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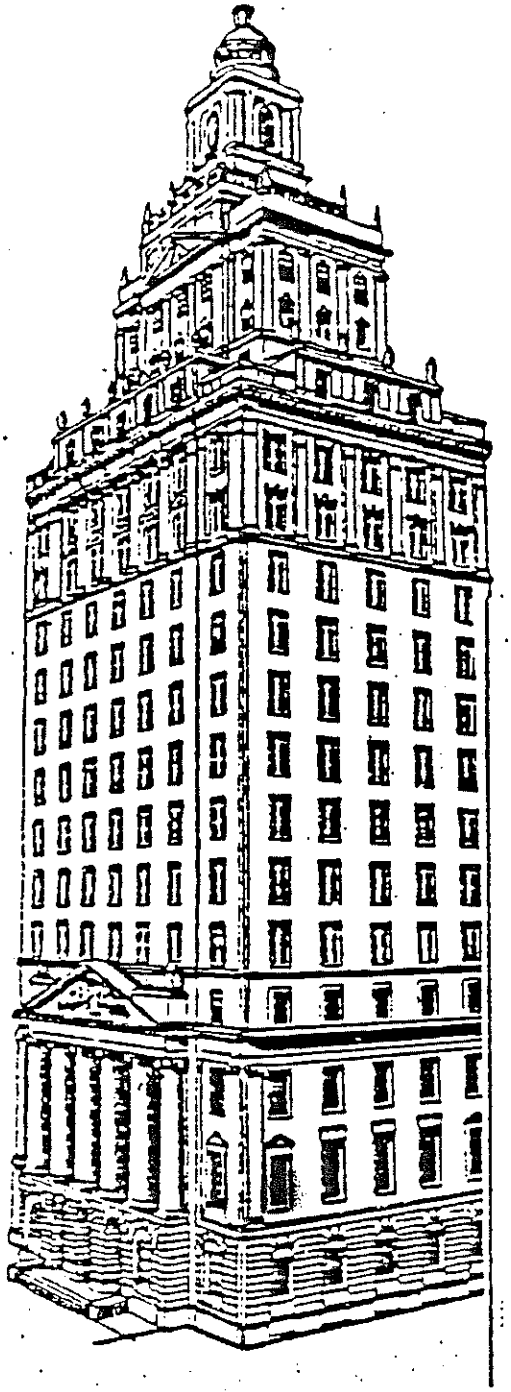

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Daniels v. Williams

Davidson v. Cannon

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FOR LAW AND JUSTICE

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No. 84-5872

ROY E. DANIELS, PETITIONER *v.* ANDREW WILLIAMS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Syllabus

No. 84-5872. Argued November 6, 1985—Decided January 21, 1986

Petitioner brought an action in Federal District Court under 42 U. S. C. § 1983, seeking to recover damages for injuries allegedly sustained when, while an inmate in a Richmond, Virginia, jail he slipped on a pillow negligently left on a stairway by respondent sheriff's deputy. Petitioner contends that such negligence deprived him of his "liberty" interest in freedom from bodily injury "without due process of law" within the meaning of the Due Process Clause of the Fourteenth Amendment. The District Court granted respondent's motion for summary judgment, and the Court of Appeals affirmed.

Held: The Due Process Clause is not implicated by a state official's *negligent* act causing unintended loss of or injury to life, liberty, or property.

(a) The Due Process Clause was intended to secure an individual from an abuse of power by government officials. Far from an abuse of power, lack of due care, such as respondent's alleged negligence here, suggests no more than a failure to measure up to the conduct of a reasonable person. To hold that injury caused by such conduct is a deprivation within the meaning of the Due Process Clause would trivialize the centuries-old principle of due process of law. *Parratt* v. *Taylor*, 451 U. S. 527, overruled to the extent that it states otherwise.

