US Lighting Legal Database

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Bibliography - Human Health impacts to exposure to Light at Night:

http://mcrol.trianglealumni.org/References-With_Abstracts.pdf

Short Name	Bailey v. Norfolk and Western Ry. Co., 942 SW 2d 404 - Mo: Court of Appeals, Eastern Dist., 4th Div. 1997
Year	1997 Jamie BAILEY, Plaintiff-Respondent,
Court	Missouri Court of Appeals, Eastern District, Division Four.
Reference	942 S.W.2d 404 (1997)
Case Number	No. 70194.
URL	http://scholar.google.com/scholar_case?case=6139553319121817525
Opinion - Exctract	Bailey's difficulty in getting adequate rest was exacerbated by the away-from-home sleeping dormitory provided by N & W at its North Kansas City yard. Other employees of N & W testified the dormitory was not a good place to get sleep. The dormitory was too noisy, the temperature too hot or too cold and the lighting too bright.
Keywords	injury, rest, dormatory

Short Name	Belmar Drive-In Theatre v. Hgw. Com., 216 NE 2d 788 - Ill: Supreme Court 1966
Year	1966 BELMAR DRIVE-IN THEATRE CO., Appellant,
Court	Supreme Court of Illinois.
Reference	34 Ill.2d 544 (1966)
Case Number	No. 39502.
URL	http://scholar.google.com/scholar_case?case=4241722935496128130
Opinion - Exctract	The amended complaint consisted of three counts and the plaintiff's contentions here make it expedient to treat upon each count separately. The basic charge of count I is that brilliant artificial lights employed on the oasis and its approaches approximate the light of day and dispel darkness on neighboring premises, making it impossible to properly exhibit outdoor movies, and thus constitute a private nuisance which has caused a substantial decline in plaintiff's business and entitles it to damages. However, we are in accord with the determination of the trial court that the facts pleaded to support the charge of a private nuisance do not charge the defendants with an actionable wrong.
Keywords	

Short Name	Benjamin v. Fraser, 343 F.3d 35 (2d Cir. 2003)
Year	2003 James Benjamin, et al., Plaintiffs-appellees-cross-appellants, v. William J. Fraser, Commissioner of the Department of Correction of the City of New York, et al., Def
Court	United States Court of Appeals, Second Circuit
Reference	343 F.3d 35
Case Number	343 F.3d 35
URL	http://law.justia.com/cases/federal/appellate-courts/F3/343/35/636322/
Opinion - Exctract	d. Lighting requirement 71 To remedy unconstitutional lighting conditions, the court ordered, among other things, that at least twenty foot-candles of light be provided in all cells and dormitory housing areas. (See Apr. 26, 2001 Order at 14). The City objects that this remedy is (1) overbroad, because ten foot-candles of light is sufficient; (2) unnecessary, because some inmates prefer dimmer lights; and (3) overly intrusive, because the deadline for compliance is unreasonable. 72 There is a troubling ambiguity in the district court's award of this remedy. Although noting that it considered the DOC's ten foot-candle standard "inadequa[te]," the court's ultimate finding of unconstitutionality seems to have rested not simply on this standard, but on the inadequacy of the lighting actually provided. Benjamin VI, 161 F.Supp.2d at 182. The district court found this inadequacy, and we affirm, based on its findings of: (1) non-working light fixtures; (2) inadequate light-bulb wattage; and (3) obstructed luminary covers. See id. In a subsequent order, however, the court again stated that it had found the ten foot-candle lighting standard itself "constitutionally inadequate." Benjamin VIII, 156 F.Supp.2d at 352. The parties focus on this finding on appeal and dispute whether the standard is constitutional. 73 From our review of the record, we cannot be sure whether the need-narrowness-intrusiveness findings concerning the twenty foot-candle remedy were made because of the actual lighting conditions in the facilities, or because of the court's belief that the ten foot-candle standard violates the Constitution. The latter course would have been impermissible, as the Constitution does not mandate any particular foot-candle standard; it only places outside limits on actual lighting conditions. 74 We, therefore, vacate the court's twenty foot-candle requirement. On remand, the court should consider whether this requirement meets the PLRA's need-narrowness-intrusiveness findings in view of the actual conditions at the facilities. In making this determination, the court should consider the apparently significant lighting improvements the City has made since its most recent order. (See Def. Br. at 44-46 (discussing improvements)).
Keywords	Minimum lighting, prison

Short Name	Chappell v. Mandeville
Year	2013 REX CHAPPELL, Plaintiff-Appellee,
Court	United States Court of Appeals, Ninth Circuit.
Reference	
Case Number	No. 09-16251.
URL	http://scholar.google.com/scholar_case?case=3382400615001060018&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt
Opinion - Exctract	A reasonable officer would have known that, in combination, the twenty-four-hour bright light, the absence of a mattress, and the extensive bodily restraints risked depriving Chappell of sleep, in violation of the Eighth Amendment.
Keywords	

Short Name	CIARPAGLINI v. Kallas
Year	2012 ROBERT B. CIARPAGLINI, Plaintiff,
Court	United States District Court, W.D. Wisconsin.
Reference	June 8, 2012.
Case Number	June 8, 2012.
URL	http://scholar.google.com/scholar_case?case=11904395270654143054&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt
Opinion - Exctract	On March 6, 2012, plaintiff submitted a proposed complaint alleging that he has a sensitivity to light, is housed in a segregation unit with 24-hour illumination and is consequently suffering from migraine headaches, blurred vision and other symptoms.
Keywords	

Short Name	Downey v. Jackson, 65 So. 2d 825 - Ala: Supreme Court 1953
Year	1953 DOWNEY et al.
Court	Supreme Court of Alabama.
Reference	65 So.2d 825 (1953)
Case Number	6 Div. 423.
URL	http://scholar.google.com/scholar_case?case=11905221713426615489
Opinion - Exctract	It follows, we think, that if in the performance of a legally authorized enterprise the city neglects to do that which it should have done in an exercise of due care, thereby creating a nuisance to the damage or unnecessary annoyance of residents, the appropriate judicial course in equity is to enjoin doing the negligent act which is the guilty agent or modify its use so as to relieve it of the injurious consequences, or minimize them to where no just complaint could be made. We think that theory should be the guiding principle here applicable. The engineers of respondents testified that it was practical to screen off the glare from the lights so as to minimize that which is the just cause of complaint. That would not stop the night games, but would relieve complainants of their just objections to them. The other objections are incident to all ball games and do not result from a failure to use due care.
Keywords	

Short Name	Eller Media Co. v. City of Tucson, 7 P. 3d 136 - Ariz: Court of Appeals, 2nd Div., Dept. B 2000
Year	2000 ELLER MEDIA COMPANY, a corporation, Plaintiff/Appellant,
Court	Court of Appeals of Arizona, Division 2, Department B.
Reference	7 P.3d 136 (2000)
Case Number	No. 2 CA-CV 99-0221.
URL	http://scholar.google.com/scholar_case?case=2597244956768006728
Opinion - Exctract	13 Eller's equal protection claim, like its substantive due process claim, fails as a matter of law. We therefore conclude that the trial court correctly granted the City's motion for summary judgment on both claims.
Keywords	Billboard

Short Name	Gates v. Cook, 376 F.3d 323 (5th Cir. 2004)
Year	2004 Nazareth GATES, etc., et al., Plaintiffs, v. Thomas D. COOK, etc., et al., Defendants.
Court	United States Court of Appeals,Fifth Circuit.
Reference	376 f3d 323 gates v. d cook
Case Number	No. 03-60529
URL	http://caselaw.findlaw.com/us-5th-circuit/1376600.html
Opinion - Exctract	Lighting The lighting in the cells is grossly inadequate. While 20 foot-candles7 is the appropriate level of lighting for the cells, the maximum foot-candles measured by Russell's expert was seven or eight, with the typical cell being in the 2-4 foot-candle range. Id. at *3, 2003 U.S. Dist. LEXIS 8576 at *9-10.
Keywords	inadequate lighting, prison

Short Name	GEORGE WARD BUILDERS v. City of Lee's Summit, 157 SW 3d 644 - Mo: Court of Appeals, Western Dist. 2004
Year	2004 GEORGE WARD BUILDERS, INC., and Robert Allen, Appellants,
Court	Missouri Court of Appeals, Western District.
Reference	157 S.W.3d 644 (2004)
Case Number	No. WD 63347.
URL	http://scholar.google.com/scholar_case?case=13646784297165113158
Opinion - Exctract	George Ward Builders, Inc., and Robert Allen (referred to collectively as "Ward Builders") appeal the dismissal of its two-count petition for nuisance and injunction against the City of Lee's Summit. Specifically, Ward Builders alleged that the lighting system at a park located next to its properties creates an extreme level of light pollution that interferes with the use and enjoyment of its properties. In its sole point on appeal, Ward Builders claims that the trial court erred in dismissing its petition for failure to state a claim for relief because a municipality can be sued for a temporary nuisance under Missouri law.
Keywords	

Short Name Harris v. Horn, ___ A.2d ___ (Pa. Cmwlth., No. 445 M.D. 1999, filed March 2, 2000)

Year 2000 LAMONT HARRIS, :

Court IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Reference No. 445 M.D. 1999

Case Number

URL http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/445md99.pdf

Opinion - Exctract In ruling that the constant lighting was not unconstitutional, that court carefully pointed out, "there was no evidence indicating that the inmates are unable to sleep at all or that they have developed psychological or physiological problems." Hutchings, 501 F.Supp. at 1293.

