Negative: PLRA Exhaustion Provision

By “Coach Vance” Trefethen

***The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: The Prison Litigation Reform Act (PLRA) contains a number of provisions to discourage prisoners from filing hundreds of useless lawsuits to clog up the courts and waste everyone’s time. AFF is worried that prisoners may be denied valid lawsuits simply because of minor paperwork errors. There are several variations of PLRA reform including repealing it, replacing it with PARA, changing the standards of injury, and repealing only the “Exhaustion” rule. This brief covers only the Exhaustion rule.
 The Exhaustion rule says a prisoner must “exhaust” (comply with and completely follow to the finish) all administrative complaint channels within the prison system itself before taking his complaint to court. AFF believes that prisons are creating extra hurdles and excuses to deny valid claims by making the process so complicated that it cannot successfully be followed, such that almost every complaint will be dismissed from court on the grounds of failing the Exhaustion rule. This brief points out, among other things, that if prisoners can’t follow the administrative complaint rules (so we just let them bypass and go right to federal court), they don’t have a prayer anyway, because federal court procedures are way more complicated – so their complaints will fail anyway. And we still have tens of thousands of federal lawsuits in Status Quo even with the supposedly “too complex” rules that supposedly keep valid claims out of court. Creating a standard that says they don’t have to follow the exhaustion rule means prisoners will intentionally bypass the administrative process and send everything directly to federal court. And that would defeat the entire purpose of PLRA and clog up federal courts again with thousands of useless lawsuits.

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PLRA helps prisoners with valid claims by removing the foolish claims from the system, allowing valid claims to get the attention they deserve 10

Negative: PLRA – Exhaustion Provision

NEGATIVE PHILOSOPHY / COUNTER-GOAL- Rule of law

Sympathy for a particular prisoner shouldn’t trump following the rule of law as written by Congress by making exceptions to the Exhaustion provision

Solicitor General Donald B. Verrilli and 6 other attorneys with the US Justice Dept. 2016 (“Solicitor General” is the US Justice Dept. attorney in charge of representing the government in cases before the Supreme Court. The other attorneys on this evidence were: BENJAMIN C. MIZER Principal Deputy Assistant Attorney General; IAN HEATH GERSHENGORN Deputy Solicitor General; ZACHARY D. TRIPP Assistant to the Solicitor General; and BARBARA L. HERWIG, RUPA BHATTACHARYYA, DANA KAERSVANG) BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONER in the case of Michael Ross, Petitioner v. Shaidon Blake, Supreme Court case No. 15-339 Feb 2016 (accessed 27 Feb 2022) (brackets in original) https://www.justice.gov/sites/default/files/osg/briefs/2016/03/07/15-339\_tsac\_ross\_v.\_blake.pdf

More fundamentally, the PLRA does not include an exception for unexhausted claims that are potentially meritorious. And “[p]rocedural requirements established by Congress for gaining access to the federal courts are not to be disregarded by courts out of a vague sympathy for particular litigants.” Baldwin Cnty. Welcome Ctr. v. Brown, 466 U.S. 147, 152 (1984) (per curiam).

EXTRA-TOPICALITY

1. PLRA reform is mostly extra-topical

Most prisoners affected by PLRA are in state prisons or local jails

Lisa Soronen 2020 (journalist) 8 June 2020 “Supreme Court Rules Against Prisoner in Prison Litigation Reform Act Case” <https://knowledgecenter.csg.org/kc/content/supreme-court-rules-against-prisoner-prison-litigation-reform-act-case> (accessed 6 Dec 2021)

Most prisoners reside in either state prisons or local jails; state and local governments pay the costs of defending meritless prisoner cases. The SLLC [amicus brief](https://ada4d282-a69e-461a-89a2-e1a3f477bdcb.filesusr.com/ugd/f56252_2b0f3f89d90547d99f4106423339dd0a.pdf) argued that a dismissal without prejudice should count as a strike because the goal of the PLRA is “fewer and better prisoner suits,” and it has largely accomplished this goal.

