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Gassing mentally ill inmates is out

A judge rules that it qualifies as cruel and unusual punishment.

BY PAUL PINKHAM | STORY UPDATED AT 2:33 AM ON WEDNESDAY, JAN. 14, 2009

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Two mentally ill inmates suffered unconstitutional cruel and unusual punishment at the hands of Florida State Prison officials who disciplined them with pepper spray, tear gas and other chemical agents, a judge has ruled.

But the same punishment was appropriate for four other prisoners who sued the Department of Corrections on similar grounds, U.S. District Judge Timothy Corrigan of Jacksonville wrote in a lengthy order finalized Monday after a five-day bench trial in September.

Corrigan made the distinction based on the mental condition of the individual inmates at the time they were disciplined. The order means the department can no longer use chemical agents on prisoners who lack the capacity to follow orders or control their behavior, said Jacksonville attorney Buddy Schulz, who represented the inmates.

"It's significant because it's the first time a federal judge has found this type of use of force unconstitutional as it relates to seriously mentally ill inmates who are incapable of conforming to the rules of the prisons," Schulz said.

Corrigan gave lawyers for the state until Feb. 10 to come up with terms of an injunction and Schulz's team until Feb. 24 to voice objections. He directed both sides to work together, and Schulz said he's hopeful for a dialogue for reform with Corrections Secretary Walter McNeil, who has shown interest in prison mental-health issues.

Lawyers for the prison system didn't return phone calls Tuesday.

Constitutionality was the only issue at trial. Individual claims by the prisoners had been resolved previously.

Corrigan found that the use of chemical agents against recalcitrant prisoners isn't by itself unconstitutional. But he wrote that such force loses its disciplinary purpose and "becomes brutality" when inmates are gassed who cannot control their actions because of mental illness.

Former Florida State Prison Warden Ron McAndrew, now a corrections consultant, called the ruling a vindication of mental-health policies he had in place in the 1990s.

"It's a great success for the people of Florida in terms of reducing the torture of inmates in Florida's prisons, especially those that are mentally disturbed," McAndrew said.

He testified at trial that his policies were abandoned when he was replaced in 1999 by James Crosby, leading to hundreds more gasings. Crosby later became corrections secretary, then went to prison himself for taking kickbacks.

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mentally disturbed criminals

Submitted by [Bobb](#) on Wed. 1/14/2009 at 9:59 am

An argument could be made they are all mentally disturbed to some degree, so I guess someone designates which prisoners fall into the protected classification and then they wear some identifying clothing so guards can tell at a glance which ones get gassed and which ones don't?

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Eye for an eye

Submitted by [Gonebabygone](#) on Wed. 1/14/2009 at 2:37 pm

DAM* IT!!!!

Equal Opportunity Offender

;-)

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