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Equal Protection

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EQUAL PROTECTION

N.Y. Const. art. I, § 11:

No person shall be denied the equal protection of the laws of this state or any subdivision thereof.

U.S. Const. amend XIV, § 1:

No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

SUPREME COURT, APPELLATE DIVISION

FIRST DEPARTMENT

Campaign for Fiscal Equity, Inc. v. State¹
(decided November 15, 1994)

In a consolidated action, the Appellate Division, First Department, examined separate complaints from the two plaintiffs, the City of New York and the Campaign for Fiscal Equity [hereinafter CFE].² The plaintiffs both claimed that the defendant, the State of New York, violated the United States Constitution, Equal Protection Clause,³ as well as article I, section 11,⁴ of the New York State Constitution.⁵ Additionally,

1. 205 A.D.2d 272, 619 N.Y.S.2d 699 (1st Dep't 1994).

2. *Id.* at 275, 619 N.Y.S.2d at 700.

3. U.S. CONST. amend. XIV, § 1. Section 1 of the Fourteenth Amendment provides in pertinent part: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." *Id.*

4. N.Y. CONST. art. I, § 11. Article I, § 11 provides in pertinent part: No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any form, corporation, or institution, or by the state or any agency or subdivision of the state.

the plaintiffs contended that the defendants had violated the New York State Constitution, article XI, section 1,⁶ which mandates that the Legislature provide for maintenance and support of an educational system for all children of New York State.⁷ The appellate division affirmed the order of the New York County Supreme Court and dismissed the complaints in their entirety due to the plaintiffs failure to state a cause of action.⁸

This dispute concerned New York State's system for financing public education. The plaintiffs claimed that New York State's allocation scheme had resulted in disparate educational opportunities available to children in the city school districts.⁹ Plaintiffs alleged that there were significant inequalities with respect to the state educational system.¹⁰ Moreover, the plaintiff argued that New York City schools had higher operating costs and were forced to provide services of lesser quality comparative to those districts that supplement state resources with local tax revenue.¹¹ Consequently, these suburban school districts were

Id.

5. *Campaign*, 205 A.D.2d at 275, 619 N.Y.S.2d at 700.

6. N.Y. CONST. art. XI, § 1. Article XI, § 1 provides in pertinent part: "The legislature shall provide for the maintenance and support of the system of free common schools, wherein all the children of this state may be educated."

Id.

7. *Campaign*, 205 A.D.2d at 275, 619 N.Y.S.2d at 700. In addition, the plaintiffs alleged violations of Title VI of the Civil Rights Act of 1964. *Id.* at 276, 619 N.Y.S.2d at 701. The appellate division disagreed, holding that the plaintiff's claim failed to state a cause of action under both the Civil Rights Act and the Code of Federal Regulations. *Id.* at 277, 619 N.Y.S.2d at 702. The court explained that the state was not responsible for the disparate impact on minority students. *Id.* Instead, it was the Chancellor of the New York City School District who was responsible for allocating State educational aid. *Id.*

8. *Id.* at 278, 619 N.Y.S.2d at 702.

9. *Id.* at 275, 619 N.Y.S.2d at 700. Plaintiffs contended that New York City schools received from the State only 34% of total aid allotted to education although New York City schools enrolled 37% of the State's public school students. *Id.*

10. *Id.*

11. *Id.* The Appellate Division, First Department stated that "[a]ny such inequities are due more to demographic, economic and political factors intrinsic to urban centers themselves than to legislative action or inaction." *Id.*

able to offer more instructional services and maintain facilities of greater excellence than those provided in the urban school districts.¹²

In reaching its conclusion, the lower court followed the reasoning of the New York Court of Appeals in *Board of Education, Levittown Union Free School District v. Nyquist*.¹³ In *Nyquist*, the New York Court of Appeals held that provisions made by the Legislature for state aid to the public schools did not violate the Equal Protection Clause of the Fourteenth Amendment.¹⁴ The court explained that the state allocated financial resources to the school districts so that each pupil was assured of a minimum educational standard.¹⁵ Further, the court noted that the state permitted other local funds, such as taxes, to help supplement the appropriation of state aid.¹⁶ Following the reasoning in *Nyquist*, the Appellate Division, First Department in *Campaign* held that there was no violation of the United States Constitution, despite the lack of financial resources available to the large city school districts.¹⁷

Furthermore, the plaintiffs alleged that there was a similar violation of the Equal Protection Clause of the New York State Constitution.¹⁸ Like its federal counterpart, the appellate division relied on the *Nyquist* decision to analyze the state constitutional provision.¹⁹ The appellate division noted that the standard used in

12. *Id.* at 275, 619 N.Y.S.2d at 700.

13. 57 N.Y.2d 27, 439 N.E.2d 359, 453 N.Y.S.2d 643 (1982).

14. *Id.* at 41, 439 N.E.2d at 364-65, 453 N.Y.S.2d at 649.

