

A Concise History of the Prisoners' Rights Movement:
An Epic Struggle for Human Dignity

By
Thomas A. Littek

For
The American Prison Writing Archive
April 13, 2015

Approximately 2000 Words

A Concise History of the Prisoners' Rights Movement: An Epic Struggle for Human Dignity

Those who ignore the past are doomed to repeat it.
Historian's maxim.

After visiting Pennsylvania's Eastern State Penitentiary in 1842 Charles Dickens wrote,
"The system is rigid, strict and hopeless... and I believe it to be cruel and wrong.... I hold this slow and daily tampering with the mysteries of the [mind] to be immeasurably worse than any torture of the body." Eastern State remained open for another 129 years after Dickens condemned it as barbaric, and many of its inhumane practices continue to be used in prisons across America today.

Conditions in prison are not supposed to be

like a holiday resort. On the other hand, prison conditions should not fan the flames of hatred against prison staff or society, nor should they humiliate prisoners. Yet, time and time again, prisoners across the nation are subjected to the unnecessary and spiteful infliction of pain and degradation - not to control unruly or combative prisoners - but to punish people for light and petty misconduct. For instance, smoking marijuana, getting into a minor scuffle, possessing some kind of innocuous "contraband" such as tobacco, or a picture pilfered from a smuggled-in copy of Playboy is all it takes to get tossed into segregation (or, oppression, repackaged as "correction").

In many prisons prisoners routinely are beaten while handcuffed, tormented while tied down in four-point restraints, locked in strip-cells and subjected to extreme temperatures. Often beatings are used as a method of control, a means of revenge, or a form of entertainment for prison staff.

When Kevin Harrison, a prisoner at Virginia's Middle River Regional Jail, called one of the guards a bitch they quickly sallied him into administrative segregation. Then, according to court records, six to seven guards entered Kevin's cell to "teach him a lesson." They ordered Kevin to stand with his nose touching the wall. They crowded round him, pressed

in close, and began pushing his head and face⁴ into the wall. All the while they hurled insults and derogatory names at him. At that point Kevin believed that his life was in imminent danger. In an attempt to protect himself, Kevin turned from the wall, swung his fist, and struck one of the aggressors in the face. The guards then shoved Kevin to the floor. They beat, kicked, stomped, and smashed his face into the concrete, then yanked open his eyelids and sprayed pepper-spray mace directly into his eyes and mouth. When the free-for-all ended, Kevin's face and body were covered with countless scrapes, cuts and bruises; his nose was swollen;

his ribs were cracked; his shoulder had been⁵
torn from its socket. The guards refused to
allow Kevin any medical treatment. Finally, to
add insult to his many injuries, the guards
charged Kevin with "malicious wounding of an
officer." Kevin filed a lawsuit in federal court,
but like most prisoner's lawsuits today, the
court dismissed it as frivolous.

Prisoners are often exposed to a wide
variety of health hazards. Excessive
heat and cold, constant lighting, infestations
of insects, spiders, rats, and other vermin,
and human waste from faulty plumbing are only
a few of the many challenges that prisoners
face. Medical and dental needs go untreated;

6
medications - including life-sustaining medications -
run out and prescriptions are left unfilled
for days - sometimes weeks. Prisoners are
given the wrong medication and told it is a
substitute. The list of abuses that prisoners
are subjected to is in essence endless.

Prisoners who challenge injuries, abuse,
and injustice committed by prison staff do
so through a federal law known as "Section
1983." In part Section 1983 holds:

Every person who, under color of any
statute, ordinance, regulation, custom,
or usage, of any State or Territory
or the District of Columbia, subjects
or causes to be subjected, any citizen

of the United States or other person ⁷
within the jurisdiction thereof to the
deprivation of any rights, privileges,
or immunities secured by the
Constitution and laws, shall be liable
to the party injured in an action at
law, suit in equity, or other proper
proceeding for redress...

Because the history of the Prisoners'
Rights Movement begins with Section 1983,
a brief history of Section 1983 must follow.

The U.S. Congress passed Section 1983 as
part of the Ku Klux Klan Act of 1871, and
President Grant immediately signed it into law.
Section 1983 was intended to help African

Americans enforce the constitutional rights they had won after the Civil War. The law's specific purpose was to protect the rights given under the 13th, 14th, and 15th amendments, the Civil War Amendments, which abolished slavery, established the right to due process and equal protection of law, and afforded every male citizen the right to vote. Although originally enacted for African Americans, Section 1983 does not mention race. It is available for use by people of any race, creed, or color.

Despite the fact that the 13th, 14th, and 15th amendments were, and are, part and parcel of the U.S. Constitution, white racist

judges in state courts refused to enforce⁹
them. Section 1983 held the key to this
impasse: it provided a way for people whose
rights had been trampled by state or local
officials to bypass state courts and seek
redress in federal courts.

Soon after Section 1983 became law,
Federal judges shamelessly invented excuses
to undermine it. Even though Section 1983
allowed people to bypass state courts, federal
judges ruled that most cases had to be
resolved in state courts. Their rulings remained
in effect until African Americans achieved
political power through the Civil Rights Movement
of the 1950s and '60s.

