

STEVENS, J., concurring

**SUPREME COURT OF THE UNITED STATES**

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No. 02–94

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WILLIAM OVERTON, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS, ET AL., PETITIONERS *v.* MICHELLE BAZZETTA ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June 16, 2003]

JUSTICE STEVENS, with whom JUSTICE SOUTER, JUSTICE GINSBURG, and JUSTICE BREYER join, concurring.

Our decision today is faithful to the principle that “federal courts must take cognizance of the valid constitutional claims of prison inmates.” *Turner v. Safley*, 482 U. S. 78, 84 (1987). As we explained in *Turner*:

“Prison walls do not form a barrier separating prison inmates from the protections of the Constitution. Hence, for example, prisoners retain the constitutional right to petition the government for the redress of grievances, *Johnson v. Avery*, 393 U. S. 483 (1969); they are protected against invidious racial discrimination by the Equal Protection Clause of the Fourteenth Amendment, *Lee v. Washington*, 390 U. S. 333 (1968); and they enjoy the protections of due process, *Wolff v. McDonnell*, 418 U. S. 539 (1974); *Haines v. Kerner*, 404 U. S. 519 (1972). Because prisoners retain these rights, '[w]hen a prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights.' *Procunier v. Martinez*, 416 U. S., at 405–406.” *Ibid.*

It was in the groundbreaking decision in *Morrissey v.*

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*Brewer*, 408 U. S. 471 (1972), in which we held that parole revocation is a deprivation of liberty within the meaning of the Due Process Clause of the Fourteenth Amendment, that the Court rejected the view once held by some state courts that a prison inmate is a mere slave. See *United States ex rel. Miller v. Twomey*, 479 F.2d 701, 711–713 (CA7 1973). Under that rejected view, the Eighth Amendment’s proscription of cruel and unusual punishment would have marked the outer limit of the prisoner’s constitutional rights. It is important to emphasize that nothing in the Court’s opinion today signals a resurrection of any such approach in cases of this kind. See *ante*, at 4. To the contrary, it remains true that the “restraints and the punishment which a criminal conviction entails do not place the citizen beyond the ethical tradition that accords respect to the dignity and intrinsic worth of every individual.” 479 F.2d, at 712.