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Racial Segregation in California Prisons

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RACIAL SEGREGATION IN CALIFORNIA PRISONS

I. INTRODUCTION

On February 25, 2003, the U.S. Court of Appeals for the Ninth Circuit decided *Johnson v. California*[1]—a case that clarified the role of constitutional rights for prison inmates. The Court held that a prison reception center housing policy that used race as one factor in assigning new inmates to a cell for sixty days did not violate the Equal Protection Clause of the U.S. Constitution.[2] Prison violence occurs everyday in California prisons and the prison system is at a loss as to how to control the numerous beatings, stabbings, and murders. In *Johnson*, the Ninth Circuit allowed the California Department of Corrections to employ tactics that the court would likely not allow outside the walls of a prison in an effort to keep the peace.[3]

II. FACTS AND HISTORY OF *JOHNSON V. CALIFORNIA*

A. California Prison Reception Policy

In an attempt to control the frequent violence that occurs within prisons, the California Department of Corrections (CDC) has adopted a policy for new inmates who arrive at CDC institutions.[4] The CDC evaluates the inmate's prior criminal history as well as his incarceration record to determine if the inmate has any enemies housed in the same facility or any special security needs.[5] The inmates are then assigned to a double cell in the reception area where they are held for sixty days.[6] Race is a dominant factor when

1. 321 F.3d 791 (9th Cir. 2003).
2. *Id.* at 807.
3. *See id.*
4. *See id.* at 794.
5. *Id.*
6. *Id.*

determining cell assignment.[7] However, the CDC also considers other factors such as gender, age, classification score, custody concerns, safety concerns, enemies incarcerated in the institution, history, and gang affiliation.[8]

Race is a dominant factor because much of the prison violence has been in reaction to increasing racial tension. Initially, inmates are classified into four categories: Black, White, Asian and other.[9] In many cases, the CDC finds it necessary to further divide these classifications into smaller groups. For example, Hispanics from Northern and Southern California are separated because in the past the two groups have been in conflict with each other.[10]

With the exception of the reception cells, the rest of the prison is fully integrated.[11] The CDC justifies this variation in treatment by arguing that the reception cell is unique in that prisoners are confined for a large part of the day and the staff has a difficult task controlling what occurs inside the cell.[12] After the sixty day reception period, the inmate is either transferred to another prison or assigned to a single cell, double cell, or dormitory.[13] Race is not used as a factor when determining who will be assigned to a single cell. If assigned to a double cell, the inmate is encouraged to choose his own cellmate in order to reduce violence and maintain compatibility.[14] Dormitories house inmates considered nonviolent.[15] Therefore, in dormitories, inmates of different races are placed together.[16] However, the CDC does make efforts to racially balance the dormitories in order to decrease the amount of racial violence typical in prison.[17]

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7. *Id.*
8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.* at 794–95.
14. *Id.* at 795.
15. *Id.*
16. *Id.*
17. *Id.*

B. Procedural Facts

The plaintiff in this case, Garrison Johnson, was an African-American prisoner serving a sentence for murder, robbery and assault with a deadly weapon, and was housed in a California prison in Lancaster.[18] Since 1987, he had been transferred between multiple prisons in the CDC including Chino, Folsom, Calipatria and Lancaster.[19] In 1995, Johnson, a pro se plaintiff, filed a complaint alleging the reception area policy violated his constitutional rights.[20] In 1998, the district court dismissed his Third Amended Complaint without leave and then Johnson appealed.[21] In 2000, the Ninth Circuit reversed the dismissal and remanded the case, holding that Johnson's allegations were "sufficient to state a claim for racial discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment."[22] In July 2000, Johnson was appointed counsel and filed his Fourth Amended Complaint seeking monetary damages from the former CDC directors in their individual capacities, and injunctive relief against the current CDC director.[23] Both parties then moved for summary judgment. Both motions were denied.