(b) The Constitution does not purport to supplant traditional tort law in laying down rules of conduct to regulate liability for injuries that attend living together in society. While the Due Process Clause speaks to some facets of the relationship between jailers and inmates, its protections are not triggered by lack of due care by the jailers. Jailers may owe a special duty of care under state tort law to those in their custody, but the Due Process Clause does not embrace such a tort law concept.

748 F. 2d 229, affirmed.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and BRENNAN, WHITE, POWELL, and O'CONNOR, JJ., joined. MARSHALL, J., concurred in the result. BLACKMUN and STEVENS, JJ., filed opinions concurring in the judgment.

JUSTICE REHNQUIST delivered the opinion of the Court.

In *Parratt* v. *Taylor*, 451 U. S. 527 (1981), a state prisoner sued under 42 U. S. C. § 1983, claiming that prison officials had negligently deprived him of his property without due process of law. After deciding that § 1983 contains no independent state-of-mind requirement, we concluded that although petitioner had been "deprived" of property within the meaning of the Due Process Clause of the Fourteenth Amendment, the State's postdeprivation tort remedy provided the process that was due. Petitioner's claim in this case, which also rests on an alleged Fourteenth Amendment "deprivation" caused by the negligent conduct of a prison official, leads us to reconsider our statement in *Parratt* that "the alleged loss, even though negligently caused, amounted to a deprivation." *Id.*, at 536–537. We conclude that the Due Process Clause is simply not implicated by a *negligent* act of an official causing unintended loss of or injury to life, liberty or property.

In this § 1983 action, petitioner seeks to recover damages for back and ankle injuries allegedly sustained when he fell on a prison stairway. He claims that, while an inmate at the city jail in Richmond, Virginia, he slipped on a pillow negligently left on the stairs by respondent, a correctional deputy stationed at the jail. Respondent's negligence, the argument runs, "deprived" petitioner of his "liberty" interest in freedom from bodily injury, see *Ingraham* v. *Wright*, 430 U. S. 651, 673 (1977); because respondent maintains that he is entitled to the defense of sovereign immunity in a state tort suit, petitioner is without an "adequate" state remedy, cf. *Hudson* v. *Palmer*, 468 U. S. ——, —— (1984), slip op. at 16–18. Accordingly, the deprivation of liberty was without "due process of law."

The District Court granted respondent's motion for summary judgment. A panel of the Court of Appeals for the Fourth Circuit affirmed, concluding that even if respondent could make out an immunity defense in state court, petitioner would not be deprived of a meaningful opportunity to present

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[1]This assumes, of course, that the defendant wants a speedy trial and is not intentionally hindering the Government's attempt to provide one. That assumption may be open to question in this case. The majority points out that respondents' strategically-timed demands for a speedy trial ring somewhat hollow in light of respondents' overall behavior during the litigation. Were that the basis for the Court's opinion, I might be able to accept a remand to the Court of Appeals for further consideration of that factor. I am unable, however, to agree with the majority's analysis of the second *Barker* v. *Wingo* factor.

[2]The majority's focus on the prosecution's, rather than the court's, contribution to the delay undoubtedly comes in part from a reluctance to permit district courts to tell a court of appeals, or possibly this Court, that it has taken too long to decide a case. However, appellate courts have no privilege to decline constitutional obligations. The appellate courts would be better advised to adopt procedures for the speedy resolution of interlocutory criminal appeals than to force district courts into the uncomfortable position of dismissing indictments because of appellate delay.

by the States." *Paul* v. *Davis*, 424 U. S. 693, 701 (1976), quoted in *Parratt* v. *Taylor*, 451 U. S., at 544.

