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Obstacles to Proving 24-Hour Lighting is Cruel and Unusual Under Eighth Amendment Jurisprudence

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OBSTACLES TO PROVING 24-HOUR LIGHTING IS CRUEL AND UNUSUAL UNDER EIGHTH AMENDMENT JURISPRUDENCE

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Abstract: Twenty-four-hour lighting causes sleep deprivation, depression, and other serious disorders for incarcerated individuals, yet courts often do not consider it to be cruel and unusual. To decide if prison conditions violate the Eighth Amendment's prohibition against cruel and unusual punishment, courts follow a two-part inquiry that requires examining the intent of prison officials (known as the subjective prong) as well as the degree of seriousness of the alleged cruel or unusual condition (the objective prong). Incarcerated individuals often file complaints challenging 24-hour lighting conditions. Whether they succeed on these claims may depend on the circuit in which they reside. Judges have broad discretion in deciding what type of evidence satisfies each prong of the inquiry, and there is great room for differing opinions and outcomes based on how judges view a particular set of facts.

This unpredictability and inconsistency in outcomes could be improved by eliminating the subjective component of the Eighth Amendment test and focusing solely on objective harm resulting from constant illumination, similar to the approach taken with respect to reasonableness inquiries under the Fourth Amendment. Shifting the focus of the analysis to whether 24-hour lighting causes a sufficiently serious deprivation of basic human rights would result in a more objective approach and provide plaintiffs with a clearer understanding of the proof needed to secure a favorable outcome. A plaintiff who can show objectively serious or extreme harm suffered as a result of constant illumination should prevail on an Eighth Amendment challenge.

INTRODUCTION

Imagine being housed in a segregated unit of a corrections center and living under constant illumination. Inside the cell, a fluorescent lighting tube, covered by a light-diffusing sleeve, remains on for twenty-four hours a day. Imagine that this light is so bright as to prevent sleep, "even with four layers of towel wrapped around [the] eyes."[1] This is the situation that Neil Grenning found himself in after being incarcerated at the Airway Heights Corrections Center near Spokane, Washington. Because of constant illumination, he alleged that he had "recurring migraine

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1. Grenning v. Miller-Stout, 739 F.3d 1235, 1238 (9th Cir. 2014).

headaches" and "could not distinguish between night and day."[2] Additionally, he alleged that "the lighting caused him pain and disoriented him."[3]

Grenning's experience is not uncommon—incarcerated individuals often file complaints challenging 24-hour lighting conditions. Whether they can succeed on these claims depends on which circuit they live in and how a particular judge views the conditions. This Comment examines the murky jurisprudence that has created inconsistency across circuits regarding whether 24-hour lighting in prison constitutes cruel and unusual punishment under the Eighth Amendment.

This Comment proceeds in four parts. Part I begins with an overview of the Eighth Amendment and the current two-part test used to determine whether certain prison conditions constitute cruel and unusual punishment. It continues with a discussion of major Supreme Court decisions that established the law that lower courts must follow in applying the Eighth Amendment's two-part test for cruel and unusual punishment claims.

Part II looks at 24-hour lighting conditions in prisons. This Part examines the supposed purpose of continuous lighting and the harms it often is alleged to cause. Part II argues that inconsistent application of the two-part test has led to differing outcomes in cases where plaintiffs have claimed that 24-hour lighting in prison constitutes cruel and unusual punishment, creating a confusing body of case law. The Ninth Circuit, as well as various lower courts, has repeatedly found that the alleged harm created by continuous lighting is sufficiently serious to survive motions for summary judgment on Eighth Amendment claims. The Third, Fifth, Seventh, Eighth, and Tenth Circuits seemingly have applied a harsher version of the two-part test to strike down similar claims.

Part III consists of an overview of solitary confinement, comparing the treatment of claims that solitary confinement constitutes cruel and unusual punishment to claims making the same argument in the context of continuous lighting in prisons. This Part argues that the growing scrutiny placed on this particular prison condition should be applied to 24-hour lighting conditions.

Part IV departs from looking at the Eighth Amendment to examine the Fourth Amendment and how courts have declined to weigh subjective intent—in other words, the motivations of the officer performing an allegedly unreasonable search or seizure—in Fourth Amendment cases. This Part shows how Fourth Amendment jurisprudence may provide a

2. *Id.*

3. *Id.*

model for creating a clearer Eighth Amendment test.

Lastly, Part V argues that eliminating the subjective component of the Eighth Amendment's two-part inquiry will lead to more consistency and predictability for plaintiffs bringing challenges to 24-hour lighting conditions in prisons. This Part argues that no penological purpose should be sufficient to justify constant illumination if a plaintiff alleges that such lighting resulted in objectively serious physical or psychological harm.

I. THE EIGHTH AMENDMENT AND PRISON CONDITIONS

The Eighth Amendment's prohibition against cruel and unusual punishment can provide a path for incarcerated individuals to seek redress when they experience excessively severe or harmful prison conditions. This Part provides an overview of the Eighth Amendment and shows how courts have construed the prohibition against cruel and unusual punishment to apply to prison conditions.

A. The Two-Part Test for Establishing that Conditions Constitute Cruel and Unusual Punishment

The Eighth Amendment of the United States Constitution states that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."[4] This amendment was ratified in 1791, and there is little information available regarding the framers' intended meaning and application of the Eighth Amendment.[5] There was little public debate concerning the contents of the amendment, and some scholars have argued that this is because the language of the Eighth Amendment was similar to language already included in several state constitutions, originally derived from or resembling the English Bill of Rights.[6]

It was not until the mid-1900s that the Eighth Amendment became the subject of increased litigation brought to courts by prisoners challenging prison conditions.[7] Lower courts began to determine that certain extreme

4. U.S. CONST. amend. VIII.

5. Alexander A. Reinert, *Reconceptualizing the Eighth Amendment: Slaves, Prisoners, and "Cruel and Unusual" Punishment*, 94 N.C. L. REV. 817, 829 (2016).

6. *Id.* at 830–32 (stating that language in several state constitutions was "derived from the English Bill of Rights, which provided '[t]hat excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted'").

7. Brittany Glidden, *Necessary Suffering?: Weighing Government and Prisoner Interests in Determining What Is Cruel and Unusual*, 49 AM. CRIM. L. REV. 1815, 1819 (2012) ("As the government assumed additional responsibilities as caretaker for its citizens and the civil rights movement took hold, a more protectionist mentality developed toward prisoners. Gradually prisoners

conditions constituted punishment that violated the Eighth Amendment.[8] In 1976, the Supreme Court affirmed that courts could apply the Eighth Amendment's prohibition against cruel and unusual punishment to some conditions suffered during imprisonment.[9] Thus, there has been a recent but extensive history of challenges to various prison conditions as violating the Eighth Amendment, with mixed levels of success.[10] Under this precedent, incarcerated individuals have been able to challenge 24-hour lighting conditions as violating the Eighth Amendment's prohibition of cruel and unusual punishment.[11]

The path to prevailing on such challenges is difficult due to the demanding standard set by the current two-part test. In deciding if prison conditions violate the prohibition against cruel and unusual punishment, "[t]here is no static test" that courts apply.[12] The Supreme Court has emphasized repeatedly that the meaning of the Eighth Amendment must reflect "the evolving standards of decency that mark the progress of a maturing society."[13] As a consequence, courts use a fact-specific two-part inquiry that includes an objective component and a subjective component.[14] Failure to satisfy one component will cause a plaintiff to lose the case as these factors are independent, and plaintiffs must establish both to prevail on an Eighth Amendment claim.

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began to assert their rights and courts became more receptive to addressing the most egregious conditions and inhumane treatment.").

8. *Id.* at 1819 n.20 (describing how courts in the 1970s had found a "doctor's decision to throw away a prisoner's ear and stitching [of] the stump" as well as "the injection of a prisoner with penicillin despite knowledge that prisoner was allergic, and subsequent refusal to treat allergic reaction" to violate the Eighth Amendment).

9. Estelle v. Gamble, 429 U.S. 97, 104 (1976).

10. *See, e.g.*, Lopez v. Pa. Dep't of Corr., 119 A.3d 1081 (Pa. Commw. Ct. 2015) (finding that Lopez had stated a claim for violation of the Eighth Amendment's prohibition against cruel and unusual punishment), *aff'd sub nom.* Lopez v. Wetzel, 144 A.3d 92 (2016); Stewart v. Beard, 417 F. App'x 117 (3d Cir. 2011) (affirming the district court's finding that 24-hour lighting in cells did not violate the Eighth Amendment because the conditions were justified by legitimate penological concerns and plaintiffs had failed to demonstrate that the conditions caused any physical or mental harm requiring medical attention).

11. *See, e.g.*, Grenning v. Miller-Stout, 739 F.3d 1235, 1238 (9th Cir. 2014) (challenging the 24-hour lighting conditions in the Special Management Unit at Airway Heights Correction Center); Keenan v. Hall, 83 F.3d 1083, 1088 (9th Cir. 1996) (alleging that the prison conditions in which Keenan was confined, including 24-hour lighting, were cruel and unusual).

12. Anthony Giannetti, *The Solitary Confinement of Juveniles in Adult Jails and Prisons: A Cruel and Unusual Punishment?*, 30 BUFF. PUB. INT. L. J. 31, 38 (2011).