In 2001, the U.S. Supreme Court ruling in *Saucier v. Katz*[24] prompted the former CDC Directors to move for reconsideration of the denial of summary judgment based on qualified immunity.[25] In *Saucier*, the Supreme Court ruled that a court must first decide a case based on the merits of the alleged constitutional violation before deciding whether state officials will receive qualified immunity.[26] The court must ask whether the facts alleged show the officials' conduct violated a constitutional right when the facts are taken in the light most favorable to the party asserting the injury.[27] If the answer is no, then the case should be dismissed.[28] Only when "a violation

18. *Id.* at 793.
19. *Id.*
20. *Id.* at 795.
21. *Id.*
22. Johnson v. California, 207 F.3d 650, 655 (9th Cir. 2000).
23. *Johnson*, 321 F.3d 791, 795 (9th Cir. 2003).
24. 533 U.S. 194 (2001).
25. *Johnson*, 321 F.3d at 795.
26. *See Saucier*, 533 U.S. at 201.
27. *See Johnson*, 321 F.3d at 796 (quoting *Saucier*, 533 U.S. at 201).
28. *Id.*

could be made out on a favorable view of the parties' submissions" can a court move to "the next, sequential step [of] ask[ing] whether the right was clearly established."[29] Following *Saucier*, the district court in *Johnson* granted the motion for reconsideration of denial of summary judgment and held that the former administrators were "entitled to qualified immunity because their actions were not clearly unconstitutional."[30] In this case, Johnson appealed the district court's grant of summary judgment in favor of the defendants to the Ninth Circuit.[31]

III. SUMMARY OF DECISION

Johnson argued to the Ninth Circuit that the reception policy of the CDC violated the Equal Protection Clause of the Fourteenth Amendment because it used race as a factor in determining housing assignments for the first sixty days of incarceration.[32] The Ninth Circuit disagreed.[33]

A. Historical Precedent

The Ninth Circuit began its analysis by discussing the precedent that exists pertaining to racial segregation in prisons.[34] Historically, the courts have enforced the Equal Protection Clause in order "to do away with all governmentally imposed discrimination based on race."[35] However, a number of cases deal specifically with the special circumstances existing in prisons. In *Lee v. Washington*,[36] the U.S. Supreme Court considered an Alabama statute requiring segregated cellblocks in prison.[37] It held that the law violated the Equal Protection Clause.[38] However, the Court recognized in that case that "prison authorities have the right, acting in good faith and in particularized circumstances, to take into account racial tensions in maintaining security, discipline, and good order in prisons and

29. *Id.* (quoting *Saucier*, 533 U.S. at 201).
30. *Id.*
31. *Id.* at 795–96.
32. *Id.* at 796.
33. *See id.* at 807.
34. *Id.* at 796.
35. *Id.* (quoting Palmore v. Sidoti, 466 U.S. 429, 432 (1984)).
36. 390 U.S. 333 (1968).
37. *See id.*
38. *See id.*

jails."[39] The court has interpreted *Lee* as holding that racial discrimination in the prison context is unconstitutional with the exception of "'necessities of prison security and discipline.'"[40]

B. Plaintiff's Arguments

Johnson argued that the Supreme Court has never defined "particularized circumstances" or "necessities of prison security and discipline," and therefore his case did not fall into either category.[41] Johnson cited cases from other circuits where courts held that an "unsubstantiated fear of racial violence" does not justify segregation of inmates into separate cellblocks based on race.[42] The Ninth Circuit distinguished those cases from Johnson, noting that the former dealt with completely segregated prisons.[43] Furthermore, they involved segregation that was permanent, whereas in *Johnson*, it persisted for a maximum of sixty days.[44]

C. The Turner Test

Declining to use the standard set forth in the cases cited by *Johnson*, the Ninth Circuit used the test established in *Turner v. Safley*,[45] where the Supreme Court examined the constitutional rights of prisoners.[46] Using a relaxed standard to determine constitutional rights, the *Turner* court ruled that "[s]ubjecting day-to-day judgments of prison officials to an inflexible strict scrutiny analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration," and regulations in the prison context must only be "reasonably related to legitimate penological interests," to be constitutional under the Equal Protection clause.[47] Under the *Turner*

39. *Id.* at 334 (Black, J., concurring).
40. Cruz v. Beto, 405 U.S. 319, 321 (1972) (quoting *Lee*, 390 U.S. at 334).
41. *See Johnson*, 321 F.3d at 797.
42. *Id.*; *see also* McClelland v. Sigler, 456 F.2d 1266 (8th Cir. 1972) (holding segregation of prison wing unconstitutional).
43. *Id.*
44. *Id.* at 797 n.5.
45. 482 U.S. 78 (1987).
46. *See id.*
47. *Id.* at 89.

standard, the plaintiff must overcome the presumption "that the prison official acted within their 'broad discretion.'"[48]