The only tie between the facts of this case and anything governmental in nature is the fact that respondent was a sheriff's deputy at the Richmond city jail and petitioner was an inmate confined in that jail. But while the Due Process Clause of the Fourteenth Amendment obviously speaks to some facets of this relationship, see, *e. g.*, *Wolff* v. *McDonnell*, 418 U. S. 539 (1974), we do not believe its protections are triggered by lack of due care by prison officials. "Medical malpractice does not become a constitutional violation merely because the victim is a prisoner," *Estelle* v. *Gamble*, 429 U. S. 97, 106 (1976), and "false imprisonment does not become a violation of the Fourteenth Amendment merely because the defendant is a state official." *Baker* v. *McCollan*, 443 U. S. 137, 146 (1979). Where a government official's act causing injury to life, liberty or property is merely negligent, "no procedure for compensation is *constitutionally* required." *Parratt*, 451 U. S. at 548 (POWELL, J., concurring in result) (emphasis added.)[1]

That injuries inflicted by governmental negligence are not addressed by the United States Constitution is not to say that they may not raise significant legal concerns and lead to the creation of protectible legal interests. The enactment of tort claim statutes, for example, reflects the view that injuries caused by such negligence should generally be redressed.[2] It is no reflection on either the breadth of the United States Constitution or the importance of traditional tort law to say that they do not address the same concerns.

In support of his claim that negligent conduct can give rise to a due process "deprivation," petitioner makes several arguments, none of which we find persuasive. He states, for example, that "it is almost certain that *some* negligence claims are within § 1983," and cites as an example the failure of a State to comply with the procedural requirements of *Wolff* v. *McDonnell*, *supra*, before depriving an inmate of good-time credit. We think the relevant action of the prison officials in that situation is their deliberate decision to deprive the inmate of good-time credit, not their hypothetically negligent failure to accord him the procedural protections of the Due Process Clause. But we need not rule out the possibility that there are other constitutional provisions that would be violated by mere lack of care in order to hold, as we do, that such conduct does not implicate the Due Process Clause of the Fourteenth Amendment.

Petitioner also suggests that artful litigants, undeterred by a requirement that they plead more than mere negligence, will often be able to allege sufficient facts to support a claim of intentional deprivation. In the instant case, for example, petitioner notes that he could have alleged that the pillow was left on the stairs with the intention of harming him. This invitation to "artful" pleading, petitioner contends, would engender sticky (and needless) disputes over what is fairly pleaded. What's more, requiring complainants to allege something more than negligence would raise serious questions about what "more" than negligence—intent, recklessness or "gross negligence"—is required,[3] and indeed about what these elusive terms mean. See Reply Brief for Petitioner 9 ("what terms like willful, wanton, reckless or gross negligence mean" has "left the finest scholars puzzled"). But even if accurate, petitioner's observations do not carry the day. In the first place, many branches of the law abound in nice distinctions that may be troublesome but have been thought nonetheless necessary:

> "I do not think we need trouble ourselves with the thought that my view depends upon differences of degree. The whole law does so as soon as it is civilized." *LeRoy Fibre Co.* v. *Chicago, M. & St. P. R. Co.*, 232 U. S. 340, 354 (1914) (Holmes, J., partially concurring).

More important, the difference between one end of the spectrum—negligence—and the other—intent—is abundantly clear. See O. Holmes, The Common Law 3 (1923). In any event, we decline to trivialize the Due Process Clause in an effort to simplify constitutional litigation.

Finally, citing *South* v. *Maryland*, 18 How. 396 (1856), petitioner argues that respondent's conduct, even if merely negligent, breached a sheriff's "special duty of care" for those in his custody. Reply Brief for Petitioner 14. The Due Process Clause, petitioner notes, "was intended to give Americans at least the protection against governmental power that they had enjoyed as Englishmen against the power of the crown." *Ingraham* v. *Wright*, 430 U. S., at 672–673. And *South* v. *Maryland* suggests that one such protection was the right to recover against a sheriff for breach of his ministerial duty to provide for the safety of prisoners in his custody. 18 How., at 402–403. Due Process demands that the State protect those whom it incarcerates by exercising reasonable care to assure their safety and by compensating them for negligently inflicted injury.

