementfor over ten months without a hearing.

In December 2005, LaChance received a disciplinary report for throwing a cup of pudding at a fellow inmate. After a disciplinary hearing, the prison gave him seven days detention in the special management unit, or SMU, as a sanction. According to prison officials, when LaChance learned of the sanction, he threatened the other inmate with violence, and for that offense he received an additional seven days.However, after his fourteen days were up, prison officials did not release him back to his housing unit, but kept him in the SMU indefinitely awaiting action status. Throughout his stay in the SMU, he was never given a hearing.

Although the regulations require a hearing for inmates held in the departmental segregation unit (DSU), which is for disciplinary purposes, they do not require a hearing for inmates held in the special management unit (SMU) for administrative purposes, such as inmates awaiting action status.According to the prison officials, the regulations only required that a prison official review LaChances status on a weekly basis, and provide him with the written notificationswhen the rationale for his detainment in the SMU changed as a result of a review. Ten months after LaChance completed his fourteen-day disciplinary sanction, theprisoner at whom LaChance had thrown the pudding had been moved, and the prison released LaChance out of the SMU and back to his previous housing unit.

Five months into his confinement in the SMU, in June 2006, LaChance filed a *pro se* complaint.The prison filed a motion to dismiss, which a judge in the Superior Court denied in June 2007.Then, LaChance obtained an attorney, Bonita Tenneriello, through Prisoner Legal Services in Boston.PLS filed an amended complaint that claimed that the prison had violated his rights under the regulations and his right to due process under the State and Federal Constitutions when they did not have a hearing, and also that, under DOC policies, the prison could not hold LaChance, who was a protective custody prisoner, in segregation on awaiting action status for more than ninety daysin other words, for administrative, not disciplinary, purposes.After several appeals, motions and cross-motions, the highest court in Massachusetts found that LaChances ten-month administrative segregation in the SMU on awaiting action status, during which he had the benefit of only informal status reviews, was unlawful.

To determine whether LaChances due process rights were violated, the court employed a two-part analysis: First they had to decide whether LeChance had a liberty interest that was entitled to procedural protection. Second, they had to decide whether the prisons procedures were constitutionally adequate to protect that interest.Relying on U.S. Supreme Court precedent, the court explained that a prison inmate has a liberty interest in being free from any restraint that imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life. The court found that LaChances ten-month placement in the SMU constituted an atypical and significant hardship after thoroughly considering the conditions of the SMU:

Throughout his confinement in the SMU, LaChance was held in conditions substantially more restrictive than those he had experienced in the J-1 housing unit. Residents of J-1 were allowed to spend almost five hours outside of their cells each day, during which they could engage in recreation in a variety of indoor and (sheltered) outdoor facilities; they were permitted three weekly contact visits, each lasting up to two and one- half hours; they had opportunities to visit the prison library according to a posted schedule; they were allowed to spend up to fifty dollars per week in the canteen, including on food items; and they had access to a broad range of educational, religious, and other programs. In the SMU, by contrast, LaChance was allowed one hour of recreation each day, five days a week, in an unsheltered, outdoor cage; each week he was allowed to have two non-contact visits, each lasting no more than one hour; his library privileges were limited to requesting two books for delivery to his cell on a weekly basis, along with occasional access to a satellite law library; he was allowed to spend a maximum of twenty dollars per week in the prison canteen, on specified, nonfood items only; and he was unable to participate in educational, religious, vocational, or rehabilitative programming available to general population inmates. Additionally, unlike inmates in general population, his wrists and ankles were shackled at all times that he was outside his cell.

After finding LaChance has a liberty interest in not being held in the SMU, the court went about determining the procedural safeguards which are necessary and appropriate to protect that interest.The court explained that the current procedures were inadequate; weekly

reviews by prison officials do little to protect an inmate from the prison officials from abusing the use of SMU.The court explained that while prison administrators have broad discretion in managing prison, there is the concern that prison officials may use awaiting action classification as a pretext to confine indefinitely an inmate in segregated custody. The court sought to balance the interests of the inmates, which are to challenge potentially arbitrary detention in severe conditions, against those of the prison officials, which are, to secure the reclassification or transfer of an inmate who poses a threat to himself, to fellow inmates, or to the security of the facility.

