Touro Law Review

Volume 22
Number 1 *New York State Constitutional Decisions: 2006 Compilation*

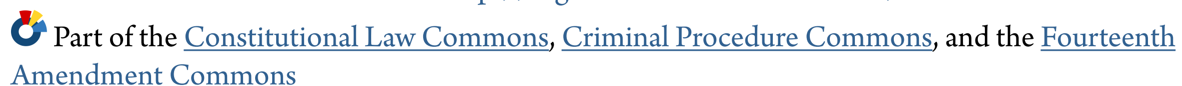
Article 18

November 2014

Supreme Court, Queens County, People v. Michaelides

Christin Harris

Follow this and additional works at: http://digitalcommons.tourolaw.edu/lawreview



Part of the Constitutional Law Commons, Criminal Procedure Commons, and the Fourteenth Amendment Commons

Recommended Citation

Harris, Christin (2014) "Supreme Court, Queens County, People v. Michaelides," *Touro Law Review*: Vol. 22: No. 1, Article 18.
Available at: http://digitalcommons.tourolaw.edu/lawreview/vol22/iss1/18

This Equal Protection is brought to you for free and open access by Digital Commons @ Touro Law Center. It has been accepted for inclusion in Touro Law Review by an authorized administrator of Digital Commons @ Touro Law Center. For more information, please contact ASchwartz@tourolaw.edu.

SUPREME COURT OF NEW YORK
QUEENS COUNTY

People v. Michaelides[1]
(decided July 14, 2005)

On September 25, 1996, Michaelides pled guilty to "Criminal Sale of a Controlled Substance in the Second Degree."[2] Michaelides was sentenced as a second felony offender, since he pled guilty to "Attempted Criminal Possession of a Controlled Substance in the Third Degree" in 1990.[3] Eight years after the defendant's second offense, Governor Pataki signed into law the "Rockefeller Drug Law Reform Act" (DLRA) on December 14, 2004.[4] The provisions of the Act "increased weight thresholds . . . , changed the sentencing structure for drug felonies from indeterminate to determinate sentences, eliminated life sentences, [and] permitted certain Class A-I drug offenders to apply for immediate re-sentencing."[5]

Following the institution of the Act on January 13, 2005, Michaelides moved to vacate his sentence and be re-sentenced under the provisions of the Drug Law Reform Act.[6] The defendant argued

---

[1] 799 N.Y.S.2d 401 (Sup. Ct. 2005).

[2] *Id.* at 402. Defendant was charged in a fifty-three-count indictment, which also included "Conspiracy in the Second Degree" and "Criminal Sale of a Controlled Substance." *Id.*

[3] *Id.* The defendant's status as a second-time offender arose from his conviction in a 1990 charge for "Attempted Criminal Possession of a Controlled Substance in the Third Degree." *Id.*

[4] *Id.*

[5] *Id.* The act also added merit reductions for sentenced A-II drug offenders. *Id.*

[6] *Michaelides*, 799 N.Y.S.2d at 402.

that "he [had] been deprived of equal protection . . . under the State and Federal Constitution by the failure of the legislature to permit retroactive re-sentencing for those currently serving sentences for A-II convictions while allowing those defendants convicted for A-I drug felonies to have retroactive relief" under the Act.[7]

Upon review, the Supreme Court of New York rejected Michaelides' request for re-sentencing, holding that there existed a rational basis for the retroactive sentencing for A-I but not A-II offenders.[8] Therefore, the court determined that the DLRA was in compliance with the equal protection standards set forth in both the New York and federal constitutions and that the defendant failed to establish beyond a reasonable doubt that the varying provisions neglected to "rationally further a legitimate legislative purpose." [9]

In *Cleburne v. Cleburne Living Center*, Cleburne Living Center, also referred to as "CLC," applied for a special use permit to operate a group home for the mentally retarded.[10] The city council denied CLC a special use permit.[11] As a result, CLC filed suit in district court, arguing that "the zoning ordinance was invalid on its face and as applied because it discriminated against the mentally retarded in violation of the equal protection rights of CLC and its

---

[7] *Id.* at 403.

[8] *Id.* at 404-05.

[9] *Id.* at 405. U.S. CONST. amend. XIV provides in pertinent part: "[N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." N.Y. CONST. art. I, § 11 provides in pertinent part: "No person shall be denied the equal protection of the laws of this state or any subdivision thereof."

