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Equal Protection

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Crawford v. Perales³⁴
(decided June 2, 1994)

Plaintiff, a public shelter resident, claimed that the state's failure to provide him certain public assistance allowances, violated his rights under the New York State Constitution.³⁵ Further, Plaintiff alleged that certain social service disbursements violated his equal protection rights under the Fourteenth Amendment to the United States Constitution.³⁶ The Appellate Division, First Department found petitioner's constitutional claims to be without merit.³⁷

The plaintiff, a single male, was living in a public homeless shelter.³⁸ As set forth in Social Services Law³⁹ and Social Service Department regulations,⁴⁰ the petitioner was entitled to receive a "home relief" cash allowance of forty five dollars per month.⁴¹ Plaintiff maintained that he was entitled to receive the same benefits granted to those eligible persons not residing in public shelters.⁴² He further claimed that he should receive a pre-

34. 205 A.D.2d 307, 612 N.Y.S.2d 573 (1st Dep't 1994).

35. N.Y. CONST. art. XVII, § 1. Article XVII, § 1 provides in pertinent part: "The aid care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine." *Id.*

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

37. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575.

38. *Id.*

39. N.Y. SOC. SERV. LAW § 131-1(a) (McKinney 1987). Section 131-1(a) states in pertinent part: "[S]ocial services officials shall in accordance with the provisions of this section and the regulations of the department, provide home relief . . . to needy persons who constitute or are members of a family household, who are determined to be eligible." *Id.*

40. N.Y. COMP. CODES R. & REGS. tit. 18, § 352.8[f] (1993). Regulation 352.8[f] provides that: "[A] single person who resides in a shelter for the homeless who has applied for and is found eligible for home relief must be paid a cash allowance of \$45 . . . the remainder of said standard of need is to be met through the provisions of items of need by the shelter." *Id.*

41. *Crawford*, 205 A.D.2d at 307, 612 N.Y.S.2d at 574.

42. *Id.* at 308, 612 N.Y.S.2d at 575.

added allowance which amounted to one hundred and twelve dollars per month, pursuant to New York Social Service Law.⁴³ In addition to the pre-added allowance, plaintiff asserted his eligibility for an additional fourteen dollars and ten cents for a "home energy grant."⁴⁴ Finally, plaintiff asserted his eligibility for a "supplemental home energy" grant in the amount of eleven dollars.⁴⁵ Plaintiff sought a total of one hundred and thirty seven dollars and ten cents per month in public assistance.⁴⁶

Plaintiff alleged that the money distributed pursuant to Social Service Law section 131 was mandated by the New York Constitution,⁴⁷ thus, the Social Service regulations, concerning disbursements to residents of public homeless shelters, violated Constitutional mandates.⁴⁸

The Appellate Division, First Department dismissed petitioner's New York Constitutional claim as being without merit.⁴⁹ The court held that although the New York Constitution mandated funds for the care of the needy, it does not specify the particulars of such care.⁵⁰ In fact, article XVII provides that such

43. *Id.* See N.Y. SOC. SERV. LAW § 131-3(a) (McKinney 1987) (allowing for payments to such "persons and families determined to be eligible . . . for home relief . . . and aid to dependent children").

44. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575. See N.Y. SOC. SERV. LAW § 131-3(c) (McKinney 1987). Section 131-3(c) provides in pertinent part: "[P]ersons and families determined to be eligible by the application of the standard of need proscribed . . . shall receive a home energy grant equal to the following monthly amounts." Section 131-3(a) specifies that an allowance of fourteen dollars and ten cents a month is allowed for a household with one person. *Id.*

45. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575. See N.Y. SOC. SERV. LAW § 131-3(d) (McKinney 1987). Section 131-3(d) provides in pertinent part: "[P]ersons and families determined to be eligible by the application of the standard of need prescribed . . . after application of subdivision 3(c) of this section, shall be increased by the following amounts as a monthly supplemental home energy grant." Section 131(d) specifies that an eleven dollar allowance is to be provided for a household with one person. *Id.*

46. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575.

47. *Id.* at 308, 612 N.Y.S.2d at 575.

48. *Crawford*, 205 A.D.2d at 307-08, 612 N.Y.S.2d at 574-75.

49. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575.

50. *Id.* (citing *Bernstein v. Toia*, 43 N.Y.2d 437, 448, 373 N.E.2d 238, 244, 402 N.Y.S.2d 342, 348 (1977)).

care will be provided "in such manner and by such means, as the legislature may from time to time determine."⁵¹

In determining the constitutional principles of mandated funds for the needy as well as legislative discretion, the New York Court of Appeals in *Bernstein v. Toia*,⁵² held that "[t]his [mandated public assistance] relates . . . to the question of impermissible exclusion of the needy from eligibility for benefits, not to the absolute sufficiency of the benefits distributed to each eligible recipient. We explicitly recognized . . . that the legislature is vested with discretion to determine the amount of aid." ⁵³

Plaintiff relied on *Thrower v. Perales*,⁵⁴ when it asserted that the state's policy of denying certain public assistance grants to the homeless who reside in emergency shelters, represented a resurrection of a state policy of incarceration of the poor in poor houses and prisons.⁵⁵ In *Thrower*, the court recognized that New York's public assistance program of providing cash, goods, and services accomplished restoring self-care and self-support to the economically needy and was "a steady transition away from punitive institutionalization of the poor."⁵⁶

The court believed that plaintiff's reliance on *Thrower* to be ill-founded.⁵⁷ In *Thrower*, the plaintiffs, also public shelter

51. N.Y. CONST. art. XVII, § 1.

52. 43 N.Y.2d 437, 373 N.E.2d 238, 402 N.Y.S.2d 342 (1977).

53. *Id.* at 449, 373 N.E.2d at 244, 402 N.Y.S.2d at 349, *See In re Smiley*, 36 N.Y.2d 433, 330 N.E.2d 53, 369 N.Y.S.2d 87 (1975). "The appropriation and provision of authority for the expenditure of public funds is a legislative and not a judicial function, both in the Nation and in the State." *Id.* at 439, 330 N.E.2d at 56, 369 N.Y.S.2d at 92.

54. 138 Misc. 2d 172, 523 N.Y.S.2d 933 (Sup. Ct. New York County 1987). In *Thrower*, the Supreme Court, New York County granted Medicaid and Home Relief grants to plaintiffs, who were residents of a New York City homeless shelter. The court stated that "such [Social Service Regulation] . . . is fundamentally at odds with the non punitive and rehabilitative policy underlying New York's social welfare laws." *Id.* at 177, 523 N.Y.S.2d at 937.

55. *Id.* at 175, 523 N.Y.S.2d at 935.

56. *Id.*

57. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575.

residents, were denied grants under the Home Relief Program.⁵⁸ "Home relief" are those funds granted "for all support, maintenance and need, and costs of suitable training in a trade to enable a person to become self supporting."⁵⁹ The program was instituted to aid poor and destitute persons who did not receive such assistance from other sources.⁶⁰ The *Thrower* court found that the refusal to grant funds would deny to the economically needy the opportunity to restore themselves to self-care and self support.⁶¹ Such opportunity was held to not be available by the mere granting of shelter in a public facility.⁶²

New York State justified the denial of such grants by demonstrating that Plaintiff was provided meals and lodging, as a public shelter resident, and therefore, was not deprived of, nor entitled to, cash allowances as an out-of-shelter resident would be.⁶³

Plaintiff further alleged that the state's failure to grant him an amount of public assistance equal to that being received by persons who did not reside in public shelters, violated his equal protection rights as guaranteed by the Fourteenth Amendment of the United States Constitution.⁶⁴ Plaintiff maintained that the state's policies would not withstand strict scrutiny by the courts. Thus, any compelling interest the state may have had as justification for the reduced allowance to shelter residents, had not been accomplished by a narrowly tailored means when utilizing the system in place at this time.⁶⁵

58. *Thrower*, 138 Misc. 2d at 173, 523 N.Y.S.2d at 934.

59. N.Y. SOC. SERV. LAW § 157.

60. N.Y. SOC. SERV. LAW § 158.

61. *Thrower*, 138 Misc. 2d at 175, 523 N.Y.S.2d at 935.

62. *Id.*

63. *Crawford*, 205 A.D.2d at 308, 612 N.Y.S.2d at 575.