13. Rhodes v. Chapman, 452 U.S. 337, 346 (1981) (quoting Trop v. Dulles, 356 U.S. 86, 101 (1958) (plurality opinion)).

14. *See, e.g.*, Wilson v. Seiter, 501 U.S. 294, 298 (1991) (describing the objective component as whether "the deprivation [was] sufficiently serious" and the subjective component as whether "the officials act[ed] with a sufficiently culpable state of mind"); Giannetti, *supra* note 12, at 38 (describing the two requirements that must be satisfied "to plead a successful Eight Amendment claim").

To satisfy the objective component of the test, plaintiffs must show that there is an actual and serious deprivation of their basic rights or needs.[15] In other words, prisoners must establish that "the condition is 'bad' enough to merit protection."[16] This component of the inquiry focuses on the effects of the condition itself. Courts often look at harm suffered particular to the plaintiff to determine whether the severity of that harm is serious enough to constitute a deprivation of basic human rights.

In addition, plaintiffs must show that prison officials had a culpable state of mind that amounted to "deliberate indifference" to a prisoner's health or safety.[17] In evaluating the subjective intent of prison officials, courts often consider whether the conditions alleged to be cruel and unusual punishment serve a legitimate penological purpose.[18] The Supreme Court has interpreted the subjective component as "comparable to a recklessness standard," meaning that plaintiffs must show that a prison official acted with more than an "ordinary lack of due care."[19] This component narrows the focus to the specific prison officials imposing the condition on the plaintiff. However, courts often focus this prong of the inquiry entirely on whether prison officials established a legitimate justification for the condition.

B. The Creation of Precedent for Evaluating Challenges to Prison Conditions

Several key cases illustrate the Supreme Court's creation of the two-part test used to evaluate Eighth Amendment challenges to prison conditions. Beginning in 1976 in *Estelle v. Gamble*,[20] the Supreme Court held that incarcerated individuals can challenge conditions in prisons as violating the Eighth Amendment, but must establish that the conditions were "sufficiently harmful to evidence deliberate indifference."[21] While incarcerated at the Texas Department of Corrections, Gamble was injured unloading a truck during his prison work assignment.[22] When he was admitted to the unit hospital, staff checked him for a hernia but then sent him back to his cell.[23] He began to experience intense pain and returned

15. *Wilson*, 501 U.S. at 298.
16. Glidden, *supra* note 7, at 1815.
17. *Wilson*, 501 U.S. at 297 (quoting Estelle v. Gamble, 429 U.S. 97, 106 (1976)).
18. *Id.* at 308 (White, J., concurring).
19. Giannetti, *supra* note 12, at 38.
20. 429 U.S. 97 (1976).
21. *Id.* at 106.
22. *Id.* at 99.
23. *Id.*

to the hospital where he was examined by a doctor, prescribed pain medication for a lower back strain, and placed "on 'cell-pass, cell-feed' status for two days, allowing him to remain in his cell at all times except for showers."[24] After approximately three weeks, Gamble's doctor deemed him capable of light work despite Gamble's complaint that his back hurt "as much as it had the first day."[25] His injury continued to hurt over the course of several months, most of which was spent in "administrative segregation."[26] Three different doctors saw Gamble and each prescribed pain medication.[27] Eventually, the prison placed Gamble in solitary confinement for refusing to work after a hearing wherein a doctor testified that Gamble was in "'first-class' medical condition" despite continued complaints of severe back pain and high blood pressure.[28]

In evaluating Gamble's complaint of cruel and unusual punishment under the Eighth Amendment, the Court concluded that "deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain.'"[29] However, the Court ultimately found that Gamble's specific allegations did not meet this standard because the decisions made on his treatment were "matter[s] for medical judgment" and a "medical decision not to order an X-ray, or like measures, does not represent cruel and unusual punishment."[30]

While Gamble did not succeed on his claim, his case represents an important step in the development of Eighth Amendment jurisprudence. The Court recognized that certain prison conditions, like denial of medical care, could constitute cruel and unusual punishment, and thus provided incarcerated individuals with a path to seek redress.[31]

Five years later in *Rhodes v. Chapman*,[32] the Supreme Court solidified the requirements for prevailing on an Eighth Amendment claim of cruel and unusual punishment. In this case, prison officials housed Chapman in a single cell along with one of his peers.[33] He alleged that this practice—"double-celling"—violated the Eighth Amendment due to the close confinement of the incarcerated individuals and the overwhelming effect

24. *Id.*
25. *Id.* at 100.
26. *Id.*
27. *Id.*
28. *Id.* at 101.
29. *Id.* at 104.
30. *Id.* at 107.
31. Glidden, *supra* note 7, at 1820.
32. 452 U.S. 337 (1981).
33. *Id.* at 339.

the overcrowding had on prison facilities and staff.[34] The Court stated that "[w]hen conditions of confinement amount to cruel and unusual punishment, 'federal courts will discharge their duty to protect constitutional rights.'"[35] Notably, the Court also stated that prison conditions in many prisons in the United States "have justly been described as 'deplorable' and 'sordid.'"[36]

However, the Court found that there was no "unnecessary and wanton pain" inflicted by the overcrowding and thus no Eighth Amendment violation.[37] This conclusion was based on the fact that the practice of "double-celling" did not deprive detained persons of "essential food, medical care, or sanitation" or "increase violence among inmates or create other conditions intolerable for prison confinement."[38] The Court acknowledged that the conditions in question caused "job and educational opportunities [to diminish] marginally" but found that this was not an infliction of pain.[39] Like Gamble, Chapman also was denied relief. Despite Chapman's failure to succeed on his claim, this case reiterated the requirement from *Estelle* that persons in detention had to prove an infliction of "unnecessary and wanton pain" to successfully argue an Eighth Amendment violation.[40] *Rhodes* also held that deprivations denying "the minimal civilized measure of life's necessities" are sufficient to challenge the constitutionality of prison conditions.[41]

Additionally, *Rhodes* established that courts should afford some deference to the opinions of prison officials on what conditions are required in prisons. Prison officials' opinions about what measures are necessary are to be given appropriate weight.[42] The Court argued that other courts should not "assume that state legislatures and prison officials are insensitive to the requirements of the Constitution or to the perplexing sociological problems of how best to achieve the goals of the penal function in the criminal justice system."[43] In this opinion, the Court made it clear that future courts could rely on the testimony of prison officials in

34. *Id.* at 340.
35. *Id.* at 352.
36. *Id.*
37. *Id.* at 348.
38. *Id.*
39. *Id.*
40. *Id.* at 347.
41. *Id.*
42. *Id.* at 352.
43. *Id.*

justifying particular conditions.[44]

Finally, in 1991, the Supreme Court walked through the application of both prongs of the Eighth Amendment test to determine whether prison conditions amounted to cruel and unusual punishment in *Wilson v. Seiter*.[45] Wilson, incarcerated at the Hocking Correctional Facility in Ohio, alleged that a myriad of prison conditions at the facility, including "overcrowding, excessive noise, insufficient locker storage space, inadequate heating and cooling, improper ventilation, unclean and inadequate restrooms, unsanitary dining facilities and food preparation, and housing with mentally and physically ill inmates," constituted cruel and unusual punishment in violation of the Eighth Amendment.[46]

The Court applied existing precedent,[47] pointing out that a necessary step of analysis in Eighth Amendment cases is an "inquiry into a prison official's state of mind when it is claimed that the official has inflicted cruel and unusual punishment."[48] The Court affirmed that the standard for this subjective component is "deliberate indifference" and held that this standard does not take into account the effect on the prisoner, as that is already considered in the objective component of the test.[49] Furthermore, the Court established that the deliberate indifference standard requires intent on the part of the official, stating that "inadvertent failure[s]" and negligence "fail to establish the requisite culpable state of mind."[50] This case provides a helpful demonstration of a court following the roadmap for a two-step analysis in assessing an incarcerated individual's claim of cruel and unusual prison conditions.

II. APPLICATION OF THE EIGHTH AMENDMENT TO 24-HOUR LIGHTING CONDITIONS

The inquiry into whether conditions constitute cruel and unusual punishment is fact-specific and dependent on each individual judge's discretion because judges must consider both the intent of prison officials and the severity of the alleged deprivation. As a consequence, judges faced with similar facts may differ in their ultimate rulings. This Part

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44. *Id.* (stating "courts cannot assume that . . . prison officials are insensitive to the requirements of the Constitution or to the perplexing sociological problems of how best to achieve the goals of the penal function in the criminal justice system").

45. 501 U.S. 294 (1991).

46. *Id.* at 296.

47. *See id.* at 297–98 (relying on *Estelle's* deliberate indifference standard as well as *Rhodes'* discussion of the objective component for the "unnecessary and wanton infliction of pain" standard).

48. *Id.* at 299.

49. *Id.* at 303.

50. *Id.* at 297.

explains what 24-hour lighting conditions look like and the harmful effect continuous lighting can have on people experiencing incarceration. This Part also examines inconsistent case law involving challenges to 24-hour lighting conditions under application of the two-part test.

A. An Overview of 24-Hour Lighting Conditions

The phrase "24-hour lighting" describes prison cells that "are continuously illuminated for twenty-four hours a day."[51] Based on how often this particular condition is alleged in Eighth Amendment cases, 24-hour lighting appears to be a widespread practice.[52] Some cases describe situations where the brightness of the lighting in prison cells lessens at night,[53] while others detail a more consistent level of bright light illuminating cells throughout the day.[54] It is consistent across cases that some amount of light illuminates prison cells for twenty-four hours every day. This type of lighting often is used by prisons as a means of security for both staff and incarcerated individuals.[55] For example, in the Third Circuit case *Stewart v. Beard*,[56] prison officials alleged that continuous lighting "guard[ed] against the inmates' aggressive conduct and allow[ed] the staff to easily check on the health and safety of the inmates."[57] As will be discussed below, prison officials' rationale for constant light in 24-hour lighting challenges is often consistent with the reasons provided in *Stewart*.

