

Presented by the Free Speech Society (FSS)

THE FAIRNESS AND RESTORATION ACT OF 2015 (F.R.A. – 2015)

Introduction

According to the 14th Amendment the government cannot develop or enforce any law which shall abridge the privileges or immunities of citizens of the U.S., nor shall any state deprive any person of life, liberty or property without due process of the law, nor deny to any person within its jurisdiction the equal protection of the law. We as Prisoners did not forfeit our citizenship when we came to prison, or the laws which are designed to protect our basic human rights and dignity.

We understand that being in prison we lose some constitutional guarantees, which encompass equal protection of the law (i.e. Due Process). But when the government enacts a bill/law(s) it must consider whether an individual(s) will be condemned to suffer grievous loss.

So the question posed to the legislative body: when enacting the 1996-Anti-Terrorism And Effective Death penalty Act (AEDPA), did they consider the unique circumstances that have the potential to impede certain classes of Prisoners from complying to the rules/laws changes under the Anti-Terrorism And Effective Death Penalty Act (AEDPA)?

The 5th and 14th Amendments prohibit the government from depriving persons of life, liberty or property without due process of the law, and the two primary factors in determining clear due process violation:

- 1) Whether a liberty or property interest is involved, and
- 2) Whether procedural safeguards are constitutionally sufficient to protect against any unjustified deprivations.

The Anti-Terrorism And Effective Death Penalty Act-1996 (AEDPA-1996) implementation and enforcement was a clear procedural deprivation of our rights under the 5th and 14th Amendments.

Denying relief due to a plea of ignorance of the law defense is a common practice the courts

often employed. But those of us who are being housed in isolation/solitary confinement, we have a legitimate claim of ignorance of the law, due to our restrictive custody, we have limited access to critical law changes or court decisions, and the security housing units (SHU) at both Pelican Bay and Corcoran State Prisons are not required by law nor obligated to individually inform those Prisoners being housed in isolation/solitary confinement of any law changes that can have a significant impact on their confinement. Due to our physical restrictions, our access to obtain law changes are “*very*” limited.

The enactment of the AEDPA-1996 was clear liberty interest for all Prisoners (especially those being housed in solitary confinement): the government should have required that the Department of Corrections/Bureau of Prisons (CDC/BOP) inform their Prisoners of the law changes, instead of leaving it up to a game of chance, especially due to the severe penalty involved for failing to comply to the law changes.

The government’s failure to require that the CDC/BOP inform their Prisoners in isolation/solitary confinement of the AEDPA, violated both our Fifth and Fourteenth Amendment rights. We were deprived of equal relief due to our alleged failure to comply to the AEDPA one year toll rule without considering our unique circumstances of being in isolation/solitary confinement which restricts our capacity to access court decisions, and new law-/bill-enactments.

The government did not even consider our capacity to access the AEDPA-1996, their deliberate indifference towards our unique circumstances denied us life, liberty or property without due process of the law. I ask, if we are not in a position to access this information (i.e. AEDPA-1996) and the CDC/DOC/BOP are not required to individually inform us of the law(s) and how that law(s) can and will directly impact us, how does the court expect us to comply to the law? To be more specific: Pelican Bay and CSP-Corcoran made no efforts to accommodate those of us being housed inside their secure housing units (i.e. isolation/solitary confinement), many of us do not even have TV’s, and no other way to obtain info as it pertains to new laws that may and/or will affect us.

I reiterate, if we are not provided sufficient access to the law, then how are we expected to comply to the law(s)? Our ignorance in this matter is not an excuse, but a legitimate due process/equal protection interest.

We only seek fairness and justice; the attorney general's offices and all prosecutors/district attorneys have been given an unfair advantage. All relevant law changes are readily available for the attorney general and all prosecution offices. This is a clear injustice, and being treated as if we are on equal terms with the attorney general's offices/district attorney's offices.

This is unfair and a violation of our Fifth and Fourteenth Amendment Rights!

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FAIRNESS AND RESTORATION ACT-2015

This restoration act is about restoring fairness and justice to those who were denied by the government enactment of the AEDPA-1996; there were a number of class Prisoners who were not able to comply to the AEDPA to no fault of their own. This Act of Restoration is specifically for those class of Prisoners. They represent a unique circumstance(s) which had complying to the law changes, these class of Prisoners fall under the following criteria:

1] Those Prisoners who were housed in the Security Housing Unit (SHU) at Pelican Bay State Prison, CSP-Corcoran, CCI-Tehachapi, and New Folsom prisons, as well as in Administrative Segregation between 1996-1997.

2] Those Prisoners who were under chronic health care between 1996-1997.

3] Those Prisoners identified as functional illiterate between 1996-1997.

4] Those Prisoners identified as mentally ill.

Note: The above criteria served as legitimate obstacles impeding our capacity to comply to the AEDPA-1996, being that we were not provided sufficient access to the law changes.

ARTICLES

ARTICLE ONE: Those Prisoners who fall under criteria 1 and 2, and provided that their federal writ was denied on grounds of AEDPA violation, and that the violation did not exceed one (1) year, and they were actively involved in the appeal process shall be given another opportunity to resubmit their federal writ with an appointed counsel.

ARTICLE TWO: Those Prisoners who fall under criteria 3 and 4 shall be appointed counsel due to their inability to represent themselves or fully comprehend the law.

ARTICLE THREE: Starting January 1st 2016/2017 the DOC/BOP will be required by law to inform their prison population of any and all laws/bills that will and can have a direct impact on their confinement.