15. *Id.*

16. *Id.* (citing *San Antonio Sch. Dist. v. Rodriguez*, 411 U.S. 1, 49-50 (1972)). In *Rodriguez*, the Supreme Court held that the State of Texas was permitted to encourage participation and control of public schools at the local level. *Rodriguez*, 411 U.S. at 49-50. The Court explained that it is within the power of the State Legislature to determine how educational financing should be appropriated to the public school districts. *Id.*

17. *Campaign*, 205 A.D.2d at 276, 619 N.Y.S.2d at 701.

18. *Id.* at 275, 619 N.Y.S.2d at 700.

19. *Id.* The court noted that in *Nyquist*, it was held that there was no illegal discrimination against "large city school districts," although "significant unevenness in the educational opportunities offered" was found. *Id.* The court stated:

Nyquist applied to the case at bar.²⁰ Consequently, the court held that the plaintiffs failed to state a cause of action for violation of the New York State Equal Protection Clause, since they failed to demonstrate that their educational facilities had fallen below the minimum standard provided by the state.²¹

The plaintiffs, however, tried to distinguish their case from the *Nyquist* case and claimed that the New York City school districts were operating below the minimum standard fixed by the Board of Regents.²² Nevertheless, the appellate division was not able to distinguish *Campaign* from *Nyquist*, and thus, dismissed the complaints for failure to state a cause of action.²³

Additionally, the plaintiffs claimed that there was a violation of the Education Article of the New York State Constitution since it is the responsibility of the State Legislature to provide and maintain an educational system for the students in the New York City school districts.²⁴ In *Nyquist*, the court explained that the Legislature is responsible for providing for each student a minimum educational standard.²⁵ The New York Court of Appeals noted that each school district may provide additional educational services and facilities beyond what is provided for by

[I]f taxpayers of a particular local school district wish to provide enriched educational services and facilities which are greater than those afforded by a less affluent district, this does not create an unconstitutional disparity. Rather than statewide equality in services and facilities, all the state is required to provide is "a sound basic education."

Id. at 275, 619 N.Y.S.2d at 701 (citing *Nyquist*, 57 N.Y.2d at 48, 439 N.E.2d at 369, 453 N.Y.S.2d at 653).

20. See *In re Levy*, 38 N.Y.2d 653, 345 N.E.2d 556, 382 N.Y.S.2d 13 (1976). In *Levy*, the court applied a rational basis standard in order to determine whether the financing of the public educational system violated the Equal Protection Clause of the New York State Constitution. *Id.*

21. *Campaign*, 205 A.D.2d at 276, 619 N.Y.S.2d at 701.

22. *Id.* See *R.E.F.I.T. v. Cuomo*, 199 A.D.2d 488, 490, 606 N.Y.S.2d 44, 46 (2d Dep't 1993) (holding that disparities in the financing of rich and poor school districts are not unconstitutional).

23. *Campaign*, 205 A.D.2d at 276, 619 N.Y.S.2d at 701.

24. *Id.* at 275, 619 N.Y.S.2d at 700.

25. *Nyquist*, 57 N.Y.2d at 47, 439 N.E.2d at 368, 453 N.Y.S.2d at 653.

the state.²⁶ In the case at bar, the court concluded that the plaintiffs' claim was factually similar to the rejected appeal in *Levittown*.²⁷ Thus, the court held that the plaintiffs failed to state a cause of action in alleging a violation of the Education Article.²⁸

The CFE complaint alleged that the State had violated article I, section 11, of the New York State Constitution, regarding the discrimination of minority students in New York City school districts.²⁹ Although the lower court upheld this action,³⁰ the appellate division found no violation concerning how the state had appropriated its funds to the school districts.³¹ Thus, the court dismissed the claim for failure to state a cause of action.³²

Accordingly, under both federal and state constitutional analysis, the State of New York was not responsible for the uneven distribution that was allocated through its public school districts. Rather, the Legislature is only required to provide a minimum educational standard, in accordance with the State's allocation scheme.³³ Therefore, the State had not violated any of the plaintiffs' constitutional rights.

26. *Id.* at 47, 439 N.E.2d at 368, 453 N.Y.S.2d at 652. The *Nyquist* court stressed that the state does not make "reference to any requirement that . . . education . . . be made available be equal or substantially equivalent in every district." *Id.*

27. *Campaign*, 205 A.D.2d at 276, 619 N.Y.S.2d at 701.

28. *Id.*

29. *Id.*

30. *See Campaign for Fiscal Equality, Inc., v. State*, 162 Misc. 2d 493, 500, 616 N.Y.S.2d 851, 856 (Sup. Ct. New York 1994). The trial court upheld the CFE claim, referring to Executive Law § 291(2), which guarantees equal opportunity to education as a civil right. *Id.*

31. *Campaign*, 205 A.D.2d at 276-77, 619 N.Y.S.2d at 701.

32. *Id.*

33. *See Nyquist*, 57 N.Y.2d at 40, 439 N.E.2d at 364, 453 N.Y.S.2d at 649. The *Nyquist* court stated that "such funds are in accordance with a formula[e] and variations . . . which supplement local school tax revenue only to the extent of assuring a minimum, uniform per pupil expenditure throughout the State." *Id.*