

*novo*. The court detailed that a mental impairment was a compensable occupational disease when it arose in the course of employment, and that the employee had the burden to prove the elements of a workers' compensation claim, including that the employee had an occupational disease. The court noted that the PTSD presumption was invoked when one is employed in one of the enumerated occupations, has been diagnosed with PTSD by a licensed psychologist or psychiatrist, and does not have a previous diagnosis of PTSD. The county had also argued that other presumptions in Minn. Stat. § 176.011 (15) required employees to prove that they experienced a designated disease before the presumption would apply. But the supreme court noted that this section of the statute only mentioned medical diseases and did not use the word "diagnosis." The court said that different meanings are presumed when the legislature uses different words, here "diagnosis" versus "disease." Accordingly, the court ruled that the employee only needed to present a diagnosis for the presumption to apply, and that the statute did not require "such a diagnosis to be more credible or persuasive than" a competing diagnosis offered by the employer (*Juntunen*, p 740). The court upheld the WCCA's finding that the factors to satisfy the presumption were met.

The court also addressed the WCCA's finding that to rebut the presumption, the employer must present significant proof to the contrary. The employer argued that Dr. Arbisi's report was adequate to rebut the presumption, but the WCCA had held that because Dr. Arbisi's report did not specifically address whether the employee had a diagnosis of PTSD in September 2019, it failed to rebut the presumption. The supreme court agreed with this analysis and noted that Dr. Arbisi did not evaluate Mr. Juntunen until 10 months after Mr. Juntunen notified the county of the diagnosis. The court upheld the WCCA's opinion, and the case was remanded to the compensation judge for benefit determination.

#### Discussion

In *Juntunen*, a concurring opinion raised concerns over the variability of PTSD symptoms over time. That jurist did not disagree with the majority opinion findings but was concerned about the state's policy design as to the economics of providing long-term benefits for a disorder with such a variable course.

PTSD is often alleged in workers' compensation claims, and it is helpful for forensic psychiatrists to

have an understanding of the literature and research in this area, as well as diagnostic tools. One recent review, focusing on the long-term stability of the PTSD diagnosis, indicated that after a subject has experienced symptoms for at least three months, the subject is likely to experience a chronic course (Diamond PR, *et al*. Change in prevalence of posttraumatic stress disorder in the two years following trauma: A meta-analytic study. *Eur J Psychotraumatol*. 2022; 13(1):2066456.) But, review articles focusing on remission rates and point prevalence indicate wide variability as to long-term remission rates (6–92 %), as well as symptom intensity at any given time (see Steinert C, *et al*. The course of PTSD in naturalistic long-term studies: High variability of outcomes. A systematic review. *Nord J Psychiatry*. 2015; 69(7):483-96 and Marmar CR, *et al*. Course of posttraumatic stress disorder 40 years after the Vietnam War: Findings from the National Vietnam Veterans Longitudinal Study. *JAMA Psychiatry*. 2015; 72(9):875-81).

The 10-month gap between the examinations in *Juntunen* illustrates the fact that different findings can result when evaluations occur at different times, even when the evaluations are completed in a purely clinical context. For the present, PTSD will continue to be a challenging entity in both medicolegal and clinical contexts.

## Prolonged Solitary Confinement

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### Federal Circuit Court Considers Whether a Prisoner's Conditions of Confinement Claim Substantiates an Eighth Amendment Rights Violation

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**Key words:** conditions of confinement claim; cruel and unusual punishment; culpable state of mind; qualified immunity; solitary confinement

In *Clark v. Coupe*, 55 F.4th 167 (3d Cir. 2022), the Third Circuit Court of Appeals found that Angelo Clark's allegations gave rise to a plausible claim that the circumstances around his seven-month

stay in solitary confinement violated the Eighth Amendment. The court found that the lower court erred in dismissing the claim on qualified immunity grounds and remanded for further proceedings.

#### Facts of the Case

In January 2016, Mr. Clark, a prisoner who had been treated for bipolar disorder and schizophrenia for at least 10 years, was placed in solitary confinement on the Secure Housing Unit (SHU) at James T. Vaughn Correctional Center (JTVCC) following an incident with another inmate. Despite not having a security classification meriting solitary confinement, Mr. Clark remained in SHU placement for seven months. While in the SHU, Mr. Clark was alone in a cell measuring eleven by eight feet. He was let out of the cell for three one-hour breaks per week. The lights in his cell were only off for six hours per day. Meals were delivered through a door slot. While in solitary confinement, Mr. Clark had intermittent outbursts which were deemed “disciplinary incidents” by prison officials. These incidents led to repeated extensions of his confinement, because it was JTVCC’s policy that inmates had to “earn their way out” of the SHU via “appropriate behavior.” Whenever he inquired about the length of his confinement, he was placed in the “naked room,” a solitary cell with nothing to wear but an open smock. During his seven months in confinement, Mr. Clark experienced “increased hallucinations, paranoia, self-mutilation, sleeplessness, and nightmares” (*Clark*, p 173). Richard Coupe, Commissioner of the Delaware Department of Corrections, authorized Mr. Clark’s placement in solitary confinement. The Warden of JTVCC, David Pierce, who had the authority to reclassify an inmate’s housing status, allowed Mr. Clark to remain in solitary confinement for seven months.

Mr. Clark sued JTVCC prison officials under 42 U.S.C. § 1983 (1996), alleging constitutional violations arising from his stay in solitary confinement. He alleged that the defendants had inflicted cruel and unusual punishment on him by providing inadequate medical care. Prison officials moved to dismiss Mr. Clark’s claims. The district court dismissed Mr. Clark’s conditions of confinement claim on the grounds of qualified immunity, because there was no clearly established law delineating that prolonged solitary confinement of persons with mental illness amounted to cruel and

unusual punishment under the Eighth Amendment. Mr. Clark appealed.

