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Equal Protection

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EQUAL PROTECTION

U.S. CONST. amend. XIV, § 1:

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

N.Y. CONST. art. I, § 11:

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

COURT OF APPEALS

D'Amico v. Crosson[1]
(decided March 25, 1999)

Pursuant to Judiciary Law section 221-d,[2] Erie County Court Judges were earning salaries of approximately $125,600 while the Judges from Albany County earned 4.6 percent more with salaries at approximately $131,400.[3] Challenging this disparity, the Judges of the Erie County Court filed suit in October 1993 against Matthew T. Crosson, as Chief Administrator of the Courts of the State of New York and as Representative of the Administrative Board of the Judicial Conference of the State of New York, et al.[4] The Judges argued that their constitutional right of equal protection was violated by the defendants who allowed the Judges of Erie County to be paid less than the county court judges in Albany,

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[1] 93 N.Y.2d 29, 709 N.E.2d 465, 686 N.Y.S.2d 756 (1999).

[2] N.Y. JUD. LAW § 221-d (Consol. 1997) prescribes and varies the salaries of County Court judges in New York State based on geographical location.

[3] *Crosson*, 93 N.Y. at 31, 709 N.E. 2d at 465, 686 N.Y.S. 2d at 757.

[4] *Id.* at 29, 709 N.E. 2d at 465, 686 N.Y.S. 2d at 756.

Onondaga, and Sullivan Counties.[5] The New York Supreme Court held that there was no rational basis for paying the Judges of Erie County less in salary than the Judges in Albany County and awarded the plaintiffs summary judgment relating to the cause of action pertaining to Albany County.[6] Since Albany County Court Judges were paid higher wages than those Judges of Onondaga and Sullivan at the time of the decision of this case, the court held that the causes of action relating to Onondaga and Sullivan Counties were moot.[7]

Crosson appealed to the Court of Appeals of New York pursuant to the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution[8] and article 1, section 11 of the New York Constitution[9]contending that the lower court erred in finding that there was no rational basis for the existence of Judiciary Law Section 221-d.[10] Crosson argued that the Judges cannot sustain their burden of establishing that there is no rational basis for the existence of the statute.[11] He claimed that the level of review required for constitutional validity of this statute was rational relation analysis, Judiciary Law Section 221-d satisfied the test, and it was therefore constitutionally valid.[12] By providing evidence regarding higher home values and larger judicial caseloads, Crosson argued that he satisfied the rational basis of review by showing that these higher salaries and larger judicial caseloads

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[5] *Crosson,* 93 N.Y. at 31, 709 N.E. 2d at 465, 686 N.Y.S. 2d at 757.

[6] *Id.*

[7] *Id.*

[8] U.S. CONST. amend. XIV. The Fourteenth Amendment provides in pertinent part:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor 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.
> *Id.*

[9] N.Y. CONST. art. I, § 11. This section provides in pertinent part: "No person shall be denied the equal protection of the laws of this state or any subdivision thereof."

[10] *Crosson,* 93 N.Y. at 31, 709 N.E.2d at 466, 686 N.Y.S.2d at 758.

[11] *Id.* at 32, 709 N.E. 2d at 467, 686 N.Y.S. 2d at 758.

[12] *Id.*

corresponded to the increased cost of living in that geographical area and larger incomes.[13] The statute, therefore, serves a legitimate state objective in accordance with the Equal Protection Clause of the United States Constitution and the New York Constitution.[14]

The Court of Appeals began its analysis by stating that under both the United States Constitution and the New York Constitution, a statute that causes different treatment to a specific class but does not target a suspect class nor infringes upon a fundamental right, is subject to rational basis scrutiny whereby the statute must be upheld if the classification scheme is rationally related to a legitimate state objective.[15] Rational basis scrutiny is the least rigorous level of judicial review requiring only the showing of a rational relationship between the unequal treatment and any legitimate state interest.[16] A statute that is subject to the rational basis scrutiny is presumed constitutional and the burden lies on the challenger of the statute to prove that in fact no rational relationship exists thereby invalidating the statute.[17] The court found that a statutory scheme, even if it results in the creation of income disparities in different geographic areas, will not be automatically struck down as being violative of equal protection.[18]

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[13] *Id.*

[14] *Id.*

[15] *See* Heller v. Doe, 509 U.S. 312, 113 S.Ct. 2637 (1993) and Henry v. Milonas, 91 N.Y.2d 264, 267, 268, 692 N.E.2d 554, 556, 669 N.Y.S.2d 523, 525 (1998). In *Henry*, the Court held that a differential of sixteen percent in the median value of homes in Monroe and Ontario counties and the difference of seventeen percent in per capita income between those two counties provided a rational basis for a statutorily enacted salary disparity of approximately four percent between County, Family, and Surrogate's Court Judges of Ontario and Monroe Counties pursuant to N.Y. JUD. LAW §§ 221-d, 221-e, and 221-f.

[16] *Crosson*, 93 N.Y. 2d at 31,32, 709 N.E.2d at 467, 686 N.Y.S.2d 757, 758.