64. *Id.*

65. *See Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966). The Supreme Court of the United States held that a denial of equal protection existed where a right to vote was conditioned on a poll tax. Justice Douglas' opinion for the Court stated that "[l]ines drawn on the basis of wealth, or property, like those of race . . . are traditionally disfavored." *Id.* at 668. *But see Ortwein v. Schwab*, 410 U.S. 656 (1973). In rejecting an indigent's challenge to a court filing fee the Supreme Court held that "[n]o suspect

The *Crawford* court found that plaintiff's United States Constitutional claim was without merit.⁶⁶ The court determined that suspect classification did not exist based on the fact that a person received assistance through a homeless shelter.⁶⁷ Therefore, it was not necessary for the state's funding policy to withstand strict scrutiny by the courts. The court merely had to determine that the state funding of homeless shelter residents was rationally related to a legitimate state interest to satisfy the constitutional standard under the Equal Protection Clause.⁶⁸ The *Crawford* court found a legitimate state interest, insofar as persons living in public facilities "receive shelter, food and other assistance in kind within the shelters which are not provided by statute to those who maintain themselves in their own homes at their own expense."⁶⁹

The *Crawford* court held that the funds being denied were in lieu of services being offered by the shelter, and "that it was not

classification, such as race, nationality or alienage, is present. . . . The applicable standard is that of rational justification." *Id.* at 660.

66. *Crawford*, 205 A.D.2d at 309, 612 N.Y.S.2d at 575.

67. *Id.* at 308, 612 N.Y.S.2d at 575 (citing *San Antonio Ind. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973)). A suspect class is one having the "traditional indicia of suspectness: the class is . . . saddled with such disabilities, or subjected to such history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process." *San Antonio Ind. Sch. Dist.*, 411 U.S. at 28.

68. *Crawford*, 205 A.D.2d at 308-09, 612 N.Y.S.2d at 575 (citing *In re Davis*, 57 N.Y.2d 382, 388, 442 N.E.2d 1227, 456 N.Y.S.2d 716 (1982)). The court emphasized that:

[I]n the area of economics and social welfare, a state does not violate the Equal Protection Clause merely because classifications made by its laws are imperfect. If the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification is not made without mathematical nicety or because in practice it results in some inequities.

Id. (quoting *Dandridge v. Williams*, 397 U.S. 471 (1970)).

69. *Id.*

the court's purpose to enable plaintiffs to receive in kind goods and services and full cash allowances."⁷⁰

There seems to be no conflict between applicable state and federal laws on any of Crawford's claims. Both state and federal precedent have adhered to those principles utilized by the Appellate Division, First Department in *Crawford*. The United States Supreme Court has consistently held that those classifications based on wealth are not suspect, and as such, state legislation is subject to mere rational basis scrutiny.⁷¹ The analysis by the *Crawford* court suggests that New York case law is consistent with the federal holdings.

SECOND DEPARTMENT

Carey v. Cuomo⁷²

(decided November 21, 1994)

Plaintiff, a county court judge, alleged that the mandatory retirement provisions of the New York State Constitution had violated his federal right to equal protection of the law.⁷³ The Appellate Division, Second Department held that Article VI,

70. *Id.* at 205 A.D.2d at 308, 612 N.Y.S.2d at 575 (quoting *Thrower*, 138 Misc. 2d at 178, 523 N.Y.S.2d at 937).

71. See *Harris v. McRae*, 448 U.S. 297 (1980). In *Harris*, the Court rejected an equal protection challenge to a federal statute which prohibited federal funds for abortions, despite its acknowledged impact on the indigent. In addressing that impact, the Court stated "that [this] fact does not itself render the funding restriction constitutionally invalid, for this court has held repeatedly that poverty, standing alone, is not a suspect class." *Id.* at 322. See also *Kadrmas v. Dickinson Pub. Schs.*, 487 U.S. 450 (1988). The Court, in answering an indigent's equal protection challenge to a school bus fee stated: "We have previously rejected the suggestion that statutes having different effects on the wealthy and the poor should on that account alone be subjected to strict scrutiny." *Id.* at 455.

72. 619 N.Y.S.2d 646 (App. Div. 2d Dep't 1994).

73. *Id.*