

Annotated List of Cases Involving Prisoners With Mobility Impairments

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Armstrong v. Davis, 2000 WL 369622 (April 11, 2000)(9th Cir.). This was a class action brought under the ADA and Rehabilitation Act focusing on prisoners and parolees with mobility and other impairments. Most issues were resolved by settlement agreement, but in a dispute over remaining issues, the court applied the "reasonableness" standard established by the Supreme Court in *Turner v. Saffley*, overruling the district court decision that prison officials had to show that accommodating inmates' disabilities would be unduly burdensome. Rather, the inmates must establish that the challenged practices are not reasonably related to a legitimate penological interest.

Becker v. Armenakis, 208 F.3d 220, 2000 WL 184993 (9th Cir.)(Unpublished). The court affirmed summary judgment in favor of prison officials on claims brought by an inmate under the ADA and Eighth Amendment for denying him a functional prosthesis. Court stated that taking prosthesis for security purposes while plaintiff was in segregation did not violate the ADA because it was not done with discriminatory intent.

Beckford v. Irvin, 49 F.Supp.2d 170, (W.D. N.Y. 1999). The court awarded compensatory damages of \$125K and punitive damages totalling \$25K to a prisoner whose wheelchair was taken from him, and who was placed in segregation and denied showers and recreation for approximately one month. In a subsequent opinion, 60 F.Supp.2d 85, the court also ordered defendants to pay about \$50K in attorneys' fees.

Beckford v. Portuendo, 234 F.3d 128 (2d Cir. 2000). Wheelchair bound inmate did not fail to state claim under the Eighth Amendment and ADA by alleging that prison staff deprived him of water for more than a week and outdoor recreation for six months.

Berthelot v. Stadler, 2000 WL 15682224 (E.D.La). While incarcerated, plaintiff had his leg amputated and alleged that jail failed to provide him with prosthesis. Court held that neither the ADA or Rehabilitation Act can support an action against prison staff in their individual capacities, but held that the suit could go forward against them in their official capacities.

Bradley v. Puckett, 157 F.3d 1022 (5th Cir. 1998). Disabled inmate who wore leg brace and was unable to shower without shower chair was placed in lockdown cell for disciplinary reasons. There, he was unable to shower or bathe himself except using toilet water. As a result, he developed a fungal infection and blisters. The court held that inmate stated a claim under the Eighth Amendment, rejecting the argument that prison officials took timely action to accommodate his disability after they became aware of the infection.

Brady v. Griffith, 1998 WL 814630 (S.D.N.Y.). Prisoner alleged that prison hospital administrator's decision to deny her a wheelchair to transport her to infirmary prevented her from receiving treatment for her diabetes, arthritis, and ulcerative colitis. Court denied defendant's motion for summary judgment on Eighth Amendment claim because evidence suggested she was aware of plaintiff's difficulty ambulating, had countermanded orthopedist's order for wheelchair, and was aware that plaintiff had missed medication because trip to infirmary was too difficult without a wheelchair.

Candelaria v. Coughlin, 1994 WL 119146 (S.D.N.Y. April 4, 1994). The court stated in dicta that paraplegic inmate had a potentially legitimate claim under the ADA where prison

officials replaced his wheelchair with one that was inadequate and unsafe. *Casey v. Lewis*, 834 F.Supp 1569 (D.Az.1993). The court ruled that the failure to provide accessible bathrooms, showers, and cells to mobility impaired inmates violated the Eighth Amendment. It held that plaintiffs had not established violations of the Rehabilitation Act because they had failed to identify particular programs from which any of the mobility impaired inmates were excluded because of their disabilities.

