

Justices to Hear Inmate Case for News

By GINA HOLLAND
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WASHINGTON -- The Supreme Court agreed Monday to consider reinstating rules that keep newspapers and magazines out of the hands of disruptive Pennsylvania inmates, a case that court nominee Samuel Alito dealt with.

A panel of the 3rd U.S. Circuit Court of Appeals had sided with inmates who claimed the ban on most reading material and personal photographs violated their free speech rights.

Alito, one of the lower court judges in the case, filed a dissent and argued that the state should be allowed to withhold the news.

Alito said that they were "temporary, last-resort restrictions" and were not unconstitutional.

If Alito is confirmed, he will likely recuse himself. That would mean the case would be heard by the other eight justices, with the potential for a tie.

Alito had said in his dissent that prison officials could encourage good inmate behavior with the promise of newspapers to those who behave.

The lawyer for the inmate who challenged the ban, which includes newspapers, magazines and photographs, told justices that prisoners in the "segregation unit" are kept in their cells 23 hours a day and are rarely able to speak with each other.

"In this closed environment, the impact of the challenged policy is stifling and far-reaching. It essentially blocks the flow of information to these men about current political, social and other public events occurring outside the prison walls," Jere Krakoff of Pittsburgh wrote in the appeal.

The state argued that the restrictions are only imposed on the most disruptive inmates who have not responded to other punishments, like loss of tobacco privileges and visits. State attorneys quoted Alito's dissent in urging the Supreme Court to hear the appeal.

The case is *Beard v. Banks*, 04-1739.

Also Monday, the court said it would hear a second inmate case from California that will clarify when federal courts have jurisdiction in prisoner lawsuits.

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Inmate Viet Mike Ngo claims that he was wrongly punished for alleged inappropriate activity with volunteer Catholic priests at San Quentin State Prison. Ngo, who has since been transferred to a different prison, is serving up to life in prison for the shooting of a 14-year-old boy on Christmas Eve 1988.

He filed a lawsuit over the punishment that kept him from participating in Bible study sessions and corresponding with a former Catholic chapel volunteer.

California, backed by more than 20 states, urged the court to use the case to make it harder for inmates to bring lawsuits. Prisoners must first exhaust options with administrative grievances, they argued.

The California and Pennsylvania cases will be argued next spring.

The case is Woodford v. Ngo, 05-416.

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