MORE THAN JUST AN "ATYPICAL" HARDSHIP: HOW COURTS ARE MISSING THE MARK ON SOLITARY CONFINEMENT*

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INTRODUCTION

> *It's hard to describe what solitary confinement can do to unnerve and defeat a man. You quickly tire of standing up or sitting down, sleeping or being awake. There are no books, no paper or pencils, no magazines or newspapers. The only colors you see are drab gray and dirty brown. Months or years may go by when you don't see the sunrise or the moon, green grass or flowers. You are locked in, alone and silent in your filthy little cell breathing stale, rotten air and trying to keep your sanity . . . . Physical torture may have ended, but there is still no torture worse than years of solitary confinement.*
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> — Captain Howard Rutledge, American prisoner of war during the Vietnam War[1]

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1. John Leach, *Psychological Factors in Exceptional, Extreme, and Torturous Environments*, 5 EXTREME PHYSIOLOGY & MED., June 2016, at 3.

Isolation is an inextricable part of the American prison system. On the one hand, incarceration is, at its core, taking people who have been convicted of a crime and isolating them from the rest of society in a secure environment. On the other hand, prison in the U.S. should hardly be a lonely place considering nearly two million people are currently incarcerated nationwide.[2] Incarcerated individuals experience a wide variety of social, living, and confinement conditions, including varying degrees of isolation from their fellow inmates.[3] Despite these variable conditions, solitary confinement remains a staple of prisons across the country: on a given day, over 120,000 inmates may be held in some form of isolated confinement.[4] The legal and humanitarian debates surrounding the merits of solitary confinement are nothing new,[5] and the Supreme Court has weighed in to establish some basic parameters regarding what constitute acceptable solitary confinement conditions.[6] Since the 2005 Supreme Court ruling in *Wilkinson v. Austin*, lower courts have grappled with how to apply the *Wilkinson* factors to individual cases of solitary confinement.[7] This Recent Development analyzes one such case from 2024 originating out of North Carolina: *Kimble v. Swink*. The Fourth Circuit ruled an inmate who was subjected to solitary confinement did not have his Fourteenth Amendment Due Process rights violated based on their application of the *Wilkinson* factors.[8] This Fourth Circuit ruling failed to fully appreciate the hardship created by solitary confinement conditions, and sets a dangerous precedent that may allow future courts to uphold psychologically and physically detrimental living conditions for inmates.

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2. Wendy Sawyer and Pete Wagner, *Mass Incarceration: The Whole Pie 2024*, PRISON POL'Y INITIATIVE (Mar. 14, 2024), https://www.prisonpolicy.org/reports/pie2024.html.

3. *See id.*

4. *Solitary Confinement in the United States*, SOLITARY WATCH, https://solitarywatch.org/facts/faq/ (last visited May 13, 2026).

5. *Id.*

6. *See Wilkinson v. Austin*, 545 U.S. 209, 209 (2005).

7. *See Kimble v. Swink*, No. 22-6437, 2024 U.S. App. LEXIS 3854 (4th Cir. Feb. 20, 2024).

8. *Id.*

I. FACTUAL AND PROCEDURAL BACKGROUND

William J. Kimble was incarcerated in a North Carolina prison when, in February 2018, he was moved to a different unit within the North Carolina Department of Public Safety called the Rehabilitative Diversion Unit (RDU).[9] One of the key features of this unit is the housing of inmates in solitary confinement.[10] Prior to his placement in solitary confinement, Kimble had spent roughly two years in the general population at the Pasquotank Correctional Institution.[11] Following a disciplinary infraction, he was moved to the RDU of Marion Correctional Facility.[12] The RDU was structured into three distinctive phases, with the first two phases split into two sub-phases.[13] Each phase was required to last a minimum number of days: Phase I was to last a total of 130 days, Phase II a total of 140 days, and Phase III a total of 84 days.[14] Each phase had no maximum time, and if prison officials deemed appropriate, an inmate could be sent "backwards" to redo a phase they had already completed.[15] Prisoners could also be put on "non-participating status" as a disciplinary procedure, meaning the prisoner halts his progression through the RDU stages while remaining in the restrictive housing.[16] In summation, inmates placed in RDU were required to spend at least 354 days in the unit but could theoretically remain there indefinitely; for example, reports have revealed some prisoners have remained in RDU for as long as four years.[17]

