

Pepper Spraying a North Carolina Inmate with SMI: Time for Change

If there is one area regarding the treatment of inmates with serious mental illness (SMI) who are confined in a tiny segregation cell that cries out for training, for wholesale revision of policy and procedure, it is the use of force. In particular, a long-term, 57-year-old prisoner diagnosed as schizophrenic with extreme paranoid ideation should not be pepper sprayed for hours because in returning his food tray through the narrow slot in the door, it fell (or was even pushed) to the floor apparently enraging nearby officers.

This allegedly occurred to Jerry C. Williams who has spent much of his 57 years in state psychiatric hospitals and prisons. He was first arrested at age 10 for shoplifting and began hearing voices in his head in his late teens, according to his prison mental health evaluation.

He was most recently sentenced in 2002 by a judge in his native Wayne County to more than 28 years in prison for being a habitual felon, following a lengthy record of convictions for trespassing, assault and burglary. With an IQ of 76 he also has “borderline intellectual functioning,” according to prison records.

His case, filed by the state-supported North Carolina Prisoner Legal Services (PLS), also raises additional questions about the treatment of inmates in Unit One, a special 192-bed section at Central known as “The Hole.” It is there that those who violate prison rules are punished by being held in solitary confinement.

A federal lawsuit, which will be addressed here, filed by PLS lawyers earlier this year on behalf of eight inmates, alleges correctional officers used “blind spots” out of view of security cameras to dispense beatings to handcuffed and shackled inmates, shattering bones and leaving one confined to a wheel chair.

Williams’ lawyers claim his treatment in Unit One amounts to Cruel and Unusual Punishment under the Eighth Amendment to the U.S. Constitution. It also violates the prison’s own policies and procedures for dealing with inmates with chronic mental illness, they say.

When Williams’ mental disease is controlled with medication, he is described as “pleasant and appropriate.” When it is not, he can be “loud and disruptive,” according

to his lawyers. His prison record lists 142 infractions over the past 10 years, many of them for disobeying orders or throwing cups filled with his own bodily waste. He has also sometimes cut himself and swallowed razor blades, according to records. This, of course, is not unusual in cases resembling Williams’.

“On the solitary confinement unit, some of the primary symptoms of Mr. Williams’ illness—agitation, yelling, kicking, and throwing things—are treated like pure behavior problems that must be punished with the intentional infliction of physical pain,” his lawyers wrote in a court motion filed earlier this month.

The Complaint

A complaint in a federal lawsuit is to be a brief, plain statement of jurisdiction and the factual allegations that support a claim for relief. (Fed.R.C.Pro.R. 8 (a))

“It is abundantly clear that there was an extreme probability that the use of force would not have occurred if staff had contacted or at least solicited input and participation of professional mental health staff familiar with Mr. Williams’ debilitating psychological history.”

Complaints are most often colorless, rather stark litanies of what may, indeed, be horrific events.

Williams v. Wellman, No. 12-CT-3055-D (W.D. N. Car. Oct. 9, 2012), is one of those quiet documents that I will for now allow to speak for itself:

* * * * *

6. Plaintiff has resided at Central Prison since 2006.
7. During that time, Plaintiff has alternated between time spent inpatient at the Mental Health hospital, and time spent outpatient on the long-term segregation unit.
8. On the long-term segregation unit, prisoners are housed in locked, single-person cells between 23 and 24 hours a day.
9. Plaintiff has been diagnosed as schizophrenic, with extreme paranoid ideation and hallucinations.
10. On September 17, 2009, Plaintiff returned to his cell on the long-term segregation unit after a period of inpatient treatment at Central Prison’s Mental Health hospital.
11. On the long-term segregation unit, prisoners are fed through a “trap door” in their cell door. The “trap door” is a narrow opening that is normally locked. It can be closed and opened only by a correctional officer.
12. That evening, Sgt. Griffin came to Plaintiff’s cell and asked for his food tray.
13. While Plaintiff was returning his food tray through the open trap door, the tray fell on the floor.
14. At this time, Sgt. Griffin sprayed pepper spray through the trap door onto Plaintiff.
15. Sgt. Griffin’s use of pepper spray on Plaintiff, while he was securely locked inside a single cell, was not necessary to prevent escape or to defend any party from imminent assault.
16. Pepper spray exposure is known to exacerbate the symptoms of extreme mental illness, including paranoia, agitation, hallucinations, and emotional sequelae.
17. Notwithstanding the risks of pepper spray exposure to mentally ill persons and the lack of necessity for its use on a prisoner who is locked inside a cell by himself, officers at

