

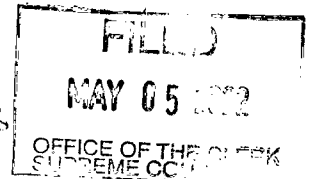
22-5148

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Johnson Christopher Jamerson
PETITIONER,

CASE NO:



- AGAINST -

Ricky D. Dixon, Secretary, Fla. Dept. of Corrections
RESPONDENT,

Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

Provided to Graceville Correctional Facility on
\$15.00 for mailing, by Spencer G.T.

Questions Presented

Should a Correctional Agency be allowed to adopt and enforce the law as Department rules, even if the rules should contravene the strict letter of the law?

Is it a violation of the Separation of Powers Doctrine to delegate a Correctional Agency the authority to create rules using their own version of the law?

Parties

The Petitioner is Johnson Christopher Jamerson, an inmate at Apalachee Correctional Institution in Sneads, Florida. The Respondent is the Secretary of the Florida Department of Corrections, Ricky D. Dixon.

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Constitutional Provisions

28 U.S.C. § 1254 (1)	<u>IV</u>
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Decisions Below

The decision of the United States Court of Appeals is Attached as Exhibit 3 in the Appendix. The order of the United States District Court for the Northern District of Florida, Pensacola Division, is Attached as Exhibit 2 in the Appendix.

Jurisdiction

The judgement of the United States Court of Appeals for the Eleventh Circuit was entered on September 24, 2021. An order denying a Motion For Reconsideration was entered on December 6, 2021, and a copy of that order is Attached in the Appendix to this petition. This Honorable Court granted to the Petitioner an extension of time to file the petition to and including May 5, 2022. Jurisdiction is conferred by 28 U.S.C. § 1254 (1).

Constitutional And Statutory Provisions Involved

This case involves Articles I, II, and III to the United States Constitution, which provide:

Article I - Section I.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 8.

To exercise exclusive Legislation in All Cases whatsoever...

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article II - Section I.

The executive Power shall be vested in a President of the United States of America

Section 2.

... Congress may by Law vest the Appointment of such inferior Offices, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments

Article III. Section I.

The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

This case also involves Amendment XIV to the United States Constitution, which provides:

Section I.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Amendment is enforced by Title 42, Section 1983, United States Code:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Statement Of The Case

The Petitioner's complaint consists of allegations that establish that he was charged within a Disciplinary proceeding of committing acts deemed non-enforceable by law.

The Disciplinary Report alleged that the Petitioner "Attempted" to commit a Battery upon a Correctional Officer, which has been declared by the Florida Supreme Court to be non-existent.

The Petitioner exhausted all of his Administrative remedies prior to filing A Petition For Writ of Mandamus in the Second Judicial Circuit in and for Leon County, Florida, to challenge the Florida Department of Corrections' authority to adopt A State Statutory provision, and promulgate A version of its language declared to not exist.

The Florida Department of Corrections, through their Counsel, failed to provide A response refuting the Petitioner's allegations, nevertheless the Circuit Court adopted the Respondent's reasoning and partially Denied and Dismissed the Petitioner's petition.

The Petitioner then appealed the Circuit Court's decision to the United States District Court for the Northern District of Florida, Pensacola Division, via A 28 U.S.C. § 2254.

Again, the Respondents did not deny the allegations set forth by the Petitioner, and failed to respond in any fashion to Ground II of the 2254.

The District Court adopted the reasoning of the Respondents, and not only denied the Petitioner's 2254, but also denied to the Petitioner A Certificate of Appealability.

The Petitioner then appealed to the United States Court of Appeals for the Eleventh Circuit for A Certificate of Appealability, which was denied by the Court, and A

subsequent Motion For Reconsideration, for reasons stated by the District Court.

Basis For Federal Jurisdiction

This case raises a question of interpretation of Articles I, II, and III, of the United States Constitution, and Amendment XIV to the United States Constitution. The District Court had jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. § 1331.