Violation: Not under federal jurisdiction

State and local prisoners are not “prisoners under federal jurisdiction,” so the Affirmative cannot offer a plan that does anything for them and still be following the resolution.

Limited scope: Plan can only reach the 151,000 offenders in federal prisons

U.S. Sentencing Commission 2021. “FEDERAL OFFENDERS IN PRISON” <https://www.ussc.gov/research/quick-facts/federal-offenders-prison> (accessed 6 Dec 2021)

As of March 2021, there were 151,729 offenders incarcerated in the Bureau of Prisons. Of these offenders, 135,550 are serving a sentence for a federal conviction, most commonly for drug offenses (N=65,370). Slightly more than half of offenders in the Federal Bureau of Prisons (54.2%) were sentenced to ten or more years in prison.

Small percentage: There are 2.3 million total prisoners

Wendy Sawyer and Peter Wagner 2020. (Wendy Sawyer is the Research Director at the Prison Policy Initiative. Peter Wagner is an attorney and the Executive Director of the Prison Policy Initiative) 24 Mar 2020 “Mass Incarceration: The Whole Pie 2020“ <https://www.prisonpolicy.org/reports/pie2020.html> (accessed 6 Dec 2021)

The American criminal justice system holds almost 2.3 million people in 1,833 state prisons, 110 federal prisons, 1,772 juvenile correctional facilities, 3,134 local jails, 218 immigration detention facilities, and 80 Indian Country jails as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories.

Impact: Drop at least 93.4% of the harms and solvency

151,729 divided by 2.3 million means the plan covers only 6.6% of all prisoners. That means at least 93.4% of the cases, problems and benefits of their plan are extra-topical and disappear from the round. On top of that, it means all of their evidence dealing with state prisoners and whatever harms they are suffering should be dropped from the round. Affirmative must prove that there is a significant harm occurring among the 6.6% of prisoners in the federal system and that their plan solves for them. It’s not enough to prove “state prisoners are being abused and can’t file lawsuits.” They have to prove “federal prisoners are being abused and can’t file lawsuits.” Everything else is extra-topical.

INHERENCY

1. Status Quo safeguards on administrative rule complexity

Status Quo law already has safeguards that prevent prisons from using complex rules to intentionally block prisoners’ rights

Solicitor General Donald B. Verrilli and 6 other attorneys with the US Justice Dept. 2016 (“Solicitor General” is the US Justice Dept. attorney in charge of representing the government in cases before the Supreme Court. The other attorneys on this evidence were: BENJAMIN C. MIZER Principal Deputy Assistant Attorney General; IAN HEATH GERSHENGORN Deputy Solicitor General; ZACHARY D. TRIPP Assistant to the Solicitor General; and BARBARA L. HERWIG, RUPA BHATTACHARYYA, DANA KAERSVANG) BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONER in the case of Michael Ross, Petitioner v. Shaidon Blake, Supreme Court case No. 15-339 Feb 2016 (accessed 27 Feb 2022) (brackets in original) https://www.justice.gov/sites/default/files/osg/briefs/2016/03/07/15-339\_tsac\_ross\_v.\_blake.pdf

That is not to say that prisons have carte blanche to adopt procedural requirements that are designed to “trip[] up all but the most skillful prisoners.” Woodford, 548 U.S. at 102. If grievance procedures are so bewildering that no reasonable prisoner could discern them, or are an endless morass reminiscent of Bleak House, then an administrative remedy would not be “available” and a prisoner would not need to exhaust. Officials also cannot trip up prisoners by creating arbitrary or wholly inconsequential procedural impediments then dismissing a claim whenever a prisoner fails to comply perfectly with all of them, as Woodford requires proper compliance with “critical” procedural rules. Id. at 90; see id. at 95. And officials who intentionally thwart prisoners from successfully navigating the grievance process also could render those remedies “unavailable,” or could be estopped from raising exhaustion as a defense.