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Central Prison regularly use pepper spray against Plaintiff while he is locked in his single cell posing no risk of injury to any party.

18. This use of pepper spray in these circumstances is punitive and retaliatory, malicious and sadistic, painful and disturbing. It serves no legitimate correctional purpose.
19. Over the next 3 hours, officers continued to spray pepper spray into Plaintiff's cell, increasing his paranoia, agitation, and hallucinations.
20. Eventually, Plaintiff was placed in full restraints and forcibly removed from his cell.
21. Plaintiff was brought to an office that is used by the Sergeants on duty.
22. Plaintiff was beaten by Sgt. Griffin and Correctional Officer James.
23. Correctional Officer James grabbed and twisted Plaintiff's hands, which caused broken fingers on both of his hands.
24. Assistant Warden Wellman witnessed the events. Only after it went on for minutes did he instruct the other officers to stop.
25. After the beating, Plaintiff was taken to the Central Prison hospital, where he was readmitted to the inpatient Mental Health unit, suffering from auditory hallucinations.
26. Later, doctors determined that Plaintiff had suffered a fracture to his ring finger on his right hand, and two fingers on his left hand.

27. Plaintiff continues to suffer from chronic pain and immobility in his finger since the assault, and he experiences pain and restricted movement in his hand.
28. Plaintiff has suffered severe psychological and emotional damage as a result of the assaults described above.
29. Plaintiff's projected release date is February 20, 2028.
30. As a mentally ill inmate who continues to reside at Central Prison, Plaintiff continues to be at risk of being sprayed with pepper spray while locked securely in his cell posing no risk of escape or injury to any party.
31. Plaintiff has exhausted his administrative remedies.

* * * * *

Discussion

Let us just assume that these events occurred as alleged. Defendants have a different version in seeking summary judgment. What possible excuse can there be for the voluminous application of pepper spray and subsequent events? There apparently was a dispute about a missing spoon and no bread on the food tray. That may account for the tray being "shoved" through the slot.

Of course, all that had to be done was close the slot and bring in a mental health staff member who could deal therapeutically with this minor event. There was no risk of harm to anyone. The hurt was to the officers, I assume, who felt "abused."

No mental health staff allegedly was consulted. Effective training would have required consultation and if no staff was available that is a defect in the system; not a defect in Williams.

Expert witness James Aiken made the following un-contradicted conclusions regarding the incident:

[I]t is abundantly clear that there was an extreme probability that the use of force would not have occurred if staff had contacted or at least solicited input and participation of professional mental health staff familiar with Mr. Williams' debilitating psychological history. Rather than consider this information and create a plan to de-escalate the event accordingly, defendants ignored Mr. Williams' mental health condition until after the event.... [Defendants' actions are] indicative of punishing behavior versus controlling the behavior of Mr. Williams. (Ex. Q, Expert Report of James E. Aiken at 10-11.)

Plaintiffs have engaged other high profile experts and the financial cost of pursuing a defense begins to exceed any likely gain. That is, it does not appear that the defendants dispute the facts. **Indeed, they defend the regular use of highly concentrated pepper spray on inmates with SMI even in non-crisis or low-crisis situations.**

Prisoners with SMI can be annoying; more than annoying. Where a serious psychological condition causes annoyance—and many do—those who respond with chemicals and assaults, it is safe to say, should seek other employment. ■



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