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Equal Protection

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SUPREME COURT
NEW YORK COUNTY

Igoe v. Pataki[1]
(decided June 28, 1999)

Plaintiffs brought a suit against the State of New York claiming that the Commuter Tax, under Chapter Five of the Law of 1999, was unconstitutional.[2] The plaintiffs argued that subjecting only non-residents of New York State to the Commuter Tax was a violation of the Equal Protection Clause of both the United States[3] and New York State Constitutions.[4] The Supreme Court for New York County held that the Commuter Tax violated the Equal Protection Clause of the United States Constitution and the New York State Constitution because the tax created an arbitrary classification based on residency without justifying the distinction

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[1] 182 Misc. 2d 298, 696 N.Y.S.2d 355 (Sup. Ct. New York County June 28, 1999). Five actions pending before the Supreme Court of New York County are consolidated in the court's opinion. The plaintiffs in this matter are all "nonresidents of New York State." *Id.* *See also infra* note 14 and accompanying text.

[2] *Igoe*, 696 N.Y.S.2d at 363. Plaintiffs have alleged violations of the Privilege and Immunities Clause, the Commerce Clause, and the Equal Protection and Due Process Clauses of the United States Constitution. In addition, the plaintiffs argued that the Commuter Tax similarly violated the Equal Protection Clause, Commerce Clause and Home Rule Provision of the New York State Constitution. Please note that this purview examines only the portion of the court's opinion discussing the plaintiffs' equal protection claim.

[3] 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 deny to any person within its jurisdiction the equal protection of the laws." *Id.*

[4] N.Y. CONST. art. 1 § 11. This section provides:

> 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 firm, corporation, or institution, or by the state or any agency or subdivision of the state.
> *Id.*

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to a rational basis standard.[5] The court concluded that reducing the tax burden on New York State residents, simply because of their residency status, did not rationally relate to a legitimate government purpose, thereby violating the Equal Protection Clause.[6]

In 1999, the City of New York (hereinafter "the City") passed a local law that imposed a tax on the earnings of "nonresidents" of the City.[7] Subsequently, the Commuter Tax was amended.[8] The effect of the amendment subjected an earnings tax only upon out-of-state individuals who commuted to New York City for their employment, whereas New York State residents who worked in the City were exempt.[9] The plaintiffs argued that this classification was arbitrarily based on their status as out-of-state residents and therefore denied them equal protection of the law under the United States and New York Constitutions.[10]

In addressing the issue, the court began its analysis by stating that although the Equal Protection Clause of the United States Constitution protects individuals from discrimination based on invidious classifications, the standard imposed by the court is relaxed when economic statutes are challenged.[11] Furthermore, the

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[5] *Igoe*, 696 N.Y.S. at 364. "Classifications of taxpayers based on factors other than race, national origin, or gender must be rationally related to a legitimate government interest in order to survive constitutional scrutiny." *Id.*

[6] *Id.*

[7] *Id.* at 358. "Nonresidents" included those who traveled to the City for employment, but resided outside its boundaries.

[8] *Id.* The Commuter Tax was amended by Chapter 5 of the Laws of 1999, which Governor Pataki signed into law on May 27, 1999. The amendment repealed the part of the tax that imposed the tax on the earnings of New York State residents. The term "nonresident individual" was redefined to include individuals who are not residents of New York State. *Id.*

[9] *Id.*

[10] *Id.*

[11] Regan v. Taxation with Representation of Washington, 461 U.S. 540, 547 (1997). In this decision, the United States Supreme Court held that the prohibition against lobbying in 501 (c)(3) did not violate the equal protection component of the Fifth Amendment, even though veterans' organizations were allowed to lobby and still qualified to receive tax deductible contributions. The Court stated that a taxpayer not subsidizing the lobbying of tax exempt charities was a rationally based government purpose. Legislatures have traditionally been

court noted that for a classification to survive constitutional scrutiny, the classification "must be related to a legitimate government interest."[12]

The court initially relied upon *Williams v. Vermont*.[13] In *Williams*, the appellant argued that a Vermont automobile tax which exempted cars purchased by Vermont residents in other states, but did not extend an equivalent exemption for automobiles bought outside of Vermont's boundaries before a person moved into the state, violated the Equal Protection Clause of the United States Constitution.[14] Under the statute, the credit was only available if the resident was a Vermont resident at the time of payment of the sales tax.[15] Williams claimed that creating a classification for tax purposes based on an individual's residency was discriminatory.[16] The United States Supreme Court reasoned that states could not create classifications unless the distinction was rationally related to a legitimate government purpose.[17] Consequently, the Court concluded that favoring residents over non-residents for the purposes of taxation did not serve such a purpose.[18] In sum, the statute did not survive an equal protection challenge because its end result was not rationally related to its means.[19]

New York's State Courts apply the rational basis standard when a statute is subject to an equal protection challenge.[20] In reaching

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awarded broad discretion in creating classifications in the field of taxation because those statutes are used to fund local needs. *Id.*

[12] *Igoe*, 696 N.Y.S.2d at 363.

