

Is solitary confinement in prison a form of torture and should it be banned?

Secondary Sources:

Solitary confinement isolates prisoners. They eat all their meals alone in their cells and have no social activity of any kind. Any human interaction is conducted through a cell door or by telephone. When guards uncuff and cuff a prisoner, it is done through a slot in the cell door. The slot is also used for giving the prisoners meals.

David M. Shapiro, Solitary Confinement in the Young Republic, 133 Harv. L. Rev. 576 (2019)

Around 20% of the U.S. incarcerated population is held in solitary confinement in a year. Half of them are confined for 30 days or more. The harm that solitary confinement can cause includes material deprivation, social isolation, and psychological distress.

Western, B., Simes, J.T., Bradner, K., Solitary Confinement and Institutional Harm, December 21, 2021

Prisons and jails already cause stress and placing people in solitary confinement adds to that stress and can cause permanent mental damage. People need human interaction and depriving them of socialization can cause brain pain or “Social Pain”, which is just as harmful as physical pain. Solitary Confinement increases the risk of premature death after release. Someone can also develop mental health conditions even if they were perfectly fine going in. For jails and prisons, it is a solution, but for the human beings involved it is torture.

Tiana Herring, *the research is clear: Solitary confinement causes long-lasting harm*, December 8, 2020.

People who experience solitary confinement are more likely to develop anxiety, depression, and suicidal thoughts. As well as physical health like vision loss. Solitary confinement affects black people, Hispanic people, and people with mental health conditions most often. The feeling of loneliness that is experienced in isolation can cause serious mental and physical conditions.

Medical News Today, What Are The Effects Of Solitary Confinement On Health, August 7, 2020

Prisoners who were once considered to have no mental health issues leave solitary confinement with an assortment of psychological problems. Not only are prisoners paying the ultimate price for these harsh discipline practices, but the community is left trying to resolve the continued effects once prisoners are released. Studies have shown that the extensive use of solitary confinement may result in mental health issues, mental distress, self-harm by inmates, and perhaps increased recidivism. Small but powerful policy changes within the prison system can help minimize the onset of mental health issues, reduce recidivism rates, and ultimately reduce overall prison costs.

Lt. Jessica Moye, The Problem of Solitary Confinement (August 2018)

Primary Sources:

Gallina V. Wilkinson 988 F.3d 137

- Ferdinando **GALLINA**, Petitioner, v. Robert M. **WILKINSON**, Acting United States Attorney General, Respondent
- Gallina V. Wilkinson
- United States Court of Appeals, Second Circuit.
- Gallina was arrested in Italy for Mafia association. He was eventually released and traveled to the United States. Gallina was then wanted on a 2016 warrant for the 2000 murder of Francisco Giambanco, who had been beaten with a wooden bat, stuffed into the trunk of a car, and set on fire. Gallina testified that for the first month in detention, he was kept in solitary confinement for 23 hours each day, he was allowed 1 hour a day to interact with other detainees. After 6 months Gallina was allowed one phone call or visit with a family member per month. In some months the visitation or phone call was canceled with no explanation. The window in the cell was so small he couldn't see outside. Dr. Charles Robins testified that the conditions Gallina was in caused him psychological harm. Most of his physical issues were stress-induced like stomach ulcers, hernia, internal bleeding, migraines, and severe weight loss. Gallina testified that after his release life was challenging for him.
- The BIA found no indication that Italian officials were intentionally inflicting pain and harm on Gallina.
- Whether Italy intentionally inflicted Gallina's injuries?
- Gallina argues that his conditions were chosen for the purpose of inducing his cooperation and were far harsher than needed. He also said that Italian officials would threaten him by saying that if he did not collaborate with them, he was going to go through hell.
- Whether the detention conditions fall within the definition of torture?
- Although we recognize that Gallina developed various persisting mental ailments while in 41-bis detention, we cannot agree that he faced severe mental pain and suffering of the kind envisioned.
- It was concluded that the conditions of solitary confinement in this detention center were not much different than what the general population in detention experienced day to day.
- Petition was denied.
- **Shepardized:** No subsequent appellate history. Neutral:1

Williams V. Pennsylvania Department of Corrections 848 F.3d 549

- Craig **WILLIAMS**, Appellant v. SECRETARY **PENNSYLVANIA DEPARTMENT OF CORRECTIONS**
- Williams V. Pennsylvania
- Two inmates at Pennsylvania state prisons brought separate actions against various prison officials, alleging that their due process rights were violated when they were kept in solitary confinement on death row for several years between the date their death sentences were vacated and the date they were resentenced to life without parole.
- Whether there is a constitutionally protected liberty interest that prohibits the State from continuing to house inmates in solitary confinement on death row after they have been granted resentencing hearings.
- The Due Process Clause of the Fourteenth Amendment limits the State's ability to subject an inmate to solitary on death row.

- We also hold that because the principle was not clearly established, prison officials are entitled to qualified immunity.
- For the foregoing reasons, we will affirm the district court's orders granting summary judgment in favor of Defendants based on qualified immunity. We also hold that it is now clearly established that inmates on death row whose death sentences have been vacated have a due process right to avoid continued placement in solitary confinement on death row, absent the kind of meaningful protections discussed herein.
- **Shepardized:** No negative subsequent appellate history. Caution:8, Positive:21, Neutral:2

