

1-19-79

The Chief Justice - modified

N an 8 am case
 Ct wrong on double bunking - maybe not
 Why + stay in this way?
 Ct is less offensive.
 Ct push all contact visiting
 Search went too far
 Packages can be put on full steam
 Room inspection OK.
 - modified

Look to effect on indiv

Brennan, J. R-R

A probable int here
 A pres v. miss
 St never had an opp for a bag.
 Key standard was a compelly need
 for admitt. nec
 Log. St OK double bunking, packages
 Solidly conv. S hard to justify
 "Compelly admitt. nec" is my standard

Summary

V-S who pun [8 am]
 B-K
 5 was standard

Stewart, J. -

A quite diff view
 For + convicted, 8 am
 For + charged, a convicted, he came
 to punishment at all
 No claim of "usual + unusual" pun.
 No attack here on physical detention
 I do not think any v. the trip is
 punishment in this context

One doubt - is it too hard on
 bhs.

Does a right

It has nothing to do with manners.

Ct gave JPS convicts and I
 let stands, also we do in way
 any v. the trip is or is in
 punishment

White, J. -

We PS on 8 am
 We St to the conv to illegal conduct
 to is short v. punishment, not
 physical detainees.
 Matter here reached to level
 of S prison who to says.
 This a new facility
 We in 2d guess on see items
 key standard is lower the 10 JPS & CP
 Even SS OK in this prison in day

Marshall, J. t, in modify

This is a temporary matter. We +
my, + overcame stopped
SS no degrading, + since
In US approx + put full case in
to.

no 8 am

Powell, J.

It 8 am case
Agree in that to our prob is what
stand + apply
For me it is 1 v recs deemed for 5 am.
- so poss in 7th st + implicated
so troubled by + blos restriction
the here seem quite minor
I too and set st + -
An rec mats, defer to others.
Double bunking is funerals
See Campbell's appt in ca 1 - one v + best
- all
Basis st is reason
make clear so give
the serious.
SS not the place on reason

Rehnquist, J.

Shd n decide to spec claim, pgs
But hard to spin out an absolute
stand

Prefer to anal + justice justices
claimed here

So, no 8 am + no punishment
If no purpose + n reason,
then it is punishment.

- action + st

Wd n feel middle tier approach
The n + b tested by us
On primary, n in st - go on
rationality

This means much is our
cases is punishment, says RBA

Stevens, J. remark

Unconfront + punish a PT detainee
Look at in terms v average prison
Do n measure pun by terms v + officer
who is doing his duty
Look at in terms v + intent
The prob is + Toilet in + double bunk
N right to say this is n punishment

In summary:

So only as to double bunk
Remand + redamine what is pun.
N in terms of intent
Is it related to primary v p +
sec v + intent

Can't anal like PS

Wd n accept as to cost

Start whole case all over again

Fed prison conditions + C2's (Kaufman CJ) strict regime

A sprawling case - an approach of strict scrutiny by C2

A ✓ SG: proposes a 3-tier standard of review w/ harmful limits.

1. W/ "fundamental liberties" + restrictions (7A) } strict review { cost + admin + irrelevant
2. W/ retained privacy into + concerns (Moore v. E. Cleveland)
(privacy, housing, courts) } middle level { a + a rebut but + b examine + alters ed
3. All others - minimal rationality } a + a goes w/ b disproportionate

Genly + SGs approach seems relatively sound

The ? is where it will get out v hand at + middle tier

I do feel cost + admin feasibility is not + b ignored, as C2 ignored this

" " " so deference is due to admin officials views re sec + order

" " " to C2 carried + "pres of inv", valid tho it is, to

abundant extremes - applies to + punitive, n + regulatory

B Security and Order

It is a "compelling" rec for this, once practical detentions deemed valid

Restrictions + b upheld if recs related, even tho infringe upon

+ funda. - substantially defer to officials' deter

Can't distinguish here b/w + convict + detainee

C. The 5 practices

1. Double cddy - this is middle level for me
2. No patcher rule - prob minimal, but cd b mid-level
3. "Publisher only" rule - since he's relaxed - paper books now avail for any source - minimal or cd b mid-level
4. Room searches - this is sec & minimal applies
5. Body-cavity searches - this sec too, but also privacy = mid-level

D. I wd

1. living conds - repeat C2's compelly rec test. It grows too much. Can certly go along w/ 2 tiers & pass, + middle. But w/ "funda", to must b a signif restriction. Some room for cost & adtr fears, tho + b sland carefully

2. Sec & order, Wi + SG here, all + b treated + so way

E. The practices

Ad sent back for rec & n pass on tm here
If we must meet 1-2⁺ OK; 3 means; 5 rec

Rel

13 Jan 79

No. 77-1829 - Bell v. Wolfish

Argued: January 16, 1979

10⁵³ Mr. Tray SG 6
He + b not by DP at w + pre-trial detainees
Two ? - + validity of PT detention
Try to off on when to is permissible here.

11⁸

11¹⁸ Mrs. Hamburger

5

sharpened officer

We're dealing with fundamental rights + b permitted.
I am permitted bail
Yes one concedes PT detention is permissible
S - But he has to comply.
S - Is case moot?
R - But I might?
Try to turn here on + right
Prove in this case + justify c + a aspects

11⁴⁸

11⁵⁸ Mr. Tray

Went at night, two people in a locked in their quarters
No key for effort or for get's justice
Only to be affi v get's justice.
2 which on one case v much worse conditions - locked, cell block
Run was in the bases v + deci P/Co. 2a is reg's argument
S - it could be a valid DP if it is a permissible - now it is not - harris v E Cleveland

12⁰³