[10] *Cleburne v. Cleburne Living Center*, 473 U.S. 432, 436 (1985).

[11] *Id.* at 437. During CLC's inquiry and prior to the council's decision, the city explained to CLC that special use permits were required for "[hospitals] for the insane or feeble minded." *Id.* at 436.

potential residents."[12] The district court ruled that the ordinance and its application were constitutional, and that the ordinance itself was "rationally related to the city's legitimate interests in 'the legal responsibility of CLC and its residents, . . . the safety and fears of residents in the adjoining neighborhood.' "[13] The Fifth Circuit reversed the district court's decision, holding that mental retardation was a "quasi-suspect classification."[14] Due to this special classification, the Fifth Circuit determined that the validity of the ordinance should be assessed under a higher level of scrutiny.[15] Ultimately, the Fifth Circuit Court of Appeals held the ordinance invalid as it pertained to this case because the ordinance failed to further any governmental interest.[16]

Upon certiorari, the Supreme Court stated that "[t]he Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws.' "[17] However, the Supreme Court added that "[t]he general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest."[18] In its two-part decision, the

---

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Cleburne*, 473 U.S. at 437-38 (adding that an "intermediate level scrutiny" should be applied when there exists a long history of discrimination and deeply-seated prejudice). The court added that the mentally retarded "lacked political power." *Id.* at 438.

[16] *Id.* at 438.

[17] *Id.* at 439 (citing to Plyler v. Doe, 457 U.S. 202, 216 (1982), which added that "all persons similarly situated should be treated alike.").

[18] *Id.* at 440 (citing United States Railroad Retirement Board v. Fritz, 449 U.S. 166, 174-75 (1980), which noted that "[w]hen social or economic legislation is at issue, the Equal Protection Clause allows the States wide latitude.").

Supreme Court determined that the ordinance itself rested on an "irrational prejudice against the mentally retarded."[19] Contrary to the ruling of the Fifth Circuit, the Supreme Court held that a non-suspect classification did not require a higher standard of judicial review.[20] In particular, the Court stated that "[h]eightened scrutiny inevitably involves substantive judgments about legislative decisions, and we doubt that the predicate for such judicial oversight is present where the classification deals with mental retardation."[21] The Court added that the legislative response by both the state and the federal government demonstrates that "lawmakers have been addressing their difficulties in a manner that belies a continuing antipathy or prejudice and a corresponding need for more intrusive oversight by the judiciary."[22]

Similarly, the Supreme Court's decision in *Heller v. Doe,* dealt with the differences between commitment proceedings.[23] In particular, the Court examined the final commitment hearing for mental retardation, which called for clear and convincing evidence, and involuntary commitment hearing for mental illness, which

[19] *Id.* at 450 (adding that the council failed to support its contention regarding the overpopulation and congestion of the streets, given the fact that apartment houses freely located without a special use permit). The Supreme Court also attacked the district court and council's concern with the negative attitude of adjacent property owners. *Id.* at 448. The Court stated "mere negative attitudes, or fear, . . . are not permissible bases for treating a home for the mentally retarded differently from apartment houses." *Id.* at 448.

[20] *Cleburne,* 473 U.S. at 442.

[21] *Id.* at 443.

[22] *Id.* In particular, the Court refers to Texas legislation that acknowledges the special status of the mentally retarded, by conferring the "right to live in the least restrictive setting appropriate." *Id.* at 444. The Court also added that the legislative response negates any claim that the mentally retarded are politically powerless. *Id.* at 445.

[23] Heller v. Doe, 509 U.S. 312, 314-15 (1993).

adopted the reasonable doubt standard.[24] The court also reviewed commitment proceedings for the mentally retarded, which provided for the participation of family members and guardians, and proceedings for the mentally ill, which excluded the participation of family members or guardians.[25] In *Heller*, the plaintiffs, a class of mentally retarded persons, argued that the "distinctions are irrational and violate the Equal Protection Clause of the Fourteenth Amendment."[26] In response to the plaintiffs' constitutional claims, the Court stated that the Fourteenth Amendment did not grant courts the power to assess legislative policies not involving fundamental rights or the state's irrational actions.[27] The Court further added that a classification "must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification."[28] In its reliance upon precedent, the Court held that the state's pursuit for accurate adjudication and appropriate treatment established a rational basis for the distinctions and therefore did not violate the Equal Protection Clause.[29]

Furthermore, in *Doe v. Coughlin*, the plaintiffs, husband and wife, argued that the denial of conjugal visits violated their state and

---

[24] *Id.* at 315.

