Touro Law Review

Volume 9 | Number 3 Article 20

1993

Equal Protection

People v. Sielaff[306]
(decided June 4, 1992)

Defendant claimed that the Criminal Procedure Law (CPL) section 500.10(17)[307] requirement that the value of property to be used for bond security for bail must be at least double the amount of the bond, violated the Equal Protection Clause of both the state[308] and the federal[309] constitutions. His argument challenged the validity of the distinction that CPL section 500.10(17) draws between personal and real property for the purpose of securing a bail bond.[310] Defendant also argued that the court should utilize a strict scrutiny test because minorities are disproportionately affected by the bail statutes.[311] The court of appeals held that the double equity requirement for posting bonds is "rationally based," and that strict scrutiny was not applicable[312] since the defendant had failed to show the existence of a suspect classification or a "disproportionate impact on racial or ethnic minorities . . . ."[313]

While facing state and federal conspiracy charges, defendant Miller tried to meet the $500,000 bond amount the court had set by pledging various parcels of real property he owned as secu-

---

306. 79 N.Y.2d 618, 595 N.E.2d 817, 584 N.Y.S.2d 742 (1992).

307. N.Y. CRIM. PROC. LAW § 500.10(17) (McKinney 1984 & Supp. 1993). Section 500.10(17) states in relevant part:

> 'Secured bail bond' means a bail bond secured by either: (a) Personal property which is not exempt from execution and which, over and above all liabilities and encumbrances, has a value equal to or greater than the total amount of the undertaking; or (b) Real property having a value of at least twice the total amount of the undertaking . . . .

Id.

308. N.Y. CONST. art. I, § 11.

309. U.S. CONST. amend. XIV, § 1.

310. *Sielaff*, 79 N.Y.2d at 619-20, 595 N.E.2d at 817, 584 N.Y.S.2d at 742.

311. *Id.* at 621, 595 N.E.2d at 818-19, 584 N.Y.S.2d at 743-44.

312. *Id.* at 620-21, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

313. *Id.* at 621, 595 N.E.2d at 819, 584 N.Y.S.2d at 744.

rity.[314] Criminal Procedure Law section 500.10(17) requires that in order for real property to be used for bond security, its value must be twice the amount of the bond.[315] The value of defendant's real property was not sufficient to satisfy the bond.[316] The supreme court rejected his claim that such a double equity requirement is unconstitutional.[317] Miller then began a habeas corpus proceeding in the appellate division.[318] The second department dismissed the claim without opinion, refusing to reduce the bond amount.[319]

Defendant relied on *People v. Burton*,[320] which held that the double equity requirement of CPL section 500.10(17) was irrational, and therefore, unconstitutional as applied to defendant Burton.[321] In *Burton*, the defendant made an argument similar to that made by Miller, that a strict equal protection scrutiny must be applied to the distinction made between personal and real property for bond purposes.[322] The *Burton* court rejected this argument because the double equity requirement did not, according to its reasoning, implicate a fundamental right, nor was there a suspect classification.[323]

---

314. *Id.* at 620, 595 N.E.2d at 817-18, 584 N.Y.S.2d at 742-43. *See also* Gary Spencer, *Appeals Court Upholds State Bail Law*, N.Y. L.J., June 5, 1992, at 1.

315. *Sielaff*, 79 N.Y.2d at 620, 595 N.E.2d at 817, 584 N.Y.S.2d at 742.

316. *Id.* at 620, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

317. *Id.*

318. *Id.*

319. *Id.*

320. 150 Misc. 2d 214, 569 N.Y.S.2d 861 (Sup. Ct., Bronx County 1990).

321. *Id.* at 227-28, 569 N.Y.S.2d at 870.

