10-1976

Jones v. North Carolina Prisoners' Labor Union, Inc.

Lewis F. Powell Jr.

DM

Discuss with view to Noting (I'll not affirm Summarily)

3 J/Ct invalidated & enjoined N.C. Prison Regs. that restricted inmates from various activities w/respect to a Union. See below

3 J/Ct voided Regs as impermissible restrictions on 1st Amend Rts, & violative of E/P as Prison Regs allowed JC's, Boy Scouts & other org's to hold meetings in prisons.

PRELIMINARY MEMO

The Court may have placed unduly heavy burden on state to show reasonable grounds for believing union activities would be disruptive

Summer List 11, Sheet 1

No. 75-1874

JONES, Sec. N.C. Dept. of Corrections; EDWARDS, Commn'er N.C. Dept. of Corrections	App from E.D. N.C. (Craven, Butler, Dupree)	
v.		
N.C. PRISONERS' LABOR UNION, INC.	Federal/Civil	Untimely/ non-jurisdictional[1/]

Vote please see back) Dave

1. SUMMARY: Appnts, the Commn'er and Sec. of N.C. Dept. of Corrections, appeal from a decision enjoining the enforcement of prison rules prohibiting: (1) inmates and others from soliciting inmates to join apee union; (2) apee union from mailing its literature in bulk to inmates for redistribution; and (3) apee union from holding meetings in prison on the grounds that such rules violated the First Amendment and/or equal protection.

but

1/ Appnt's jurisdictional statement was filed one day out of time.

2. FACTS: Apee union is an organization of N. C. prison inmates associated together for purposes of working for prison reform. While permitting inmates to join apee, appnts refuse to recognize it for any purpose and have circumscribed its activities through the enforcement of rules and regulations prohibiting any solicitation of inmates, whether personally or through correspondence, to join apee; forbidding the receipt of apee's bulk mail by inmates thus preventing inmates from receiving and redistributing apee's literature; and prohibiting the union from holding meetings in prison. Allegedly, such rules were enforced because appnts feared the possibility of concerted group action on the part of apee and because the apee was unneeded in any event in light of established inmate grievance procedures. It should be noted, however, that appnts allowed such inmate organizations as Alcoholics Anonymous, the Boy Scouts, and the Junior Chamber of Commerce (JC's) to hold meetings. In addition, the bulk mail rule was not enforced against the receipt of JC's literature.

Apee brought this action under § 1983 seeking an injunction against the enforcement of these rules and monetary relief [2/] on the grounds that the rules violated both the First Amendment and equal protection. Its primary argument seems to have been that inmates have a First Amendment right to join a cooperative association of inmates. However, the DC did not reach this broad issue because appnts did permit inmates to join apee. Rather, it framed the issue as follows:

2/ The DC dismissed the damage claim on the Eleventh Amendment grounds.

"In a penal system which permits inmates to belong to a corporate union..., what are the rights of the prisoners and the union under the first amendment and equal protection clause."

With the issues thus limited, the DC first found that the no-solicitation rule violated the First Amendment rights of apee and enjoined its enforcement. Under Pell v. Procunier, 417 U.S. 817, it reasoned, inmates had a First Amendment right to discuss any subject so long as it did not conflict with legitimate penalogical objectives. This right could only be limited where necessary or essential to the maintenance of "security, order, and rehabilitation," the state's legitimate interests in its penal system. Procunier v. Martinez, 416 U.S. 396, 413. Here, the regulation was not necessary or essential to such objectives since there was no evidence that the union had been used to disrupt the system. Moreover, it noted that a no-solicitation rule, while permitting inmates to join apee, bordered on the irrational. Using this same analysis, it also found that the bulk mailing ban as applied to apee violated the First Amendment.

The ct then analyzed the rules prohibiting meetings and bulk mailings under equal protection and found them unconstitutional. In doing so, it seems to have applied both First Amendment and equal protection analysis. Since appnts did not show that the proscribed activities were detrimental to proper penalogical objectives (the implication being that they were thus entitled to the full scope of First Amendment protection), appnt could not prohibit them so long as they accorded other inmate groups those privileges.

3. CONTENTIONS: Underlying appnts' arguments are two basic premises. First, the ct below overemphasized the fact that appnts' permitted union membership since it is

clear that appnts opposed apee and perceived it as a threat to prison security as evidenced by the obstacles placed in the path of its organization. Hence, it was erroneous to treat it on an equal par with such inmate groups as the JC's. Second, the ct improperly substituted its judgment for that of appnts in matters of prison administration.