In sharp contrast, here, Petitioner alleges more than trouble sleeping; he asserts that, as a result of the constant illumination, he has "developed eye problems, sleeping disorders, headaches and mental problems due to lack of sleep…." (Petition at 2.) Thus, we find more on point the case of Keenan v. Hall, 83 F.3d 1083 (9th Cir. 1996), amended at 135 F.3d 1318 (9th Cir. 1998), in which the court denied summary judgment to prison officials as to a prisoner's claim that constant illumination caused him grave sleeping problems and other mental and psychological problems. In determining that there existed a disputed issue of material fact concerning the effects of living in constant illumination, the court in Keenan relied on Lemaire v. Maass, 745 F. Supp. 623 (D. Or. 1990), vacated on other grounds, 12 F.3d 1444 (9th Cir. 1993). In Lemaire, prisoners testified at trial 2 Hutchings and Bauer were decided following trials. Fillmore was decided after motions for summary judgment.
- 4 -
that continuous illumination of their cells disturbed their sleep and caused other psychological effects, and a psychiatrist testified that twenty-four hour a day lighting not only makes sleep difficult but also could exacerbate mental problems. Id. The Lemaire court found that there was "no legitimate penological justification for requiring" the plaintiff "to suffer physical and psychological harm by living in constant illumination" and therefore held the practice unconstitutional. Id. at 636. Here, because Petitioner alleges physical and psychological harm as a result of the constant illumination, he has stated a cause of action; therefore, the Department's preliminary objection in this regard is also overruled.

Keywords

Short Name	JonesEl v. Berge, 164 F. Supp. 2d 1096 - Dist. Court, WD Wisconsin 2001
Year	2001 Dennis E. JONES`EL, Micha`El Johnson, De'Ondre Conquest, et al. V. Gerald BERGE and Jon Litscher, Defendants.
Court	United States District Court, W.D. Wisconsin.
Reference	164 F.Supp.2d 1096 (2001)
Case Number	No. 00-C-421-C
URL	http://scholar.google.com/scholar_case?case=14388395508656090729&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	ells remain illuminated 24 hours a day. Inmates may change the lighting in the cells from high to low but they cannot turn it off altogether. The low setting is bright enough to read by; many inmates state that it is so bright that it disturbs their sleep. At night, inmates are required to sleep in such a way as to allow guards to see skin when they perform hourly checks of the inmates. Guards will wake inmates if they have covered their faces in such a way that the guards cannot see any of the inmate's skin. For seriously mentally ill inmates, the constant illumination disrupts their diurnal rhythm and adds to the sense of disorientation, especially when they do not know the time of day. The constant lighting creates a sense of lack of control and passivity in seriously mentally ill inmates and contributes to sleep problems and headaches that exacerbate the symptoms of mental illness
Keywords	

Short Name Jose v. Thomas

Year 2012 Ronald N. Jose, Plaintiff,

Court United States District Court, D. Arizona.

Reference

Case Number June 11, 2012.

URL scholar.google.com/scholar_case?case=10599567666245178582&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt

Opinion - Exctract Lighting

1. Parties' Assertions

Defendants assert that the lighting about which Plaintiff complains is a dim low-level 9-watt bulb nightlight, which enhances security at the facility, but is dim enough to provide an adequate sleeping environment. (Doc. 54, DSOF ¶¶ 44-45.) The nightlights are different from the much brighter security lights and the regular fluorescent lights that are used in the cells during the day and emit light that is less bright than or comparable to the illumination emitted by an alarm clock. (Id. ¶ 45.) SCC is an American Correctional Association (ACA) accredited facility, and meets ACA standards, including lighting standards; use of low-level nightlights is standard practice for correctional facilities. (Id. ¶¶ 46-47.) Defendants assert that the level of illumination used at SCC at night is the minimum amount necessary to sufficiently address security concerns and to allow correctional staff to observe inmates during the night and regular sleeping hours and to make regular security checks. (Id. ¶ 48.) Sleeping masks are now available. (Id. ¶ 51.) Thomas attests that he considered use of flashlights to conduct searches but concluded that they would be more annoying and disruptive than the continuous low-level nightlights and could create conflict between inmates and staff. (Id., Ex. 2, Thomas Decl. ¶¶ 36-37.) Plaintiff admits that he suffered no physical injury as a result of the nightlight. (DSOF ¶ 52.)

Plaintiff claims that the light is so bright that he can read by it. (Doc. 62, PSOF ¶ 44, Pl. Decl. ¶ 21.) The light only enhances security if an office looks into the cell, so there is no reason to keep the light on all night. (PSOF ¶ 45.) He claims that staff only looks into the cell every 30 minutes. (Id. ¶ 48.) At most facilities, staff uses a flashlight. (Id. ¶ 47.) He claims that SCC does not meet ACA standards and points out that Defendants' provide no proof of meeting the standards. (Id. ¶ 46.) As for the sleeping mask, Plaintiff asserts that it only became available after the lawsuit was filed and notes that not every inmate has the money to buy one. (Id. ¶ 51.)

In their reply, Defendants argue that it is well established that night lights that emit the same or higher wattage as those used at SCC do not violate the Eighth Amendment. (Doc. 66 at 5-6.) Plaintiff offers nothing more than his beliefs that Defendants should operate the facility differently regarding lighting. (Id. at 6.)

2. Analysis

The Eighth Amendment requires that inmates be given appropriate lighting. Keenan v. Hall, 83 F.3d 1083, 1090-91 (9th Cir. 1996), amended 135 F. 3d 1318 (9th Cir. 1998). Constant illumination of a prison cell, standing alone, has been upheld as constitutional under certain circumstances. See, e.g., Warren v. Kolender, 2009 WL 196114, at *15 (S.D. Cal., Jan. 22, 2009). But 24-hour lighting with excessively bright bulbs has been held to violate the Eighth Amendment where it causes mental and psychological problems. See Keenan, 83 F.3d at 1090-91. Whether constant security lighting in prison cells violates the Eighth Amendment is fact-specific and often depends upon the brightness of the light at issue. For example, 24-hour lighting with single 9-watt or 13-watt bulbs has been found not to be objectively unconstitutional. Vasquez v. Frank, 290 F. App'x 927, 929 (7th Cir. Aug.15, 2008) (24-hour lighting with one 9-watt fluorescent bulb not an "extreme deprivation"); McBride v. Frank, 2009 WL 2591618, at *5 (E.D. Wis. Aug. 21, 2009) (24-hour lighting with a 9-watt fluorescent bulb not unconstitutional). See also Grenning v. Miller-Stout, 2011 WL 2600755, *4-5 (E.D. Wash. June 1, 2011) (no triable issue of fact on the constitutionality of use of a single 32-watt bulb with a light diffusing sleeve), adopting Report and Recommendation, 2011 WL 2678953 (E.D. Wash. June 30, 2011).

Defendants proffer evidence showing that each cell contains one 9-watt night light to enable staff to conduct health and welfare/security checks during the night. Defendants have a legitimate penological interest in 24-hour cell lighting. Plaintiff does not adequately dispute the wattage; he merely claims that the light is too bright. But the Constitution does not mandate comfortable prisons, Rhodes, 452 U.S. at 349, and Plaintiff's conclusory assertion is insufficient to create a triable issue of fact. Defendants are entitled to summary judgment on this claim.

Keywords

Short Name	Keenan v. Hall, 83 F.3d 1083, 1090 (9th Cir. 1996)
Year	1996 83 F.3d 1083: 96 Cal. Daily Op. Ser v. 3261, 96 Daily Journald.a.r. 5331charles M. Keenan, Plaintiffappellant, v. Frank Hall, Director Oregon Department of Correctic
Court	United States Court of Appeals, Ninth Circuit
Reference	83 F.3d 1083
Case Number	
URL	http://law.justia.com/cases/federal/appellate-courts/F3/83/1083/585995/
Opinion - Exctract	"Adequate lighting is one of the fundamental attributes of 'adequate shelter' required by the Eighth Amendment." Hoptowit v. Spellman, 753 F.2d at 783. Moreover, "[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional." LeMaire v. Maass, 745 F.Supp. 623, 636 (D.Or.1990), vacated on other grounds, 12 F.3d 1444, 1458-59 (9th Cir.1993).
Keywords	constant lighting, adequate lighting

Short Name King v. Frank, 371 F. Supp. 2d 977 - Dist. Court, WD Wisconsin 2005

Year 2005 Kurtis L. KING, Plaintiff,

Court United States District Court, W.D. Wisconsin.

Reference 371 F.Supp.2d 977 (2005)

Case Number No. 04-C-338-C.

URL http://scholar.google.com/scholar_case?case=9544055680513134674&q=%22Constant+illumination%22&hl=en&as_sdt=2003

Opinion - Exctract 1. Constant illumination

Plaintiff alleged that his cell at Waupun was illuminated 24 hours a day and that he had trouble sleeping and suffered headaches, sore eyes and blurred vision. A condition of an inmate's confinement such as constant illumination violates the Eighth Amendment if it denies the inmate "the civilized measure of life's necessities," Rhodes v. Chapman, 452 U.S. 337, 347, 101 S.Ct. 2392, 69 L.Ed.2d 59 (1981), and is the result of deliberate indifference by prison officials. Wilson v. Seiter, 501 U.S. 294, 302-03, 111 S.Ct. 2321, 115 L.Ed.2d 271 (1991).

