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N.Y. CONST. art. XVII, § 1:

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.

SUPREME COURT

MONROE COUNTY

Brown v. Wing¹
(decided Oct. 18 1996)

Petitioners, Douglas Brown and others, were denied public assistance for six months from the time they moved to New York pursuant to a 1995 amendment to New York's Social Services Law.² Petitioners brought an action seeking a declaratory judgment that the amendment and its implementation were violations of the state's constitutional obligation to the needy,³ the implicit federal constitutional right to travel,⁴ and the Equal

1. 649 N.Y.S.2d 988 (Sup. Ct. Monroe County 1996).

2. *Id.* at 989-90. See *infra* note 13 and accompanying text.

3. N.Y. CONST. art. XVII, § 1. This section provides: "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.*

4. *Shapiro v. Thompson*, 394 U.S. 618 (1968).

The constitutional right to travel from one State to another ... occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized.... [T]he right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution.

Id. at 630-31 (quoting *United States v. Guest*, 383 U.S. 745, 757-58 (1966)).

Protection Clause guarantees of the Federal⁵ and New York State⁶ Constitutions.⁷ The Supreme Court, Monroe County, held that the amendment's classification of petitioners as welfare recipients on bases other than need was a violation of New York's constitutional responsibility to aid the needy,⁸ the amendment was unconstitutional in that the state's intent to impede petitioners' implicit federal constitutional right to travel was not justifiable as furthering a compelling state interest,⁹ and that because the amendment was unconstitutional with respect to petitioners' right to travel under the compelling state interest test, it was unnecessary to apply the rational relationship test with regards to the equal protection claim.¹⁰

Petitioners had recently moved to New York from Florida and Puerto Rico and were in need of financial assistance.¹¹ They applied for a state public assistance program called Home Relief that provides assistance to those individuals who are not eligible for federal assistance.¹² However, New York Social Services Law section 131a(3)(d)¹³ was amended.¹⁴ For six months after

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

6. 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." *Id.*

7. *Brown*, 649 N.Y.S.2d 990, 992, 993, 995.

8. *Id.* at 993.

9. *Id.* at 995.

10. *Id.*

11. *Id.* at 989.

12. *Id.*

13. N.Y. SOC. SERV. LAW § 131a(3)(d) (McKinney 1995). This amendment provides:

Notwithstanding any other provision of law, the payment for any person who applies for home relief or aid to dependent children benefits within six months of establishing residency in the state, shall for the first six months after establishing residency, be limited to the standard of payment, if any, that would apply to the applicant under the laws of the state, if any, in which he or she resided immediately prior to establishing residency in this state. . . .

Id.

establishing residency home relief was limited to that standard of payment applied in the state where the applicant resided before establishing residency in New York.¹⁵ Since Florida and Puerto Rico had no comparable program to New York's Home Relief, petitioners were deprived of public assistance for their first six months residency in New York State.¹⁶ Petitioners challenged New York Social Services Law section 131a(3)(d) and the court decided the constitutionality of that statute with respect to the state's constitutional obligation to aid the needy, the federal constitutional right to travel, and both state and federal constitutional guarantees of equal protection of the laws.¹⁷

The first issue addressed by the court was whether the New York Home Relief statute's classifications among welfare recipients was constitutional in compliance with Article 17 of the state constitution's provision that the state has an obligation to those in need.¹⁸ The court cited precedent that provides that "[t]he Court of Appeals has consistently interpreted [section 1 of Article 17] as one that forbids any classification of welfare recipients by standards other than need itself."¹⁹

In *Tucker v. Toia*,²⁰ the plaintiffs were three persons under the age of 21, not residing with their parents or responsible relatives, who were deprived of all public assistance under Home Relief.²¹ The *Tucker* court held that it is unconstitutional to deprive admittedly needy individuals of Home Relief on any standard other than need.²² An attempt to distinguish *Brown* from *Tucker* was made because in *Brown*, not all members of the class in

14. *Brown*, 649 N.Y.S.2d at 989.

15. *Id.*

16. *Id.* at 989-90.

17. *Id.* at 996.

18. *Brown*, 649 N.Y.S.2d at 992.

19. *Id.* at 992 (citing *Tucker v. Toia*, 43 N.Y.2d 1, 8, 371 N.E.2d 449, 452, 400 N.Y.S.2d 728, 731 (1977)).

20. 43 N.Y.2d 1, 371 N.E.2d 449, 400 N.Y.S.2d 728 (1977).

21. *Tucker*, 43 N.Y.2d at 5, 371 N.E.2d at 450, 400 N.Y.S.2d at 729.