[25] *Id.*

[26] *Id.* The plaintiffs also argued that granting family members and guardians the same status as the party itself violated the Due Process Clause. *Id.*

[27] *Id.* at 319 (citing New Orleans v. Dukes, 427 U.S. 207, 303 (1976)).

[28] *Heller,* 509 U.S. at 320 (citing FCC v. Beach Communications, Inc., 508 U.S. 307, 313 (1993)).

[29] *Id.* at 328. The court reasoned that mental illness is more difficult to diagnosis than mental retardation, and therefore, the higher burden of proof should exist in the commitment proceedings for the mentally ill, so as to minimize the risk of an erroneous determination. *Id.* at 332.

federal constitutional rights.[30] In particular, the husband and wife argued that "the manner in which the conjugal visit program was administered in this case violated their right to equal protection of the laws" under both the Fourteenth Amendment and the New York State Constitution.[31] The plaintiffs added that they were denied equal protection because the facility "did not afford them conjugal visits when such visits were permitted between other prisoners and their spouses."[32]

Upon examining the couple's argument, the *Coughlin* court stated, "[e]qual protection does not require absolute equality . . . or precisely equal advantages."[33] The court added, "equal protection requires only that a classification which results in unequal treatment rationally further 'some legitimate, articulated state purpose.' "[34] In the application of the above principles, the court found that the state has a substantial interest in preventing the transmission and spread of diseases such as HIV and AIDS.[35] The court concluded that the facility had a "rational basis for their determination that [AIDS] was a communicable disease" and that plaintiffs' conjugal visits could possibly result in the spread of the fatal disease.[36] The court held that

---

[30] 518 N.E.2d 536, 537-38 (N.Y. 1987). The couple was married while the husband was an inmate of the Auburn Correctional Facility. *Id.* at 537-38. Following their marriage, the husband qualified for participation in the Family Reunion Program, which afforded prisoners conjugal visits. *Id.* at 538. Shortly thereafter, the husband was diagnosed with Acquired Immune Deficiency Syndrome and the correctional officers thereby prohibited any further conjugal visits. *Id.*

[31] *Id.* at 541.

[32] *Id.*

[33] *Id.*

[34] *Id.* at 541-42 (citing McGinnis v. Royster, 410 U.S. 263, 270 (1973)).

[35] *Coughlin,* 518 N.E.2d at 542.

[36] *Id.*

the classifications adopted by the facility "bore a rational relationship to the proper . . . operation of the [Family Reunion] program," and the prohibition of spreading communicable diseases to non-prisoners.[37]

Additionally, in *People v. Scalza*, the defendant objected to a procedure in which, "[a]ny pre-trial motion . . . may be referred by the court to a judicial hearing officer [(JHO)] who shall entertain it in the same manner as a court."[38] The statute granted the sole power of determination to the trial judge.[39] The JHO took testimony and filed findings of fact and conclusions of law with the county court.[40] In accordance with the statute, the trial judge reviewed the JHO's findings and denied defendant's motion to suppress.[41] The defendant argued that the procedures conducted by the JHO violated his constitutional rights because the New York State Constitution prohibited "any part of the court's function to be discharged by anyone but a Judge."[42]

In determining the constitutionality of the statute, the court in *Scalza* noted, "that acts of the Legislature enjoy a strong presumption of constitutionality."[43] To support this statement, the court explained that, "[t]he Trial Judge always keeps the plenary power to reject,

---

[37] *Id.* at 544.
[38] People v. Scalza, 563 N.E.2d 705, 706 (N.Y. 1990).
[39] *Id.*
[40] *Id.* at 706. The statute itself authorized JHOs "to hear and report on pretrial motions, . . . and . . . with the parties' consent, try issues of fact and preside at bench trials of class B and unclassified misdemeanors." *Id.* at 707.
[41] *Id.*
[42] *Id.*
[43] *Scalza,* 563 N.E.2d at 706.