The *Turner* test has four prongs that must be met when determining whether the state's actions are reasonably related to a legitimate penological interest:[49] (1) there must be a "valid, rational connection between the prison regulation and the legitimate governmental interest put forward to justify it";[50] (2) the court must find "alternative means of exercising the right that remains open to prison inmates";[51] (3) the court must assess what "impact accommodation of the asserted constitutional right will have on guards or other inmates";[52] and (4) the court must determine whether "ready alternatives" to the policy exist.[53]

Under the first prong, the court must consider whether the government's objective is "(1) legitimate, (2) neutral, and (3) whether the policy is 'rationally related to the objective.'"[54] In the instant case, the prison administrators argued the reception policy protected the safety of the staff and other inmates. The Ninth Circuit agreed that this was a legitimate penological interest.[55] The *Johnson* court also found the policy neutral because it did not provide any advantage or disadvantage to a specific race.

In order to meet the neutral requirement, Johnson argued that under *Lee*, the prison must point to a specific instance involving cell assignments that shows that the policy is necessary.[56] The Ninth Circuit followed *Turner* and held the prison need not wait for violence to occur specifically because of race, but instead can use race as a factor, if necessary, to avoid potentially dangerous situations.[57] The Ninth Circuit, following precedent, held that if a "common-sense connection [existed] between the governmental

48. Shaw v. Murphy, 532 U.S. 223, 232 (2001) (citing Thornburgh v. Abbott, 490 U.S. 401, 413 (1989)).
49. *Johnson*, 321 F.3d at 799.
50. *Turner*, 482 U.S. at 89.
51. *Id.* at 90.
52. *Id.*
53. *Id.*
54. Mauro v. Arpaio, 188 F.3d 1054, 1059 (9th Cir. 1999) (quoting Thornburgh v. Abbott, 490 U.S. 401, 414 (1989)).
55. *See Johnson*, 321 F.3d at 799.
56. *Id.* at 800.
57. *Id.* at 801.

objective and the prison regulation," the inmate has the burden of production.[58] Johnson argued he had satisfied this burden of production, thereby refuting the common-sense connection.[59] He argued the policy had been in place for more than twenty years and the level of racial violence was still high, thereby showing the policy did not work.[60] He also argued some gangs are not formed along racial lines so the policy did not address the actual problem of gang violence.[61] The court disagreed, stating that the policy is only supposed to decrease the amount of prison violence, not eliminate it.[62] The court held that as long as the prison administrators believe that the policy furthers a legitimate objective, the defendant satisfied the first prong.[63]

The second prong requires the court to determine whether the plaintiff had alternative means of exercising the right in question.[64] The right in question is whether Johnson can be free from "state-sponsored racial discrimination."[65] The Ninth Circuit held that this right must be evaluated on a "macro" level, as it was in *Turner*.[66] In *Turner*, the Court decided whether the inmate's freedom of speech had been violated in its entirety, not if the inmate specifically had a right to communicate with inmates in other prisons.[67] The *Turner* court found that the prison policy prohibiting communication with inmates did not violate the inmate's right to free speech and upheld the policy.[68] The Ninth Circuit used similar reasoning in *Johnson*. The court ruled that the correct analysis was "whether the state [had] provided reasonable alternatives from racial discrimination in general,"[69] not whether "the state [had] provided reasonable alternatives" during the first sixty days.[70] The court further held that because the discrimination only lasted for the first sixty days and that

58. *Id.*
59. *Id.* at 802.
60. *Id.*
61. *Id.*
62. *Id.*
63. *Id.* at 803.
64. *Id.*
65. *Id.*
66. *Id.*
67. *See* Turner v. Safley, 482 U.S. 78 (1987).
68. *Id.* at 92.
69. *Johnson*, 321 F.3d at 804.
70. *Id.*

the rest of the prison was fully integrated, the state did provide reasonable alternatives to exercise his constitutional right.[71]

The third *Turner* prong requires the court to evaluate what impact accommodating the prisoner's asserted right will have on prison personnel, other inmates and prison resources.[72] Johnson had to show that eliminating the policy would not impact the inmates and personnel.[73] The court held however that he failed to do so.[74] The CDC provided testimony from numerous officials documenting prison violence based on race and the court found the evidence persuasive.[75] The court thus ruled that the third prong of the *Turner* test was satisfied because Johnson did not show that inmates and personnel would not be impacted if the policy was eliminated.[76]

The fourth prong of the *Turner* test requires that the court determine whether there are reasonable alternatives that would "fully accommodate the prisoner's rights at *de minimis* cost to valid penological interests . . . ."[77] The *Turner* court ruled that this was a "reasonableness" test, not a "'least restrictive alternative'" test and also that the solution cannot be an exaggerated response.[78] Johnson argued that the prison could screen inmates for gang history or racist behavior and history of violence.