985*985 The undisputed facts show that defendants are entitled to summary judgment on this claim. The only light in his cell that plaintiff does not have the power to turn off is a 9-watt fluorescent light that remains lit at all times to allow prison officials to observe inmates at night. To block out this minimal amount of light, inmates are allowed to cover thei eyes with a towel, washcloth, or t-shirt while sleeping. Plaintiff did complain to Gary Ankarlo and Dr. Betsy Luxford about the constant illumination. However, Brenda Schrubbe, a registered nurse and the manager of the institution's Health Services Unit, assessed plaintiff, reviewed his file and concluded that the light in plaintiff's cell has not caused him any serious medical problems. Gary Ankarlo, the supervisor of the Psychological Services Unit, reached the same conclusion. The record is devoid of evidence tending to dispute the findings of these individuals. Therefore, plaintiff has not satisfied his burden to show that he suffered serious harm or was deprived of a basic human need. Moreover, even if plaintiff had made a colorable showing that the constant illumination subjected him to a substantial risk of serious harm, summary judgment would still be appropriate because he has not shown that any defendant was deliberately indifferent to this risk or that the adverse effects of the constant light outweigh the state's need to see inside the cells at all times to protect the safety and welfare of staff and inmates or that the state could meet that need in a less intrusive manner. Cf. Bruscino v. Carlson, 854 F.2d 162, 165 (7th Cir.1988) ("If order could be maintained in [United States Penitentiary in Marion, Illinois] without resort to the harsh methods attacked in this lawsuit, the plaintiffs would have a stronger argument that the methods were indeed cruel and unusual punishments."). Defendants motion for summary judgment will be granted as to this claim.

Keywords

Short Name	Knight v. City of Billings, 642 P. 2d 141 - Mont: Supreme Court 1982
Year	1982 Earle and HAZEL KNIGHT, et al., Plaintiffs and Appellants,
Court	Supreme Court of Montana.
Reference	642 P.2d 141 (1982)
Case Number	No. 81-36.
URL	http://scholar.google.com/scholar_case?case=8557648359023187861
Opinion - Exctract	Also in 1978, the City created a lighting maintenance district to provide lighting for the arterial. The lights used were of a higher intensity than normally found on a residential street. Several of the plaintiffs protested the proposal for the lighting district, but their protest was denied as insufficient when numbered against all of the properties that were included in the lighting maintenance district.
Keywords	lighting district, inverse condemnation

Short Name	Kohr v. Weber, 402 Pa. 63 - Pa: Supreme Court 1960
Year	1960 Kohr
Court	Supreme Court of Pennsylvania.
Reference	402 Pa. 63 (1960)
Case Number	
URL	http://scholar.google.com/scholar_case?case=25710487832545880
Opinion - Exctract	The glaring incandescence lighting up the track and surrounding area prevented many of the inhabitants from getting to sleep. One of the witnesses testified: "The light is of such intensity I can read a newspaper in any of the bedrooms without any lights there in the summer. It is difficult except in an air conditioned home, which we don't have, to sleep with the windows closed, and with the public address system being on constantly as it is from the time they start until they stop, and our bedtime, our children go at 10 o'clock, it is impossible to get rest while they are on."
Keywords	

Short Name	LeMaire v. Maass, 745 F. Supp. 623 - Dist. Court, D. Oregon 1990
Year	1990 Samuel LeMAIRE, Plaintiff,
Court	United States District Court, D. Oregon.
Reference	745 F.Supp. 623 (1990)
Case Number	No. CV 89-382-PA.
URL	http://scholar.google.com/scholar_case?case=13050023111760877840&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	B. Twenty-four Hour per Day Lighting It is undisputed that the lights in the quiet cells remain on continuously. Plaintiff and other inmates testified that the continuous illumination disturbs their sleep and causes other psychological effects. Plaintiff's expert psychiatrist, Dr. Rundle, testified that continuous, long-term confinement in quiet cells itself can cause psychotic symptoms and aggravate pre-existing mental disorders. He testified that in addition to this harmful effect, lighting the quiet cells 24 hours a day makes sleep difficult and exacerbates the harm. I accept the testimony of plaintiff and Dr. Rundle. Defendant justified the constant illumination in the quiet cells as a security measure, so DSU staff could see into the cells. In the abstract, this is a legitimate penological justification. However, there is no evidence that DSU staff needs to see into the quiet cells for 24 hours per day, or that they are even near the quiet cells for 24 hours per day. Defendant offered no reason why the cells could not have switches outside so guards can see into them when they must. There is no legitimate penological justification for requiring plaintiff to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional.
Keywords	

Short Name	Loggerhead Turtle v. County Council of Volusia County Florida, 148 F. 3d 1231
Year	1998 LOGGERHEAD TURTLE (Caretta caretta); Green Turtle, et al., Plaintiffs-Appellants,
Court	United States Court of Appeals,
Reference	148 F.3d 1231
Case Number	No. 97-2083.
URL	http://openjurist.org/148/f3d/1231/loggerhead-turtle-v-county-council-of-volusia-county-florida
Opinion - Exctract	In any event, there seems to be no question that the district court case is moot if the Incidental Take Permit includes, in addition to takings by motor vehicles, such other takings, if any, caused by artificial lights. If that issue is indeed in doubt, this Court could simply require a stay of the district court proceedings while the defendant repairs to the Agency to get a clarification on that point.
Keywords	endangered species act, artificial lighting, ordinance

Short Name	Mark v. Pacific Gas & Electric Co., 496 P. 2d 1276 - Cal: Supreme Court 1972
Year	1972 TAU FAH MARK et al., Plaintiffs and Appellants,
Court	Supreme Court of California. In Bank.
Reference	7 Cal.3d 170 (1972)
Case Number	Docket No. S.F. 22846.
URL	http://scholar.google.com/scholar_case?case=2785792378006429426
Opinion - Exctract	At once the boys discovered that the light from a street lamp pole standing adjacent to their bedroom window was so bright that it disturbed their sleep; even with the drapes drawn and room lights extinguished the boys were able to read by the light cast by the street lamp.
Keywords	light trespass, light at night, electrocute, glare, trespass

Short Name	Maxwell v. Lax, 292 SW 2d 223 - Tenn: Court of Appeals, Western Section 1954
Year	1954 Len W. MAXWELL and Wife, Frances Maxwell, J.W. Barton and Wife, Eline Barton,
Court	Court of Appeals of Tennessee, Western Section. Jackson.
Reference	292 S.W.2d 223 (1954)
Case Number	
URL	http://scholar.google.com/scholar_case?case=7526391649109621233
Opinion - Exctract	The bill alleges that the defendants, by the construction and lighting of the sign have created a nuisance in that the lights shine into the dwelling of complainants Maxwell, interrupt and destroy their rest and sleep; that the sign cuts off, at certain angles, the view of complainants to their several properties and that it causes great annoyance to persons who occupy their property; is so constructed and so glaring and spectacular that it renders further development of their properties impractical; that the sign obstructs the public highways, streets, alleys etc. and that it endangers the safety of travelers along Bell Avenue and the highway, constitutes a dangerous hazard to the safety of persons and vehicles, and unlawfully interferes with the safe enjoyment of the public easement.
Keywords	

Short Name Newell v. Ohio Dept. of Transp., 2007 Ohio 1755 - Ohio: Court of Claims 2007

Year 2007 Ronald L. Newell, Plaintiff.

Court Court of Claims of Ohio.

Reference 2007-Ohio-1755

Case Number No. 2005-11264-AD.

URL http://scholar.google.com/scholar_case?case=10234771667979685896

Opinion - Exctract Therefore, the court, in the instant claim, concludes the lights installed by DOT on US Route 23 resulted in an uncompensated taking of plaintiff's property which is actionable and compensable. Defendant is liable to plaintiff for the damages claimed, plus the $25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in Bailey v. Ohio Department of Rehabilitation and Correction (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

Keywords

Short Name Obama v. BURL

Year 2012 Ishmael Hassan Obama, v. Danny Burl, Warden, East Arkansas Regional Unit; Ray Hobbs, Interim Director, Arkansas Department of Correction;

Court United States Court of Appeals, Eighth Circuit.

Reference

Case Number No. 11-2435.

URL http://scholar.google.com/scholar_case?case=14168384101621857641&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt

Opinion - Exctract We find, however, that Obama's claims regarding constant lighting and inadequate food portions were sufficient to survive preservice dismissal. Obama alleged that the constant lighting in isolation caused inability to sleep, emotional distress, and constant headaches, and those allegations must be taken as true at this stage of the proceedings. See Keenan v. Hall, 83 F.3d 1083, 1090-91 (9th Cir. 1996) (no legitimate penological justification for requiring inmates to suffer physical and psychological harm by living in constant illumination); cf. Ferguson v. Cape Girardeau County, 88 F.3d 647, 650 (8th Cir. 1996) (granting summary judgment against inmate who complained of constant lighting, but noting that evidence indicated inmate slept significant amount of time he was confined, and considering factors such as length of time of confinement).

Accordingly, we affirm in part, reverse in part, and remand for further proceedings on Obama's claims that the constantly lit environment and inadequate food portions violated his constitutional rights.

Keywords

Short Name	Ramos v. Lamm, 520 F. Supp. 1059 - Dist. Court, D. Colorado 1981
Year	1981 Fidel RAMOS, et al., Plaintiffs,
Court	United States District Court, D. Colorado
Reference	520 F.Supp. 1059 (1981)
Case Number	Civ. A. No. 77-K-1093.
URL	http://scholar.google.com/scholar_case?case=5733078289630973870&q=%22lighting+level%22&hl=en&as_sdt=2003
Opinion - Exctract	3. Lighting shall be provided in each cell at a level of approximately 30-foot candles for reading, writing and other activities; in no event, however, shall such lighting level drop below 25-foot candles. Lighting in other activity areas shall provide sufficient illumination to allow the inmates in the housing units to be able to perform the routines designed for those individual housing units.
Keywords	minimum light livels

Short Name	RESIDENTS FOR A HEALTHY ENVIRONMENT v. City of Pasadena, Cal: Court of Appeal, 2nd Appellate Dist., 3rd
Year	2009 PASADENA RESIDENTS FOR A HEALTHY ENVIRONMENT, Plaintiff and Appellant,
Court	Court of Appeals of California, Second Appellate District, Division Three
Reference	
Case Number	B205879.
URL	http://scholar.google.com/scholar_case?case=7366739459355514598
Opinion - Exctract	(1) Light and glare. The CEQA Guidelines encourage agencies to adopt thresholds of significance and provide that compliance with a threshold of significance will normally lead to a determination the environmental effect is "less than significant." (Cal. Code Regs., tit. 14, § 15064.7 subd. (a).) PMC section 17.40.080, pertaining to outdoor lighting, provides in pertinent part at subdivision (A) that "[n]o lighting on private property shall produce an illumination level greater than one footcandle on any property within a residential zoning district except on the site of the light source." ….
Keywords	

Short Name Rotondo v. Ryan

Year 2012 Samuel Rudolph Rotondo, Plaintiff,

Court United States District Court, D. Arizona.

