

Why Is Psychological Torture not a Qualifier For Money Damages?

by James Riva

People convicted of crimes are hated by much of society. We criminals steal things from hardworking people. We criminals sell harmful drugs to their adolescent children. We criminal commit violence upon innocent people. That is the story that much of society tells themselves, and then they are able to ignore what is done to us, the criminals.

The case law against cruel and unusual punishment under the 8th Amendment of the United States Constitution is sparse on the subject of psychological torture. The case law under Article 26 of the Massachusetts Declaration of Rights, which prohibit cruel or unusual punishment, is even more sparse.

Without any clear precedent to make psychological torture a qualified for damages, an action may be dismissed by the defendant (Department of Correction, local House of Corrections, etc) just by transferring the plaintiff prisoner to another equally bad prison with equally bad corrections officers. This essentially allows the bad conduct to forever escape scrutiny by the courts and the public.

The damage that can be

caused by a small group of corrections officers working in concert to "crank" their prisoner victim can be extensive and devastating. Suppose four or five malevolent officers target the prisoner by writing bad reports on him/her, resulting in a negative psychological evaluation, resulting in negative parole assessment. Suppose the same four or five malevolent officers team up

I have even seen instances where malevolent officers got hold of sensitive information from a prisoner's psychological records and use it to torment their target prisoner.

The courts in all their wisdom have declines thus far to allow for money damages for psychological torture. Instead they insist on actual significant physical injury to qualify for money. This triad

permits terrible abuses to go unresolved like a sore that never heals, merely by transferring the prisoner and allowing the corrections officers involved to size up their next target prisoner—a significant and commonplace problem. That evades judicial scrutiny and nonetheless inflicts

significant harms all the way up to suicide in some tragic cases.

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to verbally harangue the target prisoner until he/she verbally explodes on one or more of them. The result? Negative housing assignments to "the hole", or a forced increase of psychiatric medications (if the target prisoner has a mental health history or a negative parole assessment). There will be privileges denied, access to classes denied, more time spent in worse confinement conditions, and sometimes reduced visits and communication with loved ones.

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