We disagree. We read *South* v. *Maryland*, *supra*, an action brought under federal diversity jurisdiction on a Maryland sheriff's bond, as stating no more than what this Court thought to be the principles of common law and Maryland law applicable to that case; it is not cast at all in terms of constitutional law, and indeed could not have been, since at the time it was rendered there was no due process clause applicable to the States. Petitioner's citation to *Ingraham* v. *Wright* does not support the notion that all common-law duties owed by government actors were somehow constitutionalized by the Fourteenth Amendment. Jailers may owe a special duty of care to those in their custody under state tort law, see Restatement (Second) of Torts § 314A(4) (1965), but for the reasons previously stated we reject the contention that the Due Process Clause of the Fourteenth Amendment embraces such a tort law concept. Petitioner alleges that he was injured by the negligence of respondent, a custodial official at the city jail. Whatever other provisions of state law or general jurisprudence he may rightly invoke, the Fourteenth Amendment to the United States Constitution does not afford him a remedy.

Affirmed.

JUSTICE MARSHALL concurs in the result.

JUSTICE BLACKMUN, concurring in the judgment.

I concur in the result. See my opinion in dissent in *Davidson* v. *Cannon*, *post*, p. ——.

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[1] Accordingly, we need not decide whether, as petitioner contends, the possibility of a sovereign immunity defense in a Virginia tort suit would render that remedy "inadequate" under *Parratt* and *Hudson* v. *Palmer*, 468 U. S. —— (1984).

[2] See, *e. g.*, the Virginia Tort Claims Act, Va. Code § 8.01-195.1 *et seq.* (1984), which applies only to actions accruing on or after July 1, 1982, and hence is inapplicable to this case.

[3] Despite his claim about what he might have pleaded, petitioner concedes that respondent was at most negligent. Accordingly, this case affords us no occasion to consider whether something less than intentional conduct, such as recklessness or "gross negligence," is enough to trigger the protections of the Due Process Clause.

lidity of the State's procedures, no constitutional violation has been alleged.[15]

Petitioners' claims are not of the first kind. Neither Daniels nor Davidson argues in this Court that the prison authorities' actions violated specific consitutional guarantees incorporated by the Fourteenth Amendment. Neither now claims, for instance, that his rights under the Eighth Amendment were violated. Similarly, I do not believe petitioners have raised a colorable violation of "substantive due process."[16] Rather, their claims are of the third kind: Daniels and Davidson attack the validity of the procedures that Virginia and New Jersey, respectively, provide for prisoners who seek redress for physical injury caused by the negligence of corrections officers.

I would not reject these claims, as the Court does, by attempting to fashion a new definition of the term "deprivation" and excluding negligence from its scope. No serious question has been raised about the presence of "state action" in the allegations of negligence,[17] and the interest in freedom from bodily harm surely qualifies as an interest in "liberty." Thus, the only question is whether negligence by state actors can result in a deprivation. "Deprivation," it seems to me, identifies, not the actor's state of mind, but the victim's infringement or loss. The harm to a prisoner is the same whether a pillow is left on a stair negligently, recklessly, or intentionally; so too, the harm resulting to a prisoner from an attack is the same whether his request for protection is ignored negligently, recklessly, or deliberately. In each instance, the prisoner is losing—being "deprived" of—an aspect of liberty as the result, in part, of a form of state action.

Thus, I would characterize each loss as a "deprivation" of liberty. Because the cases raise only procedural due process claims, however, it is also necessary to examine the nature of petitioners' challenges to the state procedures. To prevail, petitioners must demonstrate that the state procedures for redressing injuries of this kind are constitutionally inadequate. Petitioners must show that they contain a defect so serious that we can characterize the procedures as fundamentally unfair, a defect so basic that we are forced to conclude that the deprivation occurred without due process.

Daniels' claim is essentially the same as the claim we rejected in *Parratt*. The Court of Appeals for the Fourth Circuit determined that Daniels had a remedy for the claimed negligence under Virginia law. Although Daniels vigorously argues that sovereign immunity would have defeated his claim, the Fourth Circuit found to the contrary, and it is our settled practice to defer to the Courts of Appeals on questions of state law.[18] It is true that *Parratt* involved an injury to "property" and that Daniels' case involves an injury to "liberty", but, in both cases, the plaintiff claimed nothing more than a "procedural due process" violation. In both cases, a predeprivation hearing was definitionally impossible.[19] And, in both cases, the plaintiff had state remedies that permitted recovery if state negligence was established. Thus, a straightforward application of *Parratt* defeats Daniels' claim.