Reference No. CV 10-0957-PHX-SMM (SPL)

Case Number

URL http://scholar.google.com/scholar_case?case=5363947816449964170&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt

Opinion - Exctract C. Cell Illumination

The Eighth Amendment requires that inmates be given appropriate lighting. Keenan, 83 F.3d at 1090. Constant illumination of a prison cell, standing alone, has been upheld as constitutional under certain circumstances. See, e.g., Warren v. Kolender, 2009 WL 196114, at *15 (S.D. Cal., Jan. 22, 2009). But 24-hour lighting with excessively bright bulbs has been held to violate the Eighth Amendment. See Keenan, 83 F.3d at 1090-91. Thus, the inquiry into whether constant security lighting in prison cells violates the Eighth Amendment is necessarily fact-specific and often depends upon the brightness of the light at issue. For example, 24-hour lighting with single 9-watt or 13-watt bulbs has been found not to be objectively unconstitutional. Vasquez v. Frank, 290 F. App'x 927, 929 (7th Cir. Aug. 15, 2008) (24-hour lighting with one 9-watt fluorescent bulb not an "extreme deprivation"); McBride v. Frank, 2009 WL 2591618, at *5 (E.D. Wis. Aug. 21, 2009) (24-hour lighting with a 9-watt fluorescent bulb not unconstitutional); Wills v. Terhune, 404 F. Supp. 2d 1226, 1230-31 (E.D. Cal. 2005) (24-hour illumination by 13-watt bulb not objectively unconstitutional); compare with Keenan, 83 F.3d at 1090-91 (24-hour lighting from "large fluorescent lights" unconstitutional where prisoner could not tell if it was night or day).

Plaintiff alleges that the lights cannot be turned off day or night (Doc. 1 at 3(C) ¶ 16(B)). He claims that the 24-hour lighting serves no legitimate purpose other than to torment prisoners (id.).

Defendants explain that each cell in the Browning Unit contains four light bulbs: one 40-watt fluorescent lamp "up light"; two 40-watt fluorescent lamps "down light"; and one 7-watt fluorescent night light (Doc. 59, DSOF ¶ 105). During the day, all four bulbs remain on and, at night, only the 7-watt night light remains on (id.). Defendants submit that the 7-watt security light enables staff to conduct health and welfare/security checks during the night and ensures the safety of the officers (id. ¶ 106).

In light of Plaintiff's failure to respond to Defendants' evidence that there is a single dimmed light at night and that this light is for security purposes, the Court finds the Defendants are entitled to summary judgment on this claim.

Keywords

Short Name	Scarver v. Litscher, 434 F. 3d 972 - Court of Appeals, 7th Circuit 2006
Year	2006 Christopher J. SCARVER, Plaintiff-Appellant,
Court	United States Court of Appeals, Seventh Circuit.
Reference	434 F.3d 972 (2006)
Case Number	No. 05-2999.
URL	http://scholar.google.com/scholar_case?case=16848214895325025517&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	The constant illumination of his cell may have had a security rationale as well; it reduced the likelihood that Scarver would use the cloak of darkness to attempt suicide or make a weapon of some sort. In any event, as we noted earlier, Scarver has failed to cite evidence to overcome the defendants' denials that they knew these conditions were making his mental illness worse.
Keywords	constant illumination

Short Name	Shanks v. Litscher
Year	2002 DAVID L. SHANKS, JR.,
Court	IN THE UNITED STATES DISTRICT COURT
Reference	Order v. 02-C-0064-C
Case Number	
URL	http://www.wiwd.uscourts.gov/opinions/pdfs/2000-2002/02-C-64-C-03-15-02.pdf
Opinion - Exctract	Lights are left on in petitioner's cell twenty-four hours a day. This gives petitioner 5 headaches and causes him sleep deprivation. Petitioner is forced to take Amitriptyline to get any sleep. Petitioner is not permitted to cover his eyes to block the light.
Keywords	

Short Name	Shepherd v. Ault, 982 F. Supp. 643 - Dist. Court, ND Iowa 1997
Year	1997 Michael SHEPHERD, Jr., and Carl Edward Lennie, Plaintiffs,
Court	United States District Court, N.D. Iowa, Cedar Rapids Division.
Reference	982 F.Supp. 643 (1997)
Case Number	No. C96-0222-MWB.
URL	http://scholar.google.com/scholar_case?case=16321468731594019319&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	Various courts have considered claims that continuous illumination of cells constituted a violation of prisoners' Eighth Amendment rights, with mixed results. The reason for such mixed results on "constant illumination" claims, this court concludes, is that such cases are fact-driven. For example, in the two decisions upon which the magistrate judge relied in this case, the district courts concluded that the discomfort of constant illumination was not sufficiently severe to constitute a constitutional deprivation. See Bauer v. Sielaff, 372 F.Supp. 1104 (E.D.Pa. 1974); Williams v. Ward, 567 F.Supp. 10 (E.D.N.Y.1982). By contrast, in Zatko v. Rowland, 835 F.Supp. 1174 (N.D.Cal.1993), the court found that constant illumination of a jail cell with bright light, which deprived the inmate of normal sleep, "would violate his basic right to shelter." Zatko, 835 F.Supp. at 1181. However, the "constant illumination" claim in question there was nonetheless dismissed on facts showing that no deprivation of normal sleep actually occurred: The "plaintiff admitted during deposition that correctional officers `try to accommodate the inmates [and do not] unnecessarily use the light to keep [him] awake.'" Id. Other courts have found that constant lighting served a legitimate penological purpose in the circumstances of the case. Two decisions of the Eighth Circuit Court of Appeals belong to this group of cases. A decade ago, the Eighth Circuit Court of Appeals upheld a district court's conclusion that "the continuous lighting in [a] holding cell was not unreasonable given the need for jail security and the need to monitor [a pre-trial detainee]." O'Donnell v. Thomas, 826 F.2d 788, 790 (8th Cir.1987). More recently, the Eighth Circuit Court of Appeals considered a claim of another pre-trail detainee that he was "forced to sleep on a mat on the floor under bright lights, which were on twenty-four hours a day." Ferguson v. Cape Girardeau County, 88 F.3d 647, 650 (8th Cir.1996). The court concluded that "the totality of the circumstances — which include the relative[ly] short duration of the confinement, the necessity to keep the detainee under observation for both his medical condition as well as general safety concerns, and the amount of time that he spent out of the cell-supports the assertion of legitimate governmental interest ... and therefore, does not constitute a violation of [the detainee's] due process rights." Id. (internal citation omitted). The court's conclusion was also colored by the failure of the plaintiff to demonstrate any objective harm, because "[d]espite his complaint of the constant light, he was observed sleeping ninety-three hours of the fourteen days spent in the vestibule." Id. Similarly, in Fillmore v. Ordonez, 829 F.Supp. 1544 (D.Kan.1993), aff'd, 17 F.3d 1436 (10th Cir. 1994) (table decision), although an inmate asserted that constant lights in his cell created adverse sleeping conditions amounting to "torture," the district court had "no difficulty holding as a matter of law that the electronic surveillance system, with its around-the-clock beeping and soft lighting, was reasonably related to the maintenance of internal security of the Osage County jail, and as such did not amount to punishment prohibited by the Due Process Clause." Fillmore, 829 F.Supp. at 1568.[3] 646*646 "Constant illumination" claims have also met with occasional success, or at least have survived summary judgment. For example, in Keenan v. Hall, 83 F.3d 1083 (9th Cir. 1996), the Ninth Circuit Court of Appeals overruled the district court's grant of summary judgment on such a claim as follows: "Adequate lighting is one of the fundamental attributes of `adequate shelter' required by the Eighth Amendment." Hoptowit v. Spellman, 753 F.2d [779,] 783 [(9th Cir.1985)]. Moreover, "[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional." LeMaire v. Maass, 745 F.Supp. 623, 636 (D.Or.1990), vacated on other grounds, 12 F.3d 1444, 1458-59 (9th Cir. 1993). Keenan alleged that large florescent [sic] lights directly in front of and behind his cell shone into his cell 24 hours a day, so that his cell was "constantly illuminated, and [Keenan] had no way of telling night or day," and that this condition caused him "grave sleeping problems" and other mental and psychological problems. Amended Complaint of May 17, 1993, at 9-10; Motion to Submit Additional Authorities of Feb. 24, 1994, ex. 1 at 2. While the defendants produced contrary evidence, see Affidavit of Theodore S. Long of Nov. 3, 1993, at 8 (claiming an inmate would not be affected by the lights if he slept with his head towards the back of his cell), Keenan produced sufficient evidence to make his lighting claim a disputed issue of material fact not subject to summary judgment. Keenan, 83 F.3d at 1090-91. The decision upon which the Ninth Circuit Court of Appeals relied, LeMaire v. Maass, 745 F.Supp. 623 (D.Or.1990), vacated on other grounds, 12 F.3d 1444 (9th Cir.1993), also deserves further scrutiny. In LeMaire, the court's discussion of twenty-four hour lighting was as follows: It is undisputed that the lights in the quiet cells remain on continuously. Plaintiff and other inmates testified that the continuous illumination disturbs their sleep and causes other psychological effects. Plaintiff's expert psychiatrist, Dr. Rundle, testified that continuous, long-term confinement in quiet cells itself can cause psychotic symptoms and aggravate pre-existing mental disorders. He testified that in addition to this harmful effect, lighting the quiet cells 24 hours a day makes sleep difficult and exacerbates the harm. I

accept the testimony of plaintiff and Dr. Rundle.

