

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 02–94

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 KENNEDY delivered the opinion of the Court.

The State of Michigan, by regulation, places certain restrictions on visits with prison inmates. The question before the Court is whether the regulations violate the substantive due process mandate of the Fourteenth Amendment, or the First or Eighth Amendments as applicable to the States through the Fourteenth Amendment.

I

The population of Michigan’s prisons increased in the early 1990’s. More inmates brought more visitors, straining the resources available for prison supervision and control. In particular, prison officials found it more difficult to maintain order during visitation and to prevent smuggling or trafficking in drugs. Special problems were encountered with the increase in visits by children, who are at risk of seeing or hearing harmful conduct during visits and must be supervised with special care in prison visitation facilities.

The incidence of substance abuse in the State’s prisons also increased in this period. Drug and alcohol abuse by

Opinion of the Court

prisoners is unlawful and a direct threat to legitimate objectives of the corrections system, including rehabilitation, the maintenance of basic order, and the prevention of violence in the prisons.

In response to these concerns, the Michigan Department of Corrections (MDOC or Department) revised its prison visitation policies in 1995, promulgating the regulations here at issue. One aspect of the Department's approach was to limit the visitors a prisoner is eligible to receive, in order to decrease the total number of visitors.

Under the MDOC's regulations, an inmate may receive visits only from individuals placed on an approved visitor list, except that qualified members of the clergy and attorneys on official business may visit without being listed. Mich. Admin. Code Rule 791.6609(2) (1999); Director's Office Mem. 1995-59 (effective date Aug. 25, 1995). The list may include an unlimited number of members of the prisoner's immediate family and ten other individuals the prisoner designates, subject to some restrictions. Mich. Admin. Code Rule 791.6609(2) (1999). Minors under the age of 18 may not be placed on the list unless they are the children, stepchildren, grandchildren, or siblings of the inmate. Rule 791.6609(2)(b); Mich. Comp. Laws Ann. §791.268a (West Supp. 2003). If an inmate's parental rights have been terminated, the child may not be a visitor. Rule 791.6609(6)(1) (1999). A child authorized to visit must be accompanied by an adult who is an immediate family member of the child or of the inmate or who is the legal guardian of the child. Rule 791.6609(5); Mich. Dept. of Corrections Procedure OP-SLF/STF-05.03.140, p. 9 (effective date Sept. 15, 1999). An inmate may not place a former prisoner on the visitor list unless the former prisoner is a member of the inmate's immediate family and the warden has given prior approval. Rule 791.6609(7).

The Department's revised policy also sought to control the widespread use of drugs and alcohol among prisoners.

Opinion of the Court

Prisoners who commit multiple substance-abuse violations are not permitted to receive any visitors except attorneys and members of the clergy. Rule 791.6609(11)(d). An inmate subject to this restriction may apply for reinstatement of visitation privileges after two years. Rule 791.6609(12). Reinstatement is within the warden's discretion. *Ibid.*

The respondents are prisoners, their friends, and their family members. They brought this action under Rev. Stat. §1979, 42 U. S. C. §1983, alleging that the restrictions upon visitation violate the First, Eighth, and Fourteenth Amendments. It was certified as a class action under Federal Rule of Criminal Procedure 23.

Inmates who are classified as the highest security risks, as determined by the MDOC, are limited to noncontact visitation. This case does not involve a challenge to the method for making that determination. By contrast to contact visitation, during which inmates are allowed limited physical contact with their visitors in a large visitation room, inmates restricted to noncontact visits must communicate with their visitors through a glass panel, the inmate and the visitor being on opposite sides of a booth. In some facilities the booths are located in or at one side of the same room used for contact visits. The case before us concerns the regulations as they pertain to noncontact visits.

The United States District Court for the Eastern District of Michigan agreed with the prisoners that the regulations pertaining to noncontact visits were invalid. *Bazzetta v. McGinnis*, 148 F. Supp. 2d 813 (2001). The Sixth Circuit affirmed, 286 F. 3d 311 (2002), and we granted certiorari, 537 U. S. 1043 (2002).

II

The Court of Appeals agreed with the District Court that the restrictions on noncontact visits are invalid. This

Opinion of the Court

was error. We first consider the contention, accepted by the Court of Appeals, that the regulations infringe a constitutional right of association.

We have said that the Constitution protects “certain kinds of highly personal relationships,” *Roberts v. United States Jaycees*, 468 U. S. 609, 618, 619–620 (1984). And outside the prison context, there is some discussion in our cases of a right to maintain certain familial relationships, including association among members of an immediate family and association between grandchildren and grandparents. See *Moore v. East Cleveland*, 431 U. S. 494 (1977) (plurality opinion); *Meyer v. Nebraska*, 262 U. S. 390 (1923).