The conditions of RDU vary based on the phase.[18] Phase I, in which Kimble spent 138 days, limits inmates to just five hours of recreation per week.[19] Some days, inmates receive no recreation time at all.[20] Interaction with others is severely limited: inmates must eat

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9. *Id.* at *1.
10. *Id.*
11. *Id.* at *1.
12. *Id.* at *2.
13. *Id.* at *4.
14. *Id.*
15. *Id.* at *5, 6.
16. *Id.* at *5.
17. *Id.* at *4-5.
18. *See* Compl. at 29-30, Dewalt v. Hooks, 382 N.C. 340 (2022) (No. 19-CV-14089), 2019 WL 13099491, at 28.
19. *Id.* at 2.
20. See *Kimble*, 2024 U.S. App. LEXIS 3854, at *6.

alone in their cells, cannot receive or make any phone calls for 60 days.[21] After 60 days, they are only allowed to make a single fifteen-minute call every 30 days.[22] Throughout all three phases, inmates are confined to their cell for 22 hours a day.[23] Bright light shines in the cells from 5:45 AM to 11:30 PM, leaving only 6 hours and 15 minutes of relief each day for inmates.[24] Covering the lights in any way is prohibited.[25]

As a result of his time in the RDU, Kimble filed suit in the United States District Court for the Western District of North Carolina, alleging that "his placement in the RDU subjected him to solitary confinement conditions . . . without due process of law, in violation of the Fourteenth Amendment."[26] The suit Kimble filed sought redress for a violation of his rights, but the district court dismissed the complaint for failure to state a claim.[27] Kimble then appealed to the Court of Appeals for the Fourth Circuit.[28] In making a determination regarding the conditions Kimble endured in the RDU, the Fourth Circuit had to evaluate whether these conditions imposed an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life," a standard set forth by the Supreme Court decision *Wilkinson v. Austin*.[29]

In *Wilkinson*, the petitioner was an inmate who was housed in the Ohio State Penitentiary, a Supermax facility that keeps its inmates in solitary confinement.[30] Inmates remain in their cells for 23 hours a day, with a constant light that is only occasionally dimmed; any efforts to shield the light results in disciplinary action.[31] Human interaction is severely limited: meals are taken alone, and the rare opportunities for visitation happen through glass walls.[32] Additionally, placement in this facility is indefinite and is only limited by the length of the

21. *See* Compl., *supra* note 18, at 29.
22. *Kimble*, 2024 U.S. App. LEXIS 3854, at *6.
23. *Id.* at *7.
24. *Id.*
25. *Id.*
26. *Id.* at *1-2.
27. *Id.* at *2.
28. *Id.*
29. *Id.* at *10-11.
30. *Wilkinson v. Austin*, 545 U.S. 209, 218 (2005).
31. *Id.* at 214.
32. *Id.*

inmate's sentence.[33] Parole eligibility is also revoked during an inmate's stay at the facility.[34]

II. EXISTENCE OF A PROTECTED LIBERTY INTEREST

The key issue in *Wilkinson,* as in *Kimble*, was whether the petitioner's placement in restrictive housing conditions violated his Fourteenth Amendment Due Process rights.[35] In order for the question of Due Process violations to be legitimate, it must first be demonstrated that inmates had a "protected liberty interest" in avoiding assignment to the restrictive housing facilities at issue.[36] The standard for determining whether a protected liberty interest exists is based on the actual nature of the restrictive housing conditions "in relation to the ordinary incidents of prison life."[37] The inquiry is whether the restrictive housing conditions "present a dramatic departure from the basic conditions of the inmate's sentence," which is formalized into the following test: does assignment into the restrictive housing facility "impose[] atypical and significant hardship on the inmate in relation to ordinary incidents of prison life"?[38]

While the Supreme Court may have articulated a specific test for determining the existence of a "protected liberty interest," the application of the test remains murky.[39] The Court in *Wilkinson* notes that no baseline has been established to measure what constitutes an "atypical and significant hardship" in any given prison system, and the Supreme Court declines to provide any further guidance on how future courts might choose to do so.[40] Instead, the Court is satisfied that the conditions experienced by the petitioner in *Wilkinson* qualify as atypical and significant hardships "under any plausible baseline"[41] and spend no more than a single paragraph explaining this conclusion.[42]

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33. *Id.* at 214-15.
34. *Id.* at 215.
35. *Id.* at 213; *Kimble v. Swink*, No. 22-6437, 2024 U.S. App. LEXIS 3854, at *1-2 (4th Cir. Feb. 20, 2024).
36. *See Wilkinson*, 545 U.S. at 220.
37. *Id.* at 223.
38. *Id.*
39. *Id.*
40. *See id.*
41. *Id.*
42. *See id.* at 223-24.