Davidson's claim raises a question not specifically addressed in *Parratt*. According to the Third Circuit, no state remedy was available because a New Jersey statute prohibits prisoner recovery from state employees for injuries inflicted by other prisoners. Thus, *Davidson* puts the question whether a state policy of noncompensability for certain types of harm, in which state action may play a role, renders a state procedure constitutionally defective. In my judgment, a state policy that defeats recovery does not, in itself, carry that consequence. Those aspects of a State's tort regime that defeat recovery are not constitutionally invalid, so long as there is no fundamental unfairness in their operation. Thus, defenses such as contributory negligence or statutes of limitations may defeat recovery in particular cases without raising any question about the constitutionality of a State's procedures for disposing of tort litigation. Similarly, in my judgment, the mere fact that a State elects to provide some of its agents with a sovereign immunity defense in certain cases does not justify the conclusion that its remedial system is constitutionally inadequate. There is no reason to believe that the Due Process Clause of the Fourteenth Amendment and the legislation enacted pursuant to §5 of that Amendment should be construed to suggest that the doctrine of sovereign immunity renders a state procedure fundamentally unfair.[20] Davidson's challenge has been only to the fact of sovereign immunity; he has not challenged the difference in treatment of a prisoner assaulted by a prisoner and a nonprisoner assaulted by a prisoner, and I express no comment on the fairness of that differentiation.

Thus, although I believe that the harms alleged by Daniels and proved by Davidson qualify as deprivations of liberty, I am not persuaded that either has raised a violation of the Due Process Clause of the Fourteenth Amendment. I therefore concur in the judgments.

STEPHEN ALLAN SALTZBURG, Charlottesville, Va., for petitioner; JAMES WALTER HOPPER, Richmond, Va. (GARDNER, MOSS & HOPPER, P.C., DENNIS ALAN BARBOUR, and GREGORY LEE LYONS, with him on the brief) for respondent.

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[15] See *Id.*, at 543–544.

[16] Davidson explicitly disavows a substantive due process claim. See Brief for Petitioner in No. 84–6470, p. 7 ("petitioner frames his claim here purely in terms of procedural due process"). At oral argument, counsel for Daniels did suggest that he was pursuing a substantive due process claim. Tr. of Oral Arg. in No. 84–5872, p. 22. However, the Court of Appeals viewed Daniels' claim as a procedural due process argument, see 748 F. 2d 229, 230, n. 1 (CA4 1984) ("There is no claim of any substantive due process violation"), and Daniels did not dispute this characterization in his petition for certiorari or in his brief on the merits.

In any event, to the extent that petitioners' arguments about the the special obligations of prison officials may be read as a substantive due process claim, I agree with the Court, *ante*, at 3–9, that the sheriff's "special duty of care" recognized in *South* v. *Maryland*, 18 How. 396 (1856) does not have its source in the Federal Constitution. In these circumstances, it seems to me, the substantive constitutional duties of prison officials to prisoners are defined by the Eighth Amendment, not by substantive due process. Cf. *United States ex rel. Miller* v. *Twomey*, 479 F. 2d 701, 719–721 (CA7 1973) (analyzing prison officials' responsibilities to prevent inmate assaults under the Eighth Amendment), cert. denied *sub nom. Gutierrez* v. *Department of Public Safety of Illinois*, 414 U. S. 1146 (1974).

[17] Respondents in *Davidson* do raise a state-action objection in one sentence, Brief for Respondents in No. 84–6470, p. 13, n., but that bare reference is inadequate to mount a challenge to the undisturbed District Court finding of state action.