However, the court did not buy Johnson's argument. According to the evidence presented by the prison officials, inmates very rarely disclose their gang affiliation or history of violence to prison officials. Furthermore, the racial attitudes of inmates on the outside may change once incarcerated. The court also cited the Eighth Amendment Cruel and Unusual Punishment clause as justification for the policy. Under the Eighth Amendment, prison officials are required to "take reasonable measures to guarantee the safety of the inmates."[79] In *Robinson v. Prunty*,[80] the Ninth Circuit held that

71. *Id.*
72. *Id.*
73. *Id.*
74. *Id.*
75. *Id.* at 804–05.
76. *Id.* at 805.
77. Turner v. Safley, 482 U.S. 78, 91 (1987).
78. *Id.* at 90.
79. Farmer v. Brennan, 511 U.S. 825, 832 (1994) (quoting Hudson v. Palmer, 468 U.S. 517, 526–27 (1984)).
80. 249 F.3d 862 (9th Cir. 2001).

reasonable measures included taking an inmate's race into account when allowing prisoners on the recreation yards.[81] The *Johnson* court also noted that the prison officials could be accused of "deliberate indifference" if the policy was not enforced and violence ensued.[82] For the above reasons, and because Johnson did not answer how the CDC would accurately collect such information about the prisoners' histories, the Ninth Circuit ruled that the policy was not an exaggerated response but, in fact, was reasonable.[83]

In sum, the court concluded that the four prongs of the *Turner* test had been met and there was no constitutional violation. Therefore, it was not necessary to assess the issue of qualified immunity and the grant of the motion for summary judgment for the defendants was affirmed.[84]

IV. ANALYSIS OF DECISION

The decision by the court to allow racial segregation in California prisons during the sixty day reception period was reasonable because the segregation policy is necessary to ensure the safety of prisoners and personnel, and maintain order and control of the prison population. One could argue that this idea could be applied in order to racially segregate entire prisons. However, that is actually a distinguishable situation. The purpose of the segregation for the first sixty days is to evaluate the new inmates and determine their level of violence, and, if possible, gather any relevant information about their past criminal histories and enemies before assigning them to a permanent cell. Segregating entire prisons is not used to gather information, but to prevent violence.

The Ninth Circuit's affirmation of the district court's decision to grant summary judgment was correct. In the initial *Saucier* decision, the Ninth Circuit used a different test than it used in *Johnson* to decide if a defendant would receive qualified immunity.[85] First, it looked to see if the law governing Saucier's conduct was clearly established when the incident occurred.[86] If the answer was "yes," it

81. *Id.* at 866.
82. *Johnson*, 321 F.3d at 807.
83. *See id.*
84. *Id.*
85. *See* Saucier v. Katz, 533 U.S. 194, 199 (2001).
86. *Id.*

moved to a second step: "to determine if a reasonable officer could have believed, in light of the clearly established law, that [the plaintiff's] conduct was lawful."[87] In *Saucier*, the Ninth Circuit court held that because the inquiries of both qualified immunity and a second claim (a violation of the Fourteenth Amendment) were the same, qualified immunity was inappropriate.[88] On appeal, the Supreme Court ruled that there should be no fusion between the issue of qualified immunity and a separate charge.[89] The qualified immunity defense should be considered in proper sequence in order to avoid an unnecessary trial, overruling the Ninth Circuit decision and creating the test used in *Johnson*.[90] The Ninth Circuit in *Johnson* correctly applied the newly formulated *Saucier* test for qualified immunity when they considered whether the allegations showed that the officials' conduct violated a constitutional right, and, if so, whether the right was clearly established.[91]

The Court also correctly applied the test created in the Supreme Court's *Lee* decision. The Supreme Court suggested that when acting in "good faith and in particularized circumstances," prison authorities can take racial tensions into consideration for the purpose of maintaining security and discipline.[92] *Johnson* cited decisions from other circuits where the courts ruled that an unsubstantiated fear of violence did not rise to the level required to allow racial segregation.[93] The Ninth Circuit in *Johnson* correctly distinguished those cases from the case at hand, noting that in some of those cases, the prisons were divided into "white cells" and "black cells" and evidence existed of disparate treatment, where black prisoners were not afforded the same privileges as white prisoners.[94] These conditions were not present in the California prisons.[95]