[17] *Id. See also* Henry at 268, 692 N.E.2d at 556, 669 N.Y.S.2d at 525 and Maresco v. Cuomo, 64 N.Y.2d 242, 250-251, 475 N.E.2d 95, 98, 485 N.Y.S.2d 724, 728 (1984). In *Maresco,* the Court upheld the challenged legislation since the plaintiff judges failed to prove that no rational relationship existed between the State constitutional and statutory requirements that certain judges of the State retire at age 70 and a legitimate state objective.

[18] In the Matter of Tolub, 58 N.Y.2d 1, 8, 444 N.E.2d 1, 4, 457 N.Y.S.2d 751, 754 (1982). In *Tolub,* the Court held that the computation of the salaries of law

The statute will be found constitutional if the state had a rational basis for making such a distinction.[19]

The New York State courts have adopted and applied the rational basis test in two cases involving judicial salary disputes with opposite results.[20] In *Cass v. State of New York,* the court upheld the provisions of the Unified Court Budget Act which compensated New York City judges differently than others within the state by basing their classification scheme on differences in population, case load, and cost of living.[21] In *Weissman v. Evans,* however, the court found that there was no rational basis for wage disparity between the judges of Suffolk County compared with the judges from Nassau County.[22] The court found that the jurisdiction, practice, and procedures of both classes of judges were nearly identical and indistinguishable and therefore no legitimate state interest was found to exist.[23]

Courts, as in *Heller v. Doe,*[24] are compelled to accept generalized legislation even if it appears that there is an imperfect match

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assistants serving in the Unified Court System was not arbitrary or capricious and although it resulted in some disparity between the salaries paid to employees formerly paid by the State and employees formerly paid by the local government and certain disparities among law assistants in certain geographic areas, the fiscal constraints of the State provide a rational basis for the classification.

[19] *Id.*

[20] *See* Cass v. State of New York, 58 N.Y.2d 460, 448 N.E.2d 786, 461 N.Y.S.2d 1001 (1983) and Weissman v. Evans, 56 N.Y.2d 458, 438 N.E.2d 397, 452 N.Y.S.2d 864 (1982).

[21] *Cass,* 58 N.Y.2d at 464, 448 N.E.2d at 787, 461 N.Y.S.2d at 1002.

[22] *Weissman,* 56 N.Y.2d at 466, 438 N.E.2d at 401, 452 N.Y.S.2d at 868.

[23] *Id. Compare with* Cass v. State, 58 N.Y.2d at 464, 448 N.E.2d at 787, 461 N.Y.S.2d at 1002.

[24] 509 U.S. 312 (1993). In *Heller,* the State of Kentucky promulgated a statute that treated the mentally retarded differently than the mentally ill. The statute authorized the involuntary commitment of the mentally retarded on a clear and convincing standard of proof while committing the mentally ill required only proof beyond a reasonable doubt. Also, the statute permitted close relatives and guardians of the mentally retarded to participate in commitment proceedings while prohibiting such participation of close relatives and guardians of the mentally ill. The state defended the statute and claimed the existence of a legitimate state interest. The state argued that the mentally retarded are easier to diagnose than the mentally ill and that mental retardation is a permanent condition whereas mental illness is unpredictable and the behavior of the

between the statute and its intended goal.[25] In Heller, the State of Kentucky created a statute that treated the mentally retarded differently than the mentally ill.[26] By differentiating between the care required for each of the two groups, the United States Supreme Court held that the State of Kentucky more than adequately justified the difference in treatment among the two classifications, thereby satisfying their burden of rational basis review and validating the statute.[27] The Court stressed that rational relation review, in the absence of a fundamental right infringement and suspect classification scheme, does not authorize the Court "to sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines."[28] As a result, the legislators in creating statutes need not articulate at any time the purpose or rationale for supporting its classification.[29] Instead, 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.[30]

The Court of Appeals reversed the decision in Crosson and held that the Judiciary Law Section 221-d, which prescribes the salary ranges of the judges of the county courts based on geographical location, need only pass rational relation review and that the data submitted by the defendants regarding their higher home values and larger caseloads was sufficient in meeting this requirement.[31] The Judiciary Law Section 221-d was therefore presumed constitutional and the Judges failed in their burden to prove the lack of any rational relationship between their lower salaries and the higher home values and larger case loads of the defendants.[32]

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mentally ill can change. As a result, the state argued that different treatments are required for each classification.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Heller*, 509 U.S. at 319 (quoting New Orleans v. Dukes, 427 U.S. 297 (1976).

[29] *Id.* at 320.

[30] *Crosson,* 93 N.Y. at 32, 709 N.E. 2d at 466, 686 N.Y.S. at 758.

[31] *Id.*

[32] *Id.*

The court reasoned that the data supplied by the defendants explained the disparate treatment based on geography created by the statute.[33]

In sum, New York law has incorporated the rational basis test from federal law into its own state constitution. Under both constitutions, if the classification scheme being challenged does not target a suspect class and does not infringe upon a fundamental right, the statute at issue is presumed constitutional until the challenger provides evidence that in fact no rational relationship exists between the classification and a legitimate state interest. This rational basis level of review maintains the absence of the courts from interfering with the legislature in creating statutes.

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[33] *Id.*