

R+R (Supplemental Memo)

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87-6947      timely/response waived

Miner v. New York Dept. of Correctional Services  
Cert to New York Court of Appeals

Petr, a prisoner serving a life sentence, challenges rspt's determination not to recognize a proxy marriage performed in Kansas as valid for the purpose of participating in rspt's Family Reunion Program. Petr executed a "Limited Power of Attorney for Proxy Marriage" appointing one Michael Foster as petr's agent for the purpose of entering into a marriage. Subsequently, petr, through his attorney in fact, married one Laurie Marion in Kansas. Rspt informed petr that it would not recognize this marriage for the purpose of petr's participation in the Family Reunion Program. Under New York law, an individual sentenced to life imprisonment is deemed to be civilly dead; accordingly, any marital relationship existing at the time of the sentence is terminated and the State may prohibit the marriage of such individuals. Petr contends that rspt must, under the Full Faith and Credit Clause, recognize a proxy marriage that is valid in the State where contracted as valid in New York. The state courts did not address this Full Faith and Credit issue. I think petr's position is at least arguably correct and would recommend a CFR.

CFR

ek

July 12, 1988

S.L. 4, p. 12