Duponte V. Wall 288 F.Supp.3d 504

- Richard J. **DUPONTE**, II, Plaintiff, v. Ashbel T. **WALL**, Matthew Kettle, Jeffrey Aceto, Bruce Oden, Jack Ward, Fredd Specht, Teresa Berube, Joseph DiNitto, and William Begones, in their individual and official capacities, and the Rhode Island Department of Corrections, Defendants.
- Duponte V. Wall
- United States District Court, D. Rhode Island
- State inmate brought action against prison and various prison officials, alleging violations of his Fourteenth Amendment due process rights and the Eighth Amendment's prohibition on cruel and unusual punishment, based on his placement for one year in disciplinary confinement. Defendants moved to dismiss.
- Mr. Duponte claims that confinement violates his Eighth and Fourteenth Amendment rights and is seeking compensation. He sues the Defendants in their official and individual capacities.
- Defendants argued that Mr. Duponte cannot pursue money damages.
- Defendants motion to dismiss is granted.
- **Shepardized:** No negative subsequent appellate history. Caution:1, Positive:2

Incumaa V. Stirling 791 F.3d 517

- Lumumba K. INCUMAA, a/k/a Theodore Harrison, Jr., Plaintiff-Appellant, v. Bryan P. STIRLING, Acting Director of the South Carolina Department of Corrections, Defendant-Appellee
- Incumaa V. Stirling
- Lumumba Kenyatta Incumaa began serving a life sentence without the possibility of parole in 1988. He was placed in and remained in solitary confinement for 20 years, despite not having committed a single disciplinary infraction during that time. The appellant challenges this on two grounds. 1. Under the Religious Land Use and Institutionalized Persons Act (RLUIPA) 42 U.S.C 2000cc-1, which prohibits a state from imposing a substantial burden on an inmate's religious exercise. 2. The appellant claims the appellee violated his right to procedural due process.
- The district court granted the appellee's motion for summary judgment.
- We hold the appellant's 20-year period of solitary confinement, amounts to atypical and significant hardship in relation to the general population and implies a liberty interest in avoiding security detention. Furthermore, there is a triable dispute as to whether the Department's process for determining which inmates are fit for release from security detention meets the minimum requirements of procedural due process.
- Affirmed in part, reversed in part, and remanded for further proceedings.
- **Shepardized:** No subsequent appellate history. Caution:28, Positive:51, Neutral:5

Johnson V. Pennsylvania Department of Corrections, 846 Fed.Appx. 123

- Roderick JOHNSON, Appellant v. PENNSYLVANIA DEPARTMENT OF CORRECTIONS; Secretary Pennsylvania Department of Corrections; Superintendent Greene SCI; John/Jane Does (1-52).

- State inmate filed action alleging the prison officials violated his Eighth Amendment and due process rights by keeping him in solitary for almost 20 years, even after his murder conviction and death sentence were vacated and he was granted a new trial. The United States District Court for the Middle District of Pennsylvania dismissed the complaint.
- In 1997, Johnson was convicted and sentenced to death on two counts of first-degree murder. Solitary Confinement followed in February 1998 while Johnson was on death row. His complaint describes the severe conditions he endured during this confinement. For 22 to 24 hours a day, he was confined to his cell, where he ate, slept, and used the toilet. To leave his cell, Johnson had to submit to a strip search and shackling, after which he was allowed brief “recreation” time in an enclosed space akin to a dog kennel. Johnson alleges his solitary confinement continued even as some of the evidence supporting his conviction began to unravel.
- Johnson argues that his decades in solitary confinement were so cruel and unusual as to violate the Eighth Amendment. We agree Johnson stated a viable claim, though we ultimately affirm its dismissal because Defendants have a valid qualified immunity defense.
- We vacate in part and affirm in part. We vacate the District Court's dismissal of Johnson's procedural due process claim. We affirm the Court's dismissal of Johnson's Eighth Amendment claim, though only on the grounds that Defendants are entitled to qualified immunity. We affirm the dismissal of Johnson's substantive due process claim.
- We remand to the District Court for further proceedings.
- **Shepardized:** No subsequent appellate history. Caution:1

Analysis:

Solitary confinement can be detrimental to and a form of torture for inmates. In most less severe cases it can cause anxiety, stress, and depression, and in serious cases cause suicide. Solitary confinement or isolation increases the rate of premature death. Not only can it cause mental and emotional problems but also physical. The physical toll it takes on prisoners “can lead to vision loss” (Medical News Today).

Many experts state that solitary confinement can cause mental health issues even if the individual goes into isolation perfectly healthy. Prisoners can be in solitary confinement for one week, one month, 10 years, 20 years, etc. Keeping people locked away and completely isolated from other human contact and interaction is inhumane and should be banned. If they are released, those who were held in solitary are more likely to commit a violent crime within three years. In the case *Gallina V. Wilkinson*, Gallina was kept in solitary confinement for “23 hours each day, he was allowed 1 hour a day to interact with other detainees. After 6 months Gallina was allowed one phone call or visit with a family member per month” (988 F.3d 137). He developed physical issues like stomach ulcers and hernias which were said to be stress induced. Solitary confinement violates the Eighth and Fourteenth Amendments. The Eighth Amendment is supposed to protect convicted prisoners from cruel and unusual punishment. Normally a prisoner must act out to be put in solitary, but there have been cases where someone is in solitary for no apparent reason, or they are in solitary for the crime that they committed. Most cases have concluded in finding that solitary confinement is not a threat to individuals; however, medical professionals have said otherwise. Solitary confinement has also been said to be harmful to black people, Hispanic people, and people with mental illnesses more often.

There are some benefits to solitary confinement like providing prison safety. They need a place to put inmates who act out. Aggression and fights happen all the time in jail and prison. When two inmates fight the guards have a way to discipline them that is not physical. Solitary should be used as a temporary holding or punishment and an individual would only stay in isolation for so many hours, not months and years. Keeping prisoners isolated for years has a long-term effect on their mental health. Social isolation, physical and mental distress, etc. are all forms of torture. Solitary confinement is torture and should be banned.