Crowder v. True, 1993 WL 532455 (N.D.Ill.1993), *aff'd other grounds*, 74 F.3d 812 (7th Cir. 1995). Plaintiff was a paraplegic who alleged that his rights under the ADA were violated when he was deprived of his wheelchair in a segregation unit. The court ruled that the ADA does not apply to federal agencies such as the Federal Bureau of Prisons. Further, plaintiff's claims under the Rehabilitation Act were dismissed for failure to exhaust administrative remedies. The court also held that allegation that jailers denied the inmate a wheelchair because it did not fit through the cell doors was not sufficient to raise inference of deliberate indifference to medical needs that is necessary to violate the Eighth Amendment.

Cummings v. Roberts, 628 F.2d 1065 (8th Cir.1980). Inmate was bedridden due to a back injury. His allegations that defendants refused to give him help he needed to clean his person and also refused to give him a wheelchair for three days, thus forcing him to crawl on the floor, were sufficient to state a claim of cruel and unusual punishment in violation of the Eighth Amendment.

Donald v. Wilson, 847 F.2d 1191 (6th Cir. 1988). Upon arrival at Jail, prisoner whose leg had been amputated below the knee had his prosthesis taken from him as a security measure in conformity with jail policy; he was issued crutches instead. Court ruled that because a doctor testified that prosthesis was not medically necessary in the jail because prisoners can't move around very much, and because plaintiff had used the prosthesis in the past to smuggle contraband and as a weapon, taking the prosthesis was reasonable and thus did not violate the Eighth Amendment.

Evans v. Dugger, 908 F.2d 801 (11th Cir. 1990). The court affirmed jury verdict against paraplegic inmate who alleged that in accordance with policies in force at maximum security institution, prison authorities confiscated his braces, crutches, orthopedic shoes and other personal items. To satisfy his need for mobility, the officials issued the inmate a wheelchair. He was housed in an otherwise empty eight-person medical ward in prison clinic which was sparsely equipped for a prisoner in his physical condition. Both the toilet area and the shower space lacked adequate support rails and safety bars. Narrow openings and small steps impeded his access to the shower. Neither outdoor recreation, a gymnasium nor physical therapy was accessible to him. As a result of these deprivations, inmate lost his ability to walk with braces and crutches and requires the constant use of a wheelchair.

Fennell v. Simmons, 951 F.Supp. 706 (N.D.Ohio 1997), 1998 WL 552830 (6th Cir.(Ohio)). Plaintiff with paraplegia was confined to a wheelchair and alleged that conditions in the county jail violated the ADA. No qualified immunity available where defendants are sued in their official capacities.

Ford v. Frame, 1994 U.S. Dist. LEXIS 9086 (E.D.Pa. 1994). Plaintiff challenged on constitutional grounds a jail policy that restricted inmates who use wheelchairs to either the infirmary or maximum security. The plaintiff was therefore denied access to such things as the canteen, visitation, exercise, law library, religious services, and visitation made available to other inmates who were not a security risk. The court upheld the jail's policy on grounds that a wheelchair could be used as a weapon and the inmate might be trapped in

an emergency. However, the court said it could see no reason why the inmate's desire to attend religious services could not be accommodated.

Frost v. Agnos, 152 F.3d 1124 (9th Cir.1998). Sheriff's failure to provide handicap accessible shower accommodations to a pre-trial detainee in a full leg cast on crutches presented a triable issue of fact regarding plaintiff's claim under section 1983.

Garcia v. Marshall, 5 F.3d 536, 1993 WL 321613 (9th Cir.) (Unpublished). Without describing the facts, court concludes that the restriction of inmate's use of wheelchair and knee brace for security reasons does not constitute deliberate indifference to serious medical need in violation of the Eighth Amendment.

Gorman v. Bartch, 152 F.3d 907 (8th Cir. 1998). Arrestee who used wheelchair brought action for damages under Rehabilitation Act and ADA for injuries received when being transported in police van that was not equipped with wheelchair restraints. The court held that arrestee's allegations fell within framework of both ADA provisions regarding public services and the Rehabilitation Act.

Gleish v. Hardiman, 1993 U.S. Dist. Lexis 3809 (N.D. Ill. 1993). Inmate with knee injury was unable to walk without bracing himself against wall or furniture. The court denied motion for summary judgment of prison guard who allegedly repeatedly ordered that the prisoner's cane and crutches be taken away, thus denying him prescribed medical treatment.