322. *Id.* at 218, 569 N.Y.S.2d at 863. The defendant, in *Burton*, contended that CPL section 500.10(17) "discriminates as a class against those persons whose assets consist primarily of real rather than of personal property in violation of the Equal Protection Clauses of the United States and New York Constitutions . . . ." *Id.*

323. *Id.* at 222, 569 N.Y.S.2d at 866. The *Burton* court rejected defendant's equal protection argument because, according to the court, "the United States Supreme Court has never invoked the stricter standard for reviewing [a classification based on wealth] unless said classification deprived persons of a fundamental constitutional right." *Id.* The court agreed with the defendant that a large percentage of persons without personal property, but

In *Sielaff,* the court disagreed with *Burton* on defendant's argument that the double equity requirement is irrational.[324] Like the *Burton* court, the court in *Sielaff* pointed to the legislative history behind the requirement, stressing that it was designed to "ensure that the real property would provide adequate security for the obligation."[325] The court, however, disagreed with the *Burton* declaration that just because the Legislature has been successful in decreasing the abusive practices of commercial bondsmen,[326] the state no longer has a legitimate interest in "ensuring that the collateral posted for a secured bond is adequate." [327]

Although corrupt commercial bondsmen no longer present a threat to the state's interests,[328] the court of appeals noted several other reasons why the double equity requirement was rational.[329] First, real property, more so than personal property, is subject to title problems and "other hidden defects that can affect value," but which cannot readily be ascertained without expensive and time-consuming procedures.[330] In approving a bail application, a court cannot be expected to make such careful, expensive, and time-consuming appraisals as would be required of a commercial lender.[331] The double value requirement for real property allows

---

with real property are "Black and Latino," but declared that a "stark pattern [did not exist] that [the] statute bears more heavily on one race or ethnic group than upon another . . . ." *Id.*

324. *Sielaff,* 79 N.Y.2d at 620, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

325. *Id.*

326. *Id; see also Burton,* 150 Misc. 2d at 219, 569 N.Y.S.2d at 864. The *Burton* court pointed to the fact that the double real property requirement was added in 1942 in order to solve the problems ("evils") created by "undesirable bondsmen" who used the "same property . . . as security for bail more than twice within a period of thirty days." *Id.*

327. *Sielaff,* 79 N.Y.2d at 620, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

328. *See Burton,* 150 Misc. 2d at 225, 569 N.Y.S.2d at 868. The court declared that since the passage of the 1942 amendment to the Code of Criminal Procedure, "the utilization of commercial bondsmen to secure bail with real property . . . [has become] all but nonexistent under New York practice." *Id.*

329. *Sielaff,* 79 N.Y.2d at 620-21, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

330. *Id.* at 621, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

331. *Id.*

the court to accept real property as bail security without being concerned about such defects.[332]

Furthermore, the court held that "the costs and difficulties of a foreclosure justify granting real property less than full value as collateral."[333] Finally, according to Civil Practice Law & Rules section 5206,[334] real estate not exceeding $10,000 in value, which is "owned and occupied as a principal residence is exempt from application to the satisfaction of a money judgment . . . ."[335] In this particular case, the court noted that the real property being pledged as security was owned by several individuals, and therefore, the "combined exemptions could seriously impair the value of the property as collateral."[336] The court disagreed with the *Burton* court's reasoning that personal property such as gold, bonds, and diamonds are, like real property, also subject to fluctuations in value, and that therefore, the distinction between real and personal property for purposes of securing a bond is irrational.[337] In *Sielaff,* the court of appeals decided that a need exists for the double equity requirement in order to provide a "reasonable means of ensuring that the value will be adequate."[338]

The court also disagreed with the defendant's claim that strict equal protection scrutiny should be applied "because minorities are disproportionately affected by the bail statutes."[339] Looking

---

332. *Id.*

333. *Id.* For comparison, the court stated that commercial lenders, when accepting real property as collateral, rarely accept it at its full market price, even though such lenders, unlike the court, are dealing with individuals "of their own choosing" and who present only slight risks of defaulting on their transactions. *Id.*

334. N.Y. CIV. PRAC. L. & R. 5206 (McKinney 1992); *see also* N.Y. CIV. PRAC. L. & R. 5205 (McKinney 1992). Section 5205 of the CPLR exempts certain personal property, such as stoves, family bible, domestic animals, and wedding rings, for example, from "application to the satisfaction of a money judgment . . . ." *Id.*

335. *Id.*

336. *Sielaff*, 79 N.Y.2d at 621, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.

337. *Id.*; *see Burton*, 150 Misc. 2d at 227, 569 N.Y.S.2d at 869.

