

[Excessive force instruction, Judge Elaine E. Bucklo]

Plaintiff claims that the defendants, by using excessive and unnecessary force against him, violated plaintiff's Eighth Amendment constitutional rights.

Inmates are protected from cruel and unusual punishment under the Eighth Amendment of the United States Constitution. In order to prove a violation under the Eighth Amendment, the plaintiff must show that defendants unnecessarily and wantonly inflicted pain on him. Whether a use of force against a prison inmate is unnecessary or wanton depends on whether force was applied in a good faith effort to maintain or restore discipline, or whether it was done maliciously or sadistically to cause harm. In order to prove a violation under the Eighth Amendment in this case, therefore, the plaintiff must prove each of the following two elements by a preponderance of the evidence.

First: That a defendant used force against the plaintiff maliciously or sadistically, for the very purpose of causing plaintiff harm; and

Second: That plaintiff suffered some harm as a result of the defendant's use of force.

If the plaintiff fails to prove either of these elements, you must find for the defendant. The first element is to be evaluated by a subjective analysis of the defendant and his state of mind at the time. To act "maliciously" means to intentionally do a wrongful act without just cause or excuse, with an intent to inflict injury or under circumstances that show an evil intent.

Some of the things you may want to consider in determining whether the prison officials unnecessarily and wantonly inflicted pain on the plaintiff include (1) the need for the application of force, (2) the relationship between the need and the amount of force used, (3) the threat reasonably perceived by the responsible officials, and (4) any efforts made to temper the severity of a forceful response.