Nevertheless, the *Kimble* court used the standards outlined in *Wilkinson* to draw the conclusion that Mr. Kimble had no liberty interest in avoiding placement in the RDU.[43] It is worth breaking down the factors that led to the different outcomes in the *Wilkinson* and *Kimble* case. Parsing through how the housing conditions in *Kimble* differed—or failed to differ—from the housing conditions in *Wilkinson*, where the Supreme Court ruled a "protected liberty interest" existed, this Article aims to showcase the inconsistent and largely trivial distinctions courts are making when applying the already fuzzy standard of "atypical and significant hardship."

III. CONDITIONS IN *KIMBLE*

In reviewing the conditions Kimble experienced in the RDU, the court concludes the conditions to be "less restrictive" than the conditions experienced by the petitioner in *Wilkinson*.[44] The Court specifically cites how the lights in Kimble's cell were only on from 5:45 AM to 11:30 PM—17 hours and 45 minutes—each day, versus in *Wilkinson*, where the lights were on 24 hours a day, in addition to noting how Kimble received five hours of outdoor recreation per week, while the petitioner in *Wilkinson* only received indoor recreation.[45] To be clear, these differences are not irrelevant; however, the analysis the Fourth Circuit offers of Kimble's housing conditions falls short of truly determining whether Kimble had a "protected liberty interest" in avoiding placement in the RDU.

The court here spends most of its analysis splitting hairs about the conditions of the RDU versus other solitary confinement conditions in different facilities, arguably undermining the very standard in *Wilkinson* which aims to compare the conditions of an inmate's restrictive housing *not* to that of *other inmate's restrictive housing,* but rather the "basic conditions of the inmate's sentence."[46] Perhaps even more troubling than this potential misapplication of *Wilkinson* is how the court's application essentially ignores the actual hardships experienced by an inmate in restrictive housing by comparing the inmate's present conditions with even more abhorrent conditions then deem the inmate's experience as "not as bad." The

43. *See Kimble v. Swink*, No. 22-6437, 2024 U.S. App. LEXIS 3854, at *19.
44. *Id.* at *17.
45. *Id.*
46. *Wilkinson*, 545 U.S. at 223.

same issue of comparison would arguably arise even if courts were to be stricter in *Wilkinson's* application by just looking at the conditions an inmate would experience if they remained in the general population. When conditions for even the general population are restrictive, very restrictive solitary conditions may still miss the mark of being "atypical" and "significant" compared to what an inmate would otherwise experience. This would in turn allow incredibly restrictive solitary confinement conditions for inmates across different prisons. These differences may overlap with demographics or wealth disparities.[47] For example, a prison is more restrictive as a result of a lack of funding to hire enough prison personnel, inmates could be held in more restrictive solitary conditions.

A. *Conditions within the Cell*

The Court in *Kimble* harked specifically on lighting in cells in the RDU compared to lighting in other solitary confinement environments brought to judicial attention.[48] To those who have never spent time in prison, lighting may seem rather trivial. However, lighting conditions can have a profound impact on inmates.[49] Lighting—specifically prolonged or constant exposure to artificial lighting—can impact inmates both physically and mentally.[50] In terms of indoor lighting conditions, people tend to prefer lighting that mimics "natural cycles," changing in quantity and quality based on the time of day, season, and weather.[51] This preference for natural daylight has been found to be virtually universal across decades of studies about indoor lighting design.[52] Exposure to only or primarily artificial lighting indoors and insufficient amounts of natural daylight can result in Vitamin D deficiency and depression.[53]

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47. *See Living Conditions in Prison*, VERA, https://www.vera.org/ending-mass-incarceration/dignity-behind-bars/living-conditions-in-prison (last visited May 14, 2026).

48. *See Kimble*, 2024 U.S. App. LEXIS 3854, at *17.

49. *See* Alberto Urrutia-Moldes, *Light Behind Bars: How Light Impacts Mental Health in Prisons*, 21 INT'L J. PRISON HEALTH 347 (2025).