Defendant justified the constant illumination in the quiet cells as a security measure, so [prison] staff could see into the cells. In the abstract, this is a legitimate penological justification. However, there is no evidence that [prison] staff needs to see into the quiet cells for 24 hours per day, or that they are even near the quiet cells for 24 hours per day. Defendant offered no reason why the cells could not have switches outside so guards can see into them when they must.

There is no legitimate penological justification for requiring plaintiff to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional.

LeMaire, 745 F.Supp. at 636. This portion of the district court's ruling was vacated, not because it was incorrect, but because "the state ... agrees to modify its use of lighting in the cells." LeMaire v. Maass, 12 F.3d 1444, 1459 (9th Cir.1993). "Taking the state at its word," the court of appeals dissolved the district court's injunction as to the management 647*647 of the quiet cells. Id. These decisions caution that even the question of whether constant lighting serves a legitimate penological purpose depends upon the circumstances of the case. Where no such legitimate penological purpose is present, there is at a minimum an inference that imposition of the adverse condition is with deliberate indifference to its effects upon the inmate.[4]

Because the magistrate judge was considering a motion for summary judgment, not reporting a recommended disposition after a trial on the merits, the question was not whether the plaintiffs succeeded in "demonstrating" objective harm or subjective deliberate indifference to that harm — the basis on which the magistrate judge reached his conclusions — but whether the plaintiffs generated genuine issues of material fact on these issues. See FED. R. CIV. P. 56(c). As the Eighth Circuit Court of Appeals explained in another Eighth Amendment case, when the district court makes a de novo review of a magistrate judge's report recommending that the defendants' motion for summary judgment be granted, "the district court should consider whether the circumstantial evidence in th[e] case establishes a genuine issue of material fact regarding the defendants' deliberate indifference precluding summary judgment." Grinder, 73 F.3d at 795-96. The same considerations presumably also apply to the district court's review of a report and recommendation on the objective element of an Eighth Amendment claim. Furthermore, "[a]s the party opposing summary judgment, [the prisoner] must be given the benefit of all favorable factual inferences and summary judgment cannot be granted where he presents a triable issue." Id. at 796.

Contrary to the magistrate judge's conclusion, this court finds from the summary judgment record that the plaintiffs have generated genuine issues of material fact on both prongs of an Eighth Amendment analysis. On the objective prong, the magistrate judge concluded that the prisoners had failed to establish a sufficiently serious deprivation of the minimal civilized measure of life's necessities, because they did not claim that they could not sleep, despite constant lighting, or that there was any serious harm to their health from a lack of sleep. However, the record gives rise to contrary inferences. In an affidavit in support of his resistance to the defendants' summary judgment motion, plaintiff Shepherd asserted that the constant lighting made it "verry [sic] difficult for the plaintiff to sleep at nite [sic]." Elsewhere, Shepherd alleged that the constant lighting kept him up most, if not all, of the night. This evidence is sufficient to generate a genuine issue of material fact on the extent of the plaintiffs' harm from the constant lighting. Cf. Keenan, 83 F.3d at 1090-91 (a prisoner generated a genuine issue of material fact as to the severity of a constitutional deprivation caused by constant lighting of his cell where he asserted that the light made it impossible for him to tell if it was night or day and caused him "grave sleeping problems" and other mental and psychological problems, despite contrary evidence from prison officials); Zatko, 835 F.Supp. at 1181 (although a "constant illumination" claim was denied on other grounds, the court found that constant illumination of a jail cell with bright light, which deprived the inmate of normal sleep, "would violate his basic right to shelter."). Although at the summary judgment stage of the proceedings, the plaintiffs here presented no expert testimony on the psychological effects of continuous lighting, as did the plaintiffs in LeMaire, 745 F.Supp. at 636, the court finds that an inference of psychological harm necessarily arises from the length of time the plaintiffs were subjected 648*648 to lighting so far removed from natural conditions.

In this respect, the decision of the Eighth Circuit Court of Appeals in O'Donnell, 826 F.2d at 790, and its later decision in Ferguson, 88 F.3d at 650, which would otherwise constitute controlling authority, are distinguishable. In each of those cases, the pretrial detainee was subjected to constant illumination for a relatively short period of time. See Ferguson, 88 F.3d at 650; O'Donnell, 826 F.2d at 790. The record here reflects that plaintiff Shepherd spent 283 nights in disciplinary detention under constant illumination, while plaintiff Lennie spent 550 nights under these conditions. Very different inferences arise concerning the effects of constant illumination when exposure to that condition is long term.

There can be little doubt that subjecting prisoners to continuous darkness would at least raise a constitutional question. See Wycoff v. Brewer, 572 F.2d 1260, 1263 & n. 5 (8th Cir.1978) (confinement of a prisoner in a cell that was or could be totally darkened, where the prisoner was placed nude, without bedding or covering, "would unquestionably be held unconstitutional"). Accord LaReau v. MacDougall, 473 F.2d 974, 978 (2d Cir. 1972) ("We cannot approve of threatening an inmate's sanity and severing his contacts with reality by placing him in a dark cell almost continuously day and night."), cert. denied, 414 U.S. 878, 94 S.Ct. 49, 38 L.Ed.2d 123 (1973). What is in question here, continuous lighting, which is just as foreign a condition as continuous darkness, should at least raise an inference of a constitutional violation. Similarly, the effectiveness of sleep deprivation as a tool of torture has long been recognized. See Reck v. Pate, 367 U.S. 433, 81 S.Ct. 1541, 6 L.Ed.2d 948 (1961) (recognizing deprivation of food and sleep as unconstitutional punishment); Ashcraft v. Tennessee, 322 U.S. 143, 151, 64 S.Ct. 921, 925, 88 L.Ed. 1192 (1944) ("`It has been known since 1500 at least that deprivation of sleep is the most effective torture and certain to produce any confession desired,'" quoting Report of Committee on Lawless Enforcement of Law, Section of Criminal Law and Criminology of the American Bar Association, 1 AMERICAN JOURNAL OF POLICE SCIENCE 575, 579-80 (1930)). Constant illumination can undoubtedly cause sleep deprivation-in-deed, that is the precise reason these plaintiffs assert constant illumination constituted an Eighth Amendment violation — and sleep is certainly an "identifiable human need."

Furthermore, "many courts `have recognized that a proscription against cruel and unusual punishment can be violated by the cumulative effect of several ... conditions which, considered independently, might or might not approach the requisite severity.'" United States ex rel. Schuster v. Vincent, 524 F.2d 153, 160 (2d Cir.1975) (quoting Annot., Prison

Conditions as Amounting to Cruel and Unusual Punishment, 51 A.L.R.3d 111, 207 (1973), and Holt v. Sarver, 309 F.Supp. 362, 373 (E.D.Ar.1970), aff'd, 442 F.2d 304 (8th Cir.1971)). Similarly, this court will not discount the inference that, while continuous lighting during one twenty-four hour period might have little adverse effect on a prisoner, the cumulative effect of continuous lighting over an extended period could be so significant as to reach the requisite severity.

On the subjective prong of the plaintiffs' Eighth Amendment claims, the magistrate judge concluded that the plaintiffs had failed to establish that the defendants had consciously disregarded a substantial risk of serious harm to the inmates' health or safety as the result of continuous lighting of their cells. This conclusion appears to stem, in the first instance, from what the magistrate judge perceived to be a lack of evidence of any actual harm to the plaintiffs, and, in the second, from his acceptance that the prison officials had legitimate penological reasons for the constant illumination. Again, there are contrary inferences concerning objective harm to the plaintiffs, as discussed above. There are also contrary inferences on the legitimacy of the penological reasons for the constant illumination. There is a triable issue on whether prison staff needs to see into the disciplinary detention cells for twenty-four hours per day, whether they are even near the disciplinary detention cells for twenty-four hours per day, and whether the cells could not have switches outside so guards can see into them when they must. Compare 649*649 LeMaire, 745 F.Supp. at 636 (finding no evidence of these legitimate penological reasons).

Because the record generates genuine issues of material fact as to the elements of the plaintiffs' Eighth Amendment claims, this court must reject the magistrate judge's contrary conclusions and his recommendation that summary judgment in favor of the defendants be granted. See 28 U.S.C. § 636(b)(1) (the district court may accept, reject, or modify the magistrate judge's report and recommendation).

Keywords

Short Name Sims v. Piazza

Year 2012 BOBBIE LEE SIMS, JR., Appellant,

Court Court of Appeals, 3rd Circuit, 2012

Reference No. 11-3445.

Case Number

URL http://scholar.google.com/scholar_case?case=18162948354478533&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1&oi=scholaralrt

Opinion - Exctract In this case, it was undisputed that the light at issue is a 5-watt light bulb, which provides minimal illumination. Furthermore, the defendants presented evidence that the red light is used at night for safety and security needs. Specifically, they explained that the red light provides illumination for officers to see the structure of the cell, to identify inmates in their cells, to make sure that inmates were not harming themselves or others, and to allow inmates to safely use the toilet in their cells at night. Although Sims argued that flashlights should be used instead, in light of the deference given to prison officials to set policies to maintain security, Bell v. Wolfish, 441 U.S. 520, 547-48 (1979), and the explanation given for the choice of the red light, the defendants provided a legitimate penological justification for the policy. Furthermore, although the medical records that Sims submitted showed that he attributed his psychological and physical ailments to the red light, they do not back up his allegations that the red light was the cause of his problems (they do show, however, that he received regular care).

