

## **LAW REVIEW**

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### **ARE PRISONERS ENTITLED TO TWO HOT MEALS?**

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Kelvin Cannon and Robert Luca are inmates in the security housing unit at Pelican Bay Prison. They filed a petition for habeas corpus contending that the food in the prison is inadequate, specifically that it was not served hot.

#### **TRIAL COURT**

The trial court looked at the Department of Corrections (DC) regulation that requires inmates in state prison to be “provided three meals each day, two of which shall be served hot” and concluded the prison needed to develop a better program to serve two hot meals, meaning a temperature range as acceptable to most consumers. Pelican Bay contended “served hot” simply means not served cold or “not cooked.”

#### **FOOD AT PELICAN BAY PRISON**

The security housing unit (“SHU”) prisoners at Pelican Bay received the same food as other prison inmates, however they are fed in their cells through a port in the cell door because SHU prisoners “pose a definite and serious threat to the safety of others or themselves,” i.e., “they are bad dudes.”

The food is served to them on individual trays known as “slammer trays,” that are made of heavy plastic and thermally insulated. The food is prepared at a single central kitchen and reheated to 165 Fahrenheit, to protect against bacterial

growth. Meals are reheated at satellite kitchens and distributed by correctional officers. Where the temperature of the food is measured afterwards the trays are distributed to inmates which usually takes 20 to 45 minutes, sometimes an hour. The order in which inmates are served is changed so inmates are not consistently the last to receive their food.

It is probably safe to assume that it is not as hot as you or I or the prisoners want.

### **HABEAS CORPUS**

A habeas corpus writ has always been the traditional remedy filed by a prisoner to get out of prison, but in recent years it has been expanded to challenge prison conditions. Older cases required in a habeas corpus petition challenging prison conditions to involve “fundamental basic rights,” but more recent cases allow inmates to challenge a deprivation of their “rights” while in confinement.

### **COURT OF APPEAL**

The Court of Appeal overturned the trial judge finding that the two prisoners failed to demonstrate that their inmate rights were violated, i.e., there is no constitutional or statutory right to two hot meals, only the prison regulation requires two hot meals.

But the Court of Appeal went further saying the courts should exercise “judicial restraints” and not micromanage prison administration. Essentially the Court ruled that the food was hot enough - for prison food.

Interestingly the Court found there was very little evidence that the food was served lukewarm or cold. But these SHU prisoners being locked up I'm not sure how they would take a poll among prisoners asking them to come forward and complain about cold food.

Yet another reason not to go to prison – the food sucks.

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