Grant v. Schuman, 151 F.3d 1032, 1998 WL 516784 (7th Cir.) (unpublished). Dismissing ADA claim of mobility impaired inmate on grounds that he had not sued the state or the department of correction, even though he had sued prison officials in their official capacity.

Hallett v. New York State Dept of Correctional Services, 109 F. Supp. 190 (S.D. N.Y. 2000). Plaintiff stated claim under ADA based on allegation that he was denied access to special shock incarceration program because he was HIV+ amputee. Court also held that allegations that prison officials failed to provide him with adequate wheelchair for five months, despite receiving notification that inmate was in pain and inmate's grievances concerning confiscation of his personal wheelchair, along with allegations that inmate suffered severe back pain and cut to his head as a result of such failure, supported § 1983 claims against officials for failure to provide adequate medical care in violation of Eighth Amendment. Allegations that superintendent directly refused to allow inmate's personal, customized wheelchair to be repaired and ordered its confiscation were sufficient to satisfy requirement, under 1983, that inmate show personal involvement of superintendent and director in alleged unconstitutional denial of adequate medical care. Hallett was apparently told by Green Haven officials that the metal rims and spokes of his personal wheelchair posed a security risk. In response to the correctional facility's concerns, on March 16, 1998, Hallett requested that Green Haven nurse authorize the purchase of plastic parts that would conform to security standards. She refused to authorize the replacement parts but did not confiscate Hallett's wheelchair. Def. Artuz then confiscated Hallett's wheelchair, providing him instead with a "standard-issue" DOCS wheelchair that had neither a fixed frame nor movable foot and arm rests.

Harrelson v. City of Millbrook, 859 F.Supp. 1465 (M.D. Ala. 1994). Paraplegic inmate brought action against jail for depriving him of his wheelchair and not providing a handicap accessible bathroom. The court held that plaintiff stated a claim under Title II of the ADA,

but that punitive damages are not available under the ADA.

Hicks v. Frey, 992 F.2d 1450 (6th Cir. 1993). Upholding damage award to inmate who was completely dependent upon a wheelchair for any mobility. Yet he was placed in a cell too small to accommodate his wheelchair, and thus for about three months was confined to a bunk with no opportunity to move about or exercise his injured limbs. Further, he had problems controlling urination and bowel movements, yet had no access to a shower while in the isolation cell.

Hughes v. Joliet Correctional Center, 931 F.2d 425, 428 (7th Cir.1991). Court reversed the dismissal of a prisoner's complaint where he alleged that prison officials had denied him access to his crutches and leg brace forcing him to walk without them in order to get to the toilet .

Johnson v. Hardin County, Ky., 908 F.2d 1280, 1283-84 (6th Cir.1990) (Eighth Amendment claim based in part on jailers' refusal to provide inmate crutches prescribed by doctor; jailers instead told plaintiff to stay off his feet as much as possible)

Jones v. St. Tamany Parish Jail, (1999 WL 219769 (E.D.La.)). (Denying summary judgment to Sheriff who denied prisoner a wheel chair. Factual issues in dispute included (1) whether the wheelchair was denied due to a medical decision or the Sheriff's failure to maintain an adequate supply to accommodate disabled detainees; and (2) whether provision of a wheelchair requires a medical prescription.

Journey v. Vitek, 685 F.2d 239, 242 (8th Cir.1982). Applying the Rehabilitation Act, the Court of Appeals affirmed the findings of the District Court that a paraplegic prisoner confined to wheelchair had not been excluded from participation in educational, rehabilitative, recreational and employment programs because "prison personnel have afforded (Journey) access to the activities in which he had interest, nearly as often as he wanted to participate."