Turning to the solicitation and bulk mailing bans, appnts argue that the ct misapplied Pell in finding them violative of the First Amendment. Such rules were enforced because, in appnt's view based on their experience and that of prison administrators elsewhere, such inmate groups posed a threat to internal security. While conceding that such rules did infringe on inmates' First Amendment interests, appnts assert that, on balance, they were reasonable regulations in furtherance of a legitpenal objective. Moreover, they maintain that deference to their judgment was especially appropriate since inmates had alternate ways of making their grievances known. Cruz v. Beto, 405 U.S. 319 (1972)

With respect to the equal protection violations, appnts argue that the ct erroneous
interest
applied what amounted to a compelling state analysis because of its erroneous conclusio that the union's activities were entitled to the full scope of First Amendment protection. Under a more limited scrutiny, they contend, the disparate treatment of the inmate organizations was justified in that those groups permitted access served legitimate rehabilitative purposes while the union, in their view, posed a threat to prison security.

Finally, appnts argue that the decision is directly contrary to Paka v. Manson, 387 F. Supp. 111 (D. Conn. 1974) (many of appnts arguments are taken verbatim from that opinion).

4. DISCUSSION: This case raises an interesting question concerning the burden placed on prison officials to justify regulations challenged on First Amendment and equal protection grounds. In finding constitutional violations, the ct, in essence, held that the appnts had failed to substantiate their fears that such inmate groups posed threats to prison security and that they were thus entitled to the full protection of the First Amendment. Central to this view was the fact that the appnts had permitted union membership, a factor that the *ct may have overemphasized as appnts point* out. Moreover, there were conflicting expert opinions offered as to the dangers of such unions. The ct, however, saw no need to resolve this conflict because appnts did permit union membership.

The ct may have placed an erroneously harsh burden on appnts. Pell calls for a balancing of interests where the First Amendment rights of inmates are involved. Here, the ct appears to have ignored the appnts' interests in prison security since they could not document them with particulars. However, the question of whether inmate organizations such as apee pose security problems is certainly an area where reasonable men can differ as documented by the expert opinions below. Because of these differences, it appears to me that the ct should have deferred to the legitimate concerns of appnts, especially since alternative means of communicating grievances were available. Cruz v. Beto, supra.

If the ct's First Amendment analysis falls, so must its equal protection conclusions since the *disparate treatment accorded the JC's, etc., and apee can certainly* be justified on rehabilitative grounds.

I'm not as "certain" of this as the memo. writer, at least not without a more searching inquiry into the purposes, methods of operation, etc. of the various organizations. Working in some pris[illegible] might be very beneficial to rehabilitation, at least for certa[illegible]

Finally, this case does conflict with Paka v. Manson although the ct there did reach the question of whether inmates had a First Amendment right to join such organizations because the prison officials did not permit membership as appnts did here.

There is no response.

8/9/76 Ondrasik E.D. N.C. opn in petn
MS

OCT 8 1976

Court USDC, E.D. N.C. ...... Voted on ...., 19...

Argued ...., 19... Assigned ...., 19... No. 75-1874

Submitted ...., 19... Announced ...., 19...

DAVID L. JONES, SECRETARY OF THE NORTH CAROLINA DEPARTMENT OF CORRECTION, ET AL., Appellants

vs.

NORTH CAROLINA PRISONERS' LABOR UNION, INC., ETC.

6/26/76 - Appeal

Case doesn't involve const validity of outlawing unions in prisons. It is a peanut of a case & I think we would regret taking.

Affirm.

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	POST	DIS	AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Stevens, J.							✓						
Rehnquist, J.				✓ or Reverse summarily on Charlotte case last year									
Powell, J.						~~Joins~~	✓						
Blackmun, J.				✓									
Marshall, J.							✓						
White, J.							✓						
Stewart, J.						Join 3							
Brennan, J.							✓						
Burger, Ch. J.						~~Joins~~		Join 3					

OCT 15 1976

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on....., 19...
Assigned ....., 19...
Announced ....., 19...

No. 75-187

JONES

vs.

NORTH CAROLINA PRISONERS' LABOR UNION, INC.