MINOR REPAIR – We can solve without significant reform and without repealing Exhaustion

Just require “good faith” effort. This would allow complaints to continue if there’s a minor mistake as long as the prisoner made a good faith effort to follow the Exhaustion rule

Ryan Lefkowitz 2018 (J.D. Candidate, Syracuse University College of Law) “[Prisoner's Dilemma—Exhausted Without a Place of Rest(itution): Why the Prison Litigation Reform Act's Exhaustion Requirement Needs to Be Amended](https://commons.stmarytx.edu/cgi/viewcontent.cgi?article=1001&context=thescholar)” ST MARY’S LAW REVIEW ON RACE & SOCIAL JUSTICE May 2018 <https://commons.stmarytx.edu/thescholar/vol20/iss2/2/> (accessed 26 Feb 2022)

Due to its aggressive application and its subsequent restriction on access to the courts, the exhaustion requirement of the PLRA should be amended. Instead of applying a strict exhaustion requirement, the PLRA should only require a good faith attempt at exhaustion. Additionally, the good faith attempt at exhaustion should only be a requirement where a prison’s grievance procedure complies with federal guidelines. This would address the issues the PLRA intended; managing increasing prisoner litigation, giving prisons notice of unfavorable conditions, and preventing meritorious claims that were not exhausted from being barred as a result of missing a deadline.

HARMS / SIGNIFICANCE

1. Ridiculous claims aren’t harms. Here’s a sample of the “harms” you’ll be “solving” with an Affirmative ballot:

Emotional distress because they wouldn’t let him have his porn magazines

Americans for Effective Law Enforcement Monthly Law Journal 2018. (non-profit organization ; legal educational provider of guidance to enhance the criminal justice community and to reduce potential criminal and civil liability of criminal justice professionals ) Jail & Prisoner Law Section – April 2018 Recovery of Mental/Emotional Distress Damages Under the Prison Litigation Reform Act <https://www.aele.org/law/Digests/jail185.html> (accessed 5 Dec 2021)

 Prisoner's claim for alleged mental anguish and emotional distress arising out of a dispute with correctional officials over the alleged retaliatory withholding of two pornographic magazines by the prison mail personnel could not be pursued, in the absence of physical injury under the Prison Litigation Reform Act, 42 U.S.C. Sec. 1997e(e). He claimed that the retaliation occurred because he filed a previously lawsuit against prison employees. Geiger v. Jowers, No. 04-10299, 404 F.3d 371 (5th Cir. 2005).

Prisoner sued for emotional distress because an officer yelled at him

Americans for Effective Law Enforcement Monthly Law Journal 2018. (non-profit organization ; legal educational provider of guidance to enhance the criminal justice community and to reduce potential criminal and civil liability of criminal justice professionals ) Jail & Prisoner Law Section – April 2018 Recovery of Mental/Emotional Distress Damages Under the Prison Litigation Reform Act <https://www.aele.org/law/2018all04/2018-04MLJ301.pdf> (accessed 5 Dec 2021)

In Shorter v. Lawson, #3:05-CV-0458, 403 F. Supp. 2d 703 (N.D. Ind. 2005). For instance, a court ruled that a prisoner was barred, under 42 U.S.C. Sec. 1997e(e), from pursuing claims for mental injuries or stress when he failed to assert that he had suffered any physical injury. His assertion that an officer “yelled” at him, and that officers came to his cell with stun guns and pepper mace, asking him to come out of his cell, as well as writing conduct reports against him when he was facing criminal charges and hernia surgery was insufficient, since verbal abuse and harassment does not establish a civil rights violation.