#### Ruling and Reasoning

The Third Circuit Court of Appeals addressed the dismissal of Mr. Clark’s conditions of confinement claim. Mr. Clark had asserted that his prolonged stay in the SHU caused him to experience mental deterioration in violation of his Eighth Amendment rights. He argued that the prison officials were aware of his mental illness history and that their action served no penological purpose. The prison officials claimed qualified immunity, asserting that they were shielded from liability because there was “no clearly established law prohibiting a months-long placement of a seriously mentally ill inmate in solitary confinement” (*Clark*, p 178). The court noted that qualified immunity was properly granted only if the plaintiff sufficiently alleged that a right had been violated and that the right was clearly established at the time of the violation, such that a reasonable person would clearly understand their conduct was unlawful. The district court had dismissed the claim based on a lack of a clearly established right, without addressing whether Mr. Clark had sufficiently alleged a constitutional violation. Thus, the Third Circuit addressed the question of whether Mr. Clark’s claim demonstrated that the conditions he endured were, in fact, cruel and unusual. The court chose to address specifically whether Mr. Clark’s stay in solitary confinement constituted cruel and unusual punishment, rather than the broader concern of whether the solitary confinement of inmates with mental illness was a *per se* violation of the Eighth Amendment.

The court noted that prisons have an affirmative duty to provide humane conditions of confinement. For his claim to succeed, Mr. Clark had to demonstrate that he had been deprived of said humane conditions. The court said that the deprivation element was not satisfied by his merely being uncomfortable. Rather, Mr. Clark must show that he was “incarcerated under conditions posing a substantial risk of serious harm” (*Clark*, p 179, citing *Farmer v. Brennan*, 511 U.S. 825 (1994), p 834). The court held that the element is satisfied when the allegations demonstrate that the inmate was denied the minimal civilized quota of life’s necessities.

The Third Circuit said that the inmate must also demonstrate that prison officials had acted with

deliberate indifference. This is a subjective standard, requiring proof that prison officials knew of, but disregarded, an excessive risk to the inmate. Accordingly, Mr. Clark was required to allege adequately that prison officials had a sufficiently culpable state of mind. Mr. Clark had asserted that the prison officials had known about his history of significant mental illness and yet had disregarded his pleas to leave the SHU, leaving him there for seven months and causing his mental health to deteriorate. The court concluded that Mr. Clark's allegations, that prison officials were deliberately indifferent as to the effects of prolonged isolation on Mr. Clark's already severely compromised mental health, were sufficient to raise a legitimate Eighth Amendment claim.

Finally, the Third Circuit addressed the legitimacy of the district court's ruling that no established law had been violated during the seven months Mr. Clark spent in the SHU. To meet this subjective standard, the prison officials must have had "fair warning" that their conduct violated the prisoner's Eighth Amendment right. To address this question, the court reviewed its own precedents, relevant U.S. Supreme Court decisions, and multiple federal circuit court decisions with related fact patterns. In these decisions, the Third Circuit noted that the knowing infliction of serious psychological injury, by whatever means, had consistently grounded Eighth Amendment violation claims. The court also relied on *Cnty. Legal Aid Soc'y Inc. v. Coupe*, 2016 WL 1055741 (D. Del. 2016), a decision handed down by a Delaware district court when Mr. Clark had been in the SHU for two months. In this decision, the district court ruled that Commissioner Coupe's alleged conduct of "placing mentally ill inmates in solitary confinement, without adequate mental health treatment and out-of-cell time, raised a viable constitutional claim" (*Cnty Legal Aid*, p 2). The court also cited a Delaware statute, which was in effect at the time of Mr. Clark's solitary confinement, preventing courts from imposing a term of solitary confinement for more than three months. The court concluded that the law, along with other sources of notice, sufficiently "warned prison officials that their purported conduct was unlawful" (*Clark*, p 188). The Third Circuit held that the district court's grant of qualified immunity was premature, reversed the district court's order dismissing the conditions of confinement claim, and remanded the case for further proceedings.

## Discussion

In *Farmer v. Brennan*, the U.S. Supreme Court noted that the Eighth Amendment outlaws cruel and unusual punishments, not conditions. The Court also said that "an official's failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, cannot under our cases be condemned as the infliction of punishment" (*Farmer*, p 838). This emphasis on recklessness (i.e., a prison official ignoring a consciously apprehended risk to an inmate) forms the basis for *Farmer's* definition of deliberate indifference. The Court held that the Eighth Amendment had a "subjective component," and that a determination of deliberate indifference mandated "inquiry into a prison official's state of mind" (*Farmer*, p 838). And as to this "state of mind," *Farmer* held that a prison official could not be deemed liable under the Eighth Amendment unless the prison official disregarded an excessive risk to the inmate's health or safety.

In *Clark*, the circuit court held that the petitioner's conditions of confinement claim could potentially qualify as an Eighth Amendment violation. The court sought to avoid objectivity language such as what a prison official "should have known" and instead to ground the potential violation in the prison officials' subjective knowledge. Of course, determining with certainty what someone knew is a difficult task.

The *Clark* case is instructive for clinicians working in corrections facilities and also forensic evaluators who review claims of Eighth Amendment violations. The court in *Clark* emphasized the construct of "fair warning." The Third Circuit reviewed cases and laws which gave notice to prison officials that their conduct was a potential violation of Mr. Clark's Eighth Amendment right. The Third Circuit thus considered Mr. Clark's claim properly alleged, and they remanded Mr. Clark's case back to the district court to allow it to proceed on the merits in light of its instruction.

## Due Process for Civil Commitment Proceedings

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