Keywords

Short Name TEXAS DOT v. City of Sunset Valley, 92 SW 3d 540 - Tex: Court of Appeals, 3rd Dist. 2002

Year 2002 TEXAS DEPARTMENT OF TRANSPORTATION, Michael W. Behrens, Robert L. Nichols, John W. Johnson, and Ric Williamson, Appellants,

Court Court of Appeals of Texas, Austin.

Reference 92 S.W.3d 540 (2002)

Case Number No. 03-00-00744-CV.

URL http://scholar.google.com/scholar_case?case=13226730900417739500

Opinion - Exctract We reverse the district court's damage award and remand to that court to obtain a determination by the General Land Office in accordance with section 203.058(e) of the Texas Transportation Code. Having sustained TxDOT's third issue, we reverse that portion of the district court's judgment declaring that TxDOT violated the administrative code and render judgment denying Sunset Valley's request for declaratory relief. The district court's judgment is in all other respects affirmed.

Keywords

Short Name Thomas v. NORTHERN CORRECTIONAL FACILITY, Dist. Court, ND West Virginia 2012

Year 2012 Thomas v. NORTHERN CORRECTIONAL FACILITY, Dist. Court, ND West Virginia 2012

Court United States District Court, N.D. West Virginia.

Reference Civil Action No. 5:11CV7.

Case Number

URL http://scholar.google.com/scholar_case?case=5527616237922917470&hl=en&lr=lang_en&as_sdt=2,5&as_vis=1

Opinion - Exctract 5. Despite the policy that inmates cannot use televisions or cell lights between 12:00 a.m. and 6:00 a.m., "night lights" remain illuminated throughout that entire time. The plaintiff argues that this disrupts his deep sleep, which he contends is "torturous." The plaintiff also asserts that inmates at the Mt. Olive Correctional Complex are permitted to turn off "night lights," but inmates at the Northern Correctional Facility are not.

Keywords

Short Name	United States v. Causby, 328 US 256 - Supreme Court 1946
Year	1946 UNITED STATES
Court	Supreme Court of United States.
Reference	328 U.S. 256 (1946)
Case Number	No. 630.
URL	http://scholar.google.com/scholar_case?case=17209011020287234065
Opinion - Exctract	And at night the glare from the planes brightly lights up the place. As a result of the noise, respondents had to give up their chicken business. As many as six to ten of their chickens were killed in one day by flying into the walls from fright. Since on this record it is not clear whether the easement taken is a permanent or a temporary one, it would be premature for us to consider whether the amount of the award made by the Court of Claims was proper.
Keywords	glare

Short Name	VASQUEZ v. Frank Western District of Wisconsin. No. 05-C-528-C
Year	2005 LUIS VASQUEZ,
Court	IN THE UNITED STATES DISTRICT COURT
Reference	
Case Number	05-C-528-C
URL	http://www.wiwd.uscourts.gov/opinions/pdfs/2003-2005/05-C-528-C-10-24-05.PDF
Opinion - Exctract	2. Constant illumination Cells in the Health Segregation Complex are illuminated 24 hours a day. Petitioner can dim the lighting but cannot turn it off completely. Because of the constant illumination, petitioner has suffered migraine headaches, blurred vision, pain in his eyes and has had trouble sleeping. Also, petitioner's emotional distress and depression have worsened. Petitioner began taking Trazodone but this medication causes petitioner to suffer side effects such as nausea, dizziness and dry mouth. Petitioner has refused to take the medication numerous times because of the side effects. He has told Kaemmerer repeatedly that he has trouble sleeping because of the constant lighting. Petitioner requested medical treatment for his migraine headaches on June 17 and 20, 2004 and on July 8, 2004. On June 17 and 24, 2004, petitioner tried to resolve this issue 6 with respondents Janssen and Schueler, but they failed to act. Petitioner filed an inmate complaint on June 29, 2004. On July 9, 2004, petitioner was given excedrine for his headaches; he received the medication for two months, at which point Dr. Larson discontinued it. Respondent Muenchow recommended dismissal of petitioner's inmate complaint on August 3, 2004, stating that he had reviewed Capt. Schueler's response and concur with his explanation of the situation. The security lights in the cells in the Health Segregation Complex (HSC) must remain on at all times so staff can visibly observe inmates in their cells. The lights in the cells have been measured with a foot-candle meter, and the reading was one foot-candle. A foot-candle is the light given by a standard candle. This reading was taken from the bed in the cell. The complainant is reminded that he is housed in segregation of a maximum security prison. Staff must be able to see in the cells to observe the inmates. Respondent McCaughtry dismissed the complaint on August 11, 2004. Petitioner appealed the dismissal. Respondent Hautamaki recommended dismissal of petitioner's appeal on August 23, 2004 and respondent Raemisch accepted this recommendation and dismissed the appeal on August 27, 2004.
Keywords	Constant illumination, prison

Short Name	Vasquez v. Frank, 2007 U.S. Dist. LEXIS 82106 (W.D. Wis., Nov. 2, 2007)
Year	2008 LUIS VASQUEZ, Plaintiff-Appellant, v. MATTHEW J. FRANK, et al., Defendants-Appellees.
Court	UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
Reference	290 Fed. Appx. 927; 2008 U.S. App. LEXIS 17604
Case Number	No. 07-3965
URL	http://www.lexisone.com/lx1/caselaw/freecaselaw?action=OCLGetCaseDetail&format=FULL&sourceID=gdjb&searchTerm=eUhZ.KcIa.UYGY.jddL&searchFlag=y&l1loc=FCLOW
Opinion - Exctract	The court concluded that Vasquez had failed to show a causal link between the lighting in his cell and his symptoms, and even if such a link existed, the prison staff had offered him a reasonable accommodation by allowing him to cover his eyes with a towel or washcloth. Furthermore, the court reasoned, Vasquez had presented no evidence that the defendants could meet their security needs in the segregation unit without constant lighting.
Keywords	

Short Name	Walker v. Woodford, 454 F. Supp. 2d 1007 - Dist. Court, SD California 2006
Year	2006 K. Jamel WALKER and Dale R. Hurd, Plaintiffs,
Court	United States District Court, S.D. California.
Reference	454 F.Supp.2d 1007 (2006)
Case Number	No. 05CV1705-LAB (NLS).
URL	http://scholar.google.com/scholar_case?case=13303165949673238 46&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	Preliminary injunctive relief may nonetheless be appropriate if Plaintiffs can demonstrate they will suffer great injury if an injunction is not issued. See Beardslee, 395 F.3d at 1067. The Court finds that Plaintiffs have not met this high standard. At most Plaintiffs assert that they will continue to lose sleep during the pendency of this case and that "monetary compensation cannot give back the hours of sleep" they will lose. [Plaintiffs' Reply Memorandum to Defendants' Opposition to Motion for Preliminary Injunction at 3.] The question is not whether Plaintiffs will suffer inconvenience during the pendency of the lawsuit, but whether they will suffer irreparable injury, such as serious, permanent physical or mental damage, if they are not immediately granted the relief they seek. Although the lighting has purportedly caused Plaintiffs to suffer headaches, irritability and other difficulties, they have not demonstrated that they will be irreparably injured if the lighting is not immediately turned off. Additionally, the 1032*1032 Court finds that the public interest weighs in favor of denying the request for injunctive relief, as Defendant Ryan has submitted a declaration asserting that the lighting is necessary to maintain order in the prison and protect the safety of prison guards. [Declaration of Stuart Ryan ¶¶ 3-4.] For these reasons, the Court finds Plaintiffs are not entitled to the "extraordinary and drastic remedy" of a preliminary injunction. Accordingly, the Court RECOMMENDS that Plaintiffs' motion for preliminary injunction be DENIED.
Keywords	

Short Name	Walker v. Woodford, 593 F. Supp. 2d 1140 - Dist. Court, SD California 2008
Year	2008 K. Jamel WALKER and Dale R. Hurd, Plaintiffs,
Court	United States District Court, S.D. California.
Reference	593 F. Supp. 2d 1140
Case Number	Case No. 05cv1705-LAB (NLS).
URL	http://scholar.google.com/scholar_case?case=5055545106356664399&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	a. How Bright Was the "Night Light"?

It is uncontested the light bulb used in Plaintiff's "night light" during the relevant period was a Sylvania 7-watt compact fluorescent bulb, and that it emitted no more than 400 lumens. The parties disagree on just how bright this is. Plaintiff estimates, citing some evidence, this is about as bright as a typical 30-watt bulb (Opp'n to MSJ at 3:16-19), or perhaps even as high as a 40-watt bulb. (Id. at 3:3-5.)[2]

Defendants have submitted the declaration of C. Montano, a records custodian, who states that Calipatria's logs show that from June 12, 2003 to July 31, 2005, Plaintiff was assigned to cell 134 in housing unit 5 of facility D. (Montano Decl. in Supp. of MSJ, ¶ 10.) Montano also declares Calipatria's records show that on July 31, 2005, Plaintiff was assigned to cell 118 in the same housing unit, where he remained until he was transferred out on April 12, 2006. (Id.) In both cells, Plaintiff was assigned to the lower bunk. (Id.)

Defendants have also submitted the declaration of Jeff Bennett, a licensed electrician employed at Calipatria. Bennett provides his credentials showing he knows how to take the kind of light measurements necessary to comply with building codes. (Bennett Decl. ¶ 2.) Bennett took what appear to be careful, appropriate measurements in cell 134 and states the distance from the "night light" to the face of a person lying on his back on the bottom bunk is approximately eight feet five inches to the light. The light he measured at this distance from the "night light," in the evening and with the cell door closed, was .12 foot candles (i.e., .12 lumens per square foot). (Id. ¶ 8.) If the inmate were able to turn his head towards the wall, the distance would be approximately eight feet nine inches from the light and the light would be .08 foot candles. Plaintiff has no evidence of his own on this point.