50. *See id.*

51. RICHARD E. WENER, THE ENVIRONMENTAL PSYCHOLOGY OF PRISONS AND JAILS 209 (2006).

52. *Id.*

53. *Id.*

Lighting is also very influential in how the body establishes—or fails to establish—a healthy circadian rhythm.[54] Circadian rhythm is critical for human's ability to sleep a healthy amount, and sleep soundly.[55] The body's creation of its natural rhythms is affected not only by sunlight, but also by artificial light.[56] For instance, the sleep-wake cycles of an individual correspond with regular exposure to light levels; healthy sleep patterns are dependent not just on the amount and quality of light, but also on a proper balance of light and dark during the right times of day.[57] Inmates exposed to constant bright lights, like the petitioner in *Wilkinson*, will understandably have a harder time achieving quality sleep schedules. While Kimble had breaks from the bright, artificial lights in his cell for 6 hours and 15 minutes a day, this is still less than the recommended minimum of 7 hours a night for adults.[58] Sleeping less than 7 hours a night may also result in additional health issues.[59]

B. *Time Spent Outside of the Cell*

Solitary confinement is, as suggested by the name, defined by social isolation. Prolonged social isolation comes with a whole host of potential psychological harms, including, but not limited to: anxiety, depression, paranoia, post-traumatic stress disorder (PTSD), and psychosis.[60] People assess and understand their reality based on contact with other people; taking away social contact can cause individuals to distort reality and struggle to distinguish the external from the internal.[61] One's sense of self is often crafted around interactions with other people, and in prolonged isolation, individuals

54. *Id.*

55. *Circadian Rhythm,* CLEVELAND CLINIC, https://my.clevelandclinic.org/health/articles/circadian-rhythm (Mar. 15, 2024).

56. WENER, *supra* note 44, at 209.

57. *Id.* at 211.

58. *See About Sleep*, CDC (May 15, 2024), https://www.cdc.gov/sleep/about/index.html.

59. *How Much Sleep is Enough?*, NAT'L HEART, LUNG, & BLOOD INST. (Mar. 24, 2022), https://www.nhlbi.nih.gov/health/sleep/how-much-sleep.

60. Kayla James and Elena Vanko, *The Impacts of Solitary Confinement*, VERA (Apr. 2021), https://vera-institute.files.svdcdn.com/production/downloads/publications/the-impacts-of-solitary-confinement.pdf?dm=1617381199.

61. LEACH, *supra* note 1, at 3.

may struggle to stay in touch with their own personalities.[62] Social deprivation can also create a neurological phenomenon of "social pain," which is interpreted much like physical pain, and may "'fundamentally alter the structure of the human brain in profound and permanent ways.'"[63] Social pain can occur in people when they are denied their need for belonging and socially connecting to others.[64] These negative experiences can activate the same neural regions in the brain that physical pain triggers.[65]

Solitary confinement does not just limit an inmate's interactions with other inmates and prison staff, it also often limits an inmate's ability to interact with family on the outside.[66] This was the case for Kimble, who was barred from making any phone calls for the first 60 days in solitary confinement.[67] His visits were limited to one no-contact visit each month during "Phase I" of his time in the RDU, followed by two no-contact visits per month for the rest of his time in solitary.[68] In the general prison population Kimble would have been a part of, inmates receive one contact or non-contact visit weekly—double or quadruple the amount of outside visitation allowed for those in the RDU.[69] Research has demonstrated that continued contact with family is important not only to the well-being of inmates, but also to the well-being of their family members on the outside, particularly if those family members are children.[70] Maintaining contact with family can also play a crucial part in incarcerated individuals' ability to successfully reintegrate into their communities upon release.[71]

If the court was to have actually applied the *Wilkinson* standard as it was outlined by comparing the conditions Kimble faced in the RDU to the conditions of the general prison population, it would have

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62. *Id.*

63. James and Vanko, *supra* note 52.

64. Naomi I. Eisenberger, *The Neural Bases of Social Pain: Evidence for Shared Representations with Physical Pain*, 74 PSYCHOSOMATIC MED. 126, 126 (2012).

65. *Id.*

66. *See Solitary: The Family Experience*, Citizens for Prison Reform, https://static.prisonpolicy.org/scans/Open%20MI%20Door%20Campaign%20and%20Citizens%20for%20Prison%20Reform/solitary__the_family_experience_final-compressed.pdf (last visited May 14, 2026).

67. *Kimble v. Swink*, No. 22-6437, 2024 U.S. App. LEXIS 3854, at *6.

