

10-3344

No. _____

ORIG

U.S. SUPREME COURT

Supreme Court, U.S. FILED AUG 09 2019 OFFICE OF THE CLERK
--

IN THE
SUPREME COURT OF THE UNITED STATES

John L. Williams — PETITIONER
(Your Name)

vs.

Jackson County MD. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals 8th Cir
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

John L. Williams
(Your Name)

P.O Box 5000 F.C.I. Sheridan
(Address)

Sheridan Oregon 97378
(City, State, Zip Code)

— 0 —

(Phone Number)

RECEIVED
OCT 23 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- ① Should the District Court delegate the task of applying the (4) TURNER FACTORS to the JURY. OR
- ② Should the District Court apply the (4) TURNER FACTORS at summary judgement. ONLY. OR
- ③ Can the District Court apply them twice
 - ① At summary judgement
And
 - ② Let the Jury apply them, in the Jury Instructions.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A - TURNER V. SAFETY, 482 U.S. 78, 79, 107 S.Ct 2254, 96 L.
ED. 2D (64 (1987))

APPENDIX B FROST V. SYMINGTON, 197 F.3D 348, 354 (9th 1999)

APPENDIX C PRISON LEGAL NEWS V. LEHMAN, 397, F.3D 692 (9th 2005)

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>TURNER V. SAFETY</u> 482 U.S. 78, 79, 107 S.Ct. 2254, 96 L. ED. 2D 64 (1987)	2
<u>FROST V. SYMINGTON</u> 197 F.3D 348, 354 (9 th Cir 1999)	2
<u>AL-OWHAI V. HOLLOWELL</u> (the 10 th Cir) PRISON LEGAL NEWS V. LEHMAN	3
<u>397 F.3D 692</u> (9 th 2005)	3
<u>COX V. DENNING</u> No. 12-2571-DJW, 2014 WL 4843951, At 18 (D. Kan. Sept. 29, 2014)	4

STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[] reported at USCA8 NO. 17-1742; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at 4:13-cv-00866-BCW; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 14, 2019.

No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including 60 DAYS/From 9/19/19 (date) on Due Date 10/17/19 (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- ①. First Amendment Right (Violation)
- ②. PRISONS Regulation (The constitutionality of such Regulation)
- ③. 4 TURNER FACTORS TURNER V. SAFETY -
482 U.S. 78, 79, 107 S.Ct 2254, 96 L ED. 2D 64 (1987)

STATEMENT OF THE CASE

SEE, BRIEF "Attached"

John L. Williams
Reg. No. 20194-045
FCI Sheridan
P.O. BOX 5000
Sheridan, OR 97378

SUPREME COURT OF THE UNITED STATES
Case No. 17-1742

John L. Williams
Appellant,

v.

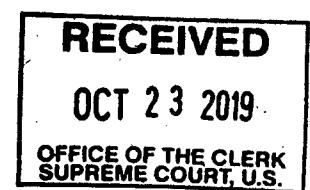
Mo. Jackson County
Appellee.

On a Writ of Certiorari to the
United States Court of Appeals for
the Eighth Circuit

Issues Raised
Jury Instruction

In September 2012, Plaintiff and two other inmates at the Jackson County Detention Center, jointly filed a 1983 claim against Jackson County for their post-card-only policy. The District Court ORDERED we file individual claims.

Plaintiff, Appellant, claim went to trial.



On March 23rd, 2017, after a three day trial by Jury, judgement was entered in favor of the Defendants, Appellee.

Appellant claims the District Court abussed its discretion, when it presented to the Jury, over the Appellant's objection Jury instructions (#14) and (#15). The instructions asked the Jury to apply the (4) Turner Factors, as set forth in the Supreme Court case. TURNER v. SAFELY, 482 U.S. 78 (1987).

Appellant's arguement was, and still is, that the County's post-card-only policy was in violation of the First Amendment to the constitution of the United States.