Touro Law Review, Vol. 22 [2006], No. 1, Art. 18

accept or modify the JHO's report."[44] In addition, the court declared that Article 1, section 11 of the New York State Constitution lacked any express or implied language that clashed with CPL 255.20(4), and by no means diminished the court's power to decide such cases.[45] For further support, the *Scalza* court also stated that defendant's claim required the balancing of factors, which included, "the interests of the parties to the dispute, the adequacy of the contested procedures to protect those interests and the government's stake in the outcome."[46] In weighing these interests, the court added that there existed a substantial state interest to lessen delays, which permanently exist in the judicial system.[47] Upon the mentioned rationale, the court held the statute as constitutionally valid.[48]

Moreover, in *People v. Pacheco*, the defendant pled guilty to an "E felony of attempted criminal possession of a dangerous drug in the fourth degree" in 1972.[49] Five years later, the defendant entered a guilty plea to a "C felony of criminal sale of a controlled substance in the fifth degree" and agreed upon the appropriate sentence.[50] Just days prior to sentencing, the Marihuana Reform Act went into effect.[51] Under the Act, the statute reclassified the defendant's first offense as a B misdemeanor.[52] However, despite the reclassification, the court sentenced the defendant as a predicate felon, upon the

---

44 *Id.* at 707.
45 *Id.*
46 *Id.* at 708.
47 *Id.*
48 *Scalza,* 563 N.E.2d at 708.
49 People v. Pacheco, 426 N.Y.S.2d 57, 58 (Sup. Ct. 1980).
50 *Id.*
51 *Id.*

previously agreed upon term.[53]

Pacheco requested that the court set aside his sentence, claiming that, "relegating him to a predicate felon status despite the fact that his prior crime no longer constituted a felony, section 70.06 of the Penal Law deprived him of equal protection of the law."[54] In particular, the defendant's argument focused on the disparate treatment afforded to those who committed a prior crime in New York and those with an out-of-state conviction.[55] Based upon this classification, the defendant contended that there existed "no logical basis for the willingness to treat those guilty of prior out-of-State crimes by present New York standards of what constitutes a felony while treating those who have been convicted of a prior felony in New York by the stricter standards."[56]

In response to the defendant's arguments, the court stated that the defendant "must establish beyond a reasonable doubt that the classifications contained therein fail to rationally further a legitimate legislative purpose."[57] The court also added that, "the statute will be construed in such a manner as to uphold its constitutionality."[58] Upon examination of the statute, the court reasoned that the legislature wished to be more severe with those who consistently violated the laws of its state.[59] In addition, the court stated that the

---

52 *Id.*

53 *Id.*

54 *Pacheco*, 426 N.Y.S.2d at 58.

55 *Id.*

56 *Id.*

57 *Id.* (citing McGinnis v. Royster, 410 U.S. 263, 270 (1973)).

58 *Id.* at 59 (citing People v. Kaiser, 21 N.Y.2d 86, 103 (1967)).

59 *Pacheco*, 426 N.Y.S.2d at 61.

legislature may have viewed individuals such as the defendant, as a greater threat to the "peace and tranquility" of the state.[60] Taking into consideration the legislature's rationale, the court concluded that the defendant failed to meet his burden of proof and held the statute constitutionally valid.[61]

In *Michaelides*, the Supreme Court of New York examined both the Fourteenth Amendment of the Federal Constitution and Article 1, section 11 of the New York State Constitution and addressed the claims collectively.[62] Case law generated by the Supreme Court sustained the actions of the state so long as the legislation reflected the legitimate interests of the state.[63] In addition, the Supreme Court held that there must be a rational basis for classifications.[64] Similar to the Supreme Court's interpretation of the Fourteenth Amendment, courts within New York have interpreted the Equal Protection Clause of both the United States and New York State Constitution to uphold legislation that articulated a legitimate state purpose.[65]

Christin Harris

---

60 *Id.* at 61.
61 *Id.*
62 *Michaelides*, 799 N.Y.S.2d at 403-05.
63 *See Cleburne*, 473 U.S. at 440.
64 *See Heller,* 509 U.S. at 320.
65 *See Coughlin,* 518 N.E.2d at 542; *Scalza*, 563 N.E.2d at 708; *Pacheco*, 426 N.Y.S.2d at 58.

FIRST AMENDMENT

United States Constitution Amendment I:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

New York Constitution article I, section 8:

Every citizen may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.