Prisoner sued because other inmates threatened him, but never actually hurt him

Americans for Effective Law Enforcement Monthly Law Journal 2018. (non-profit organization ; legal educational provider of guidance to enhance the criminal justice community and to reduce potential criminal and civil liability of criminal justice professionals ) Jail & Prisoner Law Section – April 2018 Recovery of Mental/Emotional Distress Damages Under the Prison Litigation Reform Act <https://www.aele.org/law/2018all04/2018-04MLJ301.pdf> (accessed 5 Dec 2021)

In Wolff v. Hood, 242 F. Supp. 2d 811 (D. Ore. 2002), the court concluded that a prisoner could not pursue a federal civil rights claim against correctional officials for failure to protect him against other inmates who allegedly threatened him with harm because his crime involved a child when he could not show that he suffered physical harm as a result of the alleged failure to protect. A provision of the Prison Litigation Reform Act, 42 U.S.C. Sec. 1997e(e) prohibits recovery for mental or emotional injury suffered in custody without a prior showing of physical injury.

Emotional distress over a clogged drain

Americans for Effective Law Enforcement Monthly Law Journal 2018. (non-profit organization ; legal educational provider of guidance to enhance the criminal justice community and to reduce potential criminal and civil liability of criminal justice professionals ) Jail & Prisoner Law Section – April 2018 Recovery of Mental/Emotional Distress Damages Under the Prison Litigation Reform Act <https://www.aele.org/law/2018all04/2018-04MLJ301.pdf> (accessed 5 Dec 2021)

Injury is not the same as uncomfortable or unpleasant surroundings. In Alexander v. Tippah County, Mississippi, #02-61033, 351 F.3d 626 (5th Cir. 2003), two 308 prisoners, confined for 24 hours in an “unsanitary” isolation cell designed for one prisoner in which a clogged floor drain resulted in feces and urine remaining on the cell floor, could not recover damages for mental or emotional injuries in the absence of a prior physical injury.

2. No shortage of lawsuits

10,000 lawsuits/year on prison conditions + nearly 20,000/year on other civil rights claims. Doesn’t sound like “exhaustion” is blocking very many

Supreme Court Justice Clarence Thomas 2020. Dissent in WEXFORD HEALTH v. GARRETT 18 May 2020 <https://www.supremecourt.gov/opinions/19pdf/19-867_hgcj.pdf> (accessed 6 Dec 2021)

In recent years, nearly 10,000 lawsuits have been filed annually by prisoners challenging prison conditions. See Administrative Office of the United States Courts, Federal Judicial Caseload Statistics, U. S. District Courts—Civil Cases Commenced, by Basis of Jurisdiction and Nature of Suit (2019) (Table C–2). And nearly twice as many lawsuits are filed annually raising other civil rights claims, ibid., which are subject to similarly worded prefiling requirements under the PLRA, see, e.g., §1997e(e).

3. Exhaustion provision is justified and works fine

Exhaustion provision gives prisons opportunity to fix problems before federal courts get involved

Supreme Court Justice Samuel Alito 2006. 22 June 2006 Decision of the court in the case of Woodford v. Ngo 548 US 81 (accessed 26 Feb 2022) (brackets in original) https://supreme.justia.com/cases/federal/us/548/81/#:~:text=Ngo%2C%20548%20U.S.%2081%20(2006)&text=The%20Prison%20Litigation%20Reform%20Act,prison%20conditions%20in%20federal%20court.

 Construing §1997e(a) to require proper exhaustion also fits with the general scheme of the PLRA, whereas respondent’s interpretation would turn that provision into a largely useless appendage. The PLRA attempts to eliminate unwarranted federal-court interference with the administration of prisons,[[Footnote 3](https://supreme.justia.com/cases/federal/us/548/81/%22%20%5Cl%20%22F3)] and thus seeks to “affor[d] corrections officials time and opportunity to address complaints internally before allowing the initiation of a federal case.” Nussle, 534 U. S., at 525. See also Booth, 532 U. S., at 739. The PLRA also was intended to “reduce the quantity and improve the quality of prisoner suits.” Nussle, supra, at 524.    Requiring proper exhaustion serves all of these goals. It gives prisoners an effective incentive to make full use of the prison grievance process and accordingly provides prisons with a fair opportunity to correct their own errors.