[13] 472 U.S. 14 (1985).

[14] *Id.*

[15] *Id.*

[16] *Id.* at 27.

[17] *Id.* at 23. The Court held that there was no rational interest served by making a distinction between in-state registrants and out-of-state registrants who bring their cars into Vermont.

[18] *Id.* at 27.

[19] *Id.* at 23. *See also* Whyy v. Borough of Glassboro, 393 U.S. 117 (1968) (holding that a state cannot deny equal protection of the law to a corporation, solely because of the corporation's foreign status).

[20] *Igoe*, 696 N.Y.S.2d at 363.

its conclusion, this court relied upon *Foss v. City of Rochester*.[21] In *Foss*, the owner of a four-family dwelling in the City of Rochester claimed that he was denied equal protection of the laws because, under an amended statute, non-homestead property was taxed at a higher rate than homestead properties.[22] Additionally, Foss argued that his non-homestead property was taxed at a higher rate than similar non-homestead properties in other parts of the county.[23] The court held that "there must be a rational reason for deliberately imposing the demonstrably different tax burdens on similar properties because of their different geographic locations."[24] Moreover, the *Foss* court stressed that the creation of different classifications was permissible so long as the classification was reasonable and the taxes imposed were uniform within the class.[25] If the different classes resulted in invidious discrimination, then the classification was found discriminatory and subsequently unconstitutional.[26]

In *Miriam Osborn Memorial Home Ass'n v. Chassin*,[27] the appellate court clarified the standard that is applicable to equal protection challenges.[28] Specifically, the court stated: 1) "there must be general uniformity of treatment of those similarly situated;" 2) "the classification for disparity must be reasonable;" and 3) "the taxes imposed must be uniform within the class."[29] Moreover, the court emphasized that while individuals may be taxed at different rates, all individuals in the separated class must be treated equally.[30]

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[21] 65 N.Y.2d 247, 480 N.E.2d 717, 491 N.Y.S.2d 128 (1985).

[22] *Id.* at 249, 480 N.E.2d at 719, 491 N.Y.S.2d at 129.

[23] *Id.*

[24] *Id.* at 256, 480 N.E.2d at 724, 491 N.Y.S.2d at 133.

[25] *Id.* at 259, 480 N.E.2d at 727, 491 N.Y.S.2d at 136. The court emphasized the foundation of the taxation system: not all taxpayers are to be treated the same, but those who are similarly situated must be treated uniformly. *Id.*

[26] 65 N.Y.2d at 256, 480 N.E.2d at 724, 491 N.Y.S.2d at 133.

[27] 240 A.D.2d 143, 669 N.Y.S.2d 613 (1998).

[28] *Id.*

[29] *Id.* at 149, 669 N.Y.S.2d at 618.

[30] *Id.*

Relying on the aforementioned cases, the Supreme Court of New York held that residency was an arbitrary and irrational reason to form distinct classifications for tax purposes.[31] The court emphasized that in-state and out-of-state residents who worked in the City used similar services during the workday, received the same benefits from their earnings, and therefore should not be subjected to an additional tax because of their out-of-state status.[32] In the instant case, the purpose of the Commuter Tax was to reduce the tax burdens on New York State residents, with hopes of increasing their spending power.[33] The court concluded that this purpose was not rationally related to creating a different classification based on residency, and therefore held that the statute was unconstitutional.[34]

The Federal and New York State constitutional provisions guaranteeing equal protection of the law are essentially analogous.[35] Although not similar in language, both clauses unequivocally prohibit a state from denying equal protection of the law.[36] With regard to economic legislation, both Constitutions require that a statute have a legitimate legislative purpose and a rationally related means for achieving its goal.[37] In order to create a distinct classification within the mandate of the constitution, those in the group must be treated uniformly.[38] In conclusion, a statute that created an arbitrary class without simultaneously fostering a legitimate government interest would be found unconstitutional under both the United States and New York Constitutions.

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[31] *Igoe*, 696 N.Y.S.2d at 364.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Igoe*, 696 N.Y.S.2d at 364. *See supra* notes 3, 4 and associated text.

[36] *See* Hodel v. Indiana, 452 U.S. 314, 331-332 (1981). "Social and economic legislation . . . that does not employ suspect classifications or impinge on fundamental rights must be upheld against equal protection attacks when the legislative means are rationally related to a legitimate governmental interest. *Id.*

[37] *Igoe*, 696 N.Y.S.2d at 364.

[38] *Id.*