

factors that predispose an individual to false confessions. Considering the evidence of substantial error in exoneration cases and the esoteric nature of these types of evidence, one could argue that the jury may have benefitted from the knowledge of these experts.

The majority also discounted the identified dispositional factors because these factors were not obvious during Mr. Powell's testimony at the *Huntley* hearing. For psychiatrists, it is relevant that this may have occurred because Mr. Powell was adequately prepared for the court hearing with the right treatment and sufficient guidance. In contrast, he may not have been as functional when he was under custodial interrogation.

Likewise, testimony on the effects of Mr. Powell's mental illness was minimized because "Dr. Redlich testified that there was 'some evidence' that there was a link between depression or anxiety and susceptibility to false confessions but then conceded that the 'evidence is not entirely clear on that'" (*Powell*, p 1041). Persons with severe mental illness, like Mr. Powell, can experience significant depression and anxiety, especially when exposed to a major stressor like interrogation.

Claims of Inadequate Mental Health Treatment and Prolonged Solitary Confinement

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Court Upheld Denial of Claims That Inmate Suffered Eighth Amendment Violations from Inadequate Mental Health Treatment and Inhumane Conditions While in Solitary Confinement

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In *Johnson v. Prentice*, 29 F.4th 895 (7th Cir. 2022), the U.S. Court of Appeals for the Seventh

Circuit considered Michael Johnson's claims that he suffered Eighth Amendment violations under 42 U.S.C. § 1983 (2012) while he spent three years in disciplinary segregation in Illinois state prison, and that he received inadequate mental health care. The lower court concluded that the record did not support Mr. Johnson's claims. The Seventh Circuit upheld the district court's decision to deny his claims.

Facts of the Case

In February 2007, Mr. Johnson was incarcerated in the Illinois state penitentiary system. During his nine-year incarceration, he exhibited frequent conduct problems and a failure to comply with prison rules, which resulted in his transfer between multiple facilities. Because of his many conduct violations, he received extended periods of disciplinary segregation, more commonly known as solitary confinement. In 2013, he was transferred to Pontiac Correctional Center (PCC), a maximum-security prison. While at PCC, he accumulated additional conduct violations resulting in a total of over three years served in disciplinary segregation. He was further penalized with yard privilege restrictions for poor conduct, which included throwing feces, fighting, and assault.

Mr. Johnson had a history of serious mental health conditions that predated his incarceration. When transferred to PCC, he was evaluated for mental health concerns by medical staff. They determined a treatment plan and evaluated him on a monthly basis. He was diagnosed with a number of mood and anxiety disorders and antisocial personality disorder, and treated with numerous mood stabilizing, antipsychotic, and antidepressant medications, though he never achieved stability. While in disciplinary segregation, he was placed on crisis watch on nine occasions when reporting suicidal or homicidal thoughts. He also reported auditory hallucinations, he excoriated his flesh, and exhibited bizarre behaviors, including smearing himself with feces. During the three years, he frequently requested a transfer to a mental health unit, though his treating psychiatrists determined this was "not warranted" (*Johnson*, p 901). In August 2016, he was transferred to Joliet Treatment Center after he was evaluated to have "achieved a measure of compliance with his treatment plan," two months after filing the lawsuit (*Johnson*, p 901).

In June 2016, Mr. Johnson filed a *pro se* complaint under 42 U.S.C. § 1983 (2012), alleging that the inadequate mental health treatment and inhumane

conditions of confinement were a violation of his Eighth Amendment rights. This matter was brought before the U.S. District Court for the Central District of Illinois, Peoria Division. In summary judgment, Judge Bruce found that Mr. Johnson's Eighth Amendment rights were not violated because he did not demonstrate that he suffered adverse health consequences from his time in segregation, his transgressions were assessed to be dangerous, and staff's actions did not constitute negligence. Mr. Johnson appealed, and the matter was brought before the U.S. Court of Appeals for the Seventh Circuit.

Ruling and Reasoning

In his appeal, Mr. Johnson was represented by counsel, and two *amicus* briefs were submitted. Counsel expanded his case on appeal and expounded on the topics of the constitutionality of solitary confinement in general and the damages Mr. Johnson endured for his prolonged detention. Citing *Soo Line R.R. Co. v. Consolidated Rail Corp.*, 965 F.3d 596 (7th Cir. 2020), the court waived the latter topic as it was never raised in the district court. The court upheld the district court's decision by addressing the three original claims brought forth by Mr. Johnson (the loss of yard privileges, certain cell conditions, and the adequacy of his mental health treatment).

Concerning the cell conditions, the court articulated the deliberate indifference liability standard, contending that Mr. Johnson must show that prison officials knowingly ignored an undue risk to his health or safety. The court stated that Mr. Johnson provided insufficient evidence of deprivation of a single human need and therefore did not meet the standard to prove cruel and unusual punishment.

Regarding the loss of yard privileges, the court primarily referred to *Pearson v. Ramos*, 237 F.3d 881 (7th Cir. 2001). In this case, they held that 90 days of no yard privileges as punishment for misconduct or implementing multiple successive 90-day sanctions for nontrivial behavior did not qualify as cruel and unusual punishment. The court conceded that his time in segregation was much longer than that experienced in *Pearson*, though the level of misconduct exhibited by Mr. Johnson was not trivial, and he did not argue that it was trivial.

Last, the court addressed the concern of inadequate mental health treatment. The court explained that Mr. Johnson needed to demonstrate that clinicians had known of and deliberately disregarded his mental health needs, in accordance with *Howell v. Wexford*

Health Sources, Inc., 987 F.3d 647 (7th Cir. 2021), or to show that their judgment was a "substantial departure from accepted professional judgment" (*Johnson*, p 905, citing *Eagan v. Dempsey*, 987 F.3d 667 (7th Cir. 2021)). The court agreed that it was clear Mr. Johnson experienced mental illness, although it determined that the evidence he provided was insufficient to substantiate a departure from accepted professional standards or deliberate negligence.