[18] See *Haring* v. *Prosise*, 462 U. S. 306, 314, n. 8 (1983); *Leroy* v. *Great Western United Corp.*, 443 U. S. 173, 181, n. 11 (1979); *Bishop* v. *Wood*, 426 U. S. 341, 345–347 (1976); *Propper* v. *Clark*, 337 U. S. 472, 486–487 (1949).

[19] It borders on the absurd to suggest that a State must provide a hearing to determine whether or not a corrections officer should engage in negligent conduct.

[20] In *Martinez* v. *California*, 444 U. S. 277 (1980), we held that California's immunity statute did not violate the Due Process Clause simply because it operated to defeat a tort claim arising under state law. The fact that an immunity statute does not give rise to a procedural due process claim does not, of course, mean that a State's doctrine of sovereign immunity can protect conduct that violates a federal constitutional guarantee; obviously it cannot, see *Martinez*, *supra*, at 284, n. 8, quoting *Hampton* v. *Chicago*, 484 F. 2d 602, 607 (CA7 1973), cert. denied, 415 U. S. 917 (1974).

only coincidentally connected to an inmate-guard relationship: the same incident could have occurred on any staircase. Daniels in jail was as able as he would have been anywhere else to protect himself against a pillow on the stairs. The State did not prohibit him from looking where he was going or from taking care to avoid the pillow.[5]

In contrast, where the State renders a person vulnerable and strips him of his ability to defend himself, an injury that results from a state official's negligence in performing his duty is peculiarly related to the governmental function. Negligence in such a case implicates the "'[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.'" *Monroe* v. *Pape*, 365 U. S. 167, 184 (1961), quoting *United States* v. *Classic*, 313 U. S. 299, 326 (1941). The deliberate decision not to protect Davidson from a known threat was directly related to the often-violent life of prisoners. And protecting inmates from attack is central to one of the State's primary missions in running a prison—the maintenance of internal security. See *Hudson* v. *Palmer*, —— U. S. ——, —— (1984) (slip op. 6).

The Fourteenth Amendment is not "trivialized," see *Daniels*, *ante*, at 5, by recognizing that in some situations negligence can lead to a deprivation of liberty. On the contrary, excusing the State's failure to provide reasonable protection to inmates against prison violence demeans both the Fourteenth Amendment and individual dignity.[6]

III

Even were I to accept the Court's rigid view of what constitutes a deprivation, I would not vote to affirm the judgment of the Court of Appeals. Although the District Court ruled that the prison officials' conduct here was not reckless, there is substantial reason to doubt that conclusion. Since the Court of Appeals did not review the recklessness holding, I would remand the case for that review.

The Court has previously indicated that prison officials act recklessly when they disregard the potential for violence between a known violent inmate and a known likely victim. In *Smith* v. *Wade*, 461 U. S. 30 (1983), the Court recognized that a prison guard had acted recklessly in placing a known violent inmate in a cell shared by the previously victimized plaintiff and another inmate, without attempting to locate an empty cell nearby. The plaintiff, who had recently been removed from protective custody, was assaulted by his cellmates. It is far from clear that the officials in the present case were any less reckless.

Even if the respondents' conduct ordinarily would be considered only negligent, the forewarning here changes the constitutional complexion of the case. When officials have actual notice of a prisoner's need for physical protection, "'administrative negligence can rise to the level of deliberate indifference to or reckless disregard for that prisoner's safety.'" *Layne* v. *Vinzant*, 657 F. 2d 468, 471 (CA1 1981), quoting *West* v. *Rowe*, 448 F. Supp. 58, 60 (ND Ill. 1978). See also *Matzker* v. *Herr*, 748 F. 2d 1142, 1149 (CA7 1984), cert. denied, —— U. S. —— (1985); *Miller* v. *Solem*, 728 F. 2d 1020, 1024–1025 (CA8), cert. denied, —— U. S. —— (1984). Cf. *Baker* v. *McCollan*, 443 U. S. 137, 148 (1979) (concurring opinion) (sheriff who failed to adopt procedures for identifying arrestees was negligent rather than reckless when he had not previously been notified of the legitimate need for or duty to adopt such procedures).