Prison regulations that restrict an inmates First Amendment Right are valid if the regulations are reasonably related to a legitimate penological interest.

To determine whether a correctional institution's regulation that "Impinges on inmates' constitutional rights" is valid, the Court (not the Jury) must determine whether that regulation "is reasonably related to legitimate penological interest."

TURNER v. SAFELY, 482 U.S. 78. 79, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987).

In TURNER, the Supreme Court promulgated "a four-pronged test that guides Courts in determining whether a challenged regulation passes constitutional muster. FROST v. SYMINGTON, 197 F.3d 348, 354 (9th Cir 1999).

Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are Jury

functions. likewise determining whether TURNER factors are sufficient to present a legitimate Penological Interest is for the Court to establish, not the Jury.

In AL-OWHAI v. HOLDER, (10th Circuit), the Court stated that an analysis of the four TURNER factors is necessary at the Summary Judgement stages.

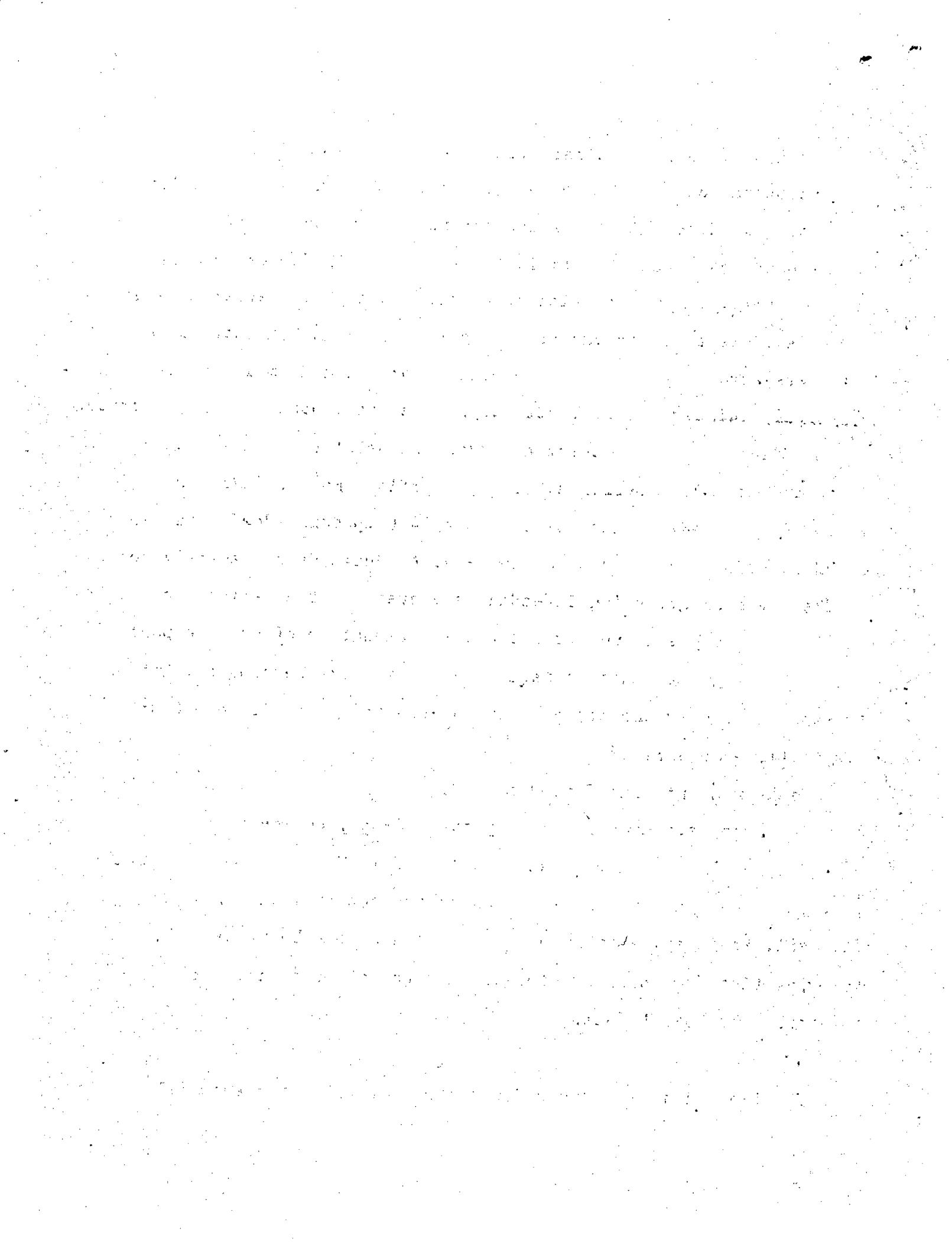
On February 16th, 2017. The District Court issued an order denying the Defendant's Jackson County's motion for Summary Judgement at that point the Court applied, or should have applied the TURNER factors, now at trial to have the Jury to apply them, or re-apply them is impermissible and an abuse of discretion.