87. *Id.*
88. *Id.* at 199–200.
89. *Id.* at 197.
90. *See id.* at 201.
91. *Johnson*, 321 F.3d at 796.
92. Lee v. Washington, 390 U.S. 333, 334 (1968) (Black, J., concurring).
93. *See generally Johnson*, 321 F.3d at 797 (citing United States v. Wyandotte County, 480 F.2d 969 (10th Cir. 1973) (holding assignment of inmates by race unconstitutional); McClelland v. Sigler, 456 F.2d 1266 (8th Cir. 1972) (holding segregation of prison wing unconstitutional)).
94. *McClelland*, 456 F.2d at 1267.
95. *See Johnson*, 321 F.3d at 797.

Finally, the Ninth Circuit correctly applied the *Turner* standard to the *Johnson* case.[96] The Ninth Circuit's use of the *Turner* analysis was necessary to enforce the notion that life in prison is dangerous and different than life in the outside world. While the majority of constitutional rights are maintained while incarcerated, certain rights must be altered in order to protect prisoners and keep order. The *Turner* case took an in-depth look at the activities and needs of prisoners and staff within the confines of the prison system. Because racial segregation occurs in many prisons, a test that both aimed at the goals of safety and discipline, and maintained some constitutional rights was necessary; the *Turner* standard met this need. As the Ninth Circuit in *Johnson* observed, the *Turner* standard expanded the definition of "particularized circumstances" and "necessity of security and discipline," and it lowered the prison authorities' burden to justify racial segregation policies.[97] The Ninth Circuit applied the *Turner* standard in *Johnson* because it applied to the unique circumstances that exist in the California prison system.

V. IMPLICATIONS

Prison violence is a real threat in a state like California, where the penal system is dominated by prison gangs.[98] Furthermore, evidence indicates that most racial violence that occurs in prison is directly related to gang affiliation.[99] For example, in San Quentin, a maximum security prison, the inmate population is divided among known black, white, and Hispanic gangs that also operate on the streets.[100] In California, the major prison gangs include the Aryan Brotherhood, the Black Guerilla Family, the Mexican Mafia, and

96. *Id.* at 798.

97. *Id.* at 798–99.

98. Jonathan A. Willens, *Structure, Content and the Exigencies of War: American Prison Law After Twenty-Five Years 1962-1987*, 37 AM. U. L. REV. 41, 56 n.69 (1987).

99. *See id.* at 56–58 (analyzing the problem of institutional management in prisons and the response by judges, penologists and the prison staff); *see also* Scott N. Tachiki, *Indeterminate Sentences in Supermax Prisons Based upon Alleged Gang Affiliations: A Reexamination of Procedural Protection and a Proposal for Greater Procedural Requirements*, 83 CAL. L. REV. 1115, 1137–38 (1995) (arguing that the Due Process Clause of the Fourteenth Amendment requires segregation decisions to be based on a violation of prison rules rather than gang affiliation).

100. Willens, *supra* note 98, at 55.

Nuestra Familia.[101] These gangs are responsible for the steady increase in violence in California prisons.[102]

From a young age, many future gang members have little chance of avoiding the gang life. Juveniles who commit serious or violent felonies are generally sentenced to the California Youth Authority (CYA) where approximately 5100 wards are affiliated with gangs.[103] Many of the wards in the CYA have criminal associates in the CDC and these juveniles eventually become members of the Black Guerilla Family, the Mexican Mafia, Nuestra Familia, or the Aryan Brotherhood.[104]

While exceptions do exist, prison gangs are usually formed based on race. In general, Hispanic gang members join the Mexican Mafia or Nuestra Familia, while black gang members tend to join the Black Guerilla Family or smaller factions of the Bloods or Crips.[105] White gang members join the Aryan Brotherhood.[106] There are no known Asian prison gangs.[107] While this is the trend, there are some exceptions. One of the highest-ranking members of the Mexican Mafia, Joe Morgan, spent four decades in prison and was the highest-ranking non-hispanic member.[108] An extremely violent man, Morgan grew up in East Los Angeles and adopted the Hispanic culture.[109] He was depicted in the 1992 film "American Me."[110] When Morgan objected to parts of the film, two members of La Eme who were working as advisors on the film were found murdered.[111] Another Anglo member of the Mexican Mafia was Raymond

101. Tachiki, *supra* note 99, at 1126.

102. *See generally* Willens, *supra* note 98, at 55–56 (analyzing the response by judges, penologists and the prison staff to the institutional management in prisons); Tachiki, *supra* note 99, at 1126.

