



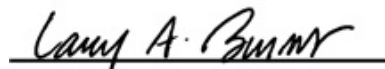
1 detainee were motivated by a desire to harass and punish, and he thinks the Court erred by  
2 considering only Fourth Amendment theories of recovery, rather than an Eighth Amendment  
3 theory.

4 This objection is baseless. Plaintiff cites *Hudson v. Palmer*, 468 U.S. 517, 530 (1984)  
5 as holding that, even though the plaintiff there did not enjoy a reasonable expectation of  
6 privacy in his cell, the Eighth Amendment provides a remedy for cruel and unusual  
7 punishment by means of harassing searches. But the plaintiff in *Hudson* was a prisoner, not  
8 a pretrial detainee. *Hudson* does not hold that the Eighth Amendment supports claims by  
9 pretrial detainees for improper searches. Such claims based on allegedly improper searches  
10 (including searches conducted merely to harass) are properly brought as Fourth or  
11 Fourteenth Amendment claims, and the Court analyzed them as such.

12 The Court did not err in declining to apply the Eighth Amendment to claims allegedly  
13 arising while Plaintiff was a pretrial detainee. See *Bell v. Wolfish*, 441 U.S. 520, 537 n.16  
14 (1979) (holding that the court properly declined to rely on the Eighth Amendment in  
15 considering the claims of pretrial detainees). The motion for reconsideration is therefore  
16 **DENIED.**

17 **IT IS SO ORDERED.**

18 DATED: October 27, 2011

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20 **HONORABLE LARRY ALAN BURNS**  
21 United States District Judge

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