

SUPERMAX on trial

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One of the most complex cases to grace our litigation docket in years took a major step toward resolution in January, as our suit against the Ohio Department of Rehabilitation and Corrections over conditions at the Ohio State Penitentiary, in Youngstown, went to trial. The only high maximum security – or Supermax – prison in the state is supposed to house the most incorrigible of offenders. But months of research and discovery by our litigation team discovered that no clear policy governs who goes to the Supermax, how long inmates stay there, and when, if ever, they get out.

The lack of clear policies governing placement in the Supermax became the major issue at trial. But placement was one of only three issues central to the case when it was filed in January 2001. Major concerns also included the conditions of confinement at the prison, the lack of adequate medical care, and the serious lack of appropriate psychological resources.

When we filed suit, conditions at OSP were draconian. Inmates spent twenty-three and a half hours each day locked in solid-door cells, with only a narrow slit for a window, a built-in bed and desk, and a concrete stool for writing. Cells are illuminated around the clock, and inmates who attempt to shield their eyes from the light are punished.

Outdoor recreation consisted of a half-hour each day in an empty cell the slit window of which contained no glass. Severe social isolation was the rule: no more than one inmate per cell block was ever allowed to leave his cell, making inmate-to-inmate contact all but impossible.

Medical care was seriously lacking: our investigators documented many incidents of serious crises not responded to. And mental health care was abysmal: initial psychological evaluations were conducted by inmates shouting through their steel cell doors for all to hear. With just one percent of Ohio's inmates, the Supermax accounted for nearly twenty percent of inmate suicide in 2000.

Much of this will change thanks to a year of intense litigation. In cooperation with the New York-based Center for Constitutional Rights, we fielded an eight-lawyer team that worked for months to document and challenge conditions at the OSP. Our team deposed or interviewed dozens of witnesses, collected and reviewed over 60,000 pages of documents, and filed or responded to over 200 papers with the court.

Hard work paid off. When another inmate suicide hit the OSP over the summer, we asked the court for an emergency order barring

the incarceration of seriously mentally ill inmates in the facility. A four-day hearing in September resulted in a preliminary injunction doing just that. Meanwhile, we prepared for trial on all the issues outlined above, consulting with the foremost experts in the fields of prison medicine, mental health care and classification.

After months of stop and start efforts, we managed to reach a significant settlement with the state on several issues just weeks before trial. Under the terms of a comprehensive agreement, the state will begin to construct real outdoor exercise yards at the prison this year. The use of restraints will be significantly reduced, and outside experts with court-backed authority will be appointed to monitor medical and mental health care at the Supermax.

One issue was not resolved: the question of how inmates are assigned to the OSP, and how they can work their way down to a lower security classification through good behavior. Unable to reach a resolution with the state, we went to trial on January 7, 2002. In four days we presented hundreds of documents and some two dozen witnesses to support our claim that – far from applying only to the worst prisoners in the state – incarceration at OSP is effectively random, and some inmates could face solitary confinement there for life.

Led by chief trial counsel Stoughton Lynd, our team made a compelling and thoroughly documented case. The decision now rests with U.S. District Judge James Gwin, who is expected to issue a ruling in the case in the next month.

The Supermax case was an enormous piece of high impact litigation for us, with expenses running over \$50,000 and volunteer time measured literally in the thousands of hours. Major impact litigation is expensive, but can right injustices imbedded deep in the system. Your donations make it possible for us to attack these seemingly intractable wrongs head on.