In TURNER, the Supreme Court has instructed the lower[courts] (not the Jury) to examine the four factors when determining whether the regulation withstands scrutiny. The Jury cannot decide what law, they only decide from the facts, to have them to apply such complicated factors causes confusion. The judgement of the District Court should be reversed and remanded for new trial.

Appellant would like to present a final arguement on this issue:

PRISON LEGAL NEWS v. LEHMAN, 397, F.3d 692 (9th Cir 2005)(noting that if a regulation is not retionally related to a legitimate neutral government objective, a court need not reach the remaining three factors.") (Would the Jury know this?)

Jackson County presented no evidence that the policy was implemented due to a contraband problem, presented no documentation (not



one incident). Jackie Robinson testified that he could not provide any documentation to back up the fact that the jail had a problem with contraband coming in through the mail. Jackson County's postcard policy does not satisfy the first TURNER factor because it lacks a rational connection to a legitimate governmental interest, and, therefore a consideration of the remaining TURNER factors is not necessary. "A post-card-only policy for incoming mail is not rationally related to the states objectives of enhancing jail security. If Defendant fails to present any evidence relating to its security need, threats, or experience." COX v. DENNING, No. 12-2571-DJW, 2014 WL 4843951, at 18 (D. Kan. Sept. 29, 2014 (emphasis added); see also COLUMBIA CITY, 942 F. Supp. at 1083-85. As Judge Waxse recently noted in COX; "merely accepting Defendant's arguement of a rational relationship without any evidence or a logical explanation of why the post-card-only policy advances a particular legitimate Penological Interest would render the standard toothless, which the Supreme Court has cautioned against."

Jackson County has failed at trial to produce any evidence that the post-card-only policy was enacted in response to a valid mail security problem. Nor did Jackson County provide documented instances of contraband entering the jail through the mail. Moreover, Summary Judgement should have been granted to the Plaintiff for this very reason, and not given to the Jury to determine the TURNER factors.

The Plaintiff prays this Court finds in his favor and will

reverse the Judgement and Remand for a new trial.

Dated this 12th day of August, 2019.

John L. Williams
Reg No. 20194-045
FCI Sheridan
P.O. BOX 5000
Sheridan, OR 97378

Certificate of Service - I, John L. Williams do declare that a true and correct copy of the above said motion was sent via U.S. mail to the Supreme Court Clerk on this 12th day of August, 2019.

John L. Williams

REASONS FOR GRANTING THE PETITION

This Petition should be granted because this is a case of first impression and a case of national importance.

This Petition should be granted or a GVR should issue because there is no other case in which a prison regulation based on a First Amendment claim has ever been tried to a jury, and the District Court allows the jury to apply the (4) Turner factors, and that, by itself makes this a case of national importance, and a case of first impression.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

John L. Williams

Date: 10/14/19