



## **Know Your Rights: Out of Cell Time (updated May 2025)**

\*This resource has general legal information, not legal advice specific to your situation.

Under current laws, people in custody do not have the right to a *specific* amount of time outside of their cell. However, you may be able to sue IDOC if you do not have regular opportunities to exercise or be around other people.

The Eighth Amendment of the United States Constitution prohibits “cruel and unusual punishment.” You need to prove three things for Eighth Amendment cases: a serious deprivation of human needs, a physical injury, and deliberate indifference by prison officials.

### **First: Serious or Extreme Lack of Out of Cell Time**

First, you must show that your situation is “objectively and sufficiently serious.” This means that the denial of your needs is extreme or severe. Courts try to imagine what a “reasonable” person would think.

The Constitution does not require prisons to be comfortable. However, the Eighth Amendment does require the “minimal civilized measure of life’s necessities.” Basic human needs include food, warmth, and exercise.<sup>1</sup> You should point to a specific need that IDOC is denying you. For example, you could argue that you need opportunities to exercise and contact other people.

Exercise is “a necessary requirement for physical and mental well-being.”<sup>2</sup> The Eighth Amendment thus requires some “out-of-cell exercise opportunities.”

Courts consider how much space you have in your cell and how much time you spend there. They look at the number of hours per day and the number of days in a row that you are stuck in your cell. One person won their case when they were “denied the opportunity to exercise for weeks at a time.”<sup>3</sup>

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<sup>1</sup> See *Isby v. Brown*, 856 F.3d 508, 522 (7th Cir. 2017).

<sup>2</sup> *Delaney v. DeTella*, 256 F.3d 679, 684 (7th Cir. 2001).

<sup>3</sup> *Antonelli v. Sheahan*, 81 F.3d 1422 (7th Cir. 1996).

“Short-term denials of exercise” for a few days or weeks may not violate the Eighth Amendment.<sup>4</sup> For example, courts have allowed solitary confinement with no exercise for 28 days, 30 days, and even 70 days.<sup>5</sup> However, multiple months of constant confinement might be serious enough to count as “cruel and unusual.” Courts have found constitutional violations when people in custody were denied exercise for three, four, and six months.<sup>6</sup>

### **Second: Physical Injury**

We know that long-term solitary confinement causes mental health problems. However, mental health issues alone are not enough to win a lawsuit because of the Prison Litigation Reform Act (PLRA). The PLRA applies to all cases that a person files while they are imprisoned. Under the PLRA, you must prove that you suffered from a **physical injury** *because of* your lack of out-of-cell time. A mental or emotional injury is not enough to win money in federal court.

Lack of exercise may violate the Eighth Amendment “in extreme and prolonged situations where movement is denied to the point that one’s health is threatened.”<sup>7</sup> This could happen when “movement has been denied, allowing your muscles to atrophy.”<sup>8</sup> Atrophy means your muscles broke down and do not work anymore.

Point out any physical symptoms that you experience. Here are examples:

- Migraines
- Back or neck pain
- Stomach cramps or heartburn
- Constipation
- Lethargy (having low energy)

### **Third: Deliberate Indifference by Prison Staff**

Lastly, you need to prove that the defendant showed “**deliberate indifference**” to the harm you were experiencing. The defendant is the

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<sup>4</sup> *Davenport v. DeRobertis*, 844 F.2d 1310, 1315.

<sup>5</sup> *Thomas v. Ramos*, 130 F.3d 754, 764 (7th Cir. 1997)(70 days); 28 days (*Harris v. Fleming*, 839 F.2d 1232, 1236 (7th Cir. 1988)(28 days).

<sup>6</sup> *Pearson v. Ramos*, 237 F.3d 881, 884 (7th Cir. 2001) (90 days); *Delaney*, 256 F.3d at 683–84 (6 months); *Williams v. Ridley-Turner*, 148 F. App’x 545 (7th Cir. 2005) (4 months).

<sup>7</sup> *Antonelli*, 81 F.3d.

<sup>8</sup> *French v. Owens*, 777 F.2d 1250 (7th Cir. 1985).

person that you are suing (e.g. prison staff). The defendant needs to *know* about the harm and *intentionally do nothing* to end it. Your case may depend on what the prison staff actually knew and were thinking.

You must prove that the defendants had **actual knowledge of the harm you faced**. For example, you will need to prove that they knew that lack of exercise was affecting your health and wellbeing. You do not need to prove that they acted (or failed to act) with the *intent* to harm you. It is enough to show that they were aware of the harm and still did nothing about it. Here are some ways you can prove that the defendants had knowledge of the harm:

- Filing grievances
- Repeatedly complaining (take notes on the date and time, who you spoke with, and what you told them)
- Requesting medical attention (e.g. sick call passes)

Make sure that you only sue people who are **personally responsible for the violation** of your rights.<sup>9</sup> The defendants must have “**caused or participated**” in the harm of keeping you in your cell.<sup>10</sup> In other words, each of your defendants must have the ability to fix the issue.

### **Watch Out for” Safety or Security” Concerns**

Prison officials often try to argue that the lack of out-of-cell time had a “legitimate penological purpose.”<sup>11</sup> In other words, IDOC might say that they had to confine you because of **safety or security concerns**.

For example, one court found that the Constitution allowed a prison to deny a person individual yard time for three years.<sup>12</sup> The court said that the restriction was okay because of the person’s disciplinary record, which had several serious and highly dangerous rule violations. The individual lost his

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<sup>9</sup> *Taylor v. Ways*, 999 F.3d 478, 493 (7th Cir. 2021).

<sup>10</sup> *Owens v. Hinsley*, 635 F.3d 950, 953 (7th Cir. 2011).

<sup>11</sup> *Pyles v. Spiller*, 708 F. App’x 279 (7th Cir. 2017).

<sup>12</sup> *Johnson v. Prentice*, 29 F.4th 895 (7th Cir. 2022).

case, even though he had serious mental health conditions that got worse because of solitary confinement.

Another court suggested that it might be okay to deny exercise privileges if someone was likely to try to escape the prison.<sup>13</sup>

However, IDOC cannot say they denied you yard time because of a security risk without any evidence.<sup>14</sup> People in prison still have *some* right to outdoor exercise even if they pose a safety risk.<sup>15</sup>

### **Conclusion and Next Steps**

We have listed several cases in this handout where people have sued prisons over long-term solitary confinement. The most successful cases are related to a lack of exercise. Courts recognize that exercise is a basic human need. The Eighth Amendment generally requires prisons to provide people with their basic human needs. Therefore, when prisons deprive people of exercise time, they violate the Eighth Amendment.

Start by reading the cases that we listed in this handout. Compare the facts of those cases to your situation. If you file a lawsuit on your own, make sure you list all of the important facts about your situation. Try to show that you are facing the same types of problems that the people who won their lawsuits have faced. You do not need to cite to any cases in your complaint.

You may need a lawyer to help you with your lawsuit. After you file your complaint, you can file a “motion for appointment of counsel.” Ask the court for a copy of their form to do this. This motion asks the court to appoint a lawyer to represent you in your case. We wish you the best of luck!

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<sup>13</sup> *Delaney*, 256 F.3d.

<sup>14</sup> *Gross v. Boughton*, No. 16-CV-759-WMC, 2019 WL 6728273, at \*6.

<sup>15</sup> See *Housley v. Dodson*, 41 F.3d 597, 599 (10th Cir. 1994) (A person in prison who had killed another prisoner posed a major security risk. However, he was still entitled to outdoor exercise).