103. GANGS 2000: A CALL TO ACTION, THE ATTORNEY GENERAL'S REPORT ON THE IMPACT OF CRIMINAL STREET GANGS NO CRIME AND VIOLENCE IN CALIFORNIA BY THE YEAR 2000, *at* http://www.cgiaonline.org (Mar. 1993) [hereinafter GANGS 2000].

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Mexican Mafia (La Eme)*, *at* http://www.geocities.com/organizedcrimesyndicates/mexicanmafiaprisongang.html (last visited Aug. 13, 2003).

109. *Id.*

110. *Id.*

111. *Id.*

Shyrock.[112] Like his mentor, Joe Morgan, Shyrock also grew up around Hispanic gangs.[113] While these exceptions do exist, generally gang members are recruited based on race.[114]

There is some evidence that supports Johnson's proposition that segregation has no effect on the levels of racial violence. In 2002, a study was conducted to assess the effects of desegregation in prisons.[115] The study was performed in Texas, which, like California, is one of the top three states affected by prison gangs.[116] The study found that "the rate of assaults among desegregated inmates was less than or at least equal to rate of assaults among segregated inmates."[117] In addition, "the integration did not result in disproportionate violence."[118] In 1975, researcher Anthony Bottoms performed a study of prison violence in California. He found that in prisons where tighter security policies were enforced, there was a significant decrease in the number of stabbings.[119] The researcher hypothesized that the decline might be attributed to the reduced opportunities for racial groups to combine to commit violent acts.[120] While this information sheds some light on the different aspects of racial violence, the reasoning of *Johnson* remains valid. Based on the experience in that specific prison, the administrators felt that during the reception period, the level of violence would decrease if the prisoners were segregated.

The *Turner* and *Johnson* decisions are important because prison is a unique institution that must be dealt with carefully. When asked about the *Turner* test, David Fahti of the ACLU National Prison Project responded, "Often times . . . prison officials do not provide any evidence that their regulation serves a legitimate prison interest but simply come up with a post-hoc, speculative reason to justify the

112. *Id.*
113. *Id.*
114. *See* GANGS 2000, *supra* note 103.
115. *See* Chad Trulson, *Of General Interest: The Caged Melting Pot: Toward an Understanding of the Consequences of Desegregation in Prisons*, 36 LAW & SOC'Y REV. 743 (2002).
116. Willens, *supra* note 98, at 56 n.69.
117. Trulson, *supra* note 115, at 774.
118. *Id.*
119. *See* Anthony E. Bottoms, *Interpersonal Violence and SocialOrder in Prisons*, 26 CRIME & JUST. 205, 238 (1999).
120. *Id.*

restrictive policy."[121] However, in circumstances where a history of violence is present within the specific prison, and the officials have provided a legitimate penological interest, the *Turner* standard should be utilized.

VI. CONCLUSION

Violations of constitutional rights in prisons are a common allegation in courts around the country. Although *Johnson* did not create new law, it illuminated the issue of racial prison violence in California, where it is a significant problem. The Ninth Circuit held that the rule to be applied in cases dealing with constitutional rights violations in prisons is the *Turner* rule. *Turner* used a "relaxed standard" when determining what constituted a violation in prison, requiring only that the regulation be reasonably related to legitimate penological interests. In *Johnson*, the Ninth Circuit ruled that prisoner safety and general control of the prison population were legitimate penological interests and therefore did not violate the Equal Protection Clause of the Fourteenth Amendment. The court affirmed the grant of summary judgment in favor of the defendants and never reached the issue of qualified immunity because there was no constitutional violation.

The *Johnson* decision is recent and has not yet been cited by other courts. Nevertheless, it is likely that in years to come, *Johnson* will be the premier case in California dealing with racial segregation in prisons.

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121. David L. Hudson Jr., *Prisoners' Rights Overview*, *at* http://www.firstamendmentcenter.org/rel_liberty/free_exercise/topic.aspx?topic=prisoner_rights (last visited Aug. 13, 2003).

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