

21-7282 ORIGINAL

Supreme Court, U.S.
FILED

JAN 31 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

JOSHUA DAVIS BLAND

— PETITIONER

(Your Name)

vs.

SCOTT KERNAN;

CALIF. DEPT. CORR. AND REHAB. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joshua-Davis: Bland

(Your Name)

C/o P.O.Box 3456; P29302

(Address)

Corcoran, California [93212]

(City, State, Zip Code)

NA

(Phone Number)

QUESTIONS PRESENTED

- 1) Does a state prison have the right to void an inmate's religious practice if the state prison refuses to recognize the inmate's religion, and claim it has some "compelling interest" in the denial of the inmate's right to practice his religion in a least restrictive manner in accordance with the R.L.U.I.P.A.?
- 2) Does a state prison have a "compelling interest" to blanket ban all pornographic materials when the same is sold on the open market legally in the state, would this not be de facto censorship?
- 3) What "compelling interest" could a state prison have in the denial of an inmate's religious practice?
- 4) If holy books and religious literature is allowed for Muslims and Jews and Christians, then pornographic materials should be allowed for Erosians, wouldn't the Court think?
- 5) Under the R.L.U.I.P.A., the state prison must abide all federal laws pursuant to the Fourteenth Amendment of the U.S. Constitution to which it is the states that are the parties to it, and it is the law that says equal protection of the law extends to people, not to interests, wherefore, would it be unlawful for the state prison to deny an inmate his right to practice his religion in a least restrictive means?

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:

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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~~ For cases from **federal courts**:

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

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~~is~~ is unpublished.

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
~~is~~ 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 Sept. 21, 2022.

☐ 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: Jan. 3, 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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. § 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

Fourteenth Amendment (U.S. Constitution).

R.L.U.I.P.A.

Equal Protection of the Law afforded to people, not to interest.

P.R.E.A.

STATEMENT OF THE CASE

Petitioner is an inmate in a State prison of the State of California, he wants to practice his religion as a Erosian, but cannot due to a State-wide prison ban on all pornography; petitioner's religion is of the ancient Greek pagan path that requires one to frequently have sexual relations with any aged-human being or mammal.

But sex is not an option while in prison pursuant to P.R.E.A., thus the only other option and least restrictive means would be self-administered sexual stimuli with the use of pornography. Pursuant to R.L.U.I.P.A., the least restrictive measures for Erosians to practice our religion would be to allow us to obtain from any source, keep, have, control, possess and view, in one's own privacy, all manners of pornography, including, but not limited by, any sexually explicit pictorials, of such matter as frontal nudity, sexual penetration, ejaculatory functions and/or urination of all-aged humans/mammals, including, but not limited by, all pictorials of materials that "appears to be" or "conveys the impression" that of minors, as this Court had deemed constitutionally protected.

The California Dep't of Corrections and Rehabilitation (CDCR)'s blanket ban on all nudity, sexual penetration, physical contact of genitalia, youthful-looking, bare buttock(s) & breast(s), all denies petitioner his right to practice his religion, even in the least restrictive manner. "Government may not legislate away the First Amendment." Kirkbey v. Furness, 92 F3d 655 (1996).

"Government action which chills constitutionally protected speech or expression contravenes the First Amendment." Wolford v. Lasater, 78 F3d 484 (1996).

This Court, per Justice Douglas, held in U.S. v. Ballard, 322 U.S. 78 (1944), that the First Amendment barred submitting to the jury the question of whether these religious beliefs were true: "Men may believe what they cannot [prove.] Religious experiences which are as real as life to some may be incomprehensible to others. [The] miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer are deep in the religious convictions of many. If one could be sent to jail because a jury in a hostile environment found those teachings false, little indeed would be left of religious freedom." The district court had deemed otherwise by its dismissal of petitioner's complaint.

In Cutter v. Wilkinson, 544 U.S. 709 (2005), per Justice Ginsburg, relying on Amos (483 U.S. 327) and Language in Smith (494 U.S. 872), held that the Religious Land Use and Institutionalized Persons Act of 2000 — "No government shall impose a substantial burden on the religious exercise of a person residing [in] an institution," unless the burden furthers "a compelling governmental interest," and does so by "the least restrictive means."