This is not an appropriate case for further elaboration of those matters. The very object of imprisonment is confinement. Many of the liberties and privileges enjoyed by other citizens must be surrendered by the prisoner. An inmate does not retain rights inconsistent with proper incarceration. See *Jones v. North Carolina Prisoners’ Labor Union, Inc.*, 433 U. S. 119, 125 (1977); *Shaw v. Murphy*, 532 U. S. 223, 229 (2001). And, as our cases have established, freedom of association is among the rights least compatible with incarceration. See *Jones, supra*, at 125–126; *Hewitt v. Helms*, 459 U. S. 460 (1983). Some curtailment of that freedom must be expected in the prison context.

We do not hold, and we do not imply, that any right to intimate association is altogether terminated by incarceration or is always irrelevant to claims made by prisoners. We need not attempt to explore or define the asserted right of association at any length or determine the extent to which it survives incarceration because the challenged regulations bear a rational relation to legitimate penological interests. This suffices to sustain the regulation in question. See *Turner v. Safley*, 482 U. S. 78, 89 (1987). We have taken a similar approach in previous cases, such

Opinion of the Court

as *Pell v. Procunier*, 417 U. S. 817, 822 (1974), which we cited with approval in *Turner*. In *Pell*, we found it unnecessary to decide whether an asserted First Amendment right survived incarceration. Prison administrators had reasonably exercised their judgment as to the appropriate means of furthering penological goals, and that was the controlling rationale for our decision. We must accord substantial deference to the professional judgment of prison administrators, who bear a significant responsibility for defining the legitimate goals of a corrections system and for determining the most appropriate means to accomplish them. See, e.g., *Pell, supra*, at 826–827; *Helms, supra*, at 467; *Thornburgh v. Abbott*, 490 U. S. 401, 408 (1989); *Jones, supra*, at 126, 128; *Turner, supra*, at 85, 89; *Block v. Rutherford*, 468 U. S. 576, 588 (1984); *Bell v. Wolfish*, 441 U. S. 520, 562 (1979). The burden, moreover, is not on the State to prove the validity of prison regulations but on the prisoner to disprove it. See *Jones, supra*, at 128; *O’Lone v. Estate of Shabazz*, 482 U. S. 342, 350 (1987); *Shaw, supra*, at 232. Respondents have failed to do so here.

In *Turner* we held that four factors are relevant in deciding whether a prison regulation affecting a constitutional right that survives incarceration withstands constitutional challenge: whether the regulation has a “valid, rational connection” to a legitimate governmental interest; whether alternative means are open to inmates to exercise the asserted right; what impact an accommodation of the right would have on guards and inmates and prison resources; and whether there are “ready alternatives” to the regulation. 482 U. S., at 89–91.

Turning to the restrictions on visitation by children, we conclude that the regulations bear a rational relation to MDOC’s valid interests in maintaining internal security and protecting child visitors from exposure to sexual or other misconduct or from accidental injury. The regula-

Opinion of the Court

tions promote internal security, perhaps the most legitimate of penological goals, see, *e.g.*, *Pell, supra*, at 823, by reducing the total number of visitors and by limiting the disruption caused by children in particular. Protecting children from harm is also a legitimate goal, see, *e.g.*, *Block, supra*, at 586–587. The logical connection between this interest and the regulations is demonstrated by trial testimony that reducing the number of children allows guards to supervise them better to ensure their safety and to minimize the disruptions they cause within the visiting areas.

As for the regulation requiring children to be accompanied by a family member or legal guardian, it is reasonable to ensure that the visiting child is accompanied and supervised by those adults charged with protecting the child’s best interests.

Respondents argue that excluding minor nieces and nephews and children as to whom parental rights have been terminated bears no rational relationship to these penological interests. We reject this contention, and in all events it would not suffice to invalidate the regulations as to all noncontact visits. To reduce the number of child visitors, a line must be drawn, and the categories set out by these regulations are reasonable. Visits are allowed between an inmate and those children closest to him or her—children, grandchildren, and siblings. The prohibition on visitation by children as to whom the inmate no longer has parental rights is simply a recognition by prison administrators of a status determination made in other official proceedings.

MDOC’s regulation prohibiting visitation by former inmates bears a self-evident connection to the State’s interest in maintaining prison security and preventing future crimes. We have recognized that “communication with other felons is a potential spur to criminal behavior.” *Turner, supra*, at 91–92.

Opinion of the Court

Finally, the restriction on visitation for inmates with two substance-abuse violations, a bar which may be removed after two years, serves the legitimate goal of deterring the use of drugs and alcohol within the prisons. Drug smuggling and drug use in prison are intractable problems. See, e.g., *Bell, supra*, at 559; *Block, supra*, at 586–587; *Hudson v. Palmer*, 468 U. S. 517, 527 (1984). Withdrawing visitation privileges is a proper and even necessary management technique to induce compliance with the rules of inmate behavior, especially for high-security prisoners who have few other privileges to lose. In this regard we note that numerous other States have implemented similar restrictions on visitation privileges to control and deter substance-abuse violations. See Brief for State of Colorado et al. as *Amici Curiae* 4–9.