The primary harm alleged to result from 24-hour lighting conditions is sleep deprivation, but plaintiffs often go further in their initial allegations and provide insights into the additional issues that a lack of sleep can cause. For example, in *Lopez v. Pennsylvania Department of Corrections*,[58] Lopez alleged that he and the other prisoners suffered from sleep deprivation, which contributed to conditions like "eye deterioration" and lack of "normal sleep."[59] In addition, Lopez claimed that the constant illumination conditions he and others in the prison experienced "further cause[d] "(A) anti-social behavior, (B) severe sleep deprivation and

51. Grenning v. Miller-Stout, 739 F.3d 1235, 1237 (9th Cir. 2014).

52. *See infra* sections II.B–D.

53. *Grenning*, 739 F.3d at 1237; *see also* Vasquez v. Frank, 290 F. App'x. 927, 928 (7th Cir. 2008) (describing how Vasquez's cell was lit by "four fluorescent lights—three could be turned off and one 9-watt bulb constantly remained on").

54. Keenan v. Hall, 83 F.3d 1083, 1091 (9th Cir. 1996).

55. *See* Stewart v. Beard, 417 F. App'x 117, 119 (3d Cir. 2011).

56. 417 F. App'x 117 (3d Cir. 2011).

57. *Id.* at 119.

58. 119 A.3d 1081 (Pa. Commw. Ct. 2015).

59. *Id.* at 1090.

disorders, (C) severe mental and physical depression, (D) suicidal tendencies, (E) constant and severe insomnia, (F) schizophrenia, (G) constant impulse control disorders, (H) unsociable disorders and behaviors, [and] (I) personality disorders."[60] Lopez's allegations were not merely "speculative," as he alleged that he suffered actual harm "beyond mere disruption of sleep."[61] Similarly, in *Stewart*, the plaintiff alleged that constant illumination caused "serious health consequences, viz, sleeplessness, blurry vision, headaches and psychological problems."[62] These cases, as well as the cases discussed below, suggest that challenges to 24-hour lighting conditions often are brought because people experiencing incarceration suffer from serious physical and mental health problems, which can worsen if the conditions are left unchanged.[63]

Medical and psychological research corroborates allegations that sleep deprivation adversely affects physical and psychological health. One scholar studying the impact of sleep deprivation on detained children found an association between sleep deprivation and depression and anxiety.[64] That same scholar also found that sleep deprivation "independently predicts an increased risk of suicidal behavior."[65] In addition, a study of adults found an association between "sleep disturbances" and "worsening post-traumatic stress disorder symptoms and intensified severity of anxiety-related disorders."[66] Researchers have also found connections between sleep deprivation and "risk factors for the development of cardiovascular disease."[67] This research is consistent with the claims often made by those challenging 24-hour lighting conditions in prisons—namely, that the lighting caused sleep deprivation which then caused additional physical and psychological harm. Notably, the United States has used sleep deprivation against foreign combatants as an "interrogation technique[]."[68] Sleep deprivation was included among

60. *Id.*

61. *Id.* at 1092.

62. Stewart v. Beard, No. 3:07-CV-1916, 2010 WL 3155343, at *2 (M.D. Pa. July 30, 2010), *aff'd*, 417 F. App'x 117 (3d Cir. 2011).

63. *See* O'Donnell v. Thomas, 826 F.2d 788, 789 (8th Cir. 1987) (providing a psychiatrist's opinion that the inmate's condition was deteriorating due to the conditions in the prison, which included continuous lighting that prevented him from being able to sleep).

64. Katherine R. Peeler, Kathryn Hampton, Justin Lucero & Roya Ijadi-Maghsoodi, *Sleep Deprivation of Detained Children: Another Reason to End Child Detention*, 22 HEALTH & HUM. RTS. J. 317, 318 (2020).

65. *Id.*

66. *Id.*

67. *Id.*

68. Deena N. Sharuk, *No Sleep for the Wicked: A Study of Sleep Deprivation as a Form of Torture*, 81 MD. L. REV. 694, 696 (2022).

other "enhanced interrogation techniques" used on detainees in Guantanamo Bay to create psychological stress and "foster dependence and compliance."[69] Such techniques were eventually condemned by "both foreign and domestic players as torture."[70]

B. Eighth Amendment Claim Succeeded: Subjective and Objective Components Met

Eighth Amendment challenges to 24-hour lighting conditions have had the most success in the Ninth Circuit Court of Appeals and several district courts in the Ninth Circuit, as well as one district court in the Eighth Circuit. When a plaintiff can allege sufficient harm caused by 24-hour lighting conditions, these courts have allowed cases to survive summary judgment and proceed to trial.[71] In *LeMaire v. Maass*,[72] the plaintiff was imprisoned in the Disciplinary Segregation Unit (DSU) in the Oregon State Penitentiary.[73] The DSU contained quiet cells that were "lighted 24 hours per day."[74] LeMaire alleged that continuous lighting disturbed his sleep, as well as the sleep of others detained in the DSU, which caused psychological problems.[75] A psychiatrist testified that 24-hour lighting exacerbates problems already caused by long-term confinement, like "psychotic symptoms" and aggravation of "pre-existing mental disorders."[76] Based on an acceptance of the testimony of both the plaintiff and the psychiatrist, the district court found the 24-hour lighting conditions to be unconstitutional.[77] Assessing the subjective prong of the inquiry, the *LeMaire* court stated that "[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination" and declared such conditions unconstitutional.[78] In response to the court's ruling in *LeMaire*, the state

69. *Id.* at 709.

70. *Id.* at 696.

71. While the Ninth Circuit has treated several Eighth Amendment claims in the 24-hour lighting context favorably, it does not always allow such claims to survive. *See* Chappell v. Mandeville, 706 F.3d 1052, 1069–70 (9th Cir. 2013) (finding that 24-hour lighting conditions during a period of "contraband watch" were not unconstitutional and distinguishing the case at hand from *Keenan* because there was a clear and legitimate penological justification, the period of continuous lighting was only seven days, and sleep deprivation was not alleged).

72. 745 F. Supp. 623 (D. Or. 1990), *vacated on other grounds*, 12 F.3d 1444 (9th Cir. 1993).

73. *Id.* at 625.

74. *Id.* at 626.

75. *Id.* at 636.

76. *Id.*

77. *Id.*

78. *Id.*

agreed to "modify its use of lighting in the cells," which suggests that successful challenges can create meaningful improvements in incarcerated individuals' living conditions.[79]

Six years later in *Keenan v. Hall*,[80] the Ninth Circuit found that an incarcerated individual's allegations of cruel and unusual conditions in the Intensive Management Unit (IMU) of the Oregon State Prisons were sufficient to survive a motion for summary judgment.[81] Prison officials transferred Keenan to the IMU for six months and he described the conditions in the IMU as "intolerable," in part because he had no way of "telling night or day" due to the constant illumination in his cell.[82] Among other allegations, Keenan claimed that "large florescent lights . . . shone into his cell 24 hours a day" which caused him "grave sleeping problems" as well as other psychological problems.[83] The Ninth Circuit held that plaintiff's Eighth Amendment claim presented a triable issue of fact, stating in particular that "Keenan produced sufficient evidence to make his lighting claim a disputed issue of material fact not subject to summary judgment."[84] Although the defendants claimed that "an inmate would not be affected by the lights if he slept with his head towards the back of his cell," the Ninth Circuit did not find that argument sufficient to support a grant of summary judgment for the defendants in the face of Keenan's allegations.[85] The court did not discuss the subjective component of Keenan's Eighth Amendment claim, choosing to focus on whether the alleged conditions and subsequent harm were sufficiently serious.[86] Ultimately, the Ninth Circuit Court reversed the district court's grant of summary judgment for the defendants on Keenan's lighting claims and remanded the case back to the district court.[87]

District courts in the Ninth Circuit have relied on *Keenan* in finding that 24-hour lighting conditions pose a triable constitutional issue. For example, in *Walker v. Woodford*,[88] the District Court for the Southern District of California ruled that plaintiffs' allegations challenging the constitutionality of 24-hour lighting in their cells were enough to survive

79. LeMaire v. Maass, 12 F.3d 1444, 1459 (9th Cir. 1993).

80. 83 F.3d 1083 (9th Cir. 1996).

81. *Id.* at 1087–88.

82. *Id.* at 1088–91.

83. *Id.* at 1090–91.

84. *Id.* at 1091.

85. *Id.*

86. *See id.* at 1090–91.

87. *Id.* at 1089, 1095.

88. 454 F. Supp. 2d 1007 (S.D. Cal. 2006), *aff'd in part*, 393 F. App'x 513 (9th Cir. 2010).

a Rule 12 motion to dismiss for failure to state a claim.[89] Plaintiffs incarcerated at California's Calipatria State Prison brought the challenge after the prison instituted a new rule preventing those detained in the prison from covering cell light fixtures at night.[90] While the district court allowed the case to proceed, it noted that 24-hour lighting is not "per se unconstitutional" and plaintiffs must still allege serious "physical and psychological harm."[91]

Most recently in *Grenning v. Miller-Stout*,[92] the Ninth Circuit found that allegations of pain caused by 24-hour lighting[93] provided sufficient evidence of a constitutional violation to survive a motion for summary judgment. The defendants argued that constant illumination was required to ensure that incarcerated individuals were not harming themselves or at risk of harming others, causing property damage, or inciting bad behavior from others.[94] The Ninth Circuit found that there was "no indication that Defendants' proffered justifications for constant illumination were relevant to Grenning" and thus found that there were sufficient questions of fact as to whether there was deliberate indifference by prison officials to preclude resolution of the claim by summary judgment.[95] The court clarified that "[a] showing of deliberate indifference, under the subjective part of the test, requires a showing that the defendant knew of an excessive risk to inmate health or safety that the defendant deliberately ignored."[96] Through this ruling, the Ninth Circuit demonstrated a willingness to acknowledge the validity of challenges to 24-hour lighting conditions.[97]

A district court in the Eighth Circuit also allowed a continuous lighting

89. *Id.* at 1032.