4. Cross-Apply Extra-Topicality about the States

Throw out of the round all AFF evidence that isn’t specific to Federal prisoners

Any AFF evidence talking about “thousands of cases” or any quantity must be examined to see if it includes “all” prisoners or only “federal” prisoners. If it isn’t talking exclusively about “federal” prisoners then it has no bearing on this debate round and should be dropped. It’s possible that all of those abuse cases happened in State prisons and none in Federal. If they can’t show that even 1 of those prisoner abuse cases happened in federal prison, then this case has no harms that it could possibly claim as a justification for an Affirmative ballot.

SOLVENCY

1. Federal court rules are even more complicated than the administrative rules they can’t seem to follow

1) Admin rules are actually pretty simple. 2) If they can’t follow the admin rules, they will never succeed in federal court anyway, since court rules are even more complicated

Supreme Court Justice Samuel Alito 2006. 22 June 2006 Decision of the court in the case of Woodford v. Ngo 548 US 81 (accessed 26 Feb 2022) (brackets in original) https://supreme.justia.com/cases/federal/us/548/81/#:~:text=Ngo%2C%20548%20U.S.%2081%20(2006)&text=The%20Prison%20Litigation%20Reform%20Act,prison%20conditions%20in%20federal%20court.

Respondent argues that requiring proper exhaustion is harsh for prisoners, who generally are untrained in the law and are often poorly educated. This argument overlooks the informality and relative simplicity of prison grievance systems like California’s, as well as the fact that prisoners who litigate in federal court generally proceed *pro se* and are forced to comply with numerous unforgiving deadlines and other procedural requirements.

DISADVANTAGES

1. Mindset critique: AFF is focused on criminal comforts rather than society’s good

No other way to say it but… PLRA stops society from dealing with STUPID stuff about luxuries for prisoners

Anna Little Morris 2017 (attorney) 7 Feb 2017 “Twenty Years After Reform, Inmate Litigation Still Crowds Dockets” <https://www.butlersnow.com/2017/02/twenty-years-reform-inmate-litigation-still-crowds-dockets/> (accessed 5 Dec 2021)

A million dollars in damages for melted ice cream. Cruel and unusual punishment for having to listen to country music. A suit demanding L.A. Gear or Reebock shoes instead of prison-issued Converses. An emotional distress claim for receiving crunchy, instead of creamy, peanut butter. Are these the types of lawsuits to which our courts should be devoting time and resources? Congress apparently thought otherwise when they passed – with overwhelming[bipartisan](https://www.congress.gov/bill/104th-congress/house-bill/3019/actions?q=%7B%22search%22%3A%5B%22%5C%22prison+litigation+reform+act%5C%22%22%5D%7D&r=1)support – the[Prison Litigation Reform Act (PLRA)](https://www.law.cornell.edu/uscode/text/42/1997e).

2. Court clog

Repealing exhaustion would open the floodgates for prisoners to take every complaint directly to federal court

**Post-plan, every prisoner would intentionally file his grievance one day late to game the system. The administrative process would reject it for not complying with the rules, being 1 day late. Status Quo, that would be the end of it. But post-plan, since exhausting the administrative process doesn’t matter, the complaints would all go directly to federal court. [Note that under our Minor Repair, this wouldn’t be possible because there would be investigation as to why they filed late, and if it wasn’t in good faith, it would be rejected. If there were a valid reason, it could proceed.]**

Supreme Court Justice Samuel Alito 2006. 22 June 2006 Decision of the court in the case of Woodford v. Ngo 548 US 81 (accessed 26 Feb 2022) https://supreme.justia.com/cases/federal/us/548/81/#:~:text=Ngo%2C%20548%20U.S.%2081%20(2006)&text=The%20Prison%20Litigation%20Reform%20Act,prison%20conditions%20in%20federal%20court.