Relist for Mr. Justice Rehnquist - Also motion to affirm

Relist
for
W. H. R.
to vote

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
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OCT 2 9 1976

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No. 75-187

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RELIST for Justice Rehnquist - Also motion to affirm

Relist for W.H.R. to write

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
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Stevens, J.													
Rehnquist, J.							Same vote						
Powell, J.													
Blackmun, J.													
Marshall, J.													
White, J.													
Stewart, J.													
Brennan, J.													
Burger, Ch. J.													

NOV 5 1976

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on ....., 19...
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No. 75-187

JONES

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RELIST for Mr. Justice Rehnquist - Also motion to affirm.

Relist
for
W.H.R

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
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Burger, Ch. J.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

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Court .....
Argued ....., *19*...
Submitted ....., *19*...

Voted on....., *19*...
Assigned ....., *19*...
Announced ....., *19*...

No. 75-187

JONES

vs.

NORTH CAROLINA PRISONERS' LABOR UNION, INC.

RELIST for Mr. Justice Rehnquist - Also motion to affirm.

Relist for Rehnquist

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
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Marshall, J.													
White, J.													
Stewart, J.													
Brennan, J.													
Burger, Ch. J.													

p. 14

Leuder - Put in Book

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Stevens

From: Mr. Justice Rehnquist

Circulated: NOV 22 1976

Recirculated: _____

1st DRAFT

Stewart now will vote to Note

Dissent at 11/24 Conference. I'm now inclined to Note

(If this were a Cert. I'd deny, but I'm hesitant to set a precedent that may be received as requiring recognition of Unions in prisons for some purposes.

SUPREME COURT OF THE UNITED STATES

DAVID L. JONES, SECRETARY OF THE NORTH CAROLINA DEPARTMENT OF CORRECTION, ET AL., *v.* NORTH CAROLINA PRISONERS' LABOR UNION, INC., ETC.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

No. 75-1874. Decided November —, 1976

MR. JUSTICE REHNQUIST, dissenting.

The District Court appears to have decided this case on the theory that once a corrections official allows the nose of a camel within the institutional tent, he is obliged by the Constitution to admit the entire animal. I disagree with this approach, and think that the District Court's injunction against the enforcement of these prison rules invades the discretionary domain of prison officials which our cases have been careful to preserve.

Respondent prisoners' union brought this § 1983 action to challenge the policies of the State Department of Corrections in restricting the Union's activities within the prison. The three-judge District Court hearing the case specifically found that while the defendant officials permitted inmate membership in the union, they prohibited all face-to-face solicitation of membership within the prison, barred all meetings of the Union, and refused to allow receipt of bulk mailings from the Union for distribution among the inmates. Finding that these very privileges were allowed to the Junior Chamber of Commerce, Alcoholics Anonymous, and, in one institution, the Boy Scouts of America, and that "[t]here is not one scintilla of evidence to suggest that the union has been utilized to disrupt the operation of the penal institutions," App. to J. S., at 28, the court found merit in the union's free speech and equal protection arguments. Without deciding whether the union could assert any constitu-

tional right to exist, the court held that First and Fourteenth Amendment interests were infringed where, absent evidence of some danger to security or order, membership was tolerated but organizational behavior relating to it was not.

The precise finding of the District Court was that "[i]nmates are permitted to join a union and have been and are being permitted to join the North Carolina Prisoners' Labor Union, Inc." App. to J. S., at 23–24. While the uncontradicted affidavit of petitioner Jones, the Secretary of the Department of Corrections, in this respect cannot be said to be at odds with the findings of the District Court, its language imparts a somewhat different flavor to the matter. He said:

> "I did not intervene directly in any of the day-to-day dealings with inmates or other persons purporting to be representatives of the union . . . . I did direct my staff though that unless I was legally required by a court of law that I would not recognize the existence of any inmate union and neither I nor anyone else in the employment of the Department of Correction would recognize, negotiate with, or do anything else to create the impression that the so-called union was a recognized legitimate inmate activity. I directed that existing departmental policy would be enforced and complied with."

Petitioner Edwards, the Commissioner of the Department of Corrections, made clear in his affidavit that Alcoholics Anonymous and the Jay Cees always stood on a very different footing:

> "As stated only two outside organizations have been permitted to form inmate organizations within the prison system. These organizations have been demonstrated to have significant rehabilitative value and may continue to function only as long as they fill a legitimate rehabilitative need of the inmates. They have also been determined not to constitute any threat to

> the order or security of the institution. Neither organization purports to act as spokesman for the inmate.
>
> "The creation of an inmate union will naturally result in increasing the existing friction between inmates and prison personnel. It can also create friction between union inmates and non-union inmates."

