

Briefing Visually

Robert Dubose

Alexander Dubose Jefferson & Townsend LLP
rdubose@adjtlaw.com

Justice Kennedy's majority opinion on
California prison overcrowding

Brown v. Plata, 563 U.S. 493 (2011).



JURISPRUDENCE THE LAW, LAWYERS, AND THE COURT. MAY 23 2011 6:45 PM

Show, Don't Tell

Do photographs of California's overcrowded prisons belong in a Supreme Court decision about those prisons?

by Dahlia Lithwick

Photos from California's overcrowded prison system

California's prisons are so overcrowded, the Supreme Court ruled today, that they are a violation of the **Constitution's ban on cruel and unusual punishment**. Writing for the majority in *Brown v. Plata*, Justice Anthony Kennedy spent 48 pages carefully explaining why the state must release or relocate some 32,000 inmates over the next two years.

Then, to drive home his argument, Kennedy attached three grainy black-and-white photographs to the opinion. Whether those photos will change anyone's mind about the morality of prison overcrowding is open to debate. Whether they should may be a more important, and more interesting, question.

The consolidated appeal comprised two class-action suits, one of which dates to 1990 and challenges prison conditions for prisoners with serious mental health problems. The second was filed on behalf of prisoners with serious medical

DAHLIA LITHWICK

Dahlia Lithwick writes about the courts and the law for Slate.

Slate

WATCH ON YOUR TV, COMPUTER, TABLET AND PHONE

GOGO RECORD PFC AND MORE

sling INTERNATIONAL WATCH NOW 7 DAYS FREE

Lithwick's arguments:

1 - Supreme Court should not use photos when it bans press photos in the Supreme Court.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Briefing Visually

Also available as part of the eCourse

[2016 State and Federal Appeals eConference](#)

First appeared as part of the conference materials for the
26th Annual Conference on State and Federal Appeals session
"Briefing Visually"