Kaufman v. Carter, 952 F.Supp. 520, (W.D.Mich. 1996). Plaintiff was a bilateral amputee who used a wheelchair and, on occasion, walked with the aid of prostheses. He alleged violations of the ADA and Rehabilitation Act based on inaccessible showers, toilets, and other necessities in the Kalamazoo County Jail. Specifically, the shower was too narrow to accommodate his wheelchair. Also, because it lacked handrails and non-slip flooring materials, he faced great difficulty in transferring himself from his wheelchair to the shower bench. He claims that this arrangement caused him to fall at one point while attempting to use the shower. As a result, he was taken by ambulance to a local emergency room and diagnosed as having pulled a back muscle. Plaintiff further claims he was unable to maintain proper hygiene due to his difficulties with the shower, and was harassed by cellmates due to his odor. Plaintiff also asserts that the toilet in Sick Bay No. 3 was inaccessible to him because it lacked both handrails and a seat, and was set into a narrow stall into which he could not maneuver his wheelchair. He claims that on occasion he either fell to the floor while attempting to transfer between his wheelchair and the toilet, or fell directly into the toilet water, which required his cellmates to pull him out of the bowl. These events, he asserts, left him bruised and humiliated. He claims that the cell's drinking fountain and sink were inaccessible to him, and that their design once caused him to fall while attempting to get a drink of water. He also claims that he could not reach the telephone without assistance from fellow inmates. Plaintiff alleges that he informed defendant nurses of each of these inadequacies, to no avail.

The court discussed the applicability of the ADA and Rehabilitation Act in great detail, rejecting the defendants' contention that the statutes are not applicable to prisons and jails. Based on the plain language of the statutes, the Department of Justice regulations, and precedential case law, the court also rejected the defendants' claim that they were entitled to qualified immunity because the law was not clearly established.

LaFaut v. Smith, 834 F.2d 389, 392-94 (4th Cir.1987) (knowing failure to provide adequate toilet facilities to prisoner who used a wheelchair violated Eighth Amendment).

Lawson v. Dallas County, 112 F. Supp.2d 616 (N.D. Tex. 2000). Jail inmate who had paraplegia developed decubitus ulcers because jail's policies and practices prevented him from receiving adequate care in violation of his right to be free of cruel and unusual punishment under the Eighth Amendment. Although nurse warned Sheriff's Department that plaintiff needed to be in a hospital setting, her warnings were disregarded. He was given inadequate bedding, medications were denied, he received no assistance in cleaning himself, did not see a doctor for weeks, and nursing staff failed to change dressing. As a result of all this, the inmate ultimately required multiple surgeries with little potential for full rehabilitation.

Layne v. Superintendent, Massachusetts Correctional Institution, Cedar Junction, 406 Mass. 156, 159 (1989). Prisoner who used wheelchair entitled to access to law library under state constitutional provision protecting persons with disabilities.

Love v. Westville Correctional Center, 103 F.3d 558 (7th Cir. 1996). The court affirmed a jury award of approximately \$30,000 to a quadriplegic prisoner who was denied access to programs and services in the Indiana State Prison. Love was housed in Westville's infirmary unit. This meant, among other things, that he was unable to use the prison's recreational facilities, its dining hall, the visitation facilities that were open to the general inmate population, and that he was unable to participate in substance abuse, education, church, work, or transition programs available to members of the general inmate population. In addition, his access to the law library, the regular library, and the commissary was limited. Court gave several other examples of discrimination, Sunday church services were not available in Love's unit, A2-South, but such services were offered in the main quarters of the prison. Love was denied access to a group substance abuse program because none was available for A2-South, even though the program was available in the main quarters, Love's counselor had recommended he attend it, and he had asked to participate. College classes were also only available in the main quarters, not in A2-South.

Love offers a host of other examples, but these suffice to show that he was denied access to a variety of programs available at Westville.

Maclin v. Freake, 650 F.2d 885 (7th Cir.1981). Paraplegic inmate who received no physical therapy for an 11 month period stated a claim under the Eighth Amendment.