The benefits of exhaustion can be realized only if the prison grievance system is given a fair opportunity to consider the grievance. The prison grievance system will not have such an opportunity unless the grievant complies with the system’s critical procedural rules. A prisoner who does not want to participate in the prison grievance system will have little incentive to comply with the system’s procedural rules unless noncompliance carries a sanction, and under respondent’s interpretation of the PLRA noncompliance carries no significant sanction. For example, a prisoner wishing to bypass available administrative remedies could simply file a late grievance without providing any reason for failing to file on time. If the prison then rejects the grievance as untimely, the prisoner could proceed directly to federal court.

Exhaustion reduces the quantity of lawsuits (by getting things resolved before going to court) and improves the quality (by creating a better administrative record)

Supreme Court Justice Samuel Alito 2006. 22 June 2006 Decision of the court in the case of Woodford v. Ngo 548 US 81 (accessed 26 Feb 2022) (brackets in original) https://supreme.justia.com/cases/federal/us/548/81/#:~:text=Ngo%2C%20548%20U.S.%2081%20(2006)&text=The%20Prison%20Litigation%20Reform%20Act,prison%20conditions%20in%20federal%20court.

 Proper exhaustion reduces the quantity of prisoner suits because some prisoners are successful in the administrative process, and others are persuaded by the proceedings not to file an action in federal court.[[Footnote 4](https://supreme.justia.com/cases/federal/us/548/81/%22%20%5Cl%20%22F4)] Finally, proper exhaustion improves the quality of those prisoner suits that are eventually filed because proper exhaustion often results in the creation of an administrative record that is helpful to the court. When a grievance is filed shortly after the event giving rise to the grievance, witnesses can be identified and questioned while memories are still fresh, and evidence can be gathered and preserved.

Massive court clog: 15% of ALL civil cases in federal court before PLRA were from prisoners

Rachel Poser 2016 (journalist) 30 May 2016 “Why It’s Nearly Impossible for Prisoners to Sue Prisons” THE NEW YORKER <https://www.newyorker.com/news/news-desk/why-its-nearly-impossible-for-prisoners-to-sue-prisons> (accessed 6 Dec 2021)

In 1995, Senator Orrin Hatch, a Republican from Utah, argued for the P.L.R.A.’s passage by pointing out that prisoners filed fifteen per cent of all civil cases initiated the previous year in federal court, totalling more than thirty-nine thousand lawsuits, most alleging “cruel and unusual” prison conditions.

Link: PLRA is key to reducing frivolous suits that clog up federal courts

Anna Little Morris 2017 (attorney) 7 Feb 2017 “Twenty Years After Reform, Inmate Litigation Still Crowds Dockets” <https://www.butlersnow.com/2017/02/twenty-years-reform-inmate-litigation-still-crowds-dockets/> (accessed 5 Dec 2021) (brackets and ellipses in original)

The goal of the Act, frankly acknowledged, was to[reduce the number of prisoner suits filed](https://www.law.cornell.edu/supct/html/05-416.ZO.html) in order to “[cur[b]  frivolous prisoner litigation](http://openjurist.org/117/f3d/197/baugh-v-taylor)” and to “[preserv[e] . . . our limited appellate resources](http://openjurist.org/117/f3d/197/baugh-v-taylor).” The[Fifth Circuit’s comments](http://openjurist.org/788/f2d/1116/green-v-v-mckaskle) prior to the PLRA also highlighted the need for the Act:
Unlike most litigants, prisoners have everything to gain and nothing to lose by filing frivolous suits. Filing a suit in forma pauperis costs a prisoner little or nothing; time is usually of little importance to a prisoner and prisoners are not often deterred by the threat of possible sanctions for malicious or frivolous actions or perjury. Moreover, a prisoner, while he may be unsuccessful, can at least look forward to “a short sabbatical in the nearest federal courthouse.” Cruz v. Beto, 405 U.S. 319, 327 (1972) (Rehnquist, J., dissenting). Thus, the temptation to file frivolous or malicious suits is strong, and these suits clutter up the federal courts, wasting scarce and valuable judicial resources, subjecting prison officials unnecessarily to the burdens of litigation and preventing prisoner suits with merit from receiving adequate attention.