From the late 1950s through the late 1980s the U.S. Supreme Court handed down a series of decisions that reversed the trend and transformed Section 1983 into an effective tool for prisoners to challenge the conditions of prison. As a result, prisoners began to file more and more lawsuits. They prevailed in major lawsuits and won their rights to religious freedom, to communicate with the media, to be free from assault by prison guards, and more. Over and over the Supreme Court ruled that prisoners retain all rights that are not inconsistent with their status as prisoners, or incompatible with the goals of incarceration. Many of today's hard-nosed federal judges will not allow federal courts

to be used as de facto prison administrators. ¹¹
No matter how hopeless prison conditions may be, federal judges are not willing to issue rulings that favor prisoners. This laissez-faire approach is known as the "hands off" doctrine. Federal judges keep their hands off prison officials.

During the Civil Rights era of the 1950s and '60s, African Americans began to win legal rights only after they banded together politically. In a similar way, prisoners began to win legal battles only after the Prisoners' Rights Movement grew strong. Then, as though on queue, during the late 1960s and early '70s, riots erupted in Attica, San Quentin,

12

Folsom, and other prisons across America, offering to the public for the first time, a look at the horrid conditions inside America's prisons. Media exposure of the prison system then fostered a progressive attitude in many federal judges. Prisoners won important cases concerning living conditions, rehabilitation programs, counseling services, procedures and methods of discipline, and more. Indeed, prisoners had reached a major milestone in their struggle for social justice.

Providence, however, was not long with prisoners. In 1996, Congress passed, and President Clinton signed into law, the Prison Litigation Reform Act (PLRA).

Arguably, the PLRA is the most insidious anti-prisoner law ever enacted. Its sole purpose is to frustrate, cripple, and gut prisoners' lawsuits. Why would Congress pass a law that ultimately set civil rights back 200 years? Hired guns from states tired of spending money to defend themselves against prisoner's lawsuits tricked Congress into believing that prisoners file mountains of lawsuits because they have nothing more to do other than harass prison administrators. The obvious truth - that prisoners file lots of lawsuits because they are subjected to lots of abuse - was ignored.

On its face the PLRA opposes the evolving

Standards of decency in our maturing society.

Consequently, conditions in America's prisons

to day are just as inhumane as the were

when Charles Dickens denounced them 175

years ago. Today, when prisoners file lawsuits

our flatulent federal judges make excuses and

deny laws that would otherwise be beneficial

to prisoners because they fear appearing

to be sympathetic to prisoners. For instance,

the Code of Virginia, Section 53.1-20(B)

holds

Persons convicted of felonies... and

sentenced to [prison] or sentenced to

confinement in jail for a year or

more shall be placed in the custody

of the Director [of Corrections] and received by the Director into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic transmission to the Director by the clerk [of court].

The statute is clear: Virginia's long term prisoners are not supposed to be held in jail for months or years, as many are. However, to relieve pressure from the state's overcrowded prison system and at the same time assuage prisoners' hardships, a federal court ruled that jails in Virginia must furnish long term

prisoners with all the privileges and amenities that are available to prisoners in the state prison system. These privileges include academic and vocational training, work opportunities, counseling services, and more. The fact is, however, that prisoners in Virginia's jails have virtually none of the privileges that they are entitled to. Moreover, no judge today will rule in favor of prisoners and allow them the rights and privileges that they are entitled to. Even the most liberal judge will not try to stop the abuses that prisoners face.

The history of the struggle for prisoners' rights demonstrates that to abolish

17
oppressive laws and policies that are founded
only upon pretense, pretext, and prevarication,
and create an institution that respects
human rights, requires not only litigation,
but active support from people on the outside.
Prisoners and their advocates must not
allow the past to be forgotten. Instead,
they must press on toward the goal and
not surrender until every man, woman, and
child in America's prisons is afforded
fair treatment, justice, and the respect
that every human being deserves.

Prisoners and their advocates are
encouraged to send letters to legislators,
newspapers, television and radio stations

to expose the reality of America's prison system. There is power in numbers. Together, we can make a difference.

In memory of the fallen.

Thomas A. Littel
Middle River Regional Jail
April 13, 2015

Sources

Eastern State Penitentiary 1829-1971.
Pamphlet. Prison Legal News. (No Date).

The Jailhouse Lawyer's Handbook. Center for Constitutional Rights. (2010).

U.S.C.A. Title 42, Section 1983. Lexis. CD ROM. (2014).

Code of Virginia. Section 53.1-20(B). Lexis. CD ROM. (2014).

Kevin Jerome Harrison v. Jack Lee, et. al. Fed. Dist. Ct. Western Dist. Va. Civil Action No.

7:08 cv 00062; 2008 U.S. Dist. LEXIS
13628. (2008).

19

Hill v. Hutto, 537 F. Supp. 1185 (E. D.
Va.) (1982).