Therefore, generally speaking, R.L.U.I.P.A. is more protective of religious exercise than the First Amendment, prohibiting States or local institutions from imposing substantial burdens on the religious exercise of prisoners unless such burdens furthers a compelling government interest. The "Constitution extends equal protection of the law to people, not to interest." Taylor v. McKeithen, 499 F2d 893.

If there were such a "compelling interest" such pornography would not be sold on the open market in the State of California, this burden is solely de facto censorship! Further, the late Justice Scalia said once that without more, child nudity is protected speech.

Petitioner had stated to the district court that, if the court ruled this action as "frivolous" the abject of the court is to infringe upon and restrict practices because of petitioner's religious motivation, thus the court is not neutral. See Employment Division v. Smith, 494 U.S. 872 (1990).

The R.L.U.I.P.A. "is a limitation on the power of government. It is not a limitation on the activities of private citizens." Ibid.

CONCLUSION OF
STATEMENT OF CASE

Furthermore, petitioner is not party to the State of California Constitution, rather it is the States that are the parties to it. See Padelford v. Savannah, 14 Ga. 438, 520 (1854).

Thus, petitioner is not obligated thereto, nor liable to the laws made thereunder, without my consent. See Cruden v. Neale, 2 NC 338; 1796 NC LEXIS 50, at 1, 2, & 7; and Hale v. Henkel, 201 U.S. 43, 74 (1906).

The district court had refused to compel the State prison to abide by the federal law (R.L.U.I.P.A.); the State prison recognizes petitioner's religion enough to allow him the closest religious diet to that of his religion, but not enough apparently to fully recognize his religious practice and to abide by federal laws, which it is compelled to abide by under the Fourteenth Amendment.

Upon petitioner's completing the prison grievance process to the highest level as required by the P.L.R.A., which is unconstitutional in and of itself, as it restricts people's right to petition the government for redress of grievance, as well forces the people to "pay" for the exercise of a constitutional right.

Petitioner then submits a Civil Rights Complaint under 42 U.S.C. § 1983, for which the district court denies, without leave to amend, holding that said complaint "is nonsensical, frivolous, irrational, and wholly incredible;" for which petitioner finds highly disrespectful!

Petitioner's complaint ~~was~~ totally misconstrued by the district court, then by the court of appeal of the Ninth Circuit; in the district court petitioner had submitted objection to the court's "ORDER AND FINDINGS AND RECOMMENDATIONS" to no avail.

Petitioner submits to the court of appeal of the Ninth Circuit, to which this court review de novo and AFFIRMED, stating that petitioner "failed to allege facts sufficient to show that the policy of CDCR prohibiting incarcerated persons from possessing pornographic materials bore no reasonable relationship to the legitimate penological interest of prison security, or that the policy substantially burdened [my] religious practice."

Petitioner, indeed, did just that on the Civil Rights Complaint filed in the district court, to which that court wholly misconstrued, and would not allow petitioner leave to amend and make clearer his point.

Petitioner submitted a Petition for Panel Rehearing, Petition for Rehearing En Banc, and a Motion to Stay Mandate. The purpose for the Panel Rehearing, was prayed for as a material point of fact and law was overlooked in the decision, which was the R.L.U.I.P.A. The purpose for the Rehearing En Banc, was prayed for as the proceeding involved a question of exceptional importance, and the opinion directly conflicts with an existing constitutional law and substantially affects a rule of national application in which there is an overriding need for national uniformity. Both of which were DENIED. As well as petitioner's Motion to Stay Mandate, DENIED.

The district court was to construe the pleadings in light most favorable to petitioner and resolve all doubts in petitioner's favor, the court did the opposite. This action is not "fanciful", it is my religion in which I only want to be able to practice.

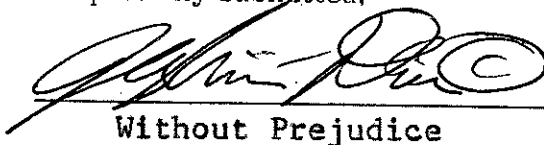
REASONS FOR GRANTING THE PETITION

It would set precedences for the next institutionalized person and all those who practice any hedonistic belief the right to be recognized by the State and its institutions, and would force these to abide by federal laws for which it is obligated via the Fourteenth Amendment of the U.S. Constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Jeffrey P. Miller", is written over a horizontal line.

Without Prejudice

Date: February 20, 2022