90. *Id.* at 1012–13.

91. *Id.* at 1014–16 ("As far as the Court is aware, neither the Ninth Circuit nor any other federal court has held that prisoners have a right to sleep in complete darkness.").

92. 739 F.3d 1235 (9th Cir. 2014).

93. Grenning alleged that the light was so bright that it prevented him from sleeping and caused him to experience "recurring migraine headaches" as well as disorientation as he could not "distinguish between night and day." *Id.* at 1238.

94. *Id.* at 1237.

95. *Id.* at 1241.

96. *Id.* at 1239.

97. While it allowed the case to proceed to trial, the district court ultimately entered judgment in favor of the defendants after it found, based on trial testimony, that there was insufficient evidence that the lighting caused Grenning serious harm or that the defendants had acted with deliberate indifference. Grenning v. Miller-Stout, No. 2:09-CV-389-RMP, 2016 WL 5843081, at *8–10 (E.D. Wash. Oct. 5, 2016), *aff'd*, 738 F. App'x 546 (9th Cir. 2018) (finding that "Plaintiff ha[d] presented no credible evidence that the continuous illumination of one of three lights caused his sleep deprivation or any of his headaches, disorientation, or other related symptoms" and "Defendants responded reasonably to Grenning's grievances" regarding lighting).

challenge to survive preliminary motions. In *Shepherd v. Ault*,[98] the District Court in the Northern District of Iowa stated that "humans crave periods of darkness just as surely as they crave periods of light" and that the plaintiffs "craved a respite from the continuous illumination."[99] The court noted that the period of time the plaintiff had spent in 24-hour lighting conditions was relevant to its analysis.[100] Here, one plaintiff spent 283 nights under constant illumination while another spent 550 nights under the same conditions.[101] Throughout this case, the court emphasized that continuous lighting "should at least raise an inference of a constitutional violation," noting that "the effectiveness of sleep deprivation as a tool of torture has long been recognized."[102] In addition, the Northern District of Iowa found that there was a "triable issue" in regard to "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."[103] Because of this "triable issue," the subjective component was met and the plaintiffs' claim survived a motion for summary judgment.[104]

C. Eighth Amendment Claim Failed: Objective Component Not Met

In contrast to the cases discussed above, courts in the Third Circuit, Seventh Circuit, and Tenth Circuit have found that continuous lighting does not cause serious enough harm to satisfy the objective component. In *Huertas v. Secretary Pennsylvania Department of Corrections*,[105] the Third Circuit Court of Appeals found that plaintiff's claim did not satisfy the objective component of proving a deprivation of the "minimal civilized measure of life's necessities" or a risk to his health or safety.[106] Huertas alleged that the 24-hour lighting conditions in the Restricted Housing Unit while in the custody of the Pennsylvania Department of

98. 982 F. Supp. 643 (N.D. Iowa 1997).

99. *Id.* at 643.

100. *Id.* at 648 ("[T]he cumulative effect of continuous lighting over an extended period could be so significant as to reach the requisite severity.").

101. *Id.* ("Very different inferences arise concerning the effects of constant illumination when exposure to that condition is long term.").

102. *Id.*

103. *Id.*

104. *Id.*

105. 533 F. App'x 64 (3d Cir. 2013).

106. *Id.* at 67–68.

Corrections violated the Eighth Amendment.[107] However, the court found that "Huertas ha[d] not provided competent medical evidence to show that he suffered serious psychological harm and eye problems because of the lighting."[108] The Third Circuit noted that "not all deficiencies and inadequacies in prison conditions amount to a violation of a prisoner's constitutional rights."[109]

Courts in the Seventh Circuit similarly have held that 24-hour lighting and any health conditions it may cause do not constitute deprivations that rise to the level of unconstitutionality. In *King v. Frank*,[110] the plaintiff alleged that his cell "was illuminated 24 hours a day" which made it difficult for him to sleep and caused him to "suffer[] headaches, sore eyes and blurred vision."[111] Before bringing suit, King complained to the supervisor of the prison's Psychological Services Unit that harsh conditions, including continuous lighting, caused him stress.[112] He also complained to a psychiatrist that the "fluorescent lighting was hurting his eyes and that he was having trouble sleeping."[113] However, the United State District Court for the Western District of Wisconsin granted the defendants' motion for summary judgment because the plaintiff "ha[d] not satisfied his burden to show that he suffered serious harm or was deprived of a basic human need."[114] The court based its conclusion on the findings of the manager of the prison's Health Services Unit and the supervisor of the Psychological Services Unit, both of whom reviewed the plaintiff's file and "concluded that the light in plaintiff's cell has not caused him any serious medical problems."[115]

Three years later, the Seventh Circuit Court of Appeals articulated its high standard for success on a 24-hour lighting claim in *Vasquez v. Frank*.[116] In *Vasquez*, the plaintiff complained to prison officials that the continuous lighting in his cell caused "pain in his eyes."[117] The cell in question had four fluorescent lights: three that could be turned off and one, a nine-watt bulb, that remained on constantly.[118] Due to this, and

107. *Id.* at 67.
108. *Id.* at 68 n.7.
109. *Id.* at 67.
110. 371 F. Supp. 2d 977 (W.D. Wis. 2005).
111. *Id.* at 984.
112. *Id.* at 982.
113. *Id.*
114. *Id.* at 985.
115. *Id.*
116. 290 F. App'x 927 (7th Cir. 2008).
117. *Id.* at 928.
118. *Id.*

other conditions like dry air, Vasquez was prescribed medication and eventually was treated by prison psychologists for anxiety, depression, and paranoia.[119] Despite Vasquez's allegations that the "defendants' failure to correct the . . . constant illumination in his cell amounted to deliberate indifference to a serious risk of harm,"[120] the Seventh Circuit ruled that the claim failed to satisfy the objective component because 24-hour lighting involving a single nine-watt fluorescent bulb does not objectively constitute an "extreme deprivation."[121] Even if Vasquez's claim had satisfied the objective component, it still would have failed because the Seventh Circuit also found that Vasquez did not present any evidence of "deliberate indifference" on the part of the prison officials and, as a result, did not satisfy the subjective component.[122]

The Tenth Circuit Court of Appeals likewise has rejected challenges to continuous lighting conditions in prisons based on a failure to allege a serious deprivation.[123] In *Murray v. Edwards County Sherriff's Department*,[124] the Tenth Circuit found that the plaintiff challenging the use of continuous lighting in his cell "failed to produce evidence of a sufficiently serious injury."[125] Murray alleged that lights outside of his cell, which were illuminated for twenty-four hours a day, deprived him of his "basic right to sleep" which caused him to occasionally experience headaches and "other psychological effects, such as depression."[126] However, the Tenth Circuit found that because the light only "sometimes" affected Murray's sleep and only caused headaches "every now and then," those two injuries were not sufficiently serious to support a claim of violation of his Eighth Amendment rights.[127] Further, while he presented evidence of his depression, Murray failed to establish a causal link between the continuous illumination in his cell and the depression, and even pointed to numerous other conditions as "causing or exacerbating his depression."[128] As a result, none of Murray's alleged harms sufficed to

119. *Id.*

120. *Id.*

121. *Id.* at 929.

122. *Id.* at 930 (finding that "the undisputed evidence in this case shows that prison staff promptly addressed Vasquez's health concerns [and] that the refusal to turn off the light in Vasquez's cell had a valid penological purpose").

123. *See, e.g.*, Murray v. Edwards Cnty. Sheriff's Dep't, 248 F. App'x 993 (10th Cir. 2007) (rejecting challenge on the basis that plaintiff failed to show a sufficiently serious injury).

124. 248 F. App'x 993 (10th Cir. 2007).

125. *Id.* at 998.

126. *Id.*

127. *Id.* at 998–99.

128. *Id.* at 999.

survive defendant's motion for summary judgment.[129]

D. Eighth Amendment Claim Failed: Subjective Component Not Met

Because the two components necessary to prevail on an Eighth Amendment claim are independent, even where sufficiently serious deprivations are shown, courts have found that plaintiffs failed to establish the requisite deliberate indifference. The Fifth Circuit Court of Appeals ruled against a plaintiff who could not produce evidence that the prison officials acted with disregard for his health.[130] In *Chavarria v. Stacks*,[131] the plaintiff alleged the "bright fluorescent lights" illuminated his cell twenty-four hours a day, which made it so he could not sleep.[132] He alleged that he had asked prison officials to dim the lights at night and then turn them up if guards needed to inspect cells, but he was denied his request to modify the lighting because "such a practice would be even more disruptive of sleep" and "it was necessary to keep the lights on for security reasons."[133] At a hearing, he elaborated and said that "the strong lights caused him to see lights, shadows, and spots."[134] However, despite acknowledging that "sleep constitutes a basic human need," the Fifth Circuit still found that there was no constitutional violation because the plaintiff had not proven that the deprivation was "unnecessary and wanton."[135]

In *Huertas*, the Third Circuit Court of Appeals found that Huertas had not alleged sufficient harm and also accepted the prison official's penological justification for continuous lighting.[136] Prison officials claimed that such lighting was necessary for "security purposes so that staff can better monitor inmates who may present a risk of harm to themselves or others, or inmates, like Huertas, who attempt to escape."[137] The Third Circuit noted that "[c]ontinuous lighting has been held to be permissible and reasonable in the face of legitimate penological

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129. *Id.*

130. Chavarria v. Stacks, 102 F. App'x 433 (5th Cir. 2004).

131. 102 F. App'x 433 (5th Cir. 2004).