Reasons For Granting The Writ

A. An Important And Unsettled Issue Of Federal Constitutional Law

Our Country's founders had a vision of a Nation where its inhabitants enjoyed freedom of choice as it relates to their very own customs and personal faculties, predicated upon the will and desire to engage in the pursuit of happiness.

To secure to the Citizens of the United States the freedom of choice, and freedom from oppression, the framers of the Constitution of the United States incorporated the Separation Of Powers, notably, "the greatest security against tyranny," and "the accumulation of excessive authority in a single Branch," with "A carefully crafted system of checked and balanced power within each Branch." *Mistretta v. United States* 109 S.Ct 647 (1989) of the government.

Prisons, engaging in the function of protecting our society from endangerment, by incarcerating those persons found to

responsible for committing crimes, has its place within the Executive Branch of government, and thus has been granted the authority to enforce law and policy by the adoption and promulgation of Administrative Policy.

This regulatory power, delegated to the Agency by the Legislature, has to an extent, been declared to have been properly exercised by Prison Authorities, if those particular rules adopted and promulgated prior to their enforcement are found to be "reasonably related to legitimate penological objectives" *Turner v. Safley* 107 S.Ct 2254 (1987).

However, it has never been determined or clarified as to the limits of a Correctional Agency's powers to make and enforce law and policy with reference to the separation of powers doctrine.

B. Importance Of The Question Presented

This case involves and presents a fundamental question of the interpretation of Articles I, II, and III, of the United States Constitution, and its effect upon the delegation of Legislative and Judicial authority to Prison Administrations.

The questions presented are of great public importance because it unquestionably affects the livelihood of this Country's citizens incarcerated in prison, and provides limitations upon Prison Administrations, so that the delegations of authority do not vest this Country's prisons with "absolute" power.

This Court has made absolutely clear that "prisoners.. may not be deprived of life, liberty, or property without Due Process of Law" *Wolff v. McDaniel* 94 S.Ct 2963 (U.S. (Neb) 1974).

Due Process encouraged the implementing of the

Administrative Procedure Act by Congress, that sets forth procedures to be followed by Prison Officials when adopting law and policy.

The 50 States, enacting their own versions of the Administrative Procedure Act to not only stay in compliance with Federal Law, but to also provide limits to the delegation of authority of Prison Officials to adopt and promulgate rules, has been for the most part, superseded by this Court's declaration that a prison's rules need only be "reasonably related to legitimate penological objectives" *Turner (SUPRA)*, permitting a Prison Official to "add to or take from a law" *Coopersville Co-op Creamery Co. v. Lemon* 163 F. 145 (C.A. 6th Cir 1908) to meet the objective, regardless of whether or not it constitutes a delegation of legislative authority not permitted by the Constitution.

The clear cut ability of prison officials to basically create rules and regulations as they see fit, all having the power and force of law, and condoned by this Court's precedent, allow Prison Officials to systematically oppress incarcerated Citizens under the guise of the oppression constituting a "legitimate penological objective".

The incarcerated Citizen's rights are violated, and there exists no form of redress within the Court system.

Millions of incarcerated Citizens are being oppressed by rules adopted and promulgated by Prison Officials, contrary to the established procedures of the Administrative Procedure Act, and in defiance of the Separation of Powers Doctrine.

This Court should provide clarification of the extent

of a Prison Official's power to add to or take from existing law in the making of prison rules and regulations.

Conclusion

For the foregoing reasons, ceterari should be granted in this case.

Certificate Of Service

I hereby certify that a true and correct copy of the foregoing Petition For writ Of Ceterari, was placed into the hands of Institutional Staff for forwarding by U.S. Mail to:

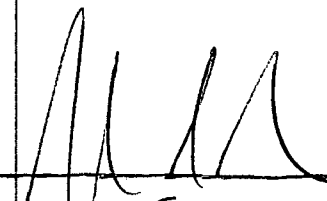
The United States Supreme Court
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On this 5 day of May 2022.

⑤


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