Dissent

Judge Rovner entered a dissenting opinion. She joined the majority in part, and dissented in part, focusing her dissent on the constitutionality of the yard restrictions.

First, she asserted that exercise is an essential human need, as stated in *Delaney v. DeTella*, 256 F.3d 679 (7th Cir. 2001), and *Davenport v. DeRobertis*, 844 F.2d 1310 (7th Cir. 1988). She also cited *Pearson*, stating that, while solitary confinement can negatively affect one's health and mental well-being, it could also constitute cruel and unusual punishment if one is simultaneously deprived of a basic human need, like exercise.

Second, Judge Rovner said that a complete deprivation of basic human need would be warranted only to protect the person's safety, or the safety of others, or to prevent a serious security threat. She cited *Bass, Martin*, and *LeMaire*, which justified use of yard restrictions, based on inmates' past escapes and danger to others (*Bass v. Perrin*, 170 F.3d 1312 (11th Cir. 1999); *Martin v. Tyson*, 845 F.2d 1451 (7th Cir. 1988); *LeMaire v. Maass*, 12 F.3d 1444 (9th Cir. 1993)).

Judge Rovner detailed Mr. Johnson's resultant behavior changes and asserted that his deteriorating mental state perpetuated further conduct violations, which she argued was worsened by a lack of exercise.

Discussion

This case highlights the conundrum faced when discussing solitary confinement, particularly for inmates with mental illness. The purported intent of solitary confinement is to be used as a disciplinary sanction, to motivate behavior change, and to ensure the safety of inmates and correctional staff. It is not clear whether the intervention achieves these desired outcomes. Many scholars and advocates have identified its potential harms, especially when it is of prolonged duration, or for those with underlying mental illness (Arrigo BA, Bullock JL. The psychological

effects of solitary confinement on prisoners in supermax units: Reviewing what we know and recommending what should change. *Int J Offender Ther Comp Criminol.* 2008 Dec; 52(6):622–40). The empirical evidence regarding these potential harms, however, are limited, and available evidence, mixed (Kapoor R, Trestman R. Mental health effects of restrictive housing. NCJ 250321. In *Restrictive Housing in the U.S.: Issues, Challenges, and Future Directions.* Washington, D.C.: U.S. Department of Justice, National Institute of Justice; 2016. p 199–232). This is both because it is a challenging practice to study, and because when studied, outcomes are not easily generalizable (Appelbaum KL. American psychiatry should join the call to abolish solitary confinement. *J Am Acad Psychiatry Law.* 2015 Dec; 43(4):406–15).

Whether solitary confinement is generally harmful or not, many scholars agree that it “adds no benefit to the treatment of mental illness in prison.” (Kapoor R. Taking the solitary confinement debate out of isolation. *J Am Acad Psychiatry Law.* 2014 Mar; 42(1):2–6). The American Psychiatric Association and the United Nations both have released statements condemning the prolonged segregation of inmates with serious mental illness, and many groups advocate for its elimination. Multiple state governments have sought to decrease its use, especially for individuals with mental illness. Mississippi, for example, narrowed the criteria used to place inmates in solitary confinement, while North Carolina developed therapeutic diversion units which focus on the treatment of mental illness through positive psychology and socialization (Kupers TA, Dronet T, Winter M, *et al.* Beyond supermax administrative segregation: Mississippi’s experience rethinking prison classification and creating alternative mental health programs. *Crim Just & Behav.* 2009 Oct, 36(10):1037–1050; Remch M, Mautz C, Burke EG, *et al.* Impact of a prison therapeutic diversion unit on mental and behavioral health outcomes. *Am J Prev Med.* 2021 Nov; 61(5):619–27). In both cases, they saw not only better mental health outcomes, but also decreased rates of serious misconduct and use of force by corrections officers. More programs exist in the United States but lack published research evaluating their outcomes. Additional empirical evidence would improve our understanding of the impact of solitary confinement and alternative options, and would further advance the field.

Physician Prosecutions under the Controlled Substance Act

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To Prosecute Physicians under the Controlled Substance Act, the State Must Now Show Intent to Act without a Medical Purpose, as Opposed to Showing Deviation from Standard of Care

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In *Ruan v. United States*, 142 S. Ct. 2370 (2022), the U.S. Supreme Court determined that the 10th and 11th Circuit Courts erred in affirming jury instructions with a negligence standard for the prosecution of two physicians under the Controlled Substances Act (CSA), 21 U.S.C. § 841 (2018). The Court found that the state must prove beyond a reasonable doubt that the physicians knowingly wrote prescriptions without a legitimate medical purpose. The holding establishes a new *mens rea* standard for CSA physician prosecutions.

Facts of the Case

The petitioners in this case are Xiulu Ruan and Sjakeel Kahn, medical doctors with the authority to prescribe controlled substances. Dr. Ruan co-owned and co-operated a pain management clinic and an adjoining pharmacy, which filled the clinic’s prescriptions. He faced criminal charges related to his medical practice, including racketeering, conspiring to violate the CSA by dispensing drugs outside legitimate medical purposes, and conspiracies to commit fraud. Dr. Ruan was alleged to have prescribed inappropriately for personal financial gain, and not monitored appropriately for diversion and misuse of opioid medications (Second Superseding Indictment, *United States v. Couch*, LEXIS 177974 (S.D. Ala. 2016)).

Dr. Kahn practiced as a pain management specialist in Wyoming and Arizona. He was alleged to have