132. *Id.* at 434.

133. *Id.* at 435.

134. *Id.*

135. *Id.* at 436 ("[T]he lights were kept on in the administrative segregation area for security reasons to prevent guards being assaulted by an inmate in a dark cell. A policy of dimming the lights at night and brightening them each time the guards passed by the cell would be even more disruptive to inmate sleep and thus was not an alternative that would fully accommodate the prisoner's right to sleep.").

136. Huertas v. Sec'y Pa. Dep't of Corr., 533 F. App'x 64, 68 (3d Cir. 2013).

137. *Id.*

justifications, like the need for security and the need to monitor prisoners."[138] The court found that prison officials did not have a culpable state of mind because the conditions were justified.[139]

The Eighth Circuit Court of Appeals has set a high standard for satisfying the subjective component of the test. In *O'Donnell v. Thomas*,[140] the plaintiff "repeatedly complained to jail officials that he could not sleep" and was examined by a psychiatrist several times, who concluded that his condition was deteriorating.[141] O'Donnell was hospitalized for various health problems and, after returning to the jail, attempted suicide.[142] He testified at trial that the conditions in his jail cell, which included continuous lighting, had a "cumulative deleterious effect . . . on his troubled emotional and mental condition."[143] Despite O'Donnell's allegations of serious harm, the Eighth Circuit affirmed the district court's holding that constant illumination in the holding cell was not a product of deliberate indifference because of the need for security in the jail and the need to monitor the plaintiff.[144] In this case, the plaintiff was not convicted but was in a jail cell awaiting trial on burglary charges during the time at issue.[145]

In *King v. Frank*, the Western District of Wisconsin noted that the plaintiff still would have failed the test because he could not meet the subjective component, even if he had demonstrated that he was subjected to a "substantial risk of serious harm."[146] To survive defendant's motion for summary judgment, King had to either show "that any defendant was deliberately indifferent to [the risk of serious harm caused by 24-hour lighting]" or that the serious harm caused by the lighting conditions "outweigh[ed] 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."[147]

In sum, it is difficult in most circuits for plaintiffs' allegations to satisfy both prongs of the Eighth Amendment test. The Ninth Circuit Court of Appeals has found that both prongs of the Eighth Amendment test were satisfied by plaintiffs' initial allegations in several continuous lighting

138. *Id.*

139. *Id.*

140. 826 F.2d 788 (8th Cir. 1987).

141. *Id.* at 789.

142. *Id.* at 789–90.

143. *Id.* at 790.

144. *Id.*

145. *Id.* at 789.

146. King v. Frank, 371 F. Supp. 2d 977, 985 (W.D. Wis. 2005).

147. *Id.*

cases.[148] A lower court within the Eighth Circuit's jurisdiction ruled similarly.[149] However, most other circuits that have ruled on the issue have found such claims to fail to satisfy at least one of the necessary components.[150] With few exceptions, incarcerated individuals outside of the Ninth Circuit have not been able to successfully challenge constant illumination on Eighth Amendment grounds. Even within the Ninth Circuit, it can be difficult to meet the demanding requirements of a two-prong Eighth Amendment inquiry.[151] Several plaintiffs in the above-described cases petitioned for rehearing or petitioned for a writ of certiorari to their respective circuits, but these petitions have been consistently denied.[152]

III. SOLITARY CONFINEMENT

This Part examines how the judicial treatment of constant illumination compares to solitary confinement, another prison condition that is frequently challenged as violating the Eighth Amendment. The comparison is useful because courts use the same two-part inquiry to resolve claims that solitary confinement violates the Eighth Amendment as is employed in evaluating 24-hour lighting conditions claims. Unlike 24-hour lighting conditions, scholars and activist organizations have advocated for reform in the area of solitary confinement. Courts, too, have begun to view that prison condition less favorably and, in one instance, the Supreme Court found solitary confinement conditions to be unconstitutional. The treatment afforded these challenges can provide a model for evaluating continuous lighting claims.

A. Solitary Confinement as an Example of an Application of the Eighth Amendment Framework

Scholars have described solitary confinement as "the practice of

148. *See* LeMaire v. Maass, 12 F.3d 1444, 1458–59 (9th Cir. 1993); Keenan v. Hall, 83 F.3d 1083 (9th Cir. 1996); Grenning v. Miller-Stout, 739 F.3d 1235 (9th Cir. 2014).

149. Shepherd v. Ault, 982 F. Supp. 643 (N.D. Iowa 1997).

150. Huertas v. Sec'y Pa. Dep't of Corr., 533 F. App'x 64 (3d Cir. 2013); *King*, 371 F. Supp. 2d at 985; Vasquez v. Frank, 290 F. App'x 927 (7th Cir. 2008); Murray v. Edwards Cnty. Sheriff's Dep't, 248 F. App'x 993 (10th Cir. 2007); Chavarria v. Stacks, 102 F. App'x 433 (5th Cir. 2004); *O'Donnell*, 826 F.2d 788.

151. *See* Chappell v. Mandeville, 706 F.3d 1052 (9th Cir. 2013).

152. Keenan v. Hall, 135 F.3d 1318 (9th Cir. 1998) (petition for rehearing denied); Murray v. Edwards Cnty. Sheriff's Dep't, 248 F. App'x 993 (10th Cir. 2007), *cert. denied*, 553 U.S. 1035 (2008); Walker v. Woodford, 393 F. App'x 513 (9th Cir. 2010), *cert denied*, 562 U.S. 1233 (2011); Grenning v. Miller-Stout, 738 F. App'x 546 (9th Cir. 2018), *cert denied*, __ U.S. __, 139 S. Ct. 2703 (2019).

isolating prisoners in closed cells with virtually no human interaction."[153] Prisons may keep an incarcerated individual in solitary confinement for anywhere from several days to several years.[154] Justifications for this practice range from punishing prisoners for breaking prison rules to protecting "at-risk prisoners."[155] One court held that solitary confinement does not categorically constitute cruel and unusual punishment, but "[c]onfinement . . . in an isolation cell is a form of punishment subject to scrutiny under Eighth Amendment standards."[156] This form of punishment often is challenged for the same reasons as 24-hour lighting, and claims for both often involve allegations of psychological pain, physical injury, and a lack of penological justification.

However, unlike constant illumination in prisons, the Supreme Court has found that solitary confinement can constitute cruel and unusual punishment. In *Hutto v. Finney*,[157] the Court held that the district court did not err in concluding that conditions in the isolated cells "continued to violate the prohibition against cruel and unusual punishment" based on factors including "the inmates' diet, the continued overcrowding, the rampant violence, the vandalized cells, and the 'lack of professionalism and good judgment on the part of maximum security personnel.'"[158] Notably, this case went to trial and intermediate appeal in the Eighth Circuit, one of the only circuits in which a 24-hour lighting challenge has succeeded.

In 2018, four years after *Hutto*, the Supreme Court denied certiorari in another solitary confinement case, *Apodaca v. Raemisch*,[159] but reiterated that it had previously "expressed concerns about the mental anguish caused by solitary confinement."[160] The Court counseled that prison officials should "remain alert" to the possible constitutional violations arising from solitary confinement.[161] In contrast, the Supreme Court has not taken an opportunity to express concern about harm caused by 24-

153. Merin Cherian, Note, *Cruel, Unusual, and Unconstitutional: An Originalist Argument for Ending Long-Term Solitary Confinement*, 56 AM. CRIM. L. REV. 1759, 1772 (2019).

154. Sal Rodriguez, SOLITARY WATCH, SOLITARY CONFINEMENT IN THE UNITED STATES: FAQ 2 (2015), http://solitarywatch.com/wp-content/uploads/2017/09/Solitary-Confinement-FAQ-2015.pdf [https://perma.cc/E3Z5-MKP8].

155. *Id.* (describing "children held in adult prisons [and] LGBTQ individuals" as at-risk prisoners).

156. Harvard v. Inch, 411 F. Supp. 3d 1220, 1239 (N.D. Fla. 2019) (quoting Quintanilla v. Bryson, 730 F. App'x 738, 746 (11th Cir. 2018)).

157. 437 U.S. 678 (1978).

158. *Id.* at 687.

159. __ U.S. __, 139 S. Ct. 5 (2018).

160. *Id.* at 6.