22. *Id.* at 9, 371 N.E.2d at 449, 400 N.Y.S.2d at 728. "May the Legislature deny all aid to certain individuals who are admittedly needy, solely on the basis of criteria having nothing to do with need? Today we hold that it may not." *Id.*

which petitioners were members were completely denied benefits, while in *Tucker*, all members of the same classification as the petitioners were denied public assistance.²³ That differentiation was not accepted by the *Brown* court.²⁴ The court held that drawing classifications among those individuals who are tagged as “needy,” is unconstitutional and would amount to a change in the definition of “need,” which is a function that is legislative, rather than judicial, in nature.²⁵ On the issue of the state’s responsibility of supporting the needy, the court held that section 131a(3)(d) of the Social Services Law, “which reduces benefits for some of the needy is as much an unconstitutional classification as one that eliminates them altogether.”²⁶

The second issue that the *Brown* court addressed was whether Social Services Law section 131a(3)(d) violated the implicit federal constitutional right to travel.²⁷ The court stated that statutes that reprove the right to travel must be justified as a means to a compelling state interest.²⁸ In relying on *Shapiro v. Thompson*,²⁹ the court held that the state cannot attempt to keep indigents seeking increased welfare benefits out of its borders, just as it may not attempt to keep indigents in general from residing within the state.³⁰ *Shapiro* case dealt with a state statute that denied Aid to Families With Dependent Children benefits to new residents of a state for a one year period.³¹ The Court recognized a state’s valid interest in retaining the financial integrity of its public assistance programs, but stated that the

23. *Brown*, 649 N.Y.S.2d at 993.

24. *Id.* The court pointed out that other members of petitioner Brown’s class may have been receiving reduced benefits. *Id.* “Any distinction between partial and total reduction of aid, however, is one without a difference.” *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.* (citing *Shapiro*, 394 U.S. 618, 638 (1968)).

29. 394 U.S. 618 (1968).

30. *Shapiro*, 394 U.S. at 631. “Implicit in any such distinction is the notion that indigents who enter a State with hope of securing higher welfare benefits are somehow less deserving than indigents who do not take this consideration into account.” *Id.*

31. *Shapiro*, 394 U.S. 618.

state may not utilize invidious classifications to accomplish that goal.³²

The State in *Brown* attempted to advance the argument that Social Services Law section 131a(3)(d) is temporary in nature as opposed to the statute in *Shapiro* that denied assistance for a year, "leaving them without a basic means of support."³³ The court, however, rejected this argument noting that "[o]ne can as well starve in six months as in twelve."³⁴ A second argument by the state was to distinguish *Brown* from *Shapiro* in that the later case involved federal funds, as opposed to state benefits in the former.³⁵ The *Brown* court, once again, cited "the basic necessities of life" as reasoning for rejecting any distinction between federal and state public assistance.³⁶

Finally, under the issue of the statute's constitutionality with respect to an individual's right to travel, the state argued that its intention in promulgating the legislation was to discourage needy individuals from traveling to New York, rather than to impede their travel.³⁷ The court looked at the Petitioners' residence in the state as evidence that individuals were not deterred by the statute from traveling into New York.³⁸ The court concluded that "the right to travel is implicated whenever there is an 'unequal distribution of rights and benefits' among residents of the state based on time of residency."³⁹ Social Services Law section 131a(3)(d) was held unconstitutional because the state's infringement on the implicit federal constitutional right to travel was not justified by a compelling state interest.⁴⁰

The final issue that the court addressed was whether the state statute violated the Equal Protection Clauses of the Federal and

32. *Id.* at 633.

33. *Brown*, 649 N.Y.S.2d at 994.

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.* at 995. (citations omitted).

40. *Id.*

New York State Constitutions.⁴¹ In reconciling the standards of review between equal protection and the right to travel the court cited United States Supreme Court precedent: "Once we find a burden on the right to migrate the standard of review is the same [for an equal protection review]. Laws which burden that right must be necessary to further a compelling state interest."⁴² The court dismissed further discussion on the equal protection challenge because the statute implicated the right to travel in such a way that it was unnecessary to apply the rational relationship test.⁴³ The court finally held that because Social Services Law section 131a(3)(d) was found unconstitutional under Article XVII of the New York State Constitution, "the court [did] not wish to lengthen an already extensive discussion with dicta."⁴⁴

In conclusion, New York Social Services Law section 131a(3)(d) was struck down as unconstitutional pursuant to violations of the following constitutional provisions: the state's constitutional obligations of public assistance to the needy as provided by Article XVII of the New York State Constitution; the implied Federal Constitutional right to travel; and both New York State and Federal Constitution's rights to equal protection of the laws. Under the state analysis of providing financial assistance to those in need, the statute was found unconstitutional because the classification drawn between those individuals who were to benefit versus those who would be denied was based on elements other than need. According to federal analysis of the implied right to travel, the state failed to show a compelling state interest that justified impeding indigents from traveling to the New York state and establish residency. Finally, without applying the appropriate rational relationship test commonly used in Equal Protection claims, the court declined to directly address the issue under both New York and Federal Constitutional law

41. *Brown*, 649 N.Y.S.2d at 995.

42. *Id.* (citing *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898 (1985)).

43. *Id.*

44. *Id.*

because it had already found Social Services Law § 131—a(3)(d) unconstitutional under the first two claims.