Martinez v. California Department of Correction, 1997 WL 207946 (9th Cir.(Cal.)) (unpublished disposition). Quadraplegic prisoner was restricted by prison authorities to the hospital area of the prison. He sued under the ADA seeking access to the prison's general yard, classroom education, and vocational training programs on the same terms as other similarly classified inmates. The court affirmed the district court decision granting summary judgment to the prison officials. Citing *Turner v. Safley*, 482 U.S. 78, 89 (1987), the court held that the restrictions were reasonably related to legitimate penological interests in security in that the plaintiff conceded that he could not defend himself from attack by other

inmates. Judge Wiggins dissented stating that it is not rational to prevent misconduct by punishing the potential victim rather than those who misbehave.

Mills v. Lee, 2000 WL 972841 (10th Cir. July 14, 2000). Disabled father of prisoner was denied use of his wheelchair and not provided prison wheelchair when he visited his son in federal prison. Court held this was at best a tort case. Sovereign immunity protected Federal Govt from damages under Rehab. Act.

Miller v. Tanner, 196 F.3d 1190 (11th Cir. 1999). Prisoner alleged that prison staff were indifferent to his medical needs as a paraplegic with a neurogenic bladder. Instead of treating him, they housed him in an unaccommodated unit, left him on the concrete floor of his cell, allowed him to become covered in feces and urine, denied him the use of a wheelchair or leg braces, and denied him physical therapy. Court of Appeals reversed district court's dismissal, holding that prisoner had complied with the Prison Litigation Reform Act requirement that he exhaust administrative remedies.

Moore v. Farrier, 984 F.2d 269 (8th Cir. 1993). Prison need not provide wheelchair bound inmates same cable TV access as other inmates.

Moore v. Prison Mental Health Service, 24 F.Supp.2d 1164 (D. Kans. 1998). The court dismissed the complaint of prisoner who was unable to participate in programs or enjoy other benefits because prison had provided him with a poor quality wheelchair. Further, fact that prisoner was issued older wheelchairs which later broke, causing him to fall or cut himself, did not violate Eighth Amendment, ADA, or Rehabilitation Act. Court reasoned that this was a claim that concerning inadequate medical care, which is not covered by the ADA. The decision was affirmed by the 10th Circuit, which held that ADA affords disabled persons legal rights regarding access to programs and activities enjoyed by all, not a general federal cause of action for challenging the medical treatment of their underlying disabilities, 201 F.3d 448, 1999 WL 1079848 (10th Cir.(Kan.))(unpublished).

Nelson v. Norris, 2001 WL 21250 (8th Cir.). Prisoner, a paraplegic confined to a wheelchair, claimed defendants--all prison officials--violated his rights by (1) confiscating his shower wheelchair; (2) failing to develop and implement an exercise program with proper equipment for his needs; and (3) maintaining a facility that was not compliant with ADA regulations because it lacked shower safety devices, and its dining and gaming tables, chapel, and recreation yard had accessibility problems. Court held that prisoner failed to state a claim under the Eighth Amendment because inmate failed to show that defendants denied him minimal life necessities, or that they were deliberately indifferent to his health or safety. The court also refused to permit the prisoner to amend complaint to add institutional defendants because of the 11th Amendment.

Newman v. Alabama, 349 F.Supp. 278 (M.D. Ala. 1972), *aff'd* 503 F.2d 1320 (5th Cir. 1974). Unreasonable to delay one year in providing inmates with prosthetic devices.

Noland v. Wheatley, 835 F. Supp 476 (N.D. Ind. 1993). Inmate confined to wheelchair who used both colostomy and urostomy bag, alleged that he was denied access to sufficient water to clean himself and was denied care necessary to prevent pressure sores from forming. The court dismissed Rehabilitation Act claim for failure to allege that the jail received federal funds. However, it held that plaintiff had stated a claim under the ADA, rejecting the argument that he was required to exhaust administrative remedies.

