

U.S. Supreme Court Rejects PaLP Challenge to PA DOC Regulation Limiting Reading Materials for Segregated Inmates

The United States Supreme Court voted 6 to 2 to deny Ronald Banks, a long term segregation inmate, a copy of the "Christian Science Monitor". Jere Krakoff, the P.I.L.P. attorney for the Western District of Pennsylvania, brought a First Amendment challenge, on behalf of Banks, to a Pennsylvania Department of Corrections rule. The regulation prohibited inmates in segregated confinement from receiving newspapers, magazines and photographs from home. It is one of the most restrictive in the country.

Krakoff argued that it violated the First Amendment right to access mainstream media publications. The PA DOC countered that it was a necessary tool to provide an incentive for better behavior. It also argued that the publication represented a security threat. Both of these arguments failed before the U.S. Court of Appeals for the Third Circuit, which ruled 2 to 1 in Banks' favor. Then, Judge Alito was the dissenting vote. Shortly after Alito was nominated to the U.S. Supreme Court, *certiorari* was granted. Alito did not participate in the decision. The majority opinion was written by Justice Breyer and was joined by Chief Justice Roberts. Justices Kennedy and Souter ruled that the behavior modification aspect satisfied the Turner v. Safly requirement that the regulation supported a legitimate penological obligation. Justices Thomas and Scalia wrote their usual "inmates have no rights" separate opinion. Thomas even justified the regulation by referring to the Pennsylvania system of corrections which allowed only a bible while housed in a solitary cell. He failed to mention that this system of corrections was discredited and abandoned in the mid 19th century due to concerns that it promoted mental instability. Justice Stevens wrote a strong dissenting opinion relying on Warren Court logic in interpreting the First and Fourteenth Amendments, likening the regulation to "state sponsored mind control". During oral argument he wondered aloud why the prison officials were not trying to promote reading and expansion of knowledge of the world around us. Justice Ginsburg, writing a separate dissent, wondered why inmates could read Harlequin romance novels but not about the war in Iraq or the devastation caused by Hurricane Katrina.

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