In the end, the court proscribed the appropriate and necessary procedural safeguards to ensure that an inmates constitutional due process rights are protected.An inmate who is confined to administrative segregation on awaiting action status,whether such confinement occurs in an area designated as an SMU, a DSU, or otherwise, (in other words, the label is not relevant) must have: 1) Notice of the basis for his detention, 2) a hearing at which he may contest the prisons stated rationale for his detention; and 3) a posthearing written notice that explains the reviewing authoritys classification decision.The court does not explain who the reviewing authority is.The court explains that they will leave it to the department of correction to promulgate the regulations, which means, they will work out the specifics, but that the regulations must require that when an inmate is held in segregated detention, he will have a hearing within 90 days.

As noted, the court believes that this new standard appropriately balances the inmates interest in being able to challenge a prisons decision to arbitrarily and indefinitely confine him to segregation against the prisons interest in managing a secure facility.However,the courts decision is limited in providing procedural protections against abuse.There are no guidelines for a reviewing authority to determine when a decision to keep an inmate in SMU is warranted.The court did not reach the issue of whether LaChance, had he been granted a hearing, should have been released from the SMU.Itappears that all the prison has to say at a hearing is that it is necessary for the security of the prison to keep this inmate in SMU.And even if an inmate would be given an opportunity to contest the prisons reasons for keeping him in SMU, it is difficult to imagine what the inmate could say that would cause the prison officials to change their minds.In addition,90 days seems an excessive amount of time for a prison to reclassify a prisonerand it is not clear how much time out of segregation is necessary to start the clock again. (Could the prison simply release the inmate on day 89 only to put him back in the very next day?) While the decision is clearly a step in the right direction, further safeguards will be necessary to significantly reduce the use of solitary confinement.

As for Mr. LaChance, he served the unlawful ten months in solitary confinement six years before this court declared it unlawful.And he is not entitled to monetary damages because the court said that they have only now created this standard.

Beth Broyles was a research and reporting intern for Solitary Watch. A writer and educator, she now works for the Illinois Principals Association.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by Juan Moreno Haines

October 25, 2022

by Solitary Watch Guest Author

October 13, 2022

by Vaidya Gullapalli

September 29, 2022

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On April 12, 2012, Boston-A federal chief judge Mark L. Wolf approved a settelment meant to guarantee alternatives to segregation for meantally ill inmates in Massachusetts prisons. The settelment results from a lawsuit filed in 2007 by an advocacy group.

It sought to stop the Massachusetts DOC from placing mentally ill inmates with disciplinary problems in small isolation cells for up to 23 hours a day, saying that doing so violted their constitutional rights agaist cruel and unusual punishment as well as the American with Disabilties Act. The group, the Disability Law Center, sued the Masschusetts Department of Correction after 11 prisoners, including some with serious mental illness, committed suicide in segregation cells within a 28 month period. The suit described the experiences of numerous inmates in state prisons whom it said had engaged in self-destructive behavior while in solitary confinement without adequate mental health services. They included some who, accoding to the suit, were segregted for years at a time against the recmmendations of clinicians.

The MA DOC Souza-Baranowski Correctional Center in Shirley, MA is still locking-up inmates with serious mental illness in solitary confinement.

You ask Could the prison simply release the inmate on day 89 only to put him back in the very next day?

Good question and as I have posted several times on this site the answer is yes it has done so in in the past in at least one case that I am aware of.

While not a recent case Edward Bunkers wrote in his Memoir Education of A Felon.

Page 23: I was sent to Northern California, outside Stockton, to the Preston School of Industry. It was for boys sixteen and seventeen, with a few who were eighteen. I had barely turned fourteen. I was assigned permanently to G Company, a unit with a three-tier cell block. It was dark and gloomy and a carbon copy of a prison cell block

Page 24: they were not allowed to keep a youth under sixteen in a lockup cell for more than twenty-nine days at a time.So on the thirtieth morning, they took me out of G Company after breakfast. I checked into the regular company and went to lunch. After lunch they took me back to G Company

And this case leaves too many openings for abuse in the future without any penalty or retribution for their past abuse of power.

This is a hollow victory!

This is most encouraging for other prison systems to pay attention to.. Due process is a valuable tool and often misused and abused to serve self service or purpose so maybe now the process will have more credibility.. Good news travels fast..

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