68. *Id*.

69. *Id.* at *6-7, *9.

70. James and Vanko, *supra* note 52.

71. *Id.*

found an atypical hardship was imposed on Kimble.[72] In addition to substantially more visitation rights, inmates in the general population were only confined to their cells overnight and during count times[73], they were "able to move around to different locations such as dayrooms, dining halls, religious services, the canteen, and outdoor and indoor recreation spaces."[74] These freedoms stand in stark contrast to the 22 hours of every day that Kimble was confined to his cell.[75] Inmates in the general population also had the opportunity for social contact in the form of mealtimes outside of their cells and recreational activities like playing team sports.[76]

In comparison to the solitary conditions in *Wilkinson* that the Supreme Court ruled imposed an "atypical and significant hardship," the differences between the conditions of the two solitary units seem trivial. Specifically, the inmate in *Wilkinson* was confined to his cell for 23 hours a day, while Kimble was confined to his cell for 22 hours a day.[77] While an extra hour out of confinement may feel incredibly significant to an individual being housed in a solitary unit, the court here seems to greatly overvalue it. Isolating someone in a small cell for 22 hours every day instead of 23 is hardly a great humanitarian feat, nor does it remove the hardship individuals in those solitary conditions.

C. *Length of Time in the Restrictive Housing Unit*

Another artificial distinction made by the courts in evaluating the restrictive housing conditions endured by Kimble was the length of his stay in the RDU.[78] While Kimble only spent 398 days in the RDU, the petitioner in *Wilkinson,* as well as petitioners in other similar cases, spent over 20 years in restrictive housing.[79] However, even an incredibly short stay in solitary confinement can have significant

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72. *See Kimble*, 2024 U.S. App. LEXIS 3854 at *11-12 (for the atypical hardship test).

73. *See Id.*

74. *Id.* at *8.

75. *Id.* at *7.

76. *Id.* at *9.

77. *Id.* at *7; *Wilkinson v. Austin*, 545 U.S. 209, 214 (2005).

78. *Kimble*, 2024 U.S. App. LEXIS 3854 at *17.

79. *Id.*

impacts on inmates.[80] The risks posed by even a short period of time have led the United Nations to classify solitary confinement as a form of torture if it is used for longer than 15 consecutive days.[81] As little as one week in solitary confinement can result in neurological changes, such as "slowed brain activity and poorer performance on intellectual and perceptual-motor tests."[82] Often, the results of even a short stint in solitary confinement can be deadly.[83] Overall, individuals who spend time in solitary confinement are 24 percent more likely to die during their first year out of prison than incarcerated individuals who spend no time in solitary confinement.[84] Additionally, individuals who stay in solitary confinement are 78 percent more likely to die by suicide and 54 percent more likely to die by homicide.[85] They are also 127 percent more likely to die from an opioid overdose within the first two weeks of release from incarceration.[86] These statistics indicate that, by at least some metrics, it is irrelevant that Kimble spent only a fraction of the time that the petitioner in *Wilkinson* did in solitary confinement: Kimble still faces heightened risk of neurological damage and premature death.

IV. OTHER WAYS IN WHICH SOLITARY CONFINEMENT FAILS

Outside the damaging impacts of solitary confinement on the individual imprisoned, solitary confinement is simply ineffective for its supposed uses.[87] Solitary confinement is often justified under the guise of promoting prison safety; by isolating individuals who are disruptive or violent, prisoners are prevented and deterred from

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80. *See* James Dean, *Short Stays in Solitary Can Increase Recidivism, Unemployment*, CORNELL CHRON. (June 16, 2020), https://news.cornell.edu/stories/2020/06/short-stays-solitary-can-increase-recidivism-unemployment

81. Tiana Herring, *The Research is Clear: Solitary Confinement Causes Long-lasting Harm*, PRISON POL'Y INITIATIVE (Dec. 8, 2020), https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/.