Owen v. Chester County, 2000 U.S. Dist. LEXIS 710 (D.Pa.). Just prior to his incarceration, plaintiff had surgery requiring angioplasty. Prison staff denied him crutches within the cell block for "security reasons," although prisoners on other blocks were allowed crutches. As a result, he suffered severe pain, and also was unable to use the phone, the library, the dining area, or to participate in other activities. His condition ultimately deteriorated and his leg eventually had to be amputated. The court dismissed the claim under the Eighth Amendment on grounds that there was no allegation that the crutches had been prescribed by a doctor or that they were essential to his treatment. Although condoning the jail's storing the crutches for security reasons, the court allowed the ADA claim to go forward because there was a factual dispute as to whether the jail gave the prisoner his crutches back when he needed to leave the cell block. The court stated that it would be "unreasonable" to make the jail accommodate all of the prisoner's request for his crutches, but his requests could not be denied by officers simply saying "tough luck."

Parkinson v. Goord, 116 F. Supp. 2d (W.D. NY 2000) - Inmate who was missing a leg claimed prison officials had failed to provide him with a prosthesis and denied him accessible toilet and shower, and that he fell several times as a result of having to move around the facility with crutches. The court dismissed plaintiff's Eighth Amendment claim because he had not exhausted prison remedies as required by the PLRA, but went on to say that there was no Eighth Amendment violation anyway because defendants had transported him on several occasions to be fitted for a prosthesis and eventually provided him with one. The court stated that the prisoner had elected not to accept housing in the infirmary where he would not have had to travel distances or up and down stairs. Finally, it dismissed the ADA claim on grounds that individuals are not liable under the ADA in either their official or individual capacity; only the state entity is a proper defendant.

Parrish v. Johnson, 800 F.2d 600, 605 (6th Cir.1986) (prison guard repeatedly assaulted paraplegic inmates with a knife, forced them to sit in their own feces for hours, denied them medical care, and taunted them with remarks like "you crippled bastard you should be dead").

Purcell v. Horn 1998 WL 10236 (E.D.Pa.). Inmate with joint disease was denied a plastic chair for use in his cell and shower. Court ruled that since he could not supply his own chair or install grab bars in his cell or provide his own bench in the shower, then defendants should have "accommodated" his condition by allowing him to remain in a handicapped-accessible cell or have a chair in his cell and the shower room. Otherwise, the regulations requiring "reasonable accommodations in policies," 28 C.F.R. § 35.130, would have no effect at all,

Rainey v. County of Delaware, 2000 WL 1056456 (E.D.Pa.) Inmate stated claim that he was discriminated against in violation of the ADA because as an incomplete paraplegic, he was able to walk slowly and only with the aid of leg braces. As a result, he was denied food and medical treatment because the defendants allowed him only a limited amount of time--sometimes too limited--to travel to the dining room and the dispensary.

Rosales v. Coughlin, 10 F.Supp.2d 261 (W.D.N.Y. 1998). Prisoner who had back and leg problems alleged that corrections officer repeatedly seized a cane that had been prescribed by prison doctor and that other officers refused to do anything about it. While attempting to walk to the shower without his cane, he collapsed and suffered a concussion and severe back pain. Court denied summary judgment to the defendant officers on grounds that such conduct deprives a prisoner of his constitutional right to medical care. In a subsequent

opinion, 50 F.Supp. 2d 185 (W.D.N.Y. 1999), defendants presented an affidavit from a doctor stating that the inmate did not have a medical need to use a cane. The court ruled that although jury might find the doctor's opinion to be persuasive, it could just as well conclude from the evidence that the inmate was in serious pain, that it was apparent to the officers that he needed the cane, and that they exacerbated his pain by seizing the cane.