The respondents "had the responsibility to care for plaintiff's safety, actual notice of the threat by an inmate with a known history of violence, and an opportunity to prevent harm to plaintiff." App. 39 (District Court's conclusions of law). Both respondents knew that McMillian had threatened Davidson after the fight and that Davidson had reported the threat immediately. Although Cannon knew that McMillian was a troublemaker, *id.*, at 41, he nonetheless chose to think that the situation was not serious. *Id.*, at 42. Likewise, James decided to attend to other matters during the entire eight hours he worked after receiving the note. *Id.*, at 86–87. Cannon and James intentionally delayed protecting Davidson's personal security in the face of a real and known possibility of violence. See *Porm* v. *White*, 762 F. 2d 635, 636–638 (CA8 1985). Cf. *Estelle* v. *Gamble*, 429 U. S. 97, 104–105 (1976) (intentional delay in providing necessary medical care to seriously ill inmate can constitute deliberate indifference and thus violate the Eighth Amendment). Cannon did not check on what James had found; James turned his back on the violence brewing for the weekend. Yet the risk that harm would occur was substantial and obvious. Respondents' behavior very well may have been sufficiently irresponsible to constitute reckless disregard of Davidson's safety.

Even if negligence is deemed categorically insufficient to cause a deprivation under the Fourteenth Amendment, recklessness must be sufficient. Recklessness or deliberate indifference is all that a prisoner need prove to show that denial of essential medical care violated the Eighth Amendment's ban on cruel and unusual punishments. See *Estelle* v. *Gamble*, 429 U. S., at 104. The Due Process Clause provides broader protection than does the Eighth Amendment, see, *e. g.*, *Bell* v. *Wolfish*, 441 U. S. 520 (1979); *Ingraham* v. *Wright*, *supra*; *Wolff* v. *McDonnell*, 418 U. S., at 557–558; *Revere* v. *Massachusetts General Hospital*, 463 U. S. 239, 244 (1983), so a violation of the Due Process Clause certainly should not require a more culpable mental state.

IV

The deprivation of Davidson's liberty interest violated the Fourteenth Amendment if it occurred "without due process of law." That condition is clearly satisfied. In both *Parratt* and *Hudson*, the Court held that where a deprivation of property was caused by a random and unauthorized act of a state official, it was impracticable for the State to provide process in advance and the State could satisfy procedural due process by a meaningful postdeprivation remedy, such as a tort suit. *Parratt* v. *Taylor*, 451 U. S., at 541; *Hudson* v. *Palmer*, —— U. S., at —— (slip op. 3). Even assuming the same is true for deprivations of liberty, New Jersey has failed to provide a meaningful postdeprivation remedy. By statute, the State has ruled: "Neither a public entity nor a public employee is liable for . . . any injury caused by . . . a prisoner to any other prisoner." N. J. Stat. Ann. § 59:5–2(b)(4) (West) (1982). The State acknowledges that it would have asserted the immunity statute as a defense to a state-court action and that Davidson's complaint would have been

[5] While negligence of prison officials can constitute a due process violation, general conditions of confinement do not ordinarily give rise to the increased standard of care discussed above. Prison conditions are typically part of the State's legitimate restraint of liberty as a function of punishing convicted persons. See *Rhodes* v. *Chapman*, 452 U. S. 337 (1981). "Traditionally, this has meant confinement in a facility which, no matter how modern or how antiquated, results in restricting the movement of a detainee in a manner in which he would not be restricted if he simply were free to walk the streets pending trial." *Bell* v. *Wolfish*, 441 U. S. 520, 537 (1979). See also *Block* v. *Rutherford*, —— U. S. —— (1984).

[6] The Court's notion of trivialization is especially difficult to understand given its recognition that negligent behavior may violate other constitutional provisions. See *United States* v. *Leon*, —— U. S. ——, —— (1984) (slip op. 20–23, and n. 23) (Fourth Amendment).