161. *Id.* at 10.

hour lighting conditions.[162]

While the Third Circuit has found continuous lighting to be constitutional, it has held that challenges to solitary confinement in prisons can survive a Rule 12 motion to dismiss. In *Allah v. Bartkowski*,[163] the plaintiff, Allah, alleged that his solitary confinement constituted cruel and unusual punishment because of "consistent and ongoing"[164] disturbances that caused him "headaches and sleep deprivation"[165]—a common allegation in 24-hour lighting cases[166]—and "unsanitary conditions."[167] Allah also alleged that prison officials knew of the poor conditions in the solitary confinement units but did nothing to improve the situation.[168] The court found that these allegations were sufficient to survive a motion to dismiss for failure to state a claim because the plaintiff successfully alleged both a serious deprivation and deliberate indifference on the part of the prison officials, satisfying both prongs of the two-part inquiry also used for continuous lighting challenges.[169]

The Fourth Circuit also has found that solitary confinement can violate the prohibition against cruel and unusual punishment. In *Porter v. Clarke*,[170] the court cited psychological studies and research finding that solitary confinement can give rise to "serious adverse psychological and emotional effects" to support the conclusion that the plaintiff satisfied the objective component of an Eighth Amendment inquiry.[171] The plaintiff's evidence that prison officials were "aware of the substantial risk of psychological or emotional harm" satisfied the subjective component as it demonstrated that they acted with deliberate indifference in subjecting those incarcerated in the prison to those conditions.[172] This consideration of the "awareness" of prison officials is absent in 24-hour lighting cases. Although courts use the same two-part inquiry for challenges to all prison conditions, including both solitary confinement and 24-hour lighting, the subjective component has been applied differently in solitary confinement

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162. *See infra* section III.B (discussing the attention solitary confinement has received by various groups in contrast to the lack of scrutiny placed upon 24-hour lighting).

163. 574 F. App'x 135 (3d Cir. 2014).

164. *Id.* at 139.

165. *Id.* at 138.

166. *See, e.g.*, Keenan v. Hall, 83 F.3d 1083, 1090–91 (9th Cir. 1996) (describing allegations of grave sleeping problems).

167. *Allah*, 574 F. App'x at 139.

168. *Id.*

169. *Id.*

170. 923 F.3d 348 (4th Cir. 2019).

171. *Id.* at 356.

172. *Id.* at 361.

claims.

B. Activism and Changes in Law Surrounding Solitary Confinement

Despite the fact that incarcerated individuals allege similar harms caused by both 24-hour lighting and solitary confinement, solitary confinement conditions increasingly have been the subject of public scrutiny. Much more scholarship exists concerning solitary confinement and its negative effects on the health of incarcerated individuals.[173] The Center for Constitutional Rights declares on its website that "[s]olitary [c]onfinement is [t]orture" and describes "an emerging movement calling for the end of solitary confinement."[174] According to the Southern Poverty Law Center, "there's a growing consensus that solitary confinement of incarcerated persons is, at best, an ineffective and inhumane practice with little or no carceral benefit and, at worst, outright torture."[175]

Research focusing on prolonged isolating conditions in prisons has found that they can cause "a persistent and heightened state of anxiety and nervousness, headaches, insomnia, lethargy or chronic tiredness, nightmares, heart palpitations, fear of impending nervous breakdowns and higher rates of hypertension and early morbidity."[176] Solitary confinement can "fundamentally alter the structure of the human brain," affecting incarcerated individuals' learning, memory, stress responses, and ability to mediate fear and anxiety.[177] Many of these same harms can also be caused by 24-hour lighting. Incarcerated individuals challenging continuous lighting conditions often allege sleep deprivation as a primary harm.[178] Like conditions of solitary confinement, sleep deprivation can

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173. *See* Emily Coffey, *Madness in the Hole: Solitary Confinement & Mental Health of Prison Inmates*, 18 PUB. INT. L. REP. 17, 18 (2012) ("Prolonged or indefinite solitary confinement - isolation for 23 hours per day - does damage so severe that Juan Mendez, U.N. Special Rappoteur on Torture, has declared it torture."); *see also* Melanie Campbell, *Vulnerable and Inadequately Protected: Solitary Confinement, Individuals with Mental Illness, and the Laws that Fail to Protect*, 45 HOFSTRA L. REV. 263, 275 (2016) ("Solitary confinement is known to both exacerbate symptoms in individuals with mental illness and create symptoms in individuals without.").

174. *Solitary Confinement: Torture in U.S. Prisons*, CTR. FOR CONST. RTS. (May 31, 2012) [hereinafter *Torture*], https://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/torture-use-solitary-confinement-us-prisons [https://perma.cc/YDU8-4DM3].

175. *Solitary Confinement: Inhumane, Ineffective, and Wasteful*, S. POVERTY L. CTR. (April 4, 2019) [hereinafter *Inhumane*], https://www.splcenter.org/20190404/solitary-confinement-inhumane-ineffective-and-wasteful [https://perma.cc/HX5E-XFW9].

176. *Torture*, *supra* note 174.

177. Kayla James & Elena Vanko, *The Impact of Solitary Confinement*, VERA INST. OF JUST. (April 2021), https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf [https://perma.cc/ETP9-RYF8].

178. *See supra* section II.A.

also cause anxiety or intensify the severity of an anxiety disorder.[179] Additionally, those challenging 24-hour lighting conditions have alleged harms like headaches, insomnia, and the onset of psychological conditions such as depression, impulse control disorders, and personality disorders.[180]

Recently, political bodies have demonstrated a readiness to change the way prisons use solitary confinement. For example, "[i]n May 2015, the United Nations Commission on Crime Prevention and Criminal Justice approved a new rule that solitary confinement shall be used only in exceptional cases."[181] That same year, President Obama asked the Attorney General to examine "the overuse of solitary confinement across American prisons."[182] The Department of Justice drafted a report outlining strategies for reducing the use of solitary confinement in the criminal justice system.[183] The recommendations contained in that report were adopted by the President in 2016 and have reportedly led to a twenty-five percent reduction in the use of restrictive housing by the Bureau of Prisons.[184]

While significant scholarship and jurisprudence exists around solitary confinement, similar attention is noticeably lacking for 24-hour lighting. In a section on solitary confinement on the American Civil Liberties Union (ACLU) website, it states that correction officials "are successfully reducing the use of solitary - at the same time saving their states millions and reducing violence in the prisons."[185] In contrast, continuous lighting conditions in prisons remain largely unaddressed by the Supreme Court,[186] the Executive Branch, and most scholars[187] despite the

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179. *Id.*

180. *Id.*

181. Margaret Winter, *Is This the Beginning of the End for Solitary Confinement in the United States?*, ACLU (Sep. 23, 2015), https://www.aclu.org/blog/prisoners-rights/solitary-confinement/beginning-end-solitary-confinement-united-states [https://perma.cc/C7JN-PQ3P].

182. *Fact Sheet: Department of Justice Review of Solitary Confinement*, NAT'L INST. OF CORR. (2016), https://nicic.gov/fact-sheet-department-justice-review-solitary-confinement [https://perma.cc/YF25-SNPR].

183. *Id.*

184. *Id.*

185. *We Can Stop Solitary*, ACLU (Aug. 9, 2017), https://www.aclu.org/issues/prisoners-rights/solitary-confinement/we-can-stop-solitary [https://perma.cc/WU8K-UMJ8].

186. The Supreme Court only briefly mentioned continuous lighting in a *Bivens* class action brought by people detained for immigration violations. *See* Ziglar v. Abbasi, __ U.S. __, 137 S. Ct. 1843 (2017) (Breyer, J., dissenting) (mentioning that the plaintiff's alleged injuries included conditions of continuous lighting).

187. 24-hour lighting in prisons is sometimes briefly mentioned in scholarly works but often is not the main focus of such scholarship and the associated harms are not explored. For example, constant

documentation of the harmful effects of 24-hour lighting in medical journals.[188] While there is awareness of the issue among those who report on the legal landscape as it relates to prisons,[189] 24-hour lighting as a cause has yet to be taken up in a meaningful way by larger activist organizations.

IV. THE FOURTH AMENDMENT'S LACK OF SUBJECTIVE INQUIRY

The Supreme Court's Fourth Amendment jurisprudence demonstrates how removing a subjective component from inquiry is valuable in attaining consistency among cases. Comparing Fourth Amendment jurisprudence to Eighth Amendment analysis is particularly useful because both involve intensive interpretation of constitutional language. Both amendments also are concerned with government action and constraining the freedom of law enforcement or prison officials in mistreating U.S. citizens. Ultimately, the Supreme Court's interpretation of the Fourth Amendment shows that the Court could interpret the Eighth Amendment in a similar way with respect to the consideration of the subjective intent of governmental actors and, thereby, achieve similar consistency among cases.

The Fourth Amendment provides that people have a right to be "secure in their persons . . . against unreasonable searches and seizures."[190] Fourth Amendment jurisprudence long has held that the standard for determining whether conduct is "reasonable" is generally an objective one and, in some situations, the subjective intent of the officers performing

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illumination in prisons was briefly addressed in an article advocating for an "ecosocialist" approach to prison abolition. The article describes the "horrific" conditions in the Pelican Bay State Prison, mentioning that incarcerated individuals are "subjected to constant illumination by fluorescent light." Saed, *Prison Abolition as an Ecosocialist Struggle*, 23 CAPITALISM NATURE SOCIALISM 1, 1 (2012). However, the focus of the article is not on continuous lighting or the harm caused by such conditions. *See also* Michael B. Mushlin, *"I Am Opposed to this Procedure": How Kafka's* In the Penal Colony *Illuminates the Current Debate About Solitary Confinement and Oversight of American Prisons*, 93 OR. L. REV. 571, 600 (2015) (mentioning briefly how lights are sometimes "left on twenty-four hours per day" in solitary confinement units).