Dr. Poceta's declaration explains that .08 to .12 foot candles is equivalent to about 1 lux (Poceta Decl. ¶ 5), which he states is roughly equivalent to full darkness with a full moon on a clear night. (Id., ¶ 7.) Based on Bennett's other measurements, Poceta concludes the brightness of the light experienced by prisoners lying in their bunks in cell 134 would be no brighter than the amount of light twenty minutes after sunset, even if they were in the top bunk. (Id. ¶¶ 5, 7, 8.)

Defendants also present evidence that individual estimates of the brightness of light can vary depending on conditions. Poceta explains that as the night progresses and individuals' eyes adapted to the darkness, even dim light might seem bright. (Poceta Decl. ¶ 10.)

b. Did the Light Cause Plaintiff's Insomnia and Medical Problems?

Defendants have presented expert testimony that, while certain levels of lighting may interfere with sleep and cause other health problems, dim lighting at the level Plaintiff experienced would not. (Poceta Decl. ¶¶ 8-10.)[3] To resist summary judgment, Plaintiff must therefore point to evidence establishing a genuine issue of fact for trial. Celotex, 477 U.S. at 323-24, 106 S.Ct. 2548. His evidence must be admissible. Soremekun, 509 F.3d at 984.

Plaintiff has alluded to a conversation with a prison doctor in which the doctor opined that "light is bad for the brain." (Walker Decl., ¶ 11.) This remark, however, even if it were admissible, does not show that any degree of illumination at all during sleep is bound to cause psychological or physical harm. Nor does it show the lighting caused Plaintiff's insomnia and related problems, which is the real issue here.

Plaintiff also cites extensively from two scientific works in support of his contention that nighttime illumination causes health problems. (Opp'n to MSJ at 4:1-8:3 and Exs. B and C (articles on effect of light on circadian rhythms and cancer).) Exhibit B is an excerpt of a larger work published by the Electric Power Research Institute ("EPRI") and entitled Relationship Between Light and the Development and Growth of Internal Solid Cancers: A Review of Current Research and the Potential Implications for Lighting Practice, publication number 1011162 ("EPRI Article").[4] This is an industry report, and there is no indication it is peer-reviewed or subject to verification. The article describes itself as a "white paper" summarizing technical knowledge and giving speculative recommendations for lighting practices. (Ex. B at 1.) Sections of the work Plaintiff has omitted explain the document is a corporate document describing research sponsored by EPRI and the McClung Foundation, see EPRI Article at 5, contain very prominent disclaimers, see id. at 4, and state the document was prepared as an account of work sponsored by EPRI. See id. Exhibit C is an abstract by Stephen M. Pauley, M.D. hypothesizing that exposure to light at night may be one reason for higher rates of breast and colorectal cancer.

If called to the attention of an expert on cross examination, Fed.R.Evid. 803(18) might permit the admission of these articles as learned treatises. It is doubtful, however, either exhibit (or even the complete EPRI Article) is authoritative or reliable enough under Daubert to be admissible for the purpose for which Plaintiff offers them. Scientific literature does not generally contain prominent disclaimers as the EPRI Article does. Exhibit C is little more than a hypothesis and does not claim authoritative status for itself. Defendants' reply to Plaintiff's opposition to the MSJ cites Dr. Poceta's similar interpretation of the articles. (Reply to Opp'n to MSJ, at 3:18-19.)

Even assuming, arguendo, these articles were admissible, they do not help Plaintiff, because they do not link nighttime exposure to light with insomnia or any of the other problems Plaintiff suffered. Rather, they suggest that even very dim nighttime illumination may decrease melatonin production and increase the risk of cancer. Even less helpful to Plaintiff, these articles both assume as part of their hypotheses that people can and do sleep in the presence of light. Defendants, in their reply to Plaintiffs opposition to the MSJ, cite Dr. Poceta's supplemental declaration explaining the distinction between excessive illumination, which might interfere with sleep, and the theory that even very dim light might increase cancer risk. (Reply to Opp'n to MSJ, at 3:6-19.)

Plaintiff is able to show by his own testimony that his sleep problems and related symptoms began not long after the new policy was put in place (Walker Decl. ¶ 7), which could give rise to a reasonable reference that nighttime lighting and his symptoms were somehow related. Insomnia may have many causes, however (Poceta Decl. ¶ 11), so it does not necessarily follow that the lighting itself caused his sleeplessness or other symptoms such as anxiety and depression. See Railway Labor Executives Ass'n. v. Dole, 760 F.2d 1021, 1021 (9th Cir.1985) (holding it was logically fallacious to conclude increased accidents were due to a change in safety policy merely because the increase occurred after the change in policy). At most, the timing would show the new lighting policy was a possible cause of Plaintiff's insomnia. Ordinarily, where symptoms could be caused by any of several factors, medical evidence, including a diagnosis, is needed. See In re Paxil Litigation, 218 F.R.D. 242 249 (C.D.Cal.2003) (citing Hall v. Baxter Healthcare Corp., 947 F.Supp. 1387, 1413 (D.Or.1996)).

Plaintiff makes clear he lives under a great deal of stress, and says other inmates plotted to have him murdered. (Walker Decl., ¶ 5.) Dr. Poceta's declaration points out Plaintiff medical records show he repeatedly suffered from physical and psychological problems that might have interfered with his sleeping, including depression and stress in November, 2004, just before the new policy was put in place. (Poceta Decl., ¶ 3(E).) These problems could have caused Plaintiff's insomnia, which in turn could have caused other symptoms. (Id. ¶ 12.) Dr. Poceta's declaration also provides evidence that, if a person is suffering from insomnia for some other reason, he might pay undue attention to a nearby light source, which could contribute to his frustration at being unable to sleep. (Id. ¶ 12.)

Perhaps even more significantly, Plaintiff's insomnia and other symptoms do not coincide with the lighting policy. Plaintiff's declaration suggests he had experienced mild symptoms before the new lighting policy was put in place. (Walker Decl., ¶ 7 ("I had not experienced this series of symptoms, nor had trouble sleeping this severe before [the new policy].")) Dr. Poceta's declaration shows Plaintiff complained of difficulty sleeping and related problems into 2007, well after his transfer out of Calipatria on April 12, 2006 and into a facility where he could sleep with the lights off. (Poceta Decl., ¶ 3(F), Montano Decl. ¶ 10.) Plaintiff provides no evidence to rebut this, or to show the kinds of symptoms he experienced could continue for many months after the exposure to nighttime illumination ceased.

While Plaintiff himself believed his sleep difficulties and related symptoms were caused by the lighting, he provides no medical evidence of this at all. If his medical records contained any such evidence, he could have submitted them. In fact, there is no indication such evidence might exist.

The most obvious source of a diagnosis or some other indication of causation would be from the three doctors at Calipatria who examined him or otherwise supervised his treatment. But while Plaintiff reports his conversations with them, there is no indication at all that any of them shared his belief that the lighting was causing his insomnia and health problems. Rather, it was Plaintiff who reached this conclusion, and told his doctors what he thought the cause was; the doctors' statements as reported by Plaintiff are noncommittal, merely acknowledging the complaints and suggesting Plaintiff ask the warden to change the policy. (Walker Decl., ¶¶ 10-12; cf. SAC at ¶¶ 34-48.) While previous briefing suggests the doctors might have wished for a different lighting policy, and might have written Plaintiff a medical chrono allowing him to cover his "night light" had they thought the chrono would be honored, there is nothing in the record to show they knew or believed a change in the lighting policy would have relieved Plaintiff's symptoms. Instead, they offered several different treatments, which he refused. If Plaintiff was ever examined by any other doctor, he presents no evidence of this.

This points up an additional insuperable evidentiary problem Plaintiff faces which could not be resolved by the additional discovery he seeks. Medical evidence of causation is apparently unavailable either from any doctor who treated Plaintiff while he was suffering from insomnia, or in Plaintiffs medical records. According to Dr. Poceta's recitation of Plaintiff's medical history, Plaintiff is no longer complaining of insomnia or related problems. Thus, there will never been an opportunity for a new treating physician to examine Plaintiff and diagnose the cause of these symptoms. Medical evidence sufficient to establish causation would therefore not be available now matter how much additional discovery Plaintiff might be granted.

A further problem Plaintiff faces is that he provides no evidence of the severity or frequency of his medical problems. Mere routine discomforts or minor deprivations do not violate the Constitution. Hudson v. McMillian, 503 U.S. 1, 9, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992). The available medical evidence shows the doctors at Calipatria believed using relaxation techniques and changes in personal habits would help him sleep, and that some or perhaps all of his symptoms were treatable. There is therefore no evidence Plaintiff's insomnia and symptoms caused him the kind of psychological and physical pain that would give rise to a Constitutional violation. Recently in a similar case, a sister court held that treatable sleep disruption caused by 24-hour illumination was not actionable under § 1983 because it did not constitute sufficiently serious harm. Grenning v. Bisson, 2008 WL 819313 (W.D.Wash. March 14, 2008) ("Plaintiff has failed to produce evidence of a sufficiently serious injury caused by the continuous lighting in his cells. Although he asserts that his inability to sleep amounted to a disturbance in sleep patterns and others took medication.") While Plaintiff has alleged he experienced headaches,

eye strain, fatigue, irritability, frustration, depression, and difficulty concentrating and sleeping, he has provided no evidence of the frequency or severity of these symptoms except to say they grew worse over time. Plaintiff's admission that he refused medication merely because he did not believe it was the best treatment underscores this defect in his case.

Defendants have provided a good deal of evidence other factors could have interfered with his ability to sleep and in turn caused his other symptoms. Plaintiff presents no evidence these other factors were not present, but simply assumes they did not cause his insomnia. His own speculation about the cause of his insomnia and other symptoms, however, does not suffice to withstand summary judgment. Soremekun, 509 F.3d at 984. Summary judgment would therefore be appropriate on the issue of causation alone.

