

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

HELLING ET AL. v. MCKINNEY

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT

No. 91-1958. Argued January 13, 1993—Decided June 18, 1993

Respondent McKinney, a Nevada state prisoner, filed suit against petitioner prison officials, claiming that his involuntary exposure to environmental tobacco smoke (ETS) from his cellmate's and other inmates' cigarettes posed an unreasonable risk to his health, thus subjecting him to cruel and unusual punishment in violation of the Eighth Amendment. A federal magistrate granted petitioners' motion for a directed verdict, but the Court of Appeals reversed in part, holding that McKinney should have been permitted to prove that his ETS exposure was sufficient to constitute an unreasonable danger to his future health. It reaffirmed its decision after this Court remanded for further consideration in light of *Wilson v. Seiter*, 501 U. S. ___, in which the Court held that Eighth Amendment claims arising from confinement conditions not formally imposed as a sentence for a crime require proof of a subjective component, and that where the claim alleges inhumane confinement conditions or failure to attend to a prisoner's medical needs, the standard for that state of mind is the "deliberate indifference" standard of *Estelle v. Gamble*, 429 U. S. 97. The Court of Appeals held that *Seiter*'s subjective component did not vitiate that court's determination that it would be cruel and unusual punishment to house a prisoner in an environment exposing him to ETS levels that pose an unreasonable risk of harming his health—the objective component of McKinney's claim.

Held:

1. It was not improper for the Court of Appeals to decide the question whether McKinney's claim could be based on possible future effects of ETS. From its examination of the record, the court was apparently of the view that the claimed entitlement to a smoke-free environment subsumed the claim that ETS exposure could endanger one's future, not just current, health.

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2. By alleging that petitioners have, with deliberate indifference, exposed him to ETS levels that pose an unreasonable risk to his future health, McKinney has stated an Eighth Amendment claim on which relief could be granted. An injunction cannot be denied to inmates who plainly prove an unsafe, life-threatening condition on the ground that nothing yet has happened to them. See *Hutto v. Finney*, 437 U. S. 678, 682. Thus, petitioners' central thesis that only deliberate indifference to inmates' current serious health problems is actionable is rejected. Since the Court cannot at this juncture rule that McKinney cannot possibly prove an Eighth Amendment violation based on ETS exposure, it also would be premature to base a reversal on the Federal Government's argument that the harm from ETS exposure is speculative, with no risk sufficiently grave to implicate a serious medical need, and that the exposure is not contrary to current standards of decency. On remand, the District Court must give McKinney the opportunity to prove his allegations, which will require that he establish both the subjective and objective elements necessary to prove an Eighth Amendment violation. With respect to the objective factor, he may have difficulty showing that he is being exposed to unreasonably high ETS levels, since he has been moved to a new prison and no longer has a cellmate who smokes, and since a new state prison policy restricts smoking to certain areas and makes reasonable efforts to respect nonsmokers' wishes with regard to double bunking. He must also show that the risk of which he complains is not one that today's society chooses to tolerate. The subjective factor, deliberate indifference, should be determined in light of the prison authorities' current attitudes and conduct, which, as evidenced by the new smoking policy, may have changed considerably since the Court of Appeals' judgment. The inquiry into this factor also would be an appropriate vehicle to consider arguments regarding the realities of prison administration. Pp. 5-10.

959 F. 2d 853, affirmed and remanded.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, STEVENS, O'CONNOR, KENNEDY, and SOUTER, JJ., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.