188. Peeler et al., *supra* note 64, at 318; *see also* Zeeshan Ahmad Khan & Asamanja Chattoraj, *Artificial Illumination in the Prison: General Recommendation for Prisoner and Associated Staffs*, 1(4) CHRONOBIOLOGY MED. 131, 131 (2019) (stating that recent research has found that "continuous or long illumination can cause serious behavioural and physiological repercussions including cancer" and recommending various measures to counteract the harmful impact of such lighting).

189. *See, e.g.*, Tom Langbehn, *24-Hour Cell Lights*, PRISON LEGAL NEWS (Sep. 1991), https://www.prisonlegalnews.org/news/1991/sep/15/24-hour-cell-lights/#:~:text=These%20lights%2C%20which%20just%20happen%20to%20be%20directly,excuse%20that%20masks%20a%20program%20of%20mental%20oppression [https://perma.cc/C3VU-4YJ7] (describing 24-hour lighting in cells as "mental torture" that keeps incarcerated individuals "continually tired").

190. U.S. CONST. amend. IV.

the search or seizure is not considered at all.[191] For example, courts will not inquire into police officers' subjective intent in determining whether a police-manufactured emergency negates the reasonableness of a warrantless entry based on exigent circumstances.[192]

Similarly, an inquiry into whether an officer had probable cause to perform a search or seizure under the Fourth Amendment is objective.[193] In *Whren v. United States*,[194] petitioners were arrested after officers observed drugs in their possession while performing a traffic stop based on the driver's alleged traffic violations.[195] In response to a claim that the stop was unlawful because it had not been justified by reasonable suspicion or probable cause that petitioners were engaged in illegal drug-dealing, the Supreme Court held that the reasonableness of a traffic stop does not depend on "actual motivations of the individual officers involved."[196]

While scholars have criticized the Court's decision in *Whren* for allowing pretextual and racial bias-motivated stops,[197] the Court noted that focusing on "whether [an] officer's conduct deviated materially from standard police practices" prevents the Fourth Amendment from "vary[ing] from place to place and from time to time."[198] Scholars have noted other justifications provided by courts for adopting a purely objective approach to reasonableness under the Fourth Amendment. These include "the difficulty . . . of reliably ascertaining subjective intent" as well as the idea that justice and individual rights are "best secured" by considering whether the action in question was justifiable given the facts and circumstances known to the officer at the time.[199]

An example of how a Fourth Amendment reasonableness inquiry plays out can be seen in *McInerney v. King*.[200] In this Tenth Circuit case, the court considered whether a warrantless entry into the plaintiff's home

191. *See* Whren v. United States, 517 U.S. 806, 812–14 (1996).

192. *See* Kentucky v. King, 563 U.S. 452, 464 (2011).

193. Boudette v. Buffington, No. 20-1329, 2021 WL 3626752, at *4 (10th Cir. Aug. 17, 2021) ("[S]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis." (quoting *Whren*, 517 U.S. at 813)).

194. 517 U.S. 806 (1996).

195. *Id.* at 806.

196. David O. Markus, Whren v. United States*: A Pretext to Subvert the Fourth Amendment*, 14 HARV. BLACKLETTER L.J. 91, 94 (1998).

197. *Id.* at 97.

198. *Whren*, 517 U.S. at 806–07.

199. George E. Dix, *Subjective "Intent" as a Component of Fourth Amendment Reasonableness*, 76 MISS. L.J. 373, 394 (2006).

200. 791 F.3d 1224 (10th Cir. 2015).

violated the Fourth Amendment.[201] The court stated that the standard for deciding whether this warrantless entry was constitutional is whether it was "objectively reasonable" under the totality of the circumstances.[202] In further clarifying this standard, the court stated that the circumstances must "*objectively*" justify an officer's action and that "[t]he officer's subjective motivation is irrelevant."[203] The court then closely reviewed the facts and circumstances of the warrantless entry, ultimately concluding that a "reasonable officer . . . would not believe that entry was required" so the entry violated the Fourth Amendment.[204] At no point did the court stop to posit about what the officer involved was thinking or whether, in his mind, he had a legitimate justification for his actions. This simplifies the inquiry and allows the court to focus on whether the actions taken were objectively reasonable. In the context of the 24-hour lighting challenges brought under the Eighth Amendment, eliminating any subjective inquiry would result in a test that only examines whether there was a sufficiently serious deprivation of an incarcerated person's rights.

V. PROPOSED SOLUTION

In examining the body of case law discussed above, it is evident that it is difficult to predict the outcome of a 24-hour lighting challenge without knowing the jurisdiction in which it is brought. This Part discusses the issues perpetuated by such unpredictability and suggests that courts could improve consistency in the resolution of these issues by doing away with the subjective component of the Eighth Amendment test. This would allow courts to focus solely on objective harm resulting from constant illumination, similar to the approach taken with respect to reasonableness inquiries under the Fourth Amendment. This Part also examines the effect this proposed solution would have on the current framework and how a purely objective inquiry would proceed.

A. The Subjective Component Should Be Eliminated

Existing precedent addressing 24-hour lighting claims is inconsistent, a fact that scholars studying Eighth Amendment jurisprudence have recognized.[205] Without any Supreme Court precedent to help create

201. *Id.* at 1227.

202. *Id.* at 1231.

203. *Id.* at 1232 (emphasis in original).

204. *Id.* at 1235.

205. Glidden, *supra* note 7, at 1816 ("[T]he Eighth Amendment conditions of confinement test is confusing, inconsistent, and ultimately lacks a sound theoretical basis, which prevents it from serving its intended purpose.").

consistency among the circuit courts, courts are left to decipher a murky body of law in ruling on continuous lighting claims. To reduce inconsistency, the Supreme Court should accept review on a 24-hour lighting case and direct lower courts to no longer consider the state of mind of prison officials in considering whether 24-hour lighting conditions constitute cruel and unusual punishment. It is difficult to prove bad intentions of prison officials, and a cursory argument that constant illumination is necessary for security purposes is often enough to negate the subjective component of a challenge.[206] Moreover, from the perspective of the incarcerated plaintiff, intent is irrelevant. Harm caused by constant illumination is no less severe because it was unintentional. Eliminating consideration of intent in 24-hour lighting claims would allow courts to acknowledge the humanity of incarcerated individuals by focusing on the seriousness of their injuries without regard to why they were inflicted.

1. The Subjective Prong Is Applied Unequally to Different Conditions of Confinement

Unlike in solitary confinement cases where proof that prison officials were aware of the risk of harm created by isolation can suffice to show deliberate indifference, mere awareness of the harmful effect of continuous lighting often is not enough. For example, in *Chavarria*, the plaintiff asked prison officials to dim the lights at night because they disrupted his sleep.[207] The prison officials knew that constant illumination in Chavarria's cell was harmful, but this fact alone did not suffice for the court to conclude that the officials acted with deliberate indifference. Similarly, in *King*, the plaintiff previously complained to officials about the harmful effects of the 24-hour lighting conditions, but the court still found that he failed to show deliberate indifference by any prison officials.[208]

These cases demonstrate how difficult it is to satisfy the subjective component of a challenge to continuous lighting conditions in prisons, especially when compared to the lack of a similarly-applied subjective component in a challenge to the constitutionality of solitary confinement. There is no reason that a challenge to solitary confinement conditions in a prison should prevail while a challenge to 24-hour lighting conditions

206. *See* Chavarria v. Stacks, 102 F. App'x 433 (5th Cir. 2004); King v. Frank, 371 F. Supp. 2d 977 (W.D. Wis. 2005); Huertas v. Sec'y Pa. Dep't of Corr., 533 F. App'x. 64 (3d Cir. 2013); O'Donnell v. Thomas, 826 F.2d 788 (8th Cir. 1987).

207. *Chavarria*, 102 F. App'x 433.

208. *King*, 371 F. Supp. 2d 977.

should fail, assuming harm of the same degree was caused in both situations and prison officials were aware of the risk of harm. Eliminating the subjective component entirely would improve the current discrepancy between the requisite proof necessary to succeed in a solitary confinement claim versus a continuous lighting claim.

2. *Borrowing from Fourth Amendment Jurisprudence Would Simplify the Inquiry and Increase Uniformity*

Adopting the approach taken in analyzing the reasonableness of actions in a Fourth Amendment claim would benefit plaintiffs who experienced serious deprivations. In a Fourth Amendment analysis, the court looks at objective reasonableness under the circumstances of the case. As reflected by the discussion of the *McInerney* case in Part IV above, courts assessing a Fourth Amendment claim look closely at the facts to see if they *objectively* justify the actions taken by law enforcement officials.[209] Following this approach in the context of the Eighth Amendment, subjective intent of prison officials imposing 24-hour lighting conditions—specifically, whether they acted with deliberate indifference—would not be considered in determining whether the conditions were cruel and unusual. Instead, courts would focus solely on the objective component and the objective reasonableness of the conditions under the circumstances of the case—that is, the degree of seriousness of the deprivation allegedly caused by continuous lighting conditions. While this would remain an intensive, fact-specific inquiry requiring an examination of each plaintiff's specific allegations of psychological or physical harm, courts would be able to reduce the number of factors considered and simplify the inquiry overall.

Removing the subjective prong of the test would help fulfill a goal recognized by the Supreme Court in *Whren*—namely preventing Eighth Amendment jurisprudence from "vary[ing] from place to place and from time to time."[210] As discussed above, under the current test, outcomes can vary greatly based on the weight a particular court assigns to legitimate penological justifications for 24-hour lighting conditions in evaluating the subjective component. The Third, Fifth, and Eighth Circuits all have found that "security reasons" like the need to monitor incarcerated individuals is enough to justify the use of continuous lighting, causing challenges to fail by not satisfying the subjective prong.[211]

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209. *McInerney*, 791 F.3d 1224.