3. Qualified Immunity

Defendants specifically raised this defense, both in their answer (Answer to SAC, ¶ 86), and in the MSJ. (Mem. in Supp. of MSJ at 23:10-24:15.) Because there is no genuine issue of material fact regarding causation, the Court need not, and ordinarily would not, reach the issue of qualified immunity. Billington v. Smith, 292 F.3d 1177, 1191 and n. 85 (9th Cir.2002) (citing Saucier, 533 U.S. at 201, 121 S.Ct. 2151). In this case, however, because Plaintiff's claim fails because of lack of evidence and because additional discovery is being denied, the Court considers it prudent to examine qualified immunity as an alternate basis for its holding.

In Keenan v. Hall, 83 F.3d 1083, 1090-91 (9th Cir.1996), the Ninth Circuit held "[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional." (quoting LeMaire v. Maass, 745 F.Supp. 623, 636 (D.Or.1990), vacated on other grounds, 12 F.3d 1444, 1458-59 (9th Cir.1993)). In that case, the inmate plaintiff had alleged

large florescent lights directly in front of and behind his cell shone into his cell 24 hours a day, so that his cell was "constantly illuminated, [so that he] had no way of telling night or day," and that this condition caused him "grave sleeping problems" and other mental and psychological problems.

83 F.3d at 1091. The Ninth Circuit found summary judgment for the defendants was inappropriate.

Keenan does not stand for the proposition that all 24-hour illumination in prisons as Plaintiff argues, and it has not been interpreted this way. See, e.g., Sisneroz v. Whitman, 2008 WL 1734585, slip op. at *4 (E.D.Cal., April 11, 2008) ("Requiring inmates to live in constant illumination, under certain circumstances, [may] rise to the level of an Eighth Amendment violation.") (citing Keenan at 1090); DuBois v. McDonald, 2007 WL 1659113, slip op. at *5 (D.Mont. June 5, 2007) (while acknowledging Keenan, explaining "dimmed 24 hour lighting does not rise to the level of a constitutional violation").

The Court therefore holds the law is clearly established that prison officials may not require inmates to suffer physical and psychological harm by living in constant illumination. On the other hand, it is not clearly established that prison officials may not require inmates to live in constant illumination; that theory has been considered and rejected by many courts. The Court therefore must determine whether under this law, reasonable officials in Defendants' position could have believed their conduct was lawful. Rogers, 487 F.3d at 1296-97.

As set forth above, there is no evidence Plaintiff was suffering physical and psychological harm as a result of Calipatria's new lighting policy. At most, Defendants knew some inmates were complaining about the lighting; Plaintiff points to no evidence they knew Plaintiff or anyone was suffering harm as a result, much less severe harm. As Plaintiff himself says, the prison doctors suggested Plaintiff himself ask the warden to change the policy; there is no evidence or even any reasonable likelihood they told any Defendant the lights were causing medical problems.

Keywords

Short Name	White v. Southern Cal. Edison Co., 25 Cal. App. 4th 442 - Cal: Court of Appeal, 2nd Appellate Dist., 5th Div. 1994
Year	1994 ROBERT A. WHITE, a Minor, etc., Plaintiff and Appellant,
Court	Court of Appeals of California, Second District, Division Five.
Reference	25 Cal.App.4th 442 (1994)
Case Number	Docket No. B073248.
URL	http://scholar.google.com/scholar_case?case=10217347682692121186
Opinion - Exctract	The trial court found that SCE owed no duty to plaintiff to maintain the streetlight in an operable condition and granted the motion for summary judgment. A judgment was entered in favor of SCE from which plaintiff appeals.
Keywords	streetlight outage

Short Name	Wilkinson v. Austin, 545 US 209 - Supreme Court 2005
Year	2005 WILKINSON, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, ET AL.
Court	Supreme Court of United States.
Reference	545 U.S. 209 (2005)
Case Number	No. 04-495.
URL	http://scholar.google.com/scholar_case?case=4655729760490899304
Opinion - Exctract	A light remains on in the cell at all times, though it is sometimes dimmed, and an inmate who attempts to shield the light to sleep is subject to further discipline.
Keywords	

Short Name	Wills v. Terhune, 404 F. Supp. 2d 1226 - Dist. Court, ED California 2005
Year	2005 Dale G. WILLS, Plaintiff,
Court	United States District Court, E.D. California.
Reference	404 F.Supp.2d 1226 (2005)
Case Number	No. 1:CVF986052OWWDLBP.
URL	http://scholar.google.com/scholar_case?case=3201567792903624948&q=%22Constant+illumination%22&hl=en&as_sdt=2003
Opinion - Exctract	Plaintiff has also failed to establish that he will suffer irreparable harm should an injunction not issue. While he states that the lighting conditions have caused him nausea, dizzy spells, chronic headaches, vision impairments and emotional distress, he fails to submit any evidence in support of these allegations. Indeed, there is no discussion in the medical records submitted by defendants regarding the SHU's lighting conditions. Defendants however have submitted evidence establishing that the security lights serve as a safety and security measure for staff and inmates and therefore issuance of the injunction would compromise security of the institution. According to Captain Lopez, the Facility Captain, inmates housed in the SHU are generally more violent, unruly, mentally unstable and dangerous than those inmates in the general population. Document 168, Attachment # 9, Declaration of Captain Raul Lopez, ¶ 7. The security lights allow officers to observe the activities within the cell at a reasonable distance as not to put themselves in harms way. Id. Under the circumstances of this case, the balance of hardships weigh in favor of denying the injunction.
Keywords	

Short Name Wills v. Terhune, Dist. Court, ED California 2006

Year 2006 DALE G. WILLS, Plaintiff,

Court United States District Court, E.D. California.

Reference

Case Number 1: CV-F-98-6052 OWW DLB P, (Docs. 168, 173, 180).

URL http://scholar.google.com/scholar_case?case=7032266364876718595&q=%22Constant+illumination%22&hl=en&as_sdt=2003

Opinion - Exctract Plaintiff does not dispute defendants' description of the security light, but maintains that while in the SHU, he was forced to live in a "state of constant illumination" and was prohibited from activating and deactivating the security light and that these conditions constitute cruel and unusual punishment. While plaintiff states that he was "unable to maintain a consistent sleeping habit" because his cell is "constantly illuminated," plaintiff admits that the security light is not even bright enough for him to read or write without straining his eyes. UDF 11, 12.

In Keenan v. Hall, 83 F.3d at 1090, cited by plaintiff, the Court held that constant illumination of a cell could qualify as an unconstitutional condition of confinement where it causes the inmate "grave sleeping problems." However, in Keenan plaintiff alleged that large florescent lights directly in front of and behind his cell shone into his cell 24 hours a day, so that his cell was "constantly illuminated, and [Keenan] had no way of telling night or day," and this condition caused him "grave sleeping problems" and other mental and psychological problems. Unlike the situation in Keenan, the security lights at issue in this case are similar to night lights and provide only enough illumination for officers to conduct security checks on the inmates during the night. Plaintiff admits that the lights are not bright enough to read without straining.

Plaintiff offers no evidence that he was subject to the type of "grave sleeping problems" that occurred in the Keenan case. At his deposition, he testified that the lighting interferec with his sleep "a little bit" and he was "awakened a few times." UDF 13, 14. Indeed, the first time plaintiff requested to see a physician after his transfer to the SHU was on August 10, 1998. While he complained of headaches, the records do not indicate any discussion regarding the SHU's lighting condition. UDF 17. Further, on March 10, 1999, plaintiff told medical staff that he was having difficulty sleeping since his arrival due to anxiety over his legal issues. UDF 19.

The conditions complained of by plaintiff, namely the constant illumination of the cells in the SHU by the security light at issue, do not violate the Eighth Amendment. While plaintiff was indeed subject to "constant illumination," the illumination was, based on the evidence, akin to a night light. While plaintiff has submitted the declarations of other inmates who support plaintiff's contention that the cells in the Corcoran SHU are constantly illuminated by the security lights; the declarations together with plaintiff's statements do not convince the Court that the conditions rise to the level of a constitutional violation. This is especially true given the reasons for the lights. The security lights are necessary within the SHU to allow officers to observe inmate activity in cells, to maintain security and safety. Accordingly, the court finds that defendants are entitled to judgment as a matter of law on plaintiff's Eighth Amendment claims. Because of this finding, it is unnecessary to reach defendants' arguments that they are entitled to qualified immunity.

Keywords

Short Name	Wilson v. Interlake Steel Co., 649 P. 2d 922 - Cal: Supreme Court 1982
Year	1982 E.H. WILSON et al., Plaintiffs and Appellants,
Court	Supreme Court of California.
Reference	32 Cal.3d 229 (1982)
Case Number	Docket No. S.F. 24365.
URL	http://scholar.google.com/scholar_case?case=14008525758429193036
Opinion - Exctract	(2) All intangible intrusions, such as noise, odor, or light alone, are dealt with as nuisance cases, not trespass. (Greater Westchester Homeowners Assn. v. City of Los Angeles (1979) 26 Cal.3d 86 [160 Cal. Rptr. 733, 603 P.2d 1329]; Smith v. Lockheed Propulsion Co. (1967) 247 Cal. App.2d 774 [56 Cal. Rptr. 128, 29 A.L.R.3d 538].) (3) Succinctly stated, the rule is that actionable trespass may not be predicated upon nondamaging noise, odor, or light intrusion; moreover, liability for trespass will not be imposed unless the trespass was intentional, the result of recklessness, negligence, or the result of an extra hazardous activity. (See Smith v. Lockheed Propulsion Co., supra, 247 Cal. App.2d at p. 784.) []
Keywords	Light Trespass, light nuisance