While inmates were not disciplined if they became members of the Union, the Department of Corrections obviously viewed and treated the Union very differently than it did Alcoholics Anonymous or the Jay Cees. Notwithstanding the differences between the organizations, the District Court concluded that because certain privileges had been extended to the latter organizations by the Department of Corrections it must perforce by virtue of the Equal Protection Clause of the United States Constitution extend the same privileges to the "prisoners' union" which is the respondent here.

Neither of the cases from this Court principally relied upon by the District Court, *Procunier* v. *Martinez*, 416 U. S. 396 (1974), and *Pell* v. *Procunier*, 417 U. S. 817 (1974) seem to me to warrant the invalidation of the petitioner's regulations limiting the activities that might be conducted within the prisons on behalf of respondent. Both of those cases recognize the wide-ranging deference to be accorded the decisions of prison administrators, and the limitations on First Amendment rights which are implicit in incarceration.

In *Martinez, supra,* we said that:

> "For all of those reasons, courts are ill equipped to deal with the increasingly urgent problems of prison administration and reform. Judicial recognition of that fact reflects no more than a healthy sense of realism. Moreover, where state penal institutions are involved, federal courts have a further reason for deference to the appropriate prison authorities." 416 U. S., at 405.

In *Pell, supra,* we said that

> "We start with the familiar proposition that '[l]awful incarceration brings about the necessary withdrawal or

> limitation of many privilges and rights, a retraction justified by the considerations underlying our penal system.' . . . In the First Amendment context a corollary of this principle is that a prison inmate retains those First Amendment rights that are not inconsistent with his status as a prisoner *or* with the legitimate penological objectives of the corrections system. (Emphasis supplied.) (Citations omitted.) 417 U. S., at 822.

The District Court treatment of this case as if the prison environment were essentially a "public forum," is contrary to our decision last Term in *Greer* v. *Spock,* 44 U. S. L. W. 4380 (Mar. 24, 1976), where we upheld a ban on political meetings at Fort Dix and in the course of doing so, stated that:

> "The fact that other civilian speakers and entertainers had sometimes been invited to appear at Fort Dix did not of itself serve to convert Fort Dix into a public forum or to confer upon political candidates a First or Fifth Amendment right to conduct their campaigns there. The decision of the military authorities that a civilian lecture on drug abuse, a religious service by a visiting preacher at the base chapel, or a rock musical concert would be supportive of the military mission of Fort Dix surely did not leave the authorities powerless thereafter to prevent any civilian from entering Fort Dix to speak on any subject whatever." *Id.*, at 4383 n. 10.

Here petitioners' affidavits indicate exactly why Alcoholics Anonymous and the Jay Cees have been allowed to operate within the prison. Both were seen as serving a rehabilitative purpose, and were determined not to pose any threat to the order or security of the institution. The affidavits indicate that the administrators' view of the union differed in both of these respects. I would think that the same deference would be given to a determination by prison officials as to what organizations may properly assist the prison in its role of rehabilitation, as was given to the military determination made in *Greer* v. *Spock, supra.*

The District Court appears to have rested its injunction against the enforcement of petitioner's "no solicitation" rule in part on its conception of the rights of prison inmates under the First and Fourteenth Amendments. Solicitation of membership in the Union, which the record indicates was often accomplished by circulation of written material, involves a good deal more than simple expression of individual views as to the advantages or disadvantages of such an organization. But the District Court went even further in this case, and ordered that "the union and its inmate members shall be accorded the privilege of holding meetings under such limitations and control as are neutrally applied to all inmate organizations, and to the extent, and only to the extent, that other meetings of prisoners are permitted." App. to J. S., at 32.

To the extent that the holding of the District Court rested upon the First and Fourteenth Amendments, I believe that the right to solicit membership in a union and to hold union meetings within prison walls are rather clearly inconsistent with the inmate's status as a prisoner. *Pell* v. *Procunier, supra,* at 822. Insofar as the District Court's holding rests upon an application of the Equal Protection Clause of the Fourteenth Amendment, I think that it is contrary to *Greer* v. *Spock, supra,* and to *City of Charlotte* v. *Local 660,* 44 U. S. L. W. 4801 (June 7, 1976), applying a rational basis test to a municipality's differential treatment of employee organizations. In the area of prisons, where the justifications advanced by those in lawful authority for disparity in treatment should receive the same degree of deference as in the military area, the District Court has applied a more restrictive standard to the States than we applied only last year to a municipal government dealing with its employees. I would reverse its judgment.

