

Wiley Files Supreme Court *Amicus* Brief in First Amendment Case Involving Religious Rights of Incarcerated Individuals

February 22, 2023

Washington, DC - Wiley Rein LLP filed an *amicus* brief in the U.S. Supreme Court on behalf of The Rutherford Institute and the Jewish Coalition for Religious Liberty in a case involving the First Amendment rights of incarcerated individuals to freely exercise their religious faith.

The brief supports the petition for certiorari filed in *Hjalmar Rodriguez Jr. v. Edward H. Burnside, et al.*, Case No. 22-594., urging the Supreme Court to review a June 2022 decision from the U.S. Court of Appeals for the Eleventh Circuit. At issue is a prison policy that has severely impaired the petitioner's ability to practice his faith and the Eleventh Circuit's decision prevented the petitioner from receiving religious accommodations he requested. In the *amicus* brief, Wiley attorneys note the potential damage that the Eleventh Circuit's ruling could cause for incarcerated individuals of all faiths.

As explained in the brief, the Eleventh Circuit misinterpreted and distorted Supreme Court precedent when it failed to consider a majority of the *Turner* factors - a four-factor test that evaluates whether a prison policy violates the First Amendment rights of prisoners, as articulated in the Court's 1987 decision, *Turner v. Safley*.

"Critically, the Eleventh Circuit panel misinterpreted the *Turner* standard, effectively ignoring the majority of the *Turner* factors and reducing it to a mere 'rational connection' test under which the government will undoubtedly always win," Wiley argued in the brief. "The *Turner* decision made clear that each of the four factors 'are relevant in determining' whether a prison regulation implicating constitutional rights may be upheld."

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The *amicus* brief notes that the Eleventh Circuit “failed to engage with each of the factors, giving short shrift to three of the four factors this Court commanded lower courts to consider.” If allowed to stand, the Eleventh Circuit’s decision threatens the free exercise of prisoners across the United States, and weakens the constitutional checks on prison power.

The brief was authored by Wiley Pro Bono Partner Theodore A. Howard and associates Krystal B. Swendsboe and William Turner. Howard serves as Counsel of Record for The Rutherford Institute and the Jewish Coalition for Religious Liberty as *amici* in this case.

To read the *amicus* brief, [click here](#).