210. Whren v. United States, 517 U.S. 806, 815 (1996).

211. *See Chavarria*, 102 F. App'x. 433; *Huertas*, 533 F. App'x 64; *O'Donnell*, 826 F.2d 788.

In contrast, the Ninth Circuit and other courts have questioned whether 24-hour lighting is necessary to achieve the security purposes for which it was designed.[212] Differences in opinion as to the legitimacy of the penological purpose of 24-hour lighting create a situation wherein a plaintiff's claim might succeed in one jurisdiction but fail if brought in another. Thus, some plaintiffs receive increased (or lesser) protection against cruel and unusual punishment, and the Eighth Amendment is applied unequally depending on geographic location. Eliminating the subjective component of an Eighth Amendment analysis dispenses with this issue.

B. A Purely Objective Inquiry Would Simplify and Streamline 24-Hour Lighting Challenges

Shifting the focus to whether 24-hour lighting caused a sufficiently serious deprivation would result in an approach that remains objective and provides plaintiffs (and the lower courts) with better guidance about the proof required. If a plaintiff can show objectively serious or extreme harm suffered as a result of constant illumination, they should prevail on an Eighth Amendment challenge. In furtherance of this goal, activists and the media should intensify public scrutiny of 24-hour lighting conditions, just as they have done with solitary confinement. This would help courts gain a better understanding of 24-hour lighting's harmful effects and motivate judges to approach these claims with greater skepticism of the constitutionality of continuous lighting conditions.

1. Presentations of Observable, Diagnosable Harm Should Satisfy an Objective Test

As discussed above, the cases that survived the early stages of litigation were those in which plaintiffs presented evidence of actual harm caused by continuous lighting. In particular, allegations of sleep deprivation and resulting psychological harm have satisfied the objective component in several cases.[213] Many courts have recognized the importance of sleep as a basic human need, even if those courts ruled against plaintiffs bringing

212. LeMaire v. Maass, 12 F.3d 1444, 1458–59 (9th Cir. 1993); *O'Donnell*, 826 F.2d 788.

213. Keenan v. Hall, 83 F.3d 1083, 1087 (9th Cir. 1996) (accepting the argument that constant illumination caused "grave sleeping problems" and other psychological harm); LeMaire v. Maass, 745 F. Supp. 623, 636 (D. Or. 1990), *vacated on other grounds*, 12 F.3d 1444 (9th Cir. 1993) (finding that the subjective component was satisfied by allegations of sleep deprivation and psychological harm, supported by the testimony of an expert psychologist); *Chavarria*, 102 F. App'x 433 (recognizing that allegations of "conditions leading to . . . sleep deprivation [were] sufficiently serious to be cognizable under the Eighth Amendment").

Eighth Amendment challenges. Under a purely objective inquiry, allegations of sleep deprivation caused by 24-hour lighting would satisfy the requirements for successful claims so long as the plaintiff alleged that they also experienced observable and diagnosable psychological and physical harm that can be caused by sleep deprivation. This test would allow plaintiffs to obtain relief in every case where they were able to establish that 24-hour lighting conditions inflicted objectively serious harm.

Additionally, the precedents cited above demonstrate the usefulness of expert testimony to corroborate plaintiffs' allegations of harm.[214] Under this suggested approach where courts only look at objective harm, the importance of a robust presentation of evidence becomes even more apparent as it is the factor on which the entire case will turn. Like all cases, plaintiffs bringing 24-hour lighting claims benefit from smart and thorough litigation, and fulsome presentation of evidence.

2. 24-Hour Lighting Should be Approached with the Same Skepticism as Solitary Confinement

In addition to eliminating the subjective component, the increasing scrutiny placed upon solitary confinement conditions should similarly be applied to 24-hour lighting conditions. The Supreme Court has acknowledged that solitary confinement can be cruel and unusual punishment, and Supreme Court Justices have counseled prison officials to be aware of the constitutional violations that can arise from solitary confinement.[215] The Supreme Court is not the only entity aware of the dangers of solitary confinement. Advocacy organizations and international bodies have condemned the practice because of the harm it can cause.[216] The evolving jurisprudence surrounding solitary confinement is likely attributable in part to the attention the issue has received from advocacy groups, the media, and other scholarship on the subject.[217]

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214. *See LeMaire*, 745 F. Supp. at 636 (using expert testimony to establish harm).

215. Apodaca v. Raemisch, __ U.S. __, 139 S. Ct. 5, 10 (2018).

216. Elizabeth Vasiliades, *Solitary Confinement and International Human Rights: Why the U.S. Prison System Fails Global Standards*, 21 AM. U. INT'L L. REV. 71, 83 (2005) (discussing how the U.N. has adopted standards for the treatment of prisoners that "recognize solitary confinement . . . as appropriate only in exceptional circumstances"); *see also We Can Stop Solitary*, *supra* note 185 (stating that long-term solitary confinement "exacerbates mental illness - or even causes it in prisoners who were healthy when they entered solitary"); *Torture*, *supra* note 174 (arguing that "[p]rolonged solitary confinement causes prisoners significant mental harm and places them at grave risk of even more devastating future harm").

217. In a concurring opinion, Justice Kennedy wrote about his concern in regard to prison

As discussed above, the harm caused by solitary confinement is often very similar to that caused by continuous lighting in prison cells. Because of this, 24-hour lighting should receive similar attention from the media, scholars, and advocacy organizations. This would help bring awareness to the detrimental effects constant illumination can have on incarcerated individuals, which in turn could make it easier for those individuals to challenge such conditions, knowing that courts are already cognizant of the potential hazards of the condition and increasingly open to acknowledging the severity of the harm it inflicts.

3. Addressing Issues with this Solution

Some claims that continuous lighting constitutes cruel and unusual punishment failed because courts found that the objective component was not satisfied. Some courts based this finding on a lack of medical evidence of harm[218] while others found that there was harm caused but it was not sufficiently grave or extreme.[219] Eliminating the subjective component would not guarantee that all 24-hour lighting challenges would succeed. To succeed, challenges would have to have merit and deprivations alleged would have to be sufficiently serious. These requirements are not without purpose—courts have emphasized repeatedly in Eighth Amendment cases that security is crucial in a prison and thus, severe harm must be resulting from a certain security measure to override the need. However, if this solution were adopted, incarcerated individuals seeking to bring an Eighth Amendment action would be able to find clear precedent as to what is required to prove a serious deprivation of basic rights and the existing inconsistencies among the circuits would be lessened, if not eliminated.

Narrowing down the Eighth Amendment framework for claims of cruel and unusual punishment to a singular objective component is not a perfect solution. Some people experiencing incarceration and facing serious harm as a result of constant illumination in their cells still may not succeed on a constitutional claim if they are unable to afford an expert or obtain proof of the harm caused. Some may be suffering in a way that they feel is incredibly serious, yet a court may disagree about the degree of severity. However, adopting this approach would give those with meritorious

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conditions. Davis v. Ayala, 576 U.S. 257, 287 (2015) (Kennedy, J., concurring). He cited several articles as proof that there were "indications of a new and growing awareness in the broader public of the subject of corrections and of solitary confinement in particular." *Id.* at 289. Justice Kennedy advocated for consideration of "the many issues solitary confinement presents," stating that "expert scholarship" and "continued attention from the legal community" will aid in such consideration. *Id*.

218. Huertas v. Sec'y Pa. Dep't of Corr., 533 F. App'x 64 (3d Cir. 2013).

219. Vasquez v. Frank, 290 F. App'x 927 (7th Cir. 2008); King v. Frank, 371 F. Supp. 2d 977 (W.D. Wis. 2005); Murray v. Edwards Cnty. Sheriff's Dep't, 248 F. App'x 993 (10th Cir. 2007).

claims a much higher chance of success and would make finding applicable precedent easier for plaintiffs trying to build their cases. In focusing on a simpler test, outcomes of similar cases across jurisdictions would likely become more uniform as circuits would be considering fewer factors in which their opinions could differ. Most importantly, the justice system would be improved as the rights afforded by the Constitution would be administered more equally across jurisdictions.

CONCLUSION

Continuous lighting in prisons can cause serious and sometimes irreparable harm to incarcerated individuals. The current test under the Eighth Amendment for determining if prison conditions violate the prohibition against cruel and unusual punishment focuses on two key factors: (1) whether there has been an actual and serious deprivation of basic rights and needs, and (2) whether prison officials were deliberately indifferent to the health and safety of incarcerated persons in imposing the condition. Unfortunately, judges often differ on how they apply the two-part test to a set of facts. With a few exceptions, incarcerated individuals outside of the Ninth Circuit have not been able to successfully challenge constant illumination on Eighth Amendment grounds. Examining the treatment of solitary confinement claims and Fourth Amendment claims sheds light on how the current approach to 24-hour lighting claims can be improved.

To reduce inconsistency in outcomes and improve the clarity of this area of law, the Supreme Court should direct courts to no longer consider the state of mind of prison officials in considering whether 24-hour lighting conditions constitute cruel and unusual punishment. Shifting the focus to whether continuous lighting caused a sufficiently serious deprivation would result in an a purely objective approach that provides plaintiffs with a better understanding of the proof needed to secure a favorable outcome. Adopting this proposed solution would make for clearer jurisprudence and more predictability in outcomes. Additionally, it would improve the justice system as a whole by encouraging plaintiffs to bring meritorious claims and ensuring that the Eighth Amendment's protections apply equally to all incarcerated individuals.