NOV 24 1976

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on ....., 19...
Assigned ....., 19...
Announced ....., 19...

No. 75-187

JONES

vs.

NORTH CAROLINA PRISONERS' LABOR UNION, INC.

RELIST for Mr. Justice Rehnquist

Noted

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
		G	D	N	POST	DIS	AFF	REV	AFF	G	D		
Stevens, J.							✓						
Rehnquist, J.				✓									
Powell, J.				✓									
Blackmun, J.				✓									
Marshall, J.							✓						
White, J.							✓						
Stewart, J.				✓									
Brennan, J.							✓						
Burger, Ch. J.				✓									

BOBTAIL BENCH MEMO

To: Justice Powell Date: 4/9/77

From: Tyler Baker

Re: Jones v. North Carolina Prisoners' Labor Union, Inc., No. 75-187

This is one of those cases where the Court is simply going to have to make a decision. The relevant concerns are set out in decisions such as yours in Procunier v. Martinez, 416 U.S. 396 (1974) and Justice Stewart's in Pell v. Procunier, 417 U.S. 817 (1974), but the prior cases do not mandate any particular resolution.

An initial point needs to be made. The DC treated the ~~resp~~ appee organization as a prison reform group. Appant takes every opportunity to describe it as an incipient labor union. It is true that there are references in the resp's literature about collective bargaining, but the DC found that resp had not concerned itself with such matters, and resp has disavowed them. It seems that appant characterized appee in the same way that appee now does. See appee's brief at 6. I think that the labor union point is a red herring; the case should be decided and the opinion written on the basis that the organization is a prison reform group.

Although I am basically sympathetic to appee's position here, I think that one must admit that the DC was slightly devious in its treatment of the issue presented here. It is true that appant allowed inmates to belong to the union, but with all the other restrictions on meeting and solicitation, that was hardly a concession to build an opinion around. I think that the fact that the appant did not outlaw union membership altogether may have some significance, but not as much as the DC

gave it.

It seems to me that this case is an equal protection case with strong first amendment overtones. Appant and the SG spin out all the possible problems with organizations of inmates and all the reasons that the controls such as those challenged here are necessary. These are not implausible, but they are basically speculative. I am sure that the Court is not going to put itself in the position of deciding whether appant's hunches or the hunches of the experts cited by appee are correct. But I do not think that it is necessary to do so. Many of the problems about power structures, chains of communications, introduction of contraband, etc. apply with respect to any organization that is allowed in the prison. The JC's are allowed, but the "union" is not. I am reasonably confident that the difference is that the prison officials are comfortable with the middle America message and style of the JC's and uncomfortable with the more activist and more liberal message and style of the union. In Pell Justice Stewart said, "So long as this restriction operates in a neutral fashion, without regard to the content of the expression, it falls within the 'appropriate rules and regulations' to which 'prisoners necessarily are subject,' ..." 417 U.S. at 828. I doubt that one can say as much about this regulation.

Big difference. Union bargains. JC's don't.

The DC found no evidence at all of any intention or tendency to disrupt or disobey. If there were such evidence, the authorities would be justified in shutting the union down. And, assuming that the DC's order were affirmed, the opinion below spells out in no uncertain terms that any disruptions as a result of the union would also justify shutting it down.

For understandable reasons, prison officials hate to have their "ability to exercise unfettered control over an inmate's daily activites" (SG's brief, at 23!) interfered with. But I think that where they have determined that they can live with organizations of inmates meeting in prison, they should be limited in their ability to pick and choose according to which ones they like and which ones they don't. This would not interfere with the ability to pick and choose on the basis of calls for disruption or disobedience.

I think that a carefully and narrowly written opinion would justify affirming the DC.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

November 23, 1976

Re: 75-1874 Jones v. North Carolina Prisoners' Labor Union

Dear Bill:

I voted to note and hear this case and was prepared to reverse summarily.

With Potter and Harry's memoranda there are now four to vote.

Regards,

WEB

Mr. Justice Rehnquist

cc: The Conference

DM
CA

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

November 22, 1976

Re: No. 75-1874, Jones v. North Carolina Prisoners' Labor Union, Inc.