Schmidt v. Odell, 64 F.Supp.2d 1014 (D. Kans. 1999). Former county jail inmate, a double amputee without both legs from a point below his knees, brought civil rights action against jail officials, asserting claims under the Eighth Amendment, the Americans with Disabilities Act, and the Rehabilitation Act. He alleged that during his incarceration the defendants deprived him of a wheelchair or other accommodation and forced him to crawl and pull himself about the jail on the floor. Jail did allow him to use the prostheses that he had upon arrival, but these became damaged and unusable. Medical personnel recommended a wheelchair which was denied because jailers claimed the entrances and exits to the cells are too narrow, the chair could be used to block the cell block, the other inmates would play with the wheelchair, the wheelchair could be used to hide contraband, and the wheelchair could be disassembled and made into a weapon. He was given kneepads instead. This caused legs to swell making it difficult to fit new prostheses. The court pointed out that there are no written security standards from any government agency or association of any kind concerning the safety risks of wheelchairs in a jail. The jail has never had any written guidelines on dealing with a prisoner in a wheelchair. because doorways too narrow. It held that the failure to provide a wheelchair did not by itself violate the Eighth Amendment because the jail could not accommodate wheelchairs and the jailers had "legitimate security concerns" about placing a wheelchair in general population. Nonetheless, the ability of the plaintiff to move himself about the jail in an appropriate manner--to use the toilet, to use the shower, to obtain his meals, and to obtain suitable recreation and exercise--was a basic need--part of the "minimal civilized measure of life's necessities"--that the defendants were obligated to help provide under the Eighth Amendment. In addition, plaintiff stated claim under the ADA.

Shakka v. Smith, 71 F.3d 162 (4th Cir. 1995). Deprivation of prisoner's wheelchair for one-day period at direction of prison psychologist did not constitute deliberate indifference to serious medical needs of prisoner, and (2) refusal to allow prisoner to take shower for three days after human excrement was thrown on him did not constitute cruel and unusual punishment as defendant was given materials to clean himself and cell. Psychologist believed that removing all stimuli and materials that could be used in a violent manner would quiet Shakka. In particular, he sought to prevent Shakka from disassembling his wheelchair, as he had the plumbing fixtures, and using it to harm himself or others.

Shakka v. Smith, 28 F.3d 1210, 1994 WL 319217 (4th Cir.(Md.)) - Same inmate as above, but different case. Here, he alleges that prison officials ordered removal of his wheelchair to force him to "get up and walk," and that they also deliberately placed food outside his reach. The court held that even if Shakka's paralysis was psychological, it could be a sufficiently "serious" medical need such that denial of the wheelchair might violate the Eighth amendment.

Shariff v. Artuz, 2000 WL 1219381 (S.D.N.Y.) - Plaintiffs were housed in prison unit for physically disabled. They alleged they were denied access to honor block because they used wheelchairs and were unable to ambulate. The court denied defendants motion to dismiss because plaintiffs were otherwise qualified for admission to the honor block but had been denied admission because of their disabilities. It also rejected the argument of prison

officials that plaintiffs rights were governed by a consent decree which mandated prison to establish and maintain an ADA compliant unit for physically disabled and required prison to attempt to place all inmates in appropriate educational, vocational or job programs consistent with the patients' medical conditions. The court held that the consent decree was inapposite because honor block was not an educational or vocational program. But the court also ruled there is no individual liability under the ADA.

Simmons v. Cook, 154 F.3d 805 (8th Cir. 1998). Paraplegic inmates brought § 1983 action against corrections officials, alleging Eighth Amendment violations arising from their placement in solitary confinement. Specifically, they were (1) were placed in solitary confinement for thirty-two hours; (2) were denied their "egg crate" mattresses; (3) missed four consecutive meals because their wheelchairs could not maneuver around the cell bunk to reach the barred door where the food tray was placed; and (4) were unable to eliminate their bodily wastes. Court upheld damage award of \$2000 to each inmate.

