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28. MAIL

Fontroy v. Beard, 559 F.3d 173 (3rd Cir. 2009). Inmates sued state prison officials, claiming that a policy opening legal and court mail outside their presence violated the First Amendment. The district court declared the policy unconstitutional in violation of the First Amendment. The prison officials appealed. The appeals court reversed, finding that the policy did not violate the First Amendment right of inmates to have mail opened in their presence. According to the court, the policy of requiring a control number on legal and court contraband before delivering mail to inmates, did not violate the First Amendment right of inmate mail opened in their presence. The court noted that the legal mail policy was implemented

Samford v. Dreitzke, 562 F.3d 674 (5th Cir. 2009). A state prison inmate brought an in loco parentis action against a corrections official, alleging that a prohibition against any communication between him and his sons constituted a violation of his First Amendment rights to freedom of speech and association. The district court dismissed the petition and the inmate appealed. The appeals court affirmed. The court held that the enforcement of a "negative mail list" that included the inmate's sons did not unduly infringe upon the inmate's First Amendment rights, and the officials' removal of the inmate's sons from the approved visitors list was reasonable. The court found that the restriction was rationally related to the prison's legitimate interest in protecting crime victims and their families from unwanted communications, given the inmate's wife requested that the sons be placed on the list. The inmate's sons had been imprisoned after violating a probation condition of no communication with family members.

29. MEDICAL CARE

Source v. Lambert, 597 F.Supp.2d 1312 (S.D.Fla. 2008). A former prisoner brought a § 1983 action against a sheriff and correctional health services corporation, alleging that the defendants denied the plaintiff medical care while he was incarcerated. The district court denied the defendants' motion for summary judgment. The court held that summary judgment was precluded by genuine issues of material fact. The court found that the corporation was aware of the prisoner's history of drug problems, mental health issues, and that the prisoner was in need of medical care at the time of his arrest. The court held that the corporation's decision not to place the prisoner on medical care was arbitrary and capricious.

U.S. District Court SMOKE-FREE ENVIRONMENT

Abuhouran v. U.S., 595 F.Supp.2d 588 (E.D.Pa. 2009). A prisoner brought a negligence action against the United States under the Federal Tort Claims Act alleging prison officials exposed him to excessive and environmental tobacco smoke (ETS). The defendants moved for summary judgment and the district court granted the motion. The court held that the prisoner was precluded, under the discretionary function exception of the Federal Tort Claims Act (FTCA), from challenging the warden's designation of smoking areas. The federal regulations explicitly assigned the exercise of choice or judgment to the warden to designate areas subject to ETS. The court noted that the stated policy considerations for implementing the "no smoking" rule in prisons was to provide a clean air environment and to protect the health and safety of staff and inmates. The court held that the prisoner failed to present sufficient evidence to show that the warden's designation of smoking areas was the kind of discretionary function the FTCA covers.

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