

Hinshaw Obtains Victory for Sangamon County Defendants in Section 1983 Police Search Lawsuit

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Raylene DeWitte Grischow obtained a victory in a Section 1983 lawsuit involving a corrections officer's allegedly unlawful search of plaintiff inmate. Ms. DeWitte Grischow represented the County of Sangamon (Illinois) and its sheriff's department and several sheriff's department employees—including the subject corrections officer and a fellow corrections officer, the sheriff and undersheriff, and other officers.

The inmate alleged that in 2011 he was subjected to an illegal strip search when he was brought into the county jail to be arraigned on an indictment. This was not the inmate's first visit to the jail. Thus, he had previously been through the search procedure at the jail on at least 12 prior occasions. Because he inmate was a pretrial detainee at the time of the subject search, his claim arose under the Fourteenth Amendment's Due Process Clause but was governed by the same standards as a claim for violation of the Eighth Amendment's prohibition against cruel and unusual punishment.

The county's policy was to search inmates individually for illegal contraband and for the safety of those in the facility. The inmate claimed he was subject to a group search in violation of that policy and his constitutional rights. Defendants denied that a group search occurred, but argued that group strip searches in and of themselves are not *per se* unconstitutional. Only searches that are "maliciously motivated, unrelated to institutional security, and without penological justification are considered unconstitutional." Even if a valid penological reason exists for the search, the manner in which the search was done must pass constitutional muster.

The court rejected the inmate's contention that the manner in which the search was performed was unsanitary, humiliating and unconstitutional, noting that the fact that the inmate was subjected to a strip search with other inmates was not, alone, unconstitutional. The Court also found no evidence that the alleged offending corrections officer did anything to harass or humiliate the inmate. In light of the court's ruling, the impending trial has been vacated.

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