Link: Clogged courts. Federal appellate court caseloads have doubled since 1971

Prof. Peter S. Menell & Prof. Ryan Vacca 2020. (Menell - Professor of Law and Director, Berkeley Center for Law & Technology, University of California. Vacca - Professor of Law, Univ of New Hampshire School of Law) Revisiting and Confronting the Federal Judiciary Capacity “Crisis”: Charting a Path for Federal Judiciary Reform 1 Jully 2020 CALIFORNIA LAW REVIEW https://scholars.unh.edu/cgi/viewcontent.cgi?article=1438&context=law\_facpub

The number of filed cases per year grew 292% between 1971 and 2017, from 14,761 to 57,872. The number of cases terminated on the merits grew from 13,015 in 1971 to 36,851 in 2017, a 183% increase. As previously discussed, Congress authorized additional circuit court judgeships during this time. The number of appellate judges is based on data from Habel and Scott. These data show how many active and senior circuit court judgeships are actually filled and, as with district judges, treat senior circuit court judges as one quarter of an active-duty circuit court judge. Figure 14 illustrates how many cases were filed, on average, per appellate judge from 1971 through 2017. The average number of cases filed per judge increased from 148 (active judges only) or 142 (active and senior judges) in 1971 to 324 (active judges only) or 278 (active and senior judges) in 2017. Counting only active circuit court judges, this is a 119% increase in filings per judge. Counting active and senior judges results in a 96% increase in filings per judge. Thus, the caseload per judge has roughly doubled since 1971.

Impact: Justice Denied. Court clog leads to judges making decisions in inconsistent ways that deny justice

Dr. Cristoph Engel and Prof. Keren Weinshall 2020. (Engel - Chair of the Advisory Board, Amsterdam Center for Law and Economics; Director of Max Planck Institute for Research on Collective Goods.. Weinshall is Edward S. Silver Chair in Civil Procedure, Hebrew University, Jerusalem) 24 Nov 2020 “Manna from Heaven for Judges: Judges’ Reaction to a Quasi-Random Reduction in Caseload” JOURNAL OF EMPIRICAL LEGAL STUDIES <https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12265> (“heuristics” – in this context, it refers to deciding things based on past personal experience rather than looking independently at the facts of the present case)

Judges are not only rational actors striving to optimize their use of time. Although most of the aforementioned studies focus on judges’ strategic choices of the less time-consuming legal outcome, their decisions may also be affected by the physical and emotional fatigue, decline in cognitive performance, and elevated stress levels associated with high workloads.  Research has shown that under time pressure, judges are more vulnerable to heuristics and biases. For example, rulings were found to be more inconsistent when judges face a high caseload (Norris [2018](https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12265#jels12265-bib-0055)) and busy judges were found to expend less effort by according higher weight to non-legal cues, such as litigants’ race or gender, to determine case outcomes (Guthrie et al. [2000](https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12265#jels12265-bib-0030), [2007](https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12265#jels12265-bib-0031); Rachlinski et al. [2008](https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12265#jels12265-bib-0061)).

3. Worse outcome for prisoners

PLRA helps prisoners with valid claims by removing the foolish claims from the system, allowing valid claims to get the attention they deserve

Supreme Court Justice Elena Kagan 2020. Opinion of the Court in the case of Lomax v. Ortiz 8 June 2020 <https://www.supremecourt.gov/opinions/19pdf/18-8369_3dq3.pdf> (accessed 6 Dec 2021)(brackets in original)

The point of the PLRA, as its terms show, was to cabin not only abusive but also simply meritless prisoner suits. Before the PLRA, the statute governing IFP claims targeted frivolous and malicious actions, but no others. See Neitzke v. Williams, 490 U. S. 319, 328 (1989). In the PLRA, Congress chose to go further—precisely by aiming as well at actions that failed to state a claim. The theory was that a “flood of nonmeritorious claims,” even if not in any way abusive, was “effectively preclud[ing] consideration of ” suits more likely to succeed.