338. *Sielaff*, 79 N.Y.2d at 621, 595 N.E. 2d at 818, 584 N.Y.S.2d at 743.

339. *Id.* at 621, 595 N.E.2d at 818-19, 584 N.Y.S.2d at 743-44.

to the factors that would trigger a strict scrutiny analysis, the court held that the challenged statute on its face contains no suspect classification, such as one based on race or ethnicity, on its face.[340] According to the court, the only distinction that the statute made was between real and personal property, imposing the double equity requirement only on those who wanted "to use real property as security."[341] In order to show that the double equity requirement violates the Equal Protection Clauses of the New York and the Federal Constitutions, the defendant must show that this requirement had "a disproportionate impact on racial or ethnic minorities or that the Legislature harbored . . . discriminatory intent."[342] Since the defendant failed to show either disproportionate impact or discriminatory intent, the court found no reason to apply the strict scrutiny test and found no equal protection violation by the double value requirement.[343]

The court found support for its rejection of the defendant's strict scrutiny argument in the Supreme Court case, *Washington v. Davis*.[344] In *Davis*, black applicants who sought employment as police officers and had failed a written personnel examination designed to test the verbal skills of applicants, brought a suit claiming that the recruiting procedures were racially discriminatory.[345] Disagreeing with the applicant's argument of racial discrimination based solely on the impact of the testing, the Court stated that it "ha[s] not held that a law, neutral on its face and serving ends otherwise within the power of the government to pursue, . . . invalid under the Equal Protection Clause simply because it may affect a greater proportion of one race than another."[346] According to the Court, disproportionate impact is important, but "[s]tanding alone, it does not trigger the

340. *Id.* at 621, 595 N.E.2d at 819, 584 N.Y.S.2d at 744.
341. *Id.*
342. *Id.*
343. *Id.* at 621, 595 N.E.2d at 818, 584 N.Y.S.2d at 743.
344. 426 U.S. 229 (1976).
345. *Id.* at 232.
346. *Id.* at 242.

rule . . . that racial classifications are to be subjected to the strictest scrutiny . . . ."[347]

As a final matter in *Sielaff*, the court of appeals disposed of defendant's argument that his bail should be reduced by holding that fixing bail, as long as it is supported by the record, is "an exercise of discretion resting on a rational basis . . . ." [348] Thus the court held that defendant's bail had been fixed based on his prior record and was therefore "beyond correction in habeas corpus."[349] The court of appeals affirmed the appellate division's order.[350]

Lovelace v. Gross[351]
(decided November 24, 1992)

See case discussion under PUBLIC RELIEF (infra page 911). The court found that Social Services Law section 131-c(2),[352] as applied to Home Relief, does not violate plaintiffs' equal protection rights despite the fact that the "grandparent-deeming" rule, which presumes the "availability of income of a grandparent who [otherwise] has no legal obligation to support the grandchild" residing in their home, is only applied when calculating benefits for infants of mothers under the age of 18 and not mothers over the age of 18.[353] The court, while acknowledging the fact that the statute "threatens our most vulnerable citizens—children of teenage mothers," it nonetheless applied a rational basis test when examining the statute

---

347. *Id.*

348. *Sielaff*, 79 N.Y.2d at 622, 595 N.E.2d at 819, 584 N.Y.S.2d at 744 (quoting People *ex rel.* Parker v. Hasenauer, 62 N.Y.2d at 777, 779, 465 N.E.2d 1256, 1256, 477 N.Y.S.2d 320, 320 (1984) (declaring that "inasmuch as said denial is supported by the record, it is an exercise of discretion resting on a rational basis . . . .").

349. *Id.*

350. *Id.* at 622, 595 N.E.2d at 819, 585 N.Y.S.2d 744.

351. 80 N.Y.2d 419, 605 N.E.2d 339, 590 N.Y.S.2d 852 (1992).

352. N.Y. SOC. SERV. LAW § 131-c(2) (McKinney 1992).

353. *Lovelace*, 80 N.Y.2d at 426-27, 605 N.E.2d at 343-44, 590 N.Y.S.2d at 856.