



# Commander's Log

LEGAL UPDATE FOR MARYLAND CORRECTIONAL  
ADMINISTRATORS AND OFFICERS

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## **The Due Process Protections Required for Pretrial Detainees Confined in Disciplinary or Administrative Segregation**

*Dustin Robert Williamson v. Bryan Stirling, et al.*  
U.S. Court of Appeals for the Fourth Circuit  
Decided December 21, 2018

### **The Background of the Case**

This case concerned a pretrial detainee who was held in solitary confinement in South Carolina's Department of Corrections for three and a half years. The inmate had been moved to a state facility from a county detention center pursuant to South Carolina's "safekeeper" program, which allows a pretrial detainee to be transferred from a detention center to a state facility if the inmate has been designated as a "safekeeper." A pretrial detainee can be designated a "safekeeper" because he/she: presents a high escape risk; has exhibited extremely violent and uncontrollable behavior; and/or must be removed from the county facility for his own protection.

The inmate sued for denial of his federal civil rights, specifically the substantive and procedural due process protections of the Fourteenth Amendment, protections designed, in part, to protect one's liberty interests. He alleged that he had been unconstitutionally "punished" as a pretrial detainee by

his prolonged detention in solitary confinement and that he had not been afforded adequate procedural protections before or after being placed in solitary confinement. The United States District Court ruled in favor of the defendants but, in a major decision, the United States Court of Appeals for the Fourth Circuit (the federal appeals court that encompasses Maryland, Virginia, and other jurisdictions) essentially reversed the lower court and remanded the case for further proceedings.

### **The Due Process Protections Required for Pretrial Detainees**

For our purposes, the factual details and legal maneuvering in the case are unimportant. What is important are the court's holdings concerning the due process rights of pretrial detainees. Those protections are laid out below:

#### **A. Substantive Due Process**

Put most simply, pretrial detainees possess a substantive constitutional right, a liberty interest, to be free from punishment. Generally, pretrial detainee substantive due process claims challenge the general conditions of confinement or the treatment of all detainees in a specific facility. However, a pretrial detainee may also pursue a substantive due process claim to challenge individually imposed restrictions. The key to the success of the claim is whether the condition or restriction was



imposed with an express intent to punish or is not reasonably connected to a legitimate nonpunitive corrections' objective.

A pretrial detainee's due process rights *do not*, however, prohibit a detention facility from imposing "regulatory restraints," such as administrative and disciplinary measures that are used by jail officials to maintain security and order. Accordingly, all jail officials are entitled to restrict the conditions of confinement for pretrial detainees for both administrative (emergencies, security, overcrowding, etc.) and disciplinary reasons. Importantly, however, the discipline and/or other restrictions imposed cannot be so excessive relative to the underlying infraction or condition giving rise to the restriction as to be deemed unconstitutional. Instead, both disciplinary or administrative restrictions *must be proportional* to the infractions or events giving rise to them. If they are not, the disciplinary or administrative restrictions could be viewed by a court as "punishment," and, thus, potentially unconstitutional.

## B. Procedural Due Process

Procedural due process concerns the process and procedures by which a pretrial detainee's liberty is restricted. The level of procedural due process to which a pretrial detainee is entitled depends on the situation. Specifically, a pretrial detainee's procedural protections vary depending on whether the restriction imposed is for disciplinary or administrative purposes.

### 1. Procedural Due Process Required for Disciplinary Matters

The *minimum* procedural due process required in disciplinary matters includes: (1) notice of the alleged misconduct; (2) a hearing; and (3) a written explanation of the decision.

### 2. Procedural Due Process Required for Administrative (Non-Disciplinary) Matters

The *minimum* procedural due process required in administrative matters (managerial and security needs) is less than that required in disciplinary matters. For administrative decisions that have resulted in or are going to result in more restrictive conditions of confinement, such as administrative segregation, the procedural due process required consists of: (1) some notice of the decision, and (2) an opportunity for the

pretrial detainee to present his or her views. The detainee's opportunity to present his or her views may come *after* the decision is given effect. Pretrial detainees are also entitled to periodic review of their confinement in administrative segregation to ensure that it is not being used as a pretext for indefinite confinement.

## Conclusion

Inherent in this decision is the Fourth Circuit's concern with "prolonged" periods of solitary confinement, regardless of whether the confinement is disciplinary or administrative in nature. What "prolonged" means will be determined on a case by case basis. Consequently, detention center administrators and officers tasked with imposing disciplinary sentences and/or imposing restrictions on administrative grounds must consider *the proportionality between the restriction imposed and the infraction or other condition giving rise to the restriction*. As to disciplinary matters, the restriction(s) imposed must be intended to advance—and be reasonably related to—the effective management of the detention center. If, on the other hand, the disciplinary restriction is excessive, arbitrary, or purposeless, a court is likely to side with the inmate and find that the restriction is excessive, and, as a result, unconstitutional. As to administrative segregation, the correctional rationale for imposing this kind of restriction must be clear. Further, the duration of administrative segregation must be considered. Keeping pretrial detainees in administrative segregation for indefinite or unusually long periods of time may also be viewed as "punishment."

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