82. James & Vanko, *supra* note 52, at 2.

83. *See* James Dean, Solitary Confinement Heightens Post-Incarceration Death Risk, CORNELL CHRON. (Feb. 5, 2020), https://news.cornell.edu/stories/2020/02/solitary-confinement-heightens-post-incarceration-death-risk

84. *Id.*

85. *Id.*

86. *Id.*

87. *Solitary Confinement and Prison Safety*, SOLITARY WATCH, https://solitarywatch.org/wp-content/uploads/2023/02/SW-Fact-Sheet-4-Prison-Safety-v230228.pdf (last visited May 27, 2026).

behaving violently.[88] However, there is no substantial evidence indicating that solitary confinement actually makes prisons safer, and some studies suggest the use of solitary confinement may actually result in more violence in prisons.[89] Several states across the country have opted to reduce their use of solitary confinement and have found no increase in prison violence.[90] For example, the state of Colorado has reduced its use of solitary confinement by 85 percent.[91] The result? The lowest rates of assault on prison staff since 2006.[92]

There is also evidence suggesting that solitary confinement undermines the general goal of prisons to make society at large safer.[93] The use of solitary confinement does not reduce recidivism rates.[94] In fact, people who spend any time in solitary confinement may be more likely to re-offend, and to do so violently.[95] In particular, individuals released directly from solitary confinement into society have markedly greater recidivism rates.[96] One study in Texas found that 60.8 percent of prisoners released directly from solitary in 2006 were re-arrested within three years, compared to the 48.8 percent of all prisoners released in 2006 who were re-arrested during that same three-year time period.[97]

Solitary confinement also reinforces inequities among different demographics that are already present in the prison system. For instance, a 2019 survey of state prisons across the country found that while black men comprised 40.5 percent of the male prison population, they made up 43.4 percent of the men in solitary confinement.[98] This disparity was even larger for black women: while black women comprised only 21.5 percent of the female prison population, they made up 42.1 percent of the women in solitary confinement.[99] Generally, people of color are more likely to be sent to

88. Dean, *supra* note 83.

89. *Id.*

90. *Solitary Confinement: Inhumane, Ineffectual, and Wasteful*, S. POVERTY L. CTR. (Apr. 4, 2019), https://www.splcenter.org/20190404/solitary-confinement-inhumane-ineffective-and-wasteful.

91. *Id.*

92. *Id.*

93. SOLIDARY WATCH, *supra* note 87.

94. James & Vanko, *supra* note 52.

95. *Id.*

96. *Id.*

97. SOLITARY WATCH, *supra* note 4.

98. James & Vanko, *supra* note 52, at 6.

99. *Id.*

solitary confinement, and sent for longer periods of time than white inmates.[100] Studies have also shown that members of the LGBTQ+ community are more vulnerable to being placed in solitary confinement.[101] The Bureau of Justice Statistics found that in 2011 and 2012, 28 percent of lesbian, gay, and bisexual inmates were placed in solitary confinement, while only 18 percent of heterosexual individuals were placed in solitary confinement.[102] Disabled people also face additional obstacles when placed in solitary confinement.[103] Individuals who require mobility aids struggle greatly within already small solitary units.[104] Moreover, access to caretakers may be limited upon relocations to solitary confinement.[105] Individuals who are blind or deaf may experience sensory deprivation more intensely and harmfully than an able-bodied individual might experience while confined in isolation.[106]

CONCLUSION

Legal discussions surrounding solitary confinement, such as the discussions present in *Wilkinson* and *Kimble*, risk getting bogged down in procedural minutia or by splitting hairs about minor variations in prison conditions. Ultimately, regardless of if courts come to a favorable conclusion for inmate plaintiffs, something larger is being lost in how society views the use of solitary confinement. Regardless of how many hearings an inmate gets before placement in isolation or the exact number of minutes they are granted reprieve from the confinement in their cells and glaring fluorescent lights, the reality still stands that the United States' prison system is placing human beings in an environment considered by many to be outright torture.[107] To a certain extent, the legal issues decided in cases like *Kimble* are masking the real issue of the inhumanity of solitary confinement to begin with.

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100. *Id.*

101. *See* S. POVERTY L. CTR., *supra* note 76.

102. *Id.*

103. *See id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.* ("The United Nations considers solitary confinement exceeding 15 consecutive days . . . to be torture.")

It is worth reflecting on why the American criminal justice system is so comfortable with—and perhaps even partial to—the use of solitary confinement to manage prison populations. Even if one accepts the presumption that all individuals in prison are guilty of some crime—a certainly incorrect presumption—why should the debasing practice of solitary confinement be accepted? If solitary confinement is largely ineffective and runs the risk of being so profoundly psychologically and physically damaging to individuals, what purpose does it truly serve? Examining solitary confinement not as a series of legal hurdles that must be met to make it acceptable, but rather as a matter of human rights and dignity, may hold the key to moving towards more humane and effective prison practices.