Dear Bill,

I should appreciate your adding the following at the foot of your dissenting opinion in this case:

> MR. JUSTICE STEWART would note probable jurisdiction of this appeal and set the case for briefing and oral argument.

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

DM

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 23, 1976

Re: No. 75-1874 - Jones v. North Carolina Prisoners' Labor Union

Dear Bill:

At the foot of your opinion would you please note that I also would note probable jurisdiction and set the case for briefing and oral argument.

Sincerely,

Harry

Mr. Justice Rehnquist

cc: The Conference

75-1874 JONES v. N.C. PRISONERS' Argued 4/19/77

Appeal from 3 J/Ct (Craven) sustaining recognition of labor union in prisons.

Prison Reg. (SG's Brief 3)

Saffron (D/AG of N.C.)

(Miserable argument)

Geller (for SG as Amicus)

Legal principles are clear.

The N.C. Regs (p 3 SG's Br.) do restrict some 1st Amend rights - but this is necessary & has been recognized in Pell

Doesn't read DC's opinion as founded primarily on 1st Amend - rather it is primarily based on E/P clause (must be treated like JC's, Alcoholics A., & Boy Scouts.

Reverse 6-3

75-1874 JONES v. N.C. PRISONERS' Conf. 4/22/77

The Chief Justice Reverse

3 J/Ct ignored Procunier & Rell.
A Prisoner does not have to prove danger

Mr. Justice Brennan Affirm

Much ado about nothing.
T Ct's are admitted

Mr. Justice Stewart Reverse

3 J/Ct either misapprehended or misrepresented the State's position.
The State has not accepted the Union. It merely recognizes right of a prisoner to say he is a Union member.
Rehnquist's memo last page is correct.

Mr. Justice White Reverse

Agree with CJ + PS

Mr. Justice Marshall Affirm

As long as J Cee's, Boy Scouts are admitted must allow Unions also — no difference

Violation of E/P

Mr. Justice Blackmun Reverse

E/P claim is frivolous.

Mr. Justice Powell Reverse

Mr. Justice Rehnquist Reverse

Mr. Justice Stevens Affirm

No E/P issue.

But on findings as to 1st Amend issue, would affirm

May 23, 1977

No. 75-1874 Jones v. North Carolina Prisoners' Labor Union

Dear Bill:

Please join me.

Sincerely,

Mr. Justice Rehnquist

lfp/ss

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

May 24, 1977

No. 75-1874 - Jones v. North Carolina Prisoners' Union

Dear Bill,

I am glad to join the opinion you have written for the Court in this case.

Sincerely yours,

Mr. Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 27, 1977

Re: No. 75-1874 - Jones v. North Carolina Prisoners' Labor Union, Inc.

Dear Bill:

Please join me.

Sincerely,

HAB

Mr. Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 31, 1977

Re: No. 75-1874 - Jones v. North Carolina
Dept of Correction

Dear Bill:

Please join me.

Sincerely,

Byron

Mr. Justice Rehnquist

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 13, 1977

Re: 75-1874 - Jones v. North Carolina Prisoners' Labor Union

Dear Bill:

I join. I may possibly "add a word."

Regards,

WEB

Mr. Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 20, 1977

RE: No. 75-1874 Jones v. North Carolina Prisoners' Labor Union, Inc.

Dear Thurgood:

Please join me in the dissenting opinion you have prepared in the above.

Sincerely,

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 20, 1977

Re: No. 75-1974 - Jones v. North Carolina Prisoners' Labor Union, Inc.

Dear Thurgood:

I do not anticipate making any changes in my circulating opinion in response to your dissent.

Sincerely,

WHR

Mr. Justice Marshall

Copies to the Conference

THE C. J.	W. J. B.	P. S.	B. R. W.	T. M.	H. A. B.	L. F. P.	W. H. R.	J. P. S.
							5/3/77	
Join WHR may wrote 6/13/77	Join TM 6/20/77	Join WHR 5/24/77	Join WHR 5/31/77	dissent typed draft 6/17/77	Join WHR 5/27/77	Join WHR 5/23/77	1st draft 5/19/77	typed draft concurring in part & dissenting in part 6/15/77
concurring opinion 1st draft 6/20/77				1st draft 6/20/77			2nd draft 5/24/77	
							3rd draft 5/31/77	1st draft 6/20/77

75-1874 Jones v. N.C. Prisoners'