Taylor v. Plousis, 101 F.Supp.255 (D.N.J. 2000). Prisoner who had both legs amputated alleged that jail forced him to walk on broken prosthesis for seven months. The court denied summary judgment motion of the doctor who was aware of the need for a new prosthesis but who may not have made adequate efforts to obtain one. It also denied summary judgment to the nurse and officer who allegedly deliberately delayed delivery of plaintiff's prosthesis until he could be transferred to a state prison. The court granted summary judgment to the Sheriff because there was no evidence that he personally knew and disregarded the inmate's medical needs. Finally, it granted summary judgment to the County on grounds that there was no evidence that any official with final policymaking authority acted with deliberate indifference to the inmate's need for adequate medical care.

Terry v. Salinas Valley State Prison, 2000 U.S.App. Lexis, 31186 (9th Cir.). Correctional officer gave inmate "a chair with wheels" because no wheelchairs were available in the facility. Court upheld dismissal of the ADA claim because of pending class action, *Armstrong v. Davis*, covering same subject matter. It upheld the dismissal of the Eighth Amendment claim because inmate did not allege a deliberate failure to treat a serious medical condition resulting in further significant injury or pain.

Vines v. Sondalle, 223 Wis.2d 265, 588 N.W.2d 927, 1998 WL 765502 (Wis.App.) (Wisc. 1998)(unpublished). Inmate who used wheelchair was injured when transported in van that was not wheelchair accessible. Court dismissed ADA claim on grounds that he was transported like all other inmates and therefore not denied any service. ADA does not require that disabled prisoner be given best means of transportation.

Weeks v. Chaboudy, 984 F.2d 185 (6th Cir.1993). The prisoner was paralyzed from the waist down but was placed in a portion of the prison where he was not permitted to have a wheelchair. Wheelchairs were only permitted in the prison infirmary. The doctor, who had been treating the prisoner throughout his incarceration, could have authorized the prisoner's transfer to the infirmary. It was undisputed that it "was accepted practice to keep paralyzed inmates in the infirmary" since "it was the only area of the prison equipped to cater to their needs" and that the doctor knew the prisoner "would not have access to a wheelchair if not admitted to the infirmary." The doctor did not, however, admit the prisoner to the infirmary. He simply concluded that the prisoner is "presently locked in J Block so this negates the use of a wheelchair in his particular area. We will pursue other avenues of consultation and see if we can't derive some disposition of this man other than here in the infirmary." No other "disposition was found or attempted" by the doctor.

As a result of being denied the use of a wheelchair, the prisoner was unable to take advantage of his limited out-of-cell time, or to shower himself. He could not care for his person or clean his cell from May 3, 1983 to February 4, 1985. This court found that these facts stated a claim of deliberate indifference since the doctor knew of Weeks's paraplegia, knew that he could not have a wheelchair outside of the infirmary, could have admitted Weeks to the infirmary but refused to do so or to take any other steps to help the prisoner.

Westbrook v. Dallas County, 1999 WL 354231 (N.D. Texas). Plaintiff was a paraplegic who used a wheelchair. When he was incarcerated, the jail placed him in a holding cell for three days and confiscated his wheelchair. As a result, he was forced to sit on concrete floor and could not move. He alleged that he developed circulatory problems and pressure sores on his buttocks and ultimately became very ill with infected decubitus ulcers. The court held that taking the wheelchair for a few days because the cell was not large enough to accommodate was not a manifestation of deliberate indifference to medical needs that is necessary to state a claim under the Eighth Amendment. Although nurses were aware of the risk of pressure sores in such circumstances, plaintiff should have rotated himself off the pressure points to prevent the problem.

Wetzel v. Sheahan, 210 F.3d 377, 2000 WL 222557 (7th Cir.(Ill.))(unpublished). Jail officials refused to provide inmate who had had hip replacement with a wheelchair, despite medical prescription. He was told to do the best he could with crutches. On one occasion, his leg gave out after about 25 yards causing him to fall to the ground. Wetzel was then forced to "scoot" his way across the floor. Court dismissed the claims because of statute of limitations and because plaintiff failed to sue proper defendants.

Young v. Harris, 509 F.Supp. 1111 (S.D.N.Y. 1981). Failure to provide leg brace states cause of action under the Eighth Amendment.