HUDSON v. McMILLIAN
SUPREME COURT OF THE UNITED STATES
503 U.S. 1
February 25, 1992
[7 - 2]

OPINION: Justice O'Connor...Keith Hudson was an **inmate** at the state penitentiary in Angola, Louisiana [where] Jack McMillian, Marvin Woods, and Arthur Mezo served as corrections security officers...During the early morning hours of October 30, 1983, Hudson and McMillian argued. Assisted by Woods, McMillian then placed Hudson in handcuffs and shackles, took the prisoner out of his cell, and walked him toward the penitentiary's "administrative lockdown" area. Hudson testified that, on the way there, McMillian punched Hudson in the mouth, eyes, chest, and stomach while Woods held the inmate in place and kicked and punched him from behind. He further testified that Mezo, the supervisor on duty, watched the beating but merely told the officers "not to have too much fun." As a result of this episode, Hudson suffered minor bruises and swelling of his face, mouth, and lip. The blows also loosened Hudson's teeth and cracked his partial dental plate, rendering it unusable for several months.

Hudson sued the three corrections officers...alleging a violation of the Eighth Amendment's prohibition on cruel and unusual punishments and seeking compensatory damages...[A] Magistrate... found that McMillian and Woods used force when there was no need to do so, that Mezo expressly condoned their actions [and]...awarded Hudson damages of $800.

The Court of Appeals...held that inmates alleging use of excessive force in violation of the Eighth Amendment must prove [among other things]: **significant injury** [and that]...Hudson could not prevail...because his injuries were "minor" and required no medical attention.

We granted certiorari to determine whether the "significant injury" requirement...accords with the Constitution's dictate that cruel and unusual punishment shall not be inflicted...

[The majority reversed the Court of Appeals and held that proof of a "significant injury" is not required to bring a claim for violation of the "cruel and unusual" provision of the Eighth Amendment.]

CONCURRENCE: Justice Blackmun...The Court...puts to rest a seriously misguided view that pain inflicted by an excessive use of force is actionable under the Eighth Amendment **only** when coupled with "significant injury," *e.g.*, injury that requires medical attention or leaves permanent marks...[If otherwise,]...the constitutional prohibition of "cruel and unusual punishments" then might not constrain prison officials from lashing prisoners with leather straps, whipping them with rubber hoses, beating them with naked fists, shocking them with electric currents, asphyxiating them short of death, intentionally exposing them to undue heat or cold, or forcibly injecting them with psychosis-inducing drugs. These techniques...are hardly unknown within this Nation's prisons. *Campbell v. Grammar (1989)* (use of high-powered fire hoses); *Jackson v. Bishop (1968)* (use of the "Tucker Telephone," a hand-cranked device that generated electric shocks to sensitive body parts, and flogging with leather strap)...

Louisiana,...Texas, Hawaii, Nevada, Wyoming, and Florida as *amici curiae*, suggest that a "significant injury" requirement is necessary to curb the number of court filings by prison inmates...

Since the burden on the courts is presumably worth bearing when a prisoner's suit has merit, the States' "concern" is more aptly termed a "conclusion" that such suits are simply without merit. One's experience on the federal bench teaches the contrary...[Also,] I do not read anything in the Court's opinion to limit injury cognizable under the Eighth Amendment to physical injury. It is not hard to imagine inflictions of psychological harm -- without corresponding physical harm -- that might prove to be cruel and unusual punishment. *Wisniewski v. Kennard* (guard placing a revolver in inmate's mouth and threatening to blow prisoner's head off)...

DISSENT: Justice Thomas/Scalia...Guided by what it considers "the **evolving standards of decency** that mark the progress of a maturing society,"...[t]he Court...asserts that *any* "unnecessary and wanton" use of physical force against a prisoner *automatically* amounts to "cruel and unusual punishment," whenever more than *de minimis* force is involved. Even a *de minimis* use of force, the Court goes on to declare, inflicts cruel and unusual punishment where it is "repugnant to the conscience of mankind." The extent to which a prisoner is *injured* by the force -- indeed, whether he is injured at all -- is in the Court's view irrelevant.

In my view, a use of force that causes only insignificant harm to a prisoner **may be immoral, it may be tortious, it may be criminal, and it may even be remediable under other provisions of the Federal Constitution, but it is not "cruel and unusual punishment."...**

Please do not mistake the word "tortious" for "torturous." Justice Scalia is saying there may well be a remedy here under the common law of "torts" (i.e., "tortious"), but regardless, insignificant harm to a prisoner does not rise to the level of a constitutional violation. He definitely does not say that "insignificant harm" may have something to do with "torture." They are different terms.

