

CLARENCE THOMAS' REVENGE

Rosalind linked to this LAT article describing Clarence Thomas' pro-abuse views.



According to Supreme Court Justice Clarence Thomas, a prisoner who was slammed to a concrete floor and punched and kicked by a guard after asking for a grievance form – but suffered neither serious nor permanent harm – has no claim that his constitutional rights were violated.

Thomas objected when the high court, in a little-noted recent opinion, said this unprovoked and malicious assault by a North Carolina prison guard amounted to cruel and unusual punishment.

[snip]

According to Thomas, this harsh treatment did not qualify as cruel and unusual punishment. “Judges – not jailers – impose punishment,” he wrote.

[Thomas and Scalia] explained that the word “punishment” as it was used in the English Bill of Rights in 1689 referred to judges imposing punishment for a crime. Prison guards do not impose “punishment” even if they mete out cruelty, they said.

The entire article is worth reading not just because it reveals where Thomas will weigh in if torture ever gets to SCOTUS.

But it highlights a point I noted (as did Citizen92): the degree to which Clarence Thomas' former and future clerks implemented our country's torture regime.

Page 25 to 27 (PDF page 31 to 33) of the OPR

Report includes a section on the background of the lawyers who had significant hand in writing the torture memos:

John Yoo. Clerk, Clarence Thomas, 1994 to 1995

Patrick Philbin, Clerk, Clarence Thomas, 1993 to 1994

Jennifer Koester, Clerk, Clarence Thomas, 2004 to 2005

Steven Bradbury, Clerk, Clarence Thomas, 1992 to 1993

Of the list included on those pages, just Jack Goldsmith and Daniel Levin did not clerk for Thomas. And of course, the most egregious work came from lawyers—Yoo, Koester, and Bradbury—who were Thomas clerks.

This is one of the dangers of appointing a partisan hack like Thomas rather than radical, but intelligent, lawyers like Alito and Scalia. Because the partisan hack is going to launch a whole generation of lawyers (see also Citizen92's focus on James Ho, who also went through OLC) who treat law like one big game of sophistry and human beings like objects into really prominent positions.

And I would bet that Clarence Thomas enjoys the little part he has had in shredding our country's Constitution.