

Penological Interests Outweigh Prisoner's Right to Starve Himself

Eldon Millard began a hunger strike to protest his transfer to a maximum security facility where he was afforded fewer privileges than before his transfer. In poor health from the time of his conviction, Millard was housed in the "East Moline Correctional Center, a minimum security facility." He was transferred in January 2001 to the Pontiac Correctional Center for surgical treatment because the physician trained to perform the surgery was located in nearby Joliet. Millard became a disciplinary problem after a few weeks in the maximum security facility. He refused all treatment for his various health problems, including the planned surgery. Prison officials imposed disciplinary measures that lengthened his time to discharge and segregated him from other prisoners.

Millard's hunger strike began June 17, 2001. "He vowed to continue the hunger strike until he was sent back to East Moline, was released from prison or died."

The Illinois Department of Corrections sought from the court leave "to use reasonable and necessary force to monitor the defendant's health and if necessary, to administer 'life-essential' nutrition." The judge granted a temporary order allowing a modest level of monitoring. On July 17, the judge broadened the scope of the order to include general health monitoring and IV feeding or feeding through nasogastric tubes, if necessary.

The court granted additional relief after the Department of Corrections filed another complaint in September.

Millard appealed, but the appeals court affirmed the trial court's decision.

Millard was released while his appeal was pending, rendering the case moot. However, because of the issue's importance and its likelihood of recurrence, the case was allowed to go forward. The court determined that the state's interests in preserving life and maintaining order were "reasonably related to legitimate penological interests," and, therefore, outweighed the defendant's right to privacy.

For additional information on this case, see *People ex. Rel. Illinois Department of Corrections v. Eldon Millard*, No. 4-01-0857, January 8, 2003.

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