Respondents argue that the regulation bears no rational connection to preventing substance abuse because it has been invoked in certain instances where the infractions were, in respondents' view, minor. Even if we were inclined, though, to substitute our judgment for the conclusions of prison officials concerning the infractions reached by the regulations, the individual cases respondents cite are not sufficient to strike down the regulations as to all noncontact visits. Respondents also contest the 2-year bar and note that reinstatement of visitation is not automatic even at the end of two years. We agree the restriction is severe. And if faced with evidence that MDOC's regulation is treated as a *de facto* permanent ban on all visitation for certain inmates, we might reach a different conclusion in a challenge to a particular application of the regulation. Those issues are not presented in this case, which challenges the validity of the restriction on noncontact visits in all instances.

Having determined that each of the challenged regulations bears a rational relationship to a legitimate penological interest, we consider whether inmates have

Opinion of the Court

alternative means of exercising the constitutional right they seek to assert. *Turner, supra*, at 90. Were it shown that no alternative means of communication existed, though it would not be conclusive, it would be some evidence that the regulations were unreasonable. That showing, however, cannot be made. Respondents here do have alternative means of associating with those prohibited from visiting. As was the case in *Pell*, inmates can communicate with those who may not visit by sending messages through those who are allowed to visit. 417 U. S., at 825. Although this option is not available to inmates barred all visitation after two violations, they and other inmates may communicate with persons outside the prison by letter and telephone. Respondents protest that letter-writing is inadequate for illiterate inmates and for communications with young children. They say, too, that phone calls are brief and expensive, so that these alternatives are not sufficient. Alternatives to visitation need not be ideal, however; they need only be available. Here, the alternatives are of sufficient utility that they give some support to the regulations, particularly in a context where visitation is limited, not completely withdrawn.

Another relevant consideration is the impact that accommodation of the asserted associational right would have on guards, other inmates, the allocation of prison resources, and the safety of visitors. See *Turner*, 482 U. S., at 90; *Hudson, supra*, at 526 (visitor safety). Accommodating respondents' demands would cause a significant reallocation of the prison system's financial resources and would impair the ability of corrections officers to protect all who are inside a prison's walls. When such consequences are present, we are "particularly deferential" to prison administrators' regulatory judgments. *Turner, supra*, at 90.

Finally, we consider whether the presence of ready alternatives undermines the reasonableness of the regula-

Opinion of the Court

tions. *Turner* does not impose a least-restrictive-alternative test, but asks instead whether the prisoner has pointed to some obvious regulatory alternative that fully accommodates the asserted right while not imposing more than a *de minimis* cost to the valid penological goal. 482 U. S., at 90–91. Respondents have not suggested alternatives meeting this high standard for any of the regulations at issue. We disagree with respondents’ suggestion that allowing visitation by nieces and nephews or children for whom parental rights have been terminated is an obvious alternative. Increasing the number of child visitors in that way surely would have more than a negligible effect on the goals served by the regulation. As to the limitation on visitation by former inmates, respondents argue the restriction could be time limited, but we defer to MDOC’s judgment that a longer restriction better serves its interest in preventing the criminal activity that can result from these interactions. Respondents suggest the duration of the restriction for inmates with substance-abuse violations could be shortened or that it could be applied only for the most serious violations, but these alternatives do not go so far toward accommodating the asserted right with so little cost to penological goals that they meet *Turner*’s high standard. These considerations cannot justify the decision of the Court of Appeals to invalidate the regulation as to all noncontact visits.

III

Respondents also claim that the restriction on visitation for inmates with two substance-abuse violations is a cruel and unusual condition of confinement in violation of the Eighth Amendment. The restriction undoubtedly makes the prisoner’s confinement more difficult to bear. But it does not, in the circumstances of this case, fall below the standards mandated by the Eighth Amendment. Much of what we have said already about the withdrawal of privi-

Opinion of the Court

leges that incarceration is expected to bring applies here as well. Michigan, like many other States, uses withdrawal of visitation privileges for a limited period as a regular means of effecting prison discipline. This is not a dramatic departure from accepted standards for conditions of confinement. Cf. *Sandin v. Conner*, 515 U. S. 472, 485 (1995). Nor does the regulation create inhumane prison conditions, deprive inmates of basic necessities or fail to protect their health or safety. Nor does it involve the infliction of pain or injury, or deliberate indifference to the risk that it might occur. See, e.g., *Estelle v. Gamble*, 429 U. S. 97 (1976); *Rhodes v. Chapman*, 452 U. S. 337 (1981). If the withdrawal of all visitation privileges were permanent or for a much longer period, or if it were applied in an arbitrary manner to a particular inmate, the case would present different considerations. An individual claim based on indefinite withdrawal of visitation or denial of procedural safeguards, however, would not support the ruling of the Court of Appeals that the entire regulation is invalid.

* * *

The judgment of the Court of Appeals is reversed.

It is so ordered.