For generations, judges and commentators regarded the Eighth Amendment as applying only to torturous punishments...and not generally to any hardship that might befall a prisoner during incarceration...Thus, historically, the lower courts routinely rejected prisoner grievances by explaining that the courts had no role in regulating prison life...It was not until 1976 -- 185 years after the Eighth Amendment was adopted -- that this Court first applied it to a prisoner's complaint about a deprivation suffered in prison. *Estelle v. Gamble (1976).*

We made clear in *Estelle* that the Eighth Amendment plays a very limited role in regulating prison administration. The case involved a claim that prison doctors had inadequately attended an inmate's medical needs. We rejected the claim because the inmate failed to allege "acts or omissions sufficiently harmful to evidence *deliberate indifference* to *serious* medical needs." From the outset, thus, we specified that the Eighth Amendment does not apply to every deprivation, or even every unnecessary deprivation, suffered by a prisoner, but *only* that narrow class of deprivations involving "serious" injury inflicted by prison officials acting with a culpable state of mind...

We have never found a violation of the Eighth Amendment in the prison context when an inmate has failed to establish either of these elements. In *Rhodes v. Chapman (1981),* for instance, we upheld a practice of placing two inmates in a single cell on the ground that the injury alleged was insufficiently serious. Only where prison conditions deny an inmate "the minimal civilized measure of life's necessities," we said, could they be considered "cruel and unusual punishment." Similarly, in *Whitley v. Albers (1986),* we held that a guard did not violate the Eighth Amendment when he shot an inmate during a prison riot because he had not acted with a sufficiently culpable state of mind. When an official uses force to quell a riot, we said, he does not violate the Eighth Amendment unless he acts "maliciously and sadistically for the very purpose of causing harm."

...When we cut the Eighth Amendment loose from its historical moorings and applied it to a broad range of prison deprivations, we found it appropriate to make explicit the limitations described in *Estelle*, *Rhodes*, *Whitley*, and *Wilson*. "If the pain inflicted is not formally meted out *as punishment* by the statute or the sentencing judge, some mental element must be attributed to the inflicting officer before it can qualify," *Wilson...*Similarly, **because deprivations of all sorts are the very essence of imprisonment, we made explicit the *serious* deprivation requirement to ensure that the Eighth Amendment did not transfer wholesale the regulation of prison life from executive officials to judges**. That is why, in *Wilson*, we described the inquiry mandated by the objective component as: "Was the deprivation *sufficiently serious?*" That formulation plainly reveals our prior assumption that a serious deprivation is *always* required. Under that analysis, a court's task in any given case was to determine whether the challenged deprivation was "sufficiently" serious...

Given *Estelle*, *Rhodes*, *Whitley*, and *Wilson*, one might have assumed that the Court would have little difficulty answering the question presented in this case by upholding the Fifth Circuit's "significant injury" requirement. Instead, the Court announces that "the objective component of an Eighth Amendment claim is...contextual and responsive **to contemporary standards of decency**."...

The Court attempts to justify its departure from precedent by saying that if a showing of serious injury were required, "the Eighth Amendment would permit any physical punishment, no matter how

diabolic or inhuman, inflicting less than some arbitrary quantity of injury." That statement, in my view, reveals a central flaw in the Court's reasoning. **"Diabolic or inhuman" punishments *by definition* inflict serious injury.** That is not to say that the injury must be, or always will be, *physical*. "Many things -- beating with a rubber truncheon, water torture, electric shock, incessant noise, reruns of Space 1999 -- may cause agony as they occur yet leave no enduring injury. The state is not free to inflict such pains without cause just so long as it is careful to leave no marks." *Williams v. Boles (1988).* Surely a prisoner who alleges that prison officials tortured him with a device like the notorious "Tucker Telephone"...has alleged a serious injury. But petitioner has not alleged a deprivation of this type; the injuries he has alleged are entirely physical and were found...to be "minor."

...To be sure, it will not always be obvious which injuries are "serious."...These determinations are, however, required by the Eighth Amendment, which prohibits *only* those punishments that are "cruel and unusual." As explained above, I think our precedents clearly establish that a prisoner seeking to prove that he has been subjected to "cruel and unusual" punishment must always show that he has suffered a serious deprivation...

Today's expansion of the Cruel and Unusual Punishment Clause beyond all bounds of history and precedent is, I suspect, yet another manifestation of the pervasive view that the Federal Constitution must address all ills in our society. Abusive behavior by prison guards is deplorable conduct that properly evokes outrage and contempt. But that does not mean that it is invariably unconstitutional. The Eighth Amendment is not, and should not be turned into, a National Code of Prison Regulation. To reject the notion that the infliction of concededly "minor" injuries can be considered either "cruel" or "unusual" "punishment" (much less cruel *and* unusual punishment) is not to say that it amounts to acceptable conduct. Rather, it is to recognize that primary responsibility for preventing and punishing such conduct rests not with the Federal Constitution but with the laws and regulations of the various States...I would affirm...