

Essentials of Life

~ A Newsletter Dedicated to Helping Women Face the Challenges of Prison Life ~

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## LEGAL BASICS: FEDERAL RIGHTS AND FEDERAL COURTS

### Introduction

While convicted felons are serving their sentences in state prison, they lose many of the legal rights that they had on the street. However, as Justice Brennan said in Wolff v. McDonnell, a case discussing the rights that prisoners have before they can be put in disciplinary special housing, "prisoners do not shed **all** constitutional rights at the prison gate." Wolff, 418 U.S. 539 (1974). In New York, among the lost rights are: the right to vote, the right of free association, and the right to be free from unreasonable searches and seizures. In addition, there are some rights, such as freedom of expression and access to courts, which, though not completely lost, can be restricted, if the limitation is reasonably related to valid **penological** (relating to the field of corrections) goals. Nonetheless, prisoners retain some of their constitutional rights and have other rights **conferred** (given) by federal statutes. These rights include the right to assigned counsel in criminal cases, the rights of disabled prisoners to be reasonably accommodated, and the right to have religious freedom restricted only for compelling reasons, and then only in the least restrictive manner. Finally, prisoners actually have some rights that non-prisoners do not have, such as the right to treatment for serious medical and mental health needs. This article is an introduction to the constitutional rights that prisoners retain, the rights given to prisoners by federal statutes, the federal court options that prisoners have when their federal rights are violated, and the courts that are responsible for enforcing these rights.

### An Overview of Federal Rights

In the context of prisoners' rights litigation, the federal courts generally decide cases involving claims that DOCCS employees violated a prisoner's **civil rights** (rights protected by the United States Constitution) or rights created by federal statutes. Typically, prisoners bring cases alleging the violation of the following rights:

### The United States Constitution

#### The First Amendment

##### The Right of Freedom of Speech and Religion

According to Turner v. Safley, 482 U.S. 78 (1987), prisoners retain the rights to freedom of speech and religion, **but** these rights can be limited by valid security concerns. This limitation also applies to reading material, such as books and magazines that prisoners are permitted to receive and possess.

The right of freedom of religion has broader protection than the right of freedom of speech due to a federal statute known as the Religious Land Use and Institutionalized Persons Act (RLUIPA). This statute is explained more fully later in this article.

## The Right to Petition the Government

The right of access to the courts comes from the First Amendment's right to petition the government for redress of grievances. Accordingly, the Constitution guarantees that prisoners, like all citizens, have a reasonably adequate opportunity to raise constitutional claims before impartial judges. Lewis v. Casey, 518 U.S. 343 (1996). However, the Department of Corrections and Community Supervision (DOCCS) can place reasonable restrictions on the exercise of this right, assuming that the restrictions are reasonably related to valid penological purposes, such as safety and security.

## **The Eighth Amendment**

### Prohibits Cruel and Unusual Punishment

The Eighth Amendment's ban on cruel and unusual punishment prohibits:

1. Force which is malicious and sadistic, and used solely for the purpose of causing harm. Hudson v. McMillian, 503 U.S. 1 (1992);
2. Deliberate indifference to serious medical, including dental and mental health, needs. Estelle v. Gamble, 429 U.S. 97 (1976);
3. The deprivation of basic human needs or the minimal civilized measure of life's necessities, Rhodes v. Chapman, 452 U.S. 337 (1981), in the absence of a valid penological justification for the deprivation, Trammell v. Keane, 338 F.3d 155 (2d Cir. 2003); and
4. Deliberate indifference to the need to protect a prisoner from assault by other prisoners. Snider v. Dylag, 188 F.3d 51 (2d Cir. 1999).

## **The Fourteenth Amendment**

The Fourteenth Amendment protects prisoners from the deprivation of liberty without due process of law  
In Wolff v. McDonnell, 418 U.S. 539 (1974), the United States Supreme Court held that prisoners have a 14<sup>th</sup> Amendment Right to not have their liberty further restricted without due process of law. The Wolff decision established the minimum rights that prisoners have at prison disciplinary hearings. Twenty years later, in Sandin v. Conner, 515 U.S. 472 (1995), the Court limited its recognition of a liberty interest to hearings which result in the imposition of conditions of confinement that impose **atypical** (unusual) and significant hardship in relation to the ordinary incidents of prison life. In New York State, the courts have held that 305 or more days of confinement to disciplinary special housing satisfies the Sandin test while 101 days does not. To determine whether confinement to disciplinary special housing of between 101 and 305 days is a deprivation of liberty requires evidence of the conditions and their impact on the plaintiff.

## **Federal Laws Conferring and Affecting Prisoners' Rights**

### The Americans with Disabilities Act (ADA)

The ADA provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

According to U.S. v. Georgia, 546 U.S. 151 (2006), the ADA prohibits a "somewhat broader" range of conduct than the Constitution itself forbids.

### Religious Land Use and Institutionalized Persons Act (RLUIPA)

RLUIPA provides that no government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution that receives federal funds, unless the burden is absolutely necessary to meet a compelling government purpose.

This statute protects a broader range of religious conduct than does the First Amendment. The statute prohibits DOCCS from imposing “a substantial burden” on a person’s religious exercise unless it is “absolutely necessary” to meet a “compelling” government purpose. The First Amendment, on the other hand, permits DOCCS to restrict the free exercise of religion based on valid penological interests.

### **The Civil Rights Act**

Forty-two United States Code §1983 (often referred to as 42 U.S.C. §1983 or simply §1983), known as the Civil Rights Act, permits individuals, including prisoners, whose civil rights have been violated by people **acting under color of state law** (in a prison setting, typically correctional staff who engage in unconstitutional conduct while at work), to sue for **damages** (money), **declaratory** (a decision finding that a practice or action is unlawful) and **injunctive** relief. “Damages” is money to compensate (repay) the victim of unconstitutional conduct for what she or he lost. Declaratory relief is a finding that a practice or action violated the victim’s constitutional rights. Injunctive relief is an order telling a party to do or not to do something and is typically only granted after a hearing at which both parties have had an opportunity to present testimony and legal arguments.

### **The Prison Litigation Reform Act (PLRA)**

Passed in 1996, and amending various sections of the United States Code, the PLRA restricts and discourages litigation by prisoners. Among other rules, the PLRA 1) requires that prior to filing federal litigation, prisoners exhaust their administrative remedies, 2) limits awards of damages to situations where there are physical injuries and 3) allows a court to deny future filings where the judge finds that a prisoner has filed three frivolous lawsuits. The PLRA also restricts the availability of injunctive relief in class actions.

### **The Structure of the Federal Courts**

There are three levels of federal courts: the District Court, the Circuit Court, and the United States Supreme Court. Federal actions begin in the district courts when an individual, known as the plaintiff, files a complaint or, in the case of an action for habeas relief, a petition. There are four district courts in New York; the Northern District, the Southern District, the Eastern District and the Western District. Each district court hears cases that arise within a specific geographic area. PLS publishes an address packet that gives the address of each of the district courts and describes the geographic area from which the court accepts cases.

The federal circuit courts handle appeals from cases that were decided by the district courts within a specific geographic area. The Second Circuit Court of Appeals decides appeals from cases that were filed in the district courts in New York. The Second Circuit also hears appeals from the District Courts of Connecticut and Vermont.

Prisoners have a *right* to appeal to the Second Circuit decisions relating to Section 1983, the ADA, and RLUIPA actions. Unless the District Court issues a Certificate of Appealability (COA) at the time that it denies a petition for a writ of habeas, prisoners must get permission to file an appeal from a denial of a petition for habeas relief.

The United States Supreme Court hears appeals from decisions made by the federal circuit courts and from some decisions issued by the state courts. There is *no right* to appeal